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**STATE PARTY EXAMINATION OF THAILAND'S
INITIAL PERIODIC REPORT ON THE OPTIONAL PROTOCOL ON
THE INVOLVMENT
OF CHILDREN IN ARMED CONFLICT**

**59TH SESSION OF THE COMMITTEE ON THE RIGHTS OF THE CHILD
16 JANUARY – 3 FEBRUARY 2012**

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Thailand ratified the Optional Protocol on the involvement of children in Armed Conflict (OPAC) on 27 February 2006. On 25 January 2012, the Committee on the Rights of the Child (the Committee) examined the initial report of Thailand.

Opening Comments

The delegation of Thailand was led by H.E. Mr Santi Promphat, Minister of Social Development and Human Security. He was supported by a delegation consisting of representatives of the Permanent Mission of Thailand to the United Nations Office in Geneva, the Ministry of Foreign Affairs, the Committee on Child and Youth Development Promotion, the Ministry of Education, the Ministry of Public Health, the Ministry of Labour, the Attorney General Office, the Royal Thai Police, the Ministry of Defence, the Internal Security Operations Command of the Fourth Army Region, the Office of the National Security Council, the Rights and Liberties Protection Department, the Security Officer, and a Law Professor from Chulalongkorn University and two Youth Representatives.

Mr Madi, the Country Rapporteur, welcomed some aspects of the legislation of Thailand, especially the establishment of the age of 21 for compulsory recruitment by the State's armed forces; the enactment of ministerial regulations on peace and order; and the prohibition of participation of people under the age of 18 in military training. Mr Madi regretted, however, that neither the Penal Code nor the Child Protection Act explicitly criminalised the recruitment of children under the age of 18 and he suggested that such a provision should be introduced in the legislation.

General Measures of Implementation

Legislation

The Committee asked what legal provisions were in place as grounds to prosecute perpetrators of the recruitment of child soldiers, including foreigners operating on the territory of Thailand. The delegation indicated that there was no explicit law prohibiting the recruitment of children under the age of 18 but affirmed that other laws could be applied, including the provisions of the Criminal and Penal Codes on the use of children in violent situations, as well as provisions on assault. It added that the Penal Code enacted strong sanctions consisting of fines and imprisonment in those cases. It reported that the Child Protection Act had concretely been applied in the Southern border provinces, including eight cases of child recruitment in 2011. The delegation considered that this information showed an increase in the use of this law for children but recognised that the data was not disaggregated in such a way as demonstrated which the cases had been brought to court.

The Committee pointed out the need to implement article 4 of the OPAC, which criminalised the recruitment of children, especially in relation to recruitment by non-State armed groups.

The Committee also asked whether national legislation included a definition of direct participation in hostilities.

Data Collection

The Committee asked the delegation whether the State had a system to compile data on children exposed to violence.

Prohibition and Related Matters

Prohibition of Recruitment of children

The Committee observed that there were 18 military schools in Thailand and asked which of these schools could accept undergraduate students under the age of 18, 15 or 12 years. The delegation answered that military schools accepted students from the age of 15 and added that only the Royal Thai Navy School of Music accepted children from the age of 12, but that this age would be raised to the age of 15 in 2014. The Delegation reaffirmed that no children under the age of 18 could be recruited by the Thai armed forces and could not be used in armed conflict.

The Committee indicated that the situation in the Southern border provinces was of serious concern. It observed that children were associated with village defence units in various forms and asked what measures were taken to remedy this situation. In this regard, the Committee noted that the Ministerial regulations of 2011 did not mention the prevention of the informal association of children with armed groups. The Committee recalled that the State had the duty to prevent child recruitment by non-State actors. The delegation indicated that attempts were made to avoid the participation of children in village defence units. It reported that at a local level, dialogue was carried out with village leaders and the local communities and added that awareness was raised during village council meetings and on community radio. It reaffirmed that the State had insisted that children should not be involved in those units and added that

each unit had a list of members specifying their date of birth to check their age. The delegation asserted that if children participated in those units, the responsible official would be prosecuted and punished, according to The Ministry of Interior's regulation, as well as the Criminal Code and the Child Protection Act.

Military schools

The Committee asked what subjects were taught in military schools and asked in particular whether military subjects were taught in addition to basic subjects. The delegation answered that the curriculum of these schools was very similar to that of ordinary schools but was more focused on discipline and did not include weapons training.

Protection, Recovery and Reintegration

Martial Law

The delegation indicated that the situation in the Southern border provinces was not considered by Thailand as a situation of armed conflict since it did not meet its criteria: there was no single group or organisation claiming responsibility for the incidents; perpetrators were operating in secrecy; there was no structured military chain of command; no identified leader; no areas in control of groups; and the violence was still limited to certain areas and was sporadic in nature. The delegation indicated that these acts were therefore considered as criminal offences. It added that the authorities took the whole situation into account and added that the situation was difficult to understand. The Committee noted that Thailand was listed among the countries party to a conflict in United Nations Security Council Resolution 16/12. The delegation answered that the country was not on this list and denied that it should be part of an international intervention process, since an international intervention would complicate and misrepresent the situation. The Committee was surprised that a situation involving ten thousand known related deaths to date was considered as sporadic violence.

The Committee asked why the State applied martial and emergency laws to the Southern border provinces if there was no situation of armed conflict and if the violence was considered as a criminal offence. The Committee pointed out that this was contradictory. The delegation indicated that this was a difficult situation to understand and explained that while there were many criminal acts linked to a protracted situation, they did not amount to an armed conflict. It also indicated that martial law was applied because perpetrators had taken an oath preventing them from revealing any information and that ordinary law would be inefficient in those cases. It informed the Committee that the State had tried to reduce the areas covered by martial and emergency laws; in this regard, they had been lifted in five districts out of thirty-seven and assured that others would be lifted as soon as possible. The delegation added that the State's aim was to use more juvenile courts for children instead of applying other special laws and to move toward a civilian situation.

The delegation added that Thailand was party to the four Geneva Conventions and indicated that the International Committee for the Red Cross was present in the Southern border provinces, along with other international agencies. It considered, however, that the Geneva Conventions were only applicable to international armed conflicts and not to internal disturbances but admitted that human rights provisions applied to all situations and were respected. The Committee recalled that the fourth Geneva Conventions had a common article 3 also applicable to non-international armed conflicts.

The Committee also observed that under martial law, children could be arrested and detained for seven days before being sent to court. It asked for clarification on the conditions of detention during this period and particularly if children were detained with adults. The delegation indicated that the situation had been discussed with the police and various agencies and reported that particular places were used to detain them where boys and girls were separated. It added that their parents could visit them every day.

The Committee asked about the situation of child combatants that were arrested and subjected to martial law, which was currently applicable to the Southern provinces. The Committee asked whether these children were subsequently transferred to ordinary civil or criminal jurisdictions. The Committee also asked whether the State applied the Geneva Conventions on International Humanitarian Law in those areas of conflict. It recalled that the respect of the four Geneva Conventions was the only way to comply with article 38 of the Convention on the Rights of the Child.

Children and exposure to violence

The delegation went on to indicate that the situation in the Southern border provinces was not as violent as portrayed in the media and added that it was possible to live and work there. It explained that, of the four thousand deaths listed by statistics, only nine per cent resulted from violent incidents and specified that others were general accidents due to personal conflicts, drug issues or mafia. It indicated that the region was not considered as a war area and that the population had therefore not been evacuated. It assured the Committee that the State had tried to prevent children from being affected by the violence and had launched campaigns in schools, villages and religious institutions, to raise their awareness about the risks and to help them to live safely within those zones.

Arrest and Detention of Children in Conflict areas

The Committee raised the issue of the possibility of the State to use extraordinary powers to arrest people without being sure that they had committed the offence and added that some children had been arrested for participation in armed groups. The Committee asked what measures were taken to ensure the application of juvenile justice to these children. The delegation answered that no one could be arrested without any reasons. It indicated that if it was found that children were not involved, they were just questioned and could be brought back home by their parents; if they were involved, they were sent within twenty-four hours to juvenile courts. The delegation indicated that judges from these courts were trained twice per year on human rights, during which they were given a handbook on human rights issues and received instruction on how to operate according to it. The Committee asked whether this handbook contained a section on children's rights. The delegation answered that there was a section on how to work appropriately with children according to the decree on juvenile justice and the family.

Assistance to refugee children

The Committee asked whether there was an identification process for refugee children, some of whom were former child soldiers, in order to prevent their return to a country where they

could be involved in armed conflict. The delegation answered that concerning children from Myanmar, there were policies and operative procedures to identify child soldiers, as well as a clear policy of non-return. It affirmed that those children were treated according to humanitarian standards and that the authorities were keeping a record of children placed in shelters according to the recommendations of the United Nations High Commissioner for Refugees and were keeping them under close supervision. The delegation recalled that it was a difficult situation for Thailand since the authorities of neighbouring countries accused Thailand of supporting anti-government forces.

The Committee asked about children living in camps located on the territory of Thailand that had been recruited by armed groups from Myanmar. It acknowledged the difficulty to control people living in camps but asked whether those children were receiving any kind of psychological support and whether they were protected against this type of recruitment. It also asked whether some measures would be taken to ensure the non-military nature of the camps. The delegation answered that these camps had their own structures and were operated by people from Myanmar under the supervision of Thai authorities. It recognised that the State should try to get inside monitor the camps to better protect the children there from recruitment to armed forces. It indicated that it did not have information on how these questions were dealt with inside the camps.

The Committee added that it was an obligation under the OPAC to identify former child soldiers and provide them with rehabilitative care and reintegration support. The delegation considered that refugees had been treated according to humanitarian standards by the authorities but could not give a complete answer to that issue at the time of the discussion. The Committee recognised the efforts of the Thai government to deal with the situation of migrant children and recalled that these children were still under the State's responsibility.

International Assistance and Cooperation

The Committee asked whether the United Nations had access to the regions of conflict and what measures were taken to ensure this access for peace agreements programmes. The delegation recalled that Thailand was not on the list of parties to a conflict under the United Nations Security Council Resolution 16/12. It indicated that the army and security agencies had responded to international comments, that speeches about human rights had been given to troops and police in detention centres and added that members of international agencies had visited the Southern border provinces. It recognised that the situation was imperfect but that actors involved did listen to the comments. It assured the Committee that recommendations would be taken into consideration. The delegation added that human rights recommendations were not taken into account by every agency in Thailand but indicated that agencies in the Southern border provinces had cooperated quite well.

Concluding Remarks

Mr Madi thanked the delegation for its answers, which had helped the Committee better understand the situation in Thailand. Mr Madi urged the State to enact a specific prohibition of child recruitment in all settings including non-state armed groups. He stated that the situation of the Southern border provinces of Thailand needed more attention in protecting and promoting rights in all aspects. He hoped that emergency decrees and martial law would be lifted soon and that the government would apply civil law in juvenile justice for children in all circumstances. Mr Madi wished to see progressive policies and programmes to protect

refugee and asylum seeking children and called for the continued access by United Nations agencies to the camps.

Mr Santi Promphat thanked the Committee for the opportunity to present the State's efforts in the protection of children rights. Mr Santi Promphat also indicated that many expectations were implied by their status as a middle-income country and assured the Committee that the government would do its best to meet them. He concluded that the State would study seriously the concluding observations of the Committee.