

**COMMITTEE ON THE RIGHTS OF THE CHILD
Forty-third session**

**CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER
ARTICLE 8 OF THE OPTIONAL PROTOCOL TO THE CONVENTION ON
THE RIGHTS OF THE CHILD ON THE INVOLVEMENT OF
CHILDREN IN ARMED CONFLICT**

Concluding observations: Viet Nam

1. The Committee considered the initial report of Viet Nam (CRC/C/OPAC/VNM/1) at its 1187th meeting (see CRC/C/SR.1187), held on 22 September 2006, and adopted at its 1199th meeting, on 29 September 2006, the following concluding observations:

A. Introduction

2. The Committee welcomes the submission of the State party's initial report, written replies and additional written information, which give substantive information on the legislative, administrative, judicial and other measures applicable in Viet Nam with respect of the rights guaranteed by the Optional Protocol. The Committee also appreciates the constructive dialogue with a cross-sectoral and high-level delegation.
3. The Committee reminds the State party that these concluding observations should be read in conjunction with its previous concluding observations adopted on the State party's second periodic report on 31 January 2003 contained in CRC/C/15/Add.200.

B. Positive aspects

4. The Committee welcomes that under Viet Nam law only male citizens at the age of 18 and over shall be recruited in the military service. It further welcomes the ratification by the State party of:
 - a. the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography on 20 December 2001;
 - b. ILO Convention no 182 concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour on 19 December 2000.

C. Principle areas of concern and recommendations

C.1. General measures of implementation

Legislation

5. The Committee notes that there are provisions in the State party's Criminal Code which would permit Vietnamese courts to exercise jurisdiction over crimes committed outside the territory of Viet Nam when the conduct would violate national law in situations provided for in the international treaties which the State party has ratified or acceded to. However, it is not clear whether Vietnamese law:
 - a) criminalize the compulsory recruitment or involving in hostilities of a person under 18 or any other violation of the provisions contained in the Optional Protocol;
 - b) allow for the exercise of the courts' jurisdiction if these acts were committed outside Viet Nam by or against a Vietnamese citizen..
6. **In order to strengthen the national and international measures for the prevention of the recruitment of children for armed forces or armed groups and their use in hostilities, the Committee recommends that the State Party:**
 - a) **explicitly prohibit by law the recruitment of children under the age of fifteen years into armed forces/groups and their direct participation in hostilities (in light of article 38 of the Convention on the Rights of the Child);**
 - b) **explicitly prohibit by law the violation of the provisions of the Optional Protocol regarding the recruitment and involvement of children in hostilities;**
 - c) **establish extraterritorial jurisdiction for these crimes when they are committed by or against a person who is a citizen of or has other links with the State Party;**
 - d) **stipulate explicitly that military personnel should not undertake any act that violates the rights enshrined in the Optional Protocol regardless of any military order to that effect.**
7. **The Committee, welcoming the information that the State party has actively participated in the process leading towards the adoption of the Rome Statute establishing the International Criminal Court and that it agrees with its content, encourages the State party to become a party to the Rome Statute as soon as possible. It further recommends that the State party ratify the Additional Protocol II to the Geneva Conventions relating to the protection of victims of non-international armed conflicts.**

Dissemination and training

8. The Committee, while welcoming the information that human rights is included in ethics and citizenship courses at the tertiary level (including military schools), is concerned that not sufficient information on the Optional Protocol is provided to relevant professional groups.
9. **The Committee recommends that the State party ensure that all relevant professional groups, in particular military personnel, are systematically trained on the provisions of the Convention and its Optional Protocol on the involvement of**

children in armed conflict. In addition, it recommends that the State party make provisions of the Convention and its Optional Protocol widely known to children through, *inter alia*, school curricula.

C.2. Recruitment of children

10. The Committee welcomes the information that birth registration has significantly improved over the recent years, but it remains concerned that uncertainty about the age of the young recruits can still occur due to lack of birth registration in the past.
- 11. The Committee recommends that that the State party ensure, in case of lack of a birth certificate, that the age of the recruit is determined by other reliable means, including medical examination.**

C.3. Involvement of Children in hostilities

Direct participation in hostilities

12. The Committee is concerned that, according to the State party's declaration made upon ratification of the Optional Protocol, those who are under the age of 18 shall not be directly involved in military battles (hostilities) 'unless there is an urgent need for safeguarding national independence, sovereignty, unity and territorial integrity'.
- 13. The Committee, while fully respecting the right of a State to self-defence in accordance with the UN Charter, recommends that the State party set a minimum age for voluntary recruitment of children in accordance with article 3(2) of the Optional Protocol and prevent the active participation of children in hostilities even in presence of the exceptional situations mentioned above in paragraph 12.**

C. 4. Measures adopted with regard to disarmament, demobilization, physical and psychological recovery and social reintegration

14. The Committee welcomes the information that, since reunification in 1975, Viet Nam has carried out several demobilization programs as part of its peacetime reconstruction, but regrets the paucity of information provided about measures and programmes adopted with regard to physical and psychological recovery and social reintegration of persons who are victims of acts contrary to the Optional Protocol. The Committee is concerned that – despite different site-clearance projects and activities – large part of State party's territory is still affected by unexploded ordnances (UXO) and landmines from the past conflicts causing serious danger for the population, and in particular children.
- 15. The Committee recommends that the State party provide in its next report more information on measures adopted with regard to physical and psychological recovery and social reintegration of victims of acts contrary to the Optional Protocol. It further recommends that the State party continues its landmine and**

UXO clearance and risk education activities seeking the necessary technical and financial support within a framework of international cooperation, including from UN agencies.

C.5. International assistance and cooperation

- 16. The Committee recommends that the State party submit further information on cooperation provided and/or received in the implementation of the Optional Protocol, including through technical cooperation and financial assistance.**

C.6. Follow-up and dissemination

- 17. The Committee recommends that the State party take all appropriate measures to ensure full implementation of the present recommendations, inter alia, by transmitting them to the Ministry of Defence, the National Assembly and People's Councils and to provincial authorities, where applicable, for appropriate consideration and further action.**
- 18. In the light of article 6, paragraph 2, of the Optional Protocol, the Committee recommends that the initial report submitted by the State Party and concluding observations adopted by the Committee be made widely available to the public at large in order to generate debate and awareness of the Optional Protocol, its implementation and monitoring.**

C.7. Next report

- 19. In accordance with article 8, paragraph 2, the Committee requests the State party to include further information on the implementation of the Optional Protocol in its combined third and fourth periodic reports under the Convention on the Rights of the Child, in accordance with article 44 of the Convention, due on 1 September 2007.**