



Convention on the Rights of the Child

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Committee on the Rights of the Child

Concluding observations on the initial report of Rwanda submitted under article 12 of the Optional Protocol to the Convention the sale of children, child prostitution and child pornography, adopted by the Committee at its sixty-third session (27 May–14 June 2013)

1. The Committee considered the initial report of Rwanda at its 1794th meeting (see CRC/C/SR.1794), held on 31 May, and adopted at its 1815th meeting, held on 14 June 2013, the following concluding observations.

I. Introduction

2. The Committee welcomes the submission of the State party's initial report (CRC/C/OPSC/RWA/1) providing detailed information regarding its fulfilment of the rights guaranteed by the Optional Protocol as well as the written replies to the list of issues (CRC/C/OPSC/RWA/Q/1/Add.1), taking into account the difficulties in producing these documents for the first time. The Committee also appreciates the constructive dialogue held with the cross-sectoral delegation of the State party.

3. The Committee reminds the State party that these concluding observations should be read in conjunction with its concluding observations adopted on the combined third and fourth periodic reports of the State party under the Convention on the Rights of the Child (CRC/C/RWA/CO/3-4) and on the initial report under the Optional Protocol on the involvement of children in armed conflict (CRC/C/OPAC/RWA/CO/1).

II. General observations

Positive aspects

4. The Committee welcomes the following legislative measures taken by the State party in areas relevant to the implementation of the Optional Protocol, including the adoption of:

(a) Organic Law No. 01/2012/OL of 2 May 2012 instituting the Penal Code, which provides better protection against human trafficking in general, and the sale, prostitution and pornography of children, in particular;

(b) Law No. 54/2011 of 14 December 2011 relating to the rights and protection of the child, which prohibits slavery, child trafficking, the recruitment, use, procuring or offering of a child for prostitution or for the production of pornography or for pornographic shows or for illicit activities;

(c) Law No. 13/2009 of 27 May 2009 and its subsequent regulations, namely Ministerial Order No. 06 of 13/07/2010 determining the list of the worst forms of child labour; and

(d) Law No. 59/2008 of 10 September 2008 on the prevention and punishment of gender-based violence and its subsequent regulations.

5. The Committee further welcomes the progress achieved in the creation of institutions and the adoption of national plans and programmes that facilitate the implementation of the Optional Protocol, including:

(a) The National Policy on Elimination of Child Labour in February 2013; and

(b) The establishment of the Joint Programme on Human Trafficking in Rwanda between the Ministry of Gender and Family Promotion, the International Organization for Migration, and the United Nations Office on Drugs and Crime.

III. Data

6. The Committee notes with concern the lack of a comprehensive data collection system and analysis of information covering all offences under the Optional Protocol, which would enable the State party to inform policy decisions as well as analyse and assess progress in the implementation of the Optional Protocol.

7. The Committee recommends that the State party urgently establish a comprehensive and systematic mechanism of data collection, analysis, monitoring and impact assessment covering all areas of the Optional Protocol. The data should be disaggregated by, inter alia, sex, age, national and ethnic origin, geographical location and socioeconomic status, with particular attention to children in the most vulnerable and marginalized situations. Data should also be collected on the number of prosecutions and convictions, disaggregated by the nature of the offence.

IV. General measures of implementation

Legislation

8. The Committee welcomes the fact that the new Penal Code, Law No. 01/2012/OL, has strengthened the protection of children against sale, prostitution and pornography. However, the Committee is concerned that the bills complementing the current provisions of the Penal Code, such as the Bill on the Prevention, Prosecution, Repression of Human Trafficking are yet to be finalized and adopted.

9. The Committee requests the State party to expedite, as a matter of priority, the process of elaboration and adoption of the bills complementing the provisions of the newly adopted Penal Code.

National plan of action

10. While welcoming the existence of various plans of action relevant to the Optional Protocol, in particular the Integrated Child Rights Policy and its strategic plan (2011), the National Strategic Plan of Action for Orphans and Other Vulnerable Children (2007–2011),

and the National Strategic Plan on Street Children (2005), the Committee is nevertheless concerned by the lack of a comprehensive plan and programmes addressing all issues specifically covered under the Optional Protocol.

11. The Committee recommends that the State party review the Integrated Child Rights Policy and develop a comprehensive programme of action specifically targeting all offences covered under the Optional Protocol. In implementing these recommendations, the State party should take into account the Declaration and Agenda for Action and the Global Commitment adopted at the First, Second and Third World Congresses against Sexual Exploitation of Children, held in Stockholm in 1996, in Yokohama in 2001 and in Rio de Janeiro in 2008.

Coordination and evaluation

12. The Committee welcomes that the State party established the National Children's Commission, under the Ministry of Gender and Family Promotion, as the leading inter-agency body responsible for the coordination of the implementation of policies and programmes on child protection, including on the Optional Protocol. However, the Committee is concerned about the inadequate capacity and authority of the Commission to coordinate and evaluate all the activities under the Optional Protocol at the provincial, district and sector levels.

13. The Committee urges the State party to take all measures to ensure that the National Children's Commission has full authority and capacity to coordinate the implementation of the Optional Protocol across all ministries and agencies as well as among provincial, district and sector levels. The Committee specifically recommends that the State party allocate sufficient and adequate human, technical and financial resources to the Commission to fulfil its mandate.

Dissemination and awareness-raising

14. The Committee is concerned that the State party lacks a systematic and comprehensive approach to the dissemination of the Optional Protocol prohibiting sale of children, child prostitution and child pornography, which has contributed to a low level of understanding and awareness of the Optional Protocol among the public, children themselves, and professionals working for and with children. The Committee further notes with concern that the Optional Protocol has not been translated into the local languages of the State party.

15. The Committee recommends that the State party strengthen its efforts to make the provisions of the Optional Protocol widely known to the public at large, including to children in a child-friendly manner, their families and communities. The Committee further recommends that the State party:

(a) Develop, in close cooperation with relevant government agencies, civil society organizations, the media, the private sector, communities and children, awareness-raising programmes, including campaigns on issues covered by the Optional Protocol and protection provided against such practices in national laws. These programmes should be made available in the local languages of the State party and in forms that are accessible to children; and

(b) Translate the Optional Protocol into the local languages of the country and widely disseminate it among the government agencies, the general population, children and their family members, especially children in vulnerable situations.

Training

16. The Committee notes as positive the training provided to the legal advisors in the Bureaus of Access to Justice (*Maisons d'Accès à la Justice*) and the law enforcement personnel on child protection, including on identifying and assisting victims of trafficking. The Committee is, however, concerned that the State party does not provide systematic and specialized training in all areas covered by the Optional Protocol, in particular the sale of children, child prostitution and child pornography to professionals working with and for children.

17. The Committee urges the State party to provide specialized and systematic training on the Optional Protocol to all professionals working with and for children, especially the police, judges, prosecutors, teachers, social workers, health personnel and other groups of professionals. The Committee further urges the State party to earmark the necessary resources to conduct such training.

Allocation of resources

18. The Committee regrets the insufficient resources for the implementation of the Optional Protocol, including identifiable budgetary allocations particularly for the prevention of offences and the provision of assistance to child victims.

19. The Committee recommends that the State party take all measures to ensure that sufficient human, technical and financial resources are allocated equitably throughout the country for the development and implementation of programmes aimed at the prevention, protection, physical and psychological recovery and social integration of victims.

V. Prevention of the sale of children, child prostitution and child pornography (art. 9, paras. 1 and 2)

Measures adopted to prevent offences prohibited under the Protocol

20. The Committee welcomes the adoption of the National Policy on Elimination of Child Labour in February 2013. However, it is concerned that:

(a) The State party has not adopted effective and adequate prevention strategies, such as early identification of groups of children vulnerable to sale, prostitution and pornography, or taken adequate measures to address the root causes of the sale of children, child prostitution and child pornography, such as poverty, unemployment, discrimination, violence, HIV/AIDS and absence of parental care;

(b) Refugee and asylum-seeking children lack access to basic services, such as birth registration and basic and upper secondary education; and

(c) Girls from historically marginalized groups and refugee children are not adequately protected against sexual abuse, exploitation and harmful practices, such as early marriage.

21. The Committee urges the State party to adopt a comprehensive and targeted approach to assess and address the relevant root causes and risk factors of offences under the Optional Protocol, including poverty, violence, discrimination, HIV/AIDS and absence of parental care, and to target children in the most vulnerable situations. The Committee specifically recommends that the State party:

(a) **Undertake all measures for an early identification of children who are especially vulnerable to becoming victims of the sale and other crimes covered by the**

Optional Protocol, and link such measures to existing child protection programmes and poverty reduction strategies, including the Vision 2020 Umurenge Programme and the 2003 National Strategic Plan of Action for Orphans and Other Vulnerable Children;

(b) Ensure the provision of adequate protection measures for unaccompanied asylum-seeking and refugee children, including by providing them free birth registration through expeditious and effective registration procedures and equitable access to free primary education, secondary education, health and social services at the community level; and

(c) Take all necessary measures to protect children, especially girls, from historically marginalized groups and refugee children from sexual abuse, exploitation and harmful practices, such as early marriages, and ensure that such incidents are effectively investigated and perpetrators are prosecuted.

Child trafficking

22. The Committee is deeply concerned at the increase of the cases of child trafficking in the State party, as reported by the Rwandan National Police, and that children, particularly refugees, are victims of trafficking to other East African countries and other destinations where they are exposed to forced agricultural and industrial labour, domestic work and prostitution. The Committee notes with concern that, although Law No. 59/2008 on gender-based violence prohibits sex trafficking, it does not define that act.

23. The Committee is further concerned about the reports which indicate that there are cases of adolescent girls disappearing from the refugee camps without their family being aware of their whereabouts.

24. The Committee recommends that the State party define and prohibit all cases of trafficking of children, in accordance with the provisions of the Optional Protocol, and adopt a comprehensive policy with targeted measures to address the root causes of child trafficking and which focuses on children in the most vulnerable and marginalized situations. The Committee further urges the State party to:

(a) Immediately investigate the reports of disappearances of adolescent girls from the refugee camps, discover their whereabouts and ensure that they are safely reunited with their families and provided with all necessary support, including psychosocial counselling and health care. The Committee further recommends that the State party ensure that individuals responsible for such abductions and possible child trafficking are immediately arrested and prosecuted; and

(b) Strengthen international assistance in connection with investigations or criminal or extradition proceedings brought in respect of the offences covered by the Optional Protocol to deal with the existing problem of cross-border trafficking for the purpose of forced labour and sexual exploitation.

Child sex tourism

25. The Committee is concerned that, despite many cases of children being exploited in the commercial sex industry and trafficked for prostitution, there is insufficient legislation and lack of other measures, such as awareness-raising, to effectively prevent child sex tourism in the State party.

26. The Committee calls on the State party to:

(a) Establish an effective legislative framework and adopt all necessary administrative procedures, including through the development of a code of conduct

with tourism industry, to prevent, prosecute and eliminate exploitation of children in the commercial sex industry, including in the tourism industry;

(b) Carry out awareness-raising programmes on sexual exploitation of children, including child pornography for children and their families who are vulnerable to such offences; and

(c) Widely disseminate the World Tourism Organization's Global Code of Ethics for Tourism among travel agents and tourism agencies, and encourage those enterprises to become signatories to the Code of Conduct for the Protection of Children from Sexual Exploitation in Travel and Tourism.

VI. Prohibition of the sale of children, child pornography and child prostitution and related matters (arts. 3; 4, paras. 2 and 3; 5; 6 and 7)

Existing criminal or penal laws and regulations

27. The Committee welcomes the criminalization of the procurement or sale of a child for prostitution and child pornography. However it notes with concern that, despite the incorporation of some of the provisions of the Optional Protocol into national laws, domestic legislation is still not in full compliance with all the provisions. In particular, the Committee notes with concern that:

(a) The newly adopted criminal law does not define and prohibit all acts of sale of children, including the transfer of organs of the child and engagement of the child in forced labour, as defined in articles 2 and 3, paragraph 1 (a), of the Optional Protocol; and

(b) Despite the provisions of articles 229 and 230 of the Criminal Code which criminalize many acts and activities referred to in article 3, paragraph 1 (c), of the Optional Protocol, the law does not cover all crimes, such as possessing child pornographic representations and pornographic materials involving children.

28. The Committee recommends that the State party revise its Criminal Code and bring it into full compliance with articles 2 and 3 of the Optional Protocol. In particular, the State party should ensure that all offences under the Optional Protocol are criminalized, including:

(a) The sale of children by offering, delivering or accepting, by whatever means, a child for the purpose of transfer of organs of the child for profit and engagement of the child in forced labour; and

(b) Producing, distributing, disseminating, importing, exporting, offering, selling or possessing child pornography as defined in article 2.

Prosecution

29. The Committee is concerned about the weak enforcement of existing legislation concerning the offences covered under the Optional Protocol, including Law No. 22/2009 of 12 August 2009 governing media, which prohibits the sale, exhibition, access and distribution of pornographic and other inappropriate information to children and youth. The Committee is further concerned about the lack of resources and capacity of law enforcement agencies in some provinces to arrest and prosecute those involved in crimes under the Optional Protocol.

30. **The Committee urges the State party to:**

(a) **Enforce the legislation in place for the protection of children from all forms of offences covered under the Optional Protocol, by actively investigating those cases and prosecuting and sanctioning all offenders, with a view to strengthening the deterrent effect of its existing legislation;**

(b) **Take all necessary measures to increase human, technical and financial resources and capacity of law enforcement officials to investigate, prosecute and convict individuals involved in the offences under the Optional Protocol; and**

(c) **Provide specific information on investigations, prosecutions and punishment of perpetrators of offences under the Optional Protocol in its next periodic report and ensure that such information is easily and publicly available in the State party.**

Extraterritorial jurisdiction and extradition

31. The Committee is concerned that the State party's legislation does not establish its extraterritorial jurisdiction over the offences referred to in article 3, paragraph 1, of the Optional Protocol when committed by one of its nationals in the territory of another State, and that the legislation is subject to the requirement of double criminality. The Committee is also concerned that the State party does not rely on the Optional Protocol as a legal basis for extradition.

32. **The Committee urges the State party to take the necessary legislative measures to introduce and establish extraterritorial jurisdiction for the prosecution of offences referred to in article 3, paragraph 1, of the Optional Protocol when they are committed by one of its nationals abroad, and to repeal the requirement of double criminality for the prosecution of such offences. The Committee further calls on the State party to use, where necessary, the Optional Protocol as a legal basis for extradition, in conformity with article 5 of the Optional Protocol.**

VII. Protection of the rights of child victims (arts. 8 and 9, paras. 3 and 4)

Measures adopted to protect the rights and interests of child victims

33. While noting that the State party has established a special unit under the National Public Prosecution Authority for the follow-up and prosecution of gender-based violence crimes, the Committee is nevertheless concerned that:

(a) The measures taken by the State party to ensure the rights and interests of child victims and witnesses at all stages of the criminal justice process are inadequate;

(b) There is a lack of adequate resources and procedures for effectively screening child victims of trafficking and sexual exploitation, including children from foreign countries;

(c) The State party's legislation does not ensure that all child victims of offences under the Optional Protocol have access to procedures which enable them to claim compensation, without any discrimination; and

(d) Some child victims of sale and trafficking are re-victimized as they are detained at the transit centres, sometimes for weeks or months without any charges.

34. The Committee recommends that the State party strengthen measures to protect the rights and interests of child victims of offences under the Optional Protocol and, in particular:

(a) Provide them with free and quality legal aid, psychological, medical and social support, and put in place a mechanism to ensure quality control of the legal assistance provided to children;

(b) Adopt clear measures to screen for child victims of sale, prostitution and pornography and guide the rescue, repatriation, rehabilitation and reintegration of child victims of sale, prostitution and pornography, as well as adopt clear procedures for special assistance and repatriation for foreign child victims through increased collaboration between the police and the Ministry of Gender and Family Promotion and non-governmental organizations, based on the “best interests” determination and follow-up;

(c) Enact legislation to ensure that remedies are available to child victims of sale, prostitution and pornography, including adequate compensation; and

(d) Ensure that child victims and child witnesses of offences under the Optional Protocol are protected at all stages of the criminal justice process and that they are not subjected to lengthy waiting periods prior to return or deportation and that they are treated as victims not as criminals by law enforcement and judicial authorities.

Recovery and reintegration of victims

35. The Committee notes as positive the existence of Isange One Stop Centre and transit centres that provide multi-sectoral services, such as medical, psychological support, social reintegration, short-term shelter, and police and legal assistance to child victims of trafficking and commercial sex work. However, it is concerned that the State party’s recovery and reintegration measures are limited to victims of trafficking and commercial sex work and that existing child protection programmes do not adequately take into account the needs of children victims of sale, prostitution and pornography.

36. The Committee urges the State party to further strengthen measures to provide appropriate assistance to victims of all offences under the Optional Protocol, including their full social reintegration and physical, psychological and psychosocial recovery. In this regard, the Committee recommends that the State party strengthen and expand Isange One Stop Centre in other provinces and adopt specific measures for the reintegration of refugee and asylum-seeking child victims, who are especially vulnerable to becoming victims of the offences covered under the Optional Protocol.

VIII. International assistance and cooperation

37. In the light of article 10, paragraph 1, the Committee encourages the State party to continue to strengthen international cooperation through multilateral, regional and bilateral arrangements, especially with neighbouring countries, including by strengthening procedures and mechanisms to coordinate the implementation of such arrangements, with a view to improving prevention, detection, investigation, prosecution and punishment of those responsible for any of the offences covered under the Optional Protocol.

IX. Follow-up and dissemination

38. The Committee recommends that the State party take all appropriate measures to ensure that the present recommendations are fully implemented by, inter alia, transmitting them to the Head of the State, the Parliament, relevant ministries, the High Court, and to heads of provincial and districts authorities for appropriate consideration and further action.

Dissemination of concluding observations

39. The Committee recommends that the initial report and written replies submitted by the State party and related recommendations (concluding observations) adopted be made widely available, including through the Internet (but not exclusively), to the public at large, civil society organizations, media, youth groups, professional groups and children, in order to generate debate and awareness of the Optional Protocol, its implementation and monitoring.

X. Next report

40. In accordance with article 12, paragraph 2, the Committee requests the State party to include further information on the implementation of the Optional Protocol and these concluding observations in its next periodic report under the Convention on the Rights of the Child, in accordance with article 44 of the Convention.
