



# Convention on the Rights of the Child

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## Committee on the Rights of the Child Seventy-fifth session

### Summary record of the 2196th meeting\*

Held at the Palais Wilson, Geneva, on Tuesday, 16 May 2017, at 10 a.m.

Chair: Ms. Winter

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\* No summary record was issued for the 2195th meeting.

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*The meeting was called to order at 10.05 a.m.*

### **Consideration of reports of States parties**

*Combined third and fourth periodic reports of the United States of America on the implementation of the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict (CRC/C/OPAC/USA/3-4; CRC/C/OPAC/USA/Q/3-4 and CRC/C/OPAC/USA/Q/3-4/Add.1)*

*Combined third and fourth periodic reports of the United States of America on the implementation of the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography (CRC/C/OPSC/USA/3-4; CRC/C/OPSC/USA/Q/3-4 and Add.1)*

1. *At the invitation of the Chair, the delegation of the United States of America took places at the Committee table.*
2. **Mr. Allegra** (United States of America), introducing the combined third and fourth periodic reports of the United States (CRC/C/OPAC/USA/3-4 and CRC/C/OPSC/USA/3-4), said that there was a strong legal framework in the United States to protect children from exploitation and ensure that they were not unlawfully recruited or used in armed conflict.
3. **Mr. Visek** (United States of America) said that, since its last appearance before the Committee on the Rights of the Child in 2013, the United States Department of State had helped to facilitate over 15 consultations with civil society representatives on issues related to international human rights obligations.
4. Although the United States had not ratified the Convention, the Government agreed with the Convention's underlying goal to protect the most vulnerable persons. Non-ratification of the Convention did not indicate a lack of commitment to protecting children, and the robust system of federal and state laws in the United States often served as a model for other countries.
5. **Ms. Coppedge** (United States of America) said that, in December 2015, the Government had appointed the first United States Advisory Council on Human Trafficking. The 11 Council members came from various backgrounds, and some of them had been exploited as children. The Council provided a formal platform for survivors to advise the President's Interagency Task Force to Monitor and Combat Trafficking in Persons. In its first report, the Council had recommended that the Government should provide selected employees with training on trafficking in persons, including in the areas of forced child labour and child begging.
6. In 2016, the Government had issued a report on the activities of federal and state authorities to deter and prevent child trafficking in the United States. In that regard, the Department of Health and Human Services had developed guidance on reducing the vulnerability to trafficking of persons aged under 18 and providing them with relevant services.
7. Child Protection Compact Partnerships had been initiated at the Department of State's Office to Monitor and Combat Trafficking in Persons with the aim of reducing child trafficking by working bilaterally with partner governments. The first partnership had been entered into with Ghana in 2015, and the Office had awarded US\$ 5 million to two NGOs working with Ghanaian ministries and civil society organizations. In the first year of partnership, standards for child victim identification and screening had been developed, the refurbishment of a children's shelter had been planned, and 68 children had been removed from labour trafficking situations through coordination with local communities.
8. In April 2017, a second partnership had been established with the Philippines to increase preventive efforts and protection for child victims of online sexual exploitation and forced child labour, and hold the perpetrators to account. Funding would be provided by the Office and the Government of the Philippines.
9. **Ms. Coffman** (United States of America) said that, in her capacity as Attorney General of the state of Colorado, she was a member of the Special Committee on Human Trafficking of the National Association of Attorneys General. The Special Committee

fostered alliances with partner agencies and NGOs to eliminate the sale of children and address the harmful consequences of servitude.

10. All states and territories of the United States had passed laws to combat trafficking. Electronic surveillance could be used upon establishment of probable cause, in view of the difficulties of tracking the activities of traffickers and the possibility of underage victims being coached or intimidated by prosecutors.

11. **Ms. Jones** (United States of America) said that, through clear rules, training and oversight mechanisms, the prohibition on the entry into the United States Armed Forces of persons aged under 17 had been successfully implemented. The majority of new recruits were aged 18 or over, and had graduated from high school. In their final years of high school, young people were provided with information about military service, including educational opportunities. Policies were in place to ensure that no one under the age of 18 could engage directly in hostilities, and that the provisions of those policies were respected.

12. **Ms. Gelber** (United States of America) said that, in 2016, the Department of Justice had released the second National Strategy for Child Exploitation Prevention and Interdiction, which highlighted emerging threats against children and proposed a solution covering investigations and prosecutions, victim services, outreach and education, and policy and legislation. The National Law Enforcement Training on Child Exploitation would be held in June 2017.

13. The Department of Justice had allocated US\$ 2 million for grants to provide services for victims of child pornography, and US\$ 4.75 million to fund research to improve outcomes for child and youth victims of human trafficking. The Department had also brought prosecutions against serious offenders. A recent case had led to the arrest of at least 350 persons, including 25 producers of child pornography and 51 molesters, and the identification or rescue of 55 children. International efforts had yielded at least 548 arrests and the identification or rescue of at least 296 children.

14. **Mr. Rezmovic** (United States of America) said that the law enforcement personnel of the Department of Homeland Security had initiated over 1,000 human trafficking investigations in 2016, and had provided over 400 victims with the resources required to make a safe and stable recovery, as part of a victim-centred approach. Personnel cooperated closely with local communities, and participated in 91 human trafficking task forces across the United States.

15. **Ms. Aldoseri** (Country Task Force) said that she would like to receive further information on the preparation of the State party's report on its implementation of the Optional Protocol on the involvement of children in armed conflict (CRC/C/OPAC/USA/3-4), particularly the parties involved and whether children and NGOs had been consulted. She also asked about the progress made in establishing a national human rights institution mandated to receive complaints from children under the Optional Protocol to the Convention on the involvement of children in armed conflict.

16. Although the report stated that the Optional Protocol was widely disseminated publicly and at all levels of government, it would be useful to know how regularly the information was shared and whether it was provided to new recruits in the armed forces. Furthermore, she wished to know whether recruiters received training on the Optional Protocol in order to transmit the information to recruits.

17. In view of the large numbers of unaccompanied minors entering the United States each year, particularly from Latin America, she asked what system had been put in place to enable the Government to track unaccompanied children who might have been involved in armed conflict before entering the United States. She would be interested to know what mechanism was available to provide those children with the protection they required.

18. She wished to know how consent to the military service of new recruits was obtained from their parents and guardians. It would be useful to know whether recruiters met parents and guardians in person, or whether they sent consent forms to be signed, and in the latter case, how the signatures were verified. New recruits, and their parents and guardians, also had to be informed of the recruit's obligations. In that regard, she asked how the military authorities guaranteed that those obligations were understood, and whether

the documents provided had been evaluated and approved by specialized bodies outside the relevant military institution. It would be helpful to know whether parents and guardians were free to revoke their consent without incurring penalties.

19. She would welcome more information on the acceptance of applications made by young people to the military prior to their seventeenth birthdays. While many new members of the United States armed forces were aged 17 at the time of their recruitment, she wondered whether the Government was considering raising the recruitment age to 18, as the Committee had previously recommended.

20. Maintaining the quota system for voluntary recruitment could encourage recruiters to target more 17-year-olds, and therefore affect the voluntary nature of recruitment. Incentives could also be offered to recruiters to achieve the quota. She asked whether there were any measures in place to prevent the targeting of 17-year-olds, and whether the Government planned to abolish the quota system, as had been recommended previously.

21. She wondered whether there were plans to restrict access to personal information on young people aged under 18 and still in high school. The information should be confidential and available to recruiters only with the consent of the parents and guardians.

22. With regard to military schools, she asked what steps had been taken to make the Optional Protocol a mandatory part of curricula, and who monitored and evaluated the content of military schools' curricula to guarantee implementation of the Optional Protocol. Similarly, as no information was available on the number of children enrolled in the Army Cadet Corps, it would be useful to know who monitored such private institutions and their curricula, and what measures were in place to guarantee that neither children's rights nor the provisions of the Optional Protocol were violated.

23. She also requested further information on the Junior Reserve Officer Training Corps (JROTC) Programme. While JROTC was a voluntary course, it was also credited, which could oblige young people to continue with it in order to avoid delays to their graduation. In the event that alternative courses were oversubscribed, children could have no choice but to take the JROTC course, negatively impacting its voluntary nature.

24. Following the release of the last child detainee from the Guantanamo Bay camp in 2015, she asked what recovery and reintegration programmes had been designed for former detainees at that camp and other prisons, and for those transferred to other detention facilities in the United States. She wondered what steps had been taken to ensure that children in Afghanistan detained in camps under Afghan authority were provided with the necessary protection, and whether the bilateral agreement between the United States and Afghanistan contained clauses on the provision of such protection. Moreover, it would be useful to know whether any investigation had been conducted into the torture and maltreatment cases against the Afghani authorities that had appeared in the report of the United Nations Assistance Mission in Afghanistan (UNAMA).

25. She wondered how the safety of children was guaranteed prior to the launch of military operations. Following the counter-terrorist strikes launched by the United States in Yemen in January 2017, in the Syrian Arab Republic in April 2017, and in Afghanistan, particularly the airstrike on the hospital in Kunduz in October 2015, she requested information on the number of children injured, maimed or killed in the attacks and on the measures taken after the strikes. She asked whether any investigation had been conducted and what compensation had been arranged for the victims.

26. **Mr. Mezmur** (Country Task Force), noting the reference in the State party's report (CRC/C/OPAC/USA/3-4) to the ongoing consideration of the potential transmission of the Convention to the United States Senate for its advice and consent, with a view to ratification, said that he would appreciate further information on that process and its practical implications. Noting also that it was stated in the report and the replies to the list of issues (CRC/C/OPAC/USA/Q/3-4/Add.1) that the United States did not consider some of the Committee's questions to refer to obligations emanating directly from the Optional Protocol, he asked whether they were taken to refer to obligations under other instruments of international law.

27. He asked whether there was a distinction between direct participation in hostilities and direct participation in combat, and whether such a nuance would have legislative or practical implications. Moreover, he requested information on the feasible measures used and challenges faced in the implementation of legislation ensuring that recruits under the age of 18 did not participate directly in hostilities.

28. In view of the decision to maintain the minimum recruitment age of 17, in part so that persons graduating from high school could choose to enter military service to avoid unemployment, he asked whether that decision had been taken to protect vested interests, to safeguard the right to employment of young people, or to ensure compliance with the Optional Protocol. A review of recruitment legislation would not impact the ability of the Department of Defense to carry out its national security responsibilities.

29. In its concluding observations on the second United States report submitted under the Optional Protocol (CRC/C/OPAC/USA/CO/2), the Committee had urged the United States Government to ensure that all allegations of human rights violations perpetrated against children by the United States military were investigated. He requested a clarification of whether the obligation to investigate such cases was considered to emanate directly from the Optional Protocol.

30. It was stated in the report that the Child Soldiers Accountability Act largely concerned accountability outside the United States for, inter alia, involuntary enlistment. However, as many of the countries where the Act was relevant had limited birth registration systems and many of the children recruited had been separated from their families, it would be useful to know whether there were practical limitations to the application of the Act.

31. He requested additional information on the recruitment of children under 18 years of age by private military and security companies.

32. The Committee had expressed concern in its previous concluding observations about the issue of presidential waivers in respect of arms sales and military assistance under the Child Soldiers Prevention Act. According to the report, the State party tried to connect specific policy actions with partial or full waivers, transforming the Act into a strategic diplomatic tool. He requested concrete examples of countries that had benefited in recent years from waivers issued as a diplomatic tool. The Committee had been informed of concerns raised by Congress, stakeholders and the general public about that procedure. A bill aimed at amending some provisions of the legislation had reportedly been introduced in Congress on 27 April 2017. Pursuant to the amendments, the President would be required, before issuing a waiver, to certify to appropriate congressional committees that the Government was taking effective and continuous steps to address the problem of child soldiers; the definitions under the Act would be refined to clarify that government-supported police or other security forces that were involved in the recruitment or use of child soldiers were covered by the Act; the Secretary of State would be accorded a time frame of 45 days to notify affected Governments that they had been identified as subject to the Child Soldiers Prevention Act; and annual reporting on implementation would be required, including information on the type and amount of monetary assistance that had been withheld under the Act or that had been allowed through the use of waivers.

*The meeting was suspended at 10.45 a.m. and resumed at 11.05 a.m.*

33. **Mr. Visek** (United States of America) said that the United States had signed the Convention on the Rights of the Child in 1995, but the executive authorities had not yet transmitted it to the Senate to obtain consent for ratification, partly because the broad scope of the Convention raised many issues regarding federalism. However, the new administration was currently undertaking a thorough review of all such matters.

34. Members of the armed forces under 18 years of age were not permitted to take a direct part in hostilities. However, indirect participation, such as gathering and transmitting military information, and transporting weapons, munitions and other supplies, was permissible.

35. Private security companies operating under a Department of Defense contract overseas were subject to prosecution under the Military Extraterritorial Jurisdiction Act if

they committed an offence that would be punishable within the territorial jurisdiction of the United States.

36. **Mr. Busby** (United States of America) said that the report had been prepared in consultation with a large number of government agencies, including the Department of Education and the Department of Health and Human Services. Consultations had also been conducted with civil society organizations, and a great deal of information had been drawn from NGO shadow reports.

37. There was no national human rights institution, but there were robust human rights protection mechanisms, such as commissions and ombudsman offices, at the federal, state and local levels; those mechanisms ensured compliance with the Constitution and current legislation, which incorporated the country's international obligations.

38. With regard to the dissemination of international treaties, responsibility for implementing their provisions lay primarily with state and local authorities. However, the Department of Education had launched many initiatives aimed at promoting human rights principles, tolerance and mutual respect, as well as familiarity with diverse cultures and religious traditions. Human rights and civil rights were included in many educational curricula. The Bureau of Democracy, Human Rights and Labor in the Department of State published on its website all relevant information regarding the treaties ratified by the United States and their implementation.

39. The goals of the Child Soldiers Prevention Act were consistent with those of the Optional Protocol. Some or all sanctions applicable to countries where the Government recruited child soldiers could be waived by the President. However, action was taken to link the use of waivers to improvements in the situation. In Chad, for instance, where there had formerly been child soldiers, the United States had coerced the Government into preparing a reportedly successful action plan to eliminate the recruitment of child soldiers. Assistance had been provided to Somalia and Nigeria on condition that they complied with the Child Soldiers Prevention Act and in both cases improvements had been achieved in the Governments' practices.

40. The amendments to the Child Soldiers Prevention Act had been proposed so recently that the executive branch had not yet taken a position on them, but they would be examined carefully in due course.

41. **Mr. Cardona Llorens** (Coordinator, Country Task Force) asked whether private security companies that were not operating under a Ministry of Defense contract were subject to the Military Extraterritorial Jurisdiction Act.

42. **Mr. Visek** (United States of America) said that in such cases the companies' activities would be subject to diverse criminal laws. The extraterritorial scope of United States legislation was carefully prescribed.

43. **Mr. Rezmovic** (United States of America) said that the data on unaccompanied migrant children was quite reliable because they generally revealed their presence to the immigration authorities rather than trying to evade them. The Government had introduced programmes involving several departments to ensure their safety and to provide legal assistance. On encountering unaccompanied minors at the frontier, the Department of Homeland Security's customs and border protection officers interviewed them to determine their status, and to establish whether they had been involved in armed conflict and whether they required medical assistance. Although the law required such screening only for the borders with Canada and Mexico, in practice all children, regardless of their nationality, were screened. The officers received annual training in determining involvement or risk of involvement in child labour or other forms of trafficking. The goal in all cases was to ensure their physical and mental well-being. They were generally transferred within 24 hours to the Department of Health and Human Services, which placed them in shelter care, group homes or residential treatment centres until they were released to sponsors or family members in the United States or returned to their countries. They could also apply for asylum or immigration visas.

44. Persons who engaged in voluntary or involuntary armed resistance, including the provision of material support to a terrorist organization or the use of weapons with intent to

endanger individuals, were generally barred from admission and immigration benefits. However, the Department of Homeland Security could exercise discretionary authority to exempt individuals from the inadmissibility provisions following security checks and an overall assessment of their circumstances. Such authority had in fact been exercised more than 22,000 times.

45. **Ms. Gelber** (United States of America) said that there were certain requirements for a prosecution to be brought under the Child Soldiers Accountability Act. The alleged offender should be a United States national, a lawful permanent resident, a stateless person whose habitual residence was in the United States, or a person, regardless of nationality, who was currently present in the United States. Challenges arose when a prosecution was brought for an offence committed overseas, since an extradition treaty would be required. Judicial proceedings could not be conducted in absentia, and witnesses were required to testify in person before the court. The logistical challenges were even greater, particularly for witnesses concerning child victims, if the country concerned was involved in an armed conflict. Furthermore, mutual legal assistance treaties needed to be invoked to obtain physical evidence from abroad.

46. **Mr. Arendt** (United States of America) said that every military recruiter in the Department of Defense attended training courses on the rules and regulations governing United States legislation and the policies of the Department of Defense. Each civilian and military member of the Department attended an annual course on combating trafficking and on the issue of child soldiers.

47. All 17-year-old recruits who entered military service were briefed on the provisions of their contract of employment. The recruiters met with their parents and obtained their signatures on a voluntary basis. Parents could withdraw their consent at any time until the minor reached the age of 18. Recruiters read the relevant documents with family members in order to ensure that they fully understood all the responsibilities and challenges associated with military service. The entire process was monitored by an independent organization called the Military Entrance Processing Command.

48. Recruiters could screen as many as 150 candidates before they found someone who fully qualified for military service. It was essential to confirm that they were in good physical and mental health and that they would be able to cope with the rigours of military service. Appropriate documents were required by law to verify the candidate's identity and age. Hence there were no records of recruits under the age of 16.

49. The Department of Defense accorded high priority to personal and professional accountability. Oversight of the performance of military recruiters under the quota system rendered it virtually impossible for them to abuse their powers. When additional recruits were required, they tended to belong to the 24 to 26 age group rather than a younger age group, and the total number of recruits remained relatively constant.

50. Access by military recruiters to personally identifiable information, with parental consent, was carefully monitored and legally restricted, and the parental opt-out principle was uniformly applied. All information was submitted to parents for review at the beginning of the school year and they were also provided with opt-out forms. The branch of the Department of Education that was responsible for monitoring and enforcing the procedure identified schools that were not complying with the legislation on recruiter access and they were then deprived of governmental financial assistance.

51. Each military academy included a wide-ranging peace and justice course in its curriculum.

52. **Mr. Arendt** (United States of America) said that the Junior Reserve Officer Training Corps programme was currently offered in over 3,600 high schools. It was taught by retired officers who were employed by the local education authorities and reported to the school principal. The aim of the programme was to build students' ability and motivation to succeed. It was offered, as a priority, to schools in economically deprived areas, where graduation rates were much lower than the national average; graduation rates in those schools had improved as a result. Schools could choose which modules would be taught as part of the programme and students could choose whether or not they wished to participate.

53. **Ms. Jones** (United States of America) said that the Government endeavoured to ensure that juveniles were not held in detention any longer than necessary in the context of armed conflict. Medical, psychological, educational and recreational services were provided to all juvenile detainees to assist with their recovery and reintegration.

54. Summarizing paragraph 29 of the replies to the list of issues (CRC/C/OPAC/USA/Q/3-4/Add.1), she said that the United States Government shared advice and best practices with the Afghan Government, including with regard to the treatment of juvenile detainees. It made efforts to ensure that the Afghan Government understood and fulfilled its obligations under the law of armed conflict.

55. With reference to paragraphs 9 and 10 of her country's report (CRC/C/OPAC/USA/3-4), she said that all United States military operations were conducted in accordance with the law of armed conflict. The Armed Forces were firmly committed to the protection of civilians and to the fundamental principles of necessity, humanity, distinction and proportionality. An executive order on pre- and post-strike measures to address civilian casualties in United States operations involving the use of force had been signed on 1 July 2016; it covered practices such as the assessment carried out by a legal adviser to determine whether a planned strike was both legal and proportional. All credible information suggesting that civilian casualties had occurred was investigated; any criminal activity resulting in civilian casualties was investigated separately, by a different unit within the Department of Defense.

56. **Mr. Rodríguez Reyes** said that it was unclear whether students in military academies received training on the implementation and scope of the Optional Protocol. Noting that the Government aimed to ensure that juveniles were not detained for any longer than necessary, he asked what period of time was considered necessary. Lastly, he asked what steps were taken if an irregular situation was observed during monitoring in Afghanistan.

57. **Mr. Madi** asked whether the recruitment and use in hostilities of persons under the age of 18 years by non-State armed groups was explicitly defined as a criminal offence in federal legislation.

58. **Mr. Cardona Llorens** asked whether there was a programme in place for the provision of rehabilitation services to former child soldiers who were eligible for asylum or refugee protection, having been exempted from the terrorist activity bar referred to in paragraph 29 of the State party's report

59. **Mr. Mezmur** said that he would like clarification as to whether the Child Soldiers Prevention Act was considered by the Government to relate directly or indirectly to its obligations under the Optional Protocol. In the context of waivers, it was unclear how assistance such as the provision of arms, military equipment and financing contributed to the professionalization of foreign armed forces. He would also like to know whether the decision to move from a full waiver to a partial waiver in South Sudan had had an impact on the recruitment and use of child soldiers in that country.

60. Noting that persons under the age of 18 years were not deployed to areas where hazardous duty pay or imminent danger pay were authorized, he asked whether such persons were ever deployed to places where no such pay was authorized but where they faced comparable risks, in relation to prohibitions under the Optional Protocol. He further enquired what protection was provided for persons under the age of 18 in cases where hazardous duty pay or imminent danger pay was introduced in an area after their deployment to that area.

61. **The Chair** asked whether the United States mission in Afghanistan was competent to visit prisons where children were detained and if so, whether it was encouraged to report on those visits to the United States Government.

62. **Mr. Visek** (United States of America) said that the Child Soldiers Prevention Act did not fall within the framework of the Government's obligations under the Optional Protocol, although it was linked to those obligations and consistent with the objectives of the Optional Protocol.



63. **Ms. Gelber** (United States of America) said that the relevant federal legislation applied to children under the age of 15 only and covered both non-State and State armed groups. There was no such legislation concerning children aged between 15 and 18. It was worth recalling that the Optional Protocol provided for the recruitment of volunteers under the age of 18 to national armed forces, subject to parental consent.

64. **Mr. Madi** asked how the State party interpreted article 4 of the Optional Protocol, which required the criminalization of the recruitment of persons under the age of 18 years by non-State armed groups. He said that it was unclear what legislation would be used to prosecute a person in the United States who had previously been involved in recruiting persons aged 16 or 17 to a non-State group in another country.

65. **Ms. Gelber** (United States of America) said that it would not be possible to prosecute such a person because the relevant federal legislation applied only to children under the age of 15.

66. **Mr. Visek** (United States of America) said that the Government had stated in its declaration pursuant to article 3 (2) of the Optional Protocol that it understood the term "armed groups", in article 4, to mean non-governmental armed groups. Such groups were prohibited under federal law.

67. **Mr. Busby** (United States of America) said that full and partial waivers were granted in a range of circumstances. In some cases, a waiver was granted in order to assist in ending the use of child soldiers; elsewhere, waivers were granted to address specific needs. In Iraq, for example, the United States was supporting the military in its efforts to combat Islamic State in Iraq and the Levant. The delegation would provide information on the situation in South Sudan after the meeting.

68. **Mr. Arendt** (United States of America) said that payment records were used to track the deployment of individuals to hostile fire areas and thus monitor the effective implementation of the Optional Protocol by the Armed Forces. If the situation in a particular area were to change, steps would be taken to verify who had been deployed to that area.

69. The courses taught at military academies were similar to those taught at other universities. The core course catalogues for military academies were publicly available. Members of the military received training that encompassed both specific instruments, such as the Optional Protocol, and broader philosophical questions.

70. **Mr. Rodríguez Reyes** invited the delegation to comment on unofficial reports of the existence, in the United States, of armed militias that provided training to young persons on the use of weapons.

71. **Mr. Visek** (United States of America) said that he had no knowledge of the existence of any such group. Armed groups, as defined by the Optional Protocol, were prohibited under federal law. Forced recruitment into such groups was covered by legislation on matters such as coercion. Further information in that regard could be found in the initial report of the United States (CRC/C/OPAC/USA/1).

72. **Ms. Jones** (United States of America) said that, although Afghanistan was a sovereign nation, responsible for conducting its own affairs, there were mechanisms whereby the United States could follow up on issues of concern, based on credible information, through diplomatic and military channels. The Government encouraged the relationship between Afghanistan and the International Committee of the Red Cross, which had a mandate to visit detainees and submitted confidential reports to the Afghan Government, to which the United States did not have access. United States advisers on the ground throughout Afghanistan held dialogues with their Afghan counterparts on a daily basis concerning a variety of issues under international law obligations.

73. **Mr. Rezmovic** (United States of America) said that rehabilitation measures were provided for unaccompanied former child soldiers, but only under certain circumstances. The 22,000 exemptions to which he had referred earlier related to the entire history of the programme, excluding the past year. Exemptions for children were granted where they posed no danger to the United States; for example, where child soldiers had been recruited

under duress or had not provided material support to the group that had recruited them. The Department of Homeland Security and the Department of Health and Human Services provided victim assistance personnel at state and local level. Various types of protection were available, including “T” visas for victims of trafficking or asylum for victims of persecution.

74. **Ms. Aldoseri** asked whether exemptions had been offered for children involved in armed conflict.

75. **Mr. Rezmovic** (United States of America) said that the law only allowed for exemptions where involvement was immaterial or the individual in question had acted under duress.

76. **Mr. Arendt** (United States of America) said that it was important for young persons to be able to find employment after leaving school between the ages of 17 and 18. The law would not therefore be changed to prohibit the military from recruiting 17-year-olds.

77. **Mr. Mezmur** said that he would like to know whether there had been any problems in ensuring that the use of child soldiers by government-supported police or other security forces fell within the scope of the proposed amendments to the Child Soldiers Prevention Act. Furthermore, he asked whether there had been instances where the relevant legislative bodies had not had the opportunity to exercise proper oversight of the interpretation and implementation of the Act.

78. **The Chair** invited members to turn their attention to the State party’s report on its implementation of the Optional Protocol on the sale of children, child prostitution and child pornography (CRC/C/OPSC/USA/3-4).

79. **Mr. Cardona Llorens**, noting that data collection posed a challenge for the State party, in view of the fact that data were fragmented under the federal system, asked what steps were being taken to overcome that situation in the short and medium term. He would welcome any correction or confirmation of his impression that the National Strategy for Child Exploitation Prevention and Interdiction and the Federal Strategic Action Plan on Services for Victims of Human Trafficking in the United States focused on concerns for which there were complete data, but made little reference to issues such as the sale of children for labour, child pornography or the sale of organs.

80. The appointment of a National Coordinator for Child Exploitation Prevention and Interdiction was welcome; however, the Coordinator worked only at the federal level and lacked sufficient resources to coordinate with state or local authorities. An explanation of the mandate and competences of the National Coordinator would be appreciated.

81. Awareness-raising activities seemed to centre on the issue of trafficking, and he would like further information on the sale, prostitution and use of children in pornography. Were there specific campaigns? Was it true that the training of staff who worked with children also centred on trafficking? Had an assessment survey been conducted on the success of training in preventing crimes and what was the result? He requested clarification as to whether there had been any significant investment in attempting to reduce demand for child prostitution and pornography in recent years. Furthermore, an assessment was required to show whether the investment was efficient, effective and transparent. Since published studies had found that almost twice as many children with legal representation were awarded protection as those without, he would like to know what measures were being planned to ensure that all children were represented by a lawyer in practice and to ensure that investment in that area was actually effective.

82. Since the delegation had acknowledged that American Indian children were vulnerable and it was clear that they were subject to higher levels of child poverty, he asked what measures were being taken to address the underlying reasons why children were more vulnerable to the crimes covered by the Protocol. He would also welcome additional information on the plan for services aimed at lesbian, gay, bisexual and transgender (LGBT) youths by the Family and Youth Services Bureau for 2016. Had the plan been implemented? Was it aimed at all LGBT young people or only those who were homeless? What conclusions had been reached?

83. He commended the Department of Education's efforts to prevent trafficking, but wondered what action had been taken to prevent the other crimes covered by the Optional Protocol. Furthermore, the Committee was deeply concerned that the Senate had not adopted the Strategy to Oppose Predatory Organ Trafficking Act, and wished to know what preventive measures were being taken. Preventive action regarding sex tourism was also an issue. What training did tour agents and agencies receive? What awareness-raising campaigns were there in accordance with the Code of Conduct to protect children against sexual exploitation in the travel and tourism industry? Although the mitigating circumstance of reasonable belief had recently been changed to require clear and convincing evidence, it was not an absolute prohibition of the abuse and exploitation of children as required under article 8 (2) of the Protocol.

84. In view of ambiguities in the relevant legislation, he wished to know whether biological mothers were allowed to receive payment in cases of adoption. Furthermore, he requested clarification of the practice of unregulated custody transfers, or re-homing, of children outside the purview of the courts or public agencies, as described in paragraph 56 of the State party's report, as well as an explanation as to how the best interests of the child were guaranteed in such cases. He would also appreciate information on the case of Anyelí Liseth Hernández Rodríguez, as had been requested by the Committee in its 2013 concluding observations (CRC/C/OPSC/USA/CO/2).

85. The delegation had argued, in paragraph 35 of its replies to the list of issues (CRC/C/OPSC/USA/Q/3-4/Add.1), that the issue of surrogacy was not covered by the Optional Protocol. However, the examples of the sale of children given in the text of the Protocol were not exhaustive, and surrogacy, a relatively new phenomenon, should be considered to be covered by the definition contained in article 2 (a), namely: "any act or transaction whereby a child is transferred by any person or group of persons to another for remuneration or any other consideration". Furthermore, there were concerns that surrogacy could be used to cover up the sale of children. Surrogacy tourism existed in the United States, often involving person who had been declared unfit for adoption in their countries of origin. In view of the delegation's remark that the prohibition of paid surrogacy was the responsibility of the states and not the federal Government, he wished to know whether there was any intention to regulate surrogacy, along with adoption, to safeguard against the sale of children at federal level.

86. It would be helpful to know whether there were plans to extend extraterritorial jurisdiction for the crimes under the Protocol in which the victim was a citizen of the United States; whether extradition would be applied to bilateral treaties with States that had not ratified the Protocol; and whether there were plans to eliminate the double criminality requirement.

87. **Mr. Kotrane** (Country Task Force) said that he welcomed the numerous pieces of legislation introduced pursuant to the Optional Protocol. Nonetheless, precise definitions were required in law so as to prohibit all criminal acts covered by the Protocol and not just trafficking.

88. There were concerns that children were forced to work, often in hazardous conditions, within the agricultural sector. He would like to know what measures had been taken to define modern forms of slavery in terms of the rights of the child. Were there plans to ratify the International Labour Organization (ILO) Minimum Age Convention, 1973 (No. 138)?

89. Children continued to be arrested and charged with prostitution in the majority of states, where laws for their protection had not been passed or were inadequate. He therefore sought clarification as to what measures the State party intended to take to define and abolish the prostitution and sale of children, whether or not in exchange for money, at federal and state level. He also asked what action had been taken to decriminalize child prostitution both in law and in practice, so that prostitutes under the age of 18 could not be arrested and were afforded protection.

90. The sale of organs was not specifically prohibited but fell within the scope of a number of laws. The State party should specify what measures it intended to take to explicitly prohibit the sale of children for the transfer of organs and to establish

proportionate penalties in that regard. He also wished to know whether there were plans to expressly define the responsibility of any legal entities involved in any of the crimes established by the Optional Protocol.

91. The Committee was concerned about a number of issues related to child trafficking, including a lack of refuges and underfunding of services for victims; denial of services to children who agreed to work as prostitutes; and a lack of support, monitoring and evaluation of services provided by NGOs. It would thus be useful to know what legislation, policies and procedures had been developed, what additional resources would be allocated and what support would be given in that regard.

92. Lastly, he would welcome clarification as to whether United States nationals who committed crimes covered by the Optional Protocol abroad could face prosecution in the United States, and whether the Protocol alone constituted sufficient ground for extradition, in accordance with article 5 of the Protocol.

*The meeting rose at 1 p.m.*