



# Convention on the Rights of the Child

Distr.: General  
30 October 2015

Original: English

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## Committee on the Rights of the Child

### Concluding observations on the report submitted by Cuba under article 8 (1) of the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict\*

1. The Committee considered the initial report of Cuba (CRC/C/OPAC/CUB/1) at its 2046th meeting (see CRC/C/SR.2046), held on 29 September 2015, and adopted the following concluding observations at its 2052nd meeting (see CRC/C/SR.2052), held on 2 October 2015.

#### I. Introduction

2. The Committee welcomes the submission of the State party's initial report under the Optional Protocol and its written replies to the list of issues (CRC/C/OPAC/CUB/Q/1/Add.1). The Committee expresses its appreciation for the constructive dialogue held with the high-level and multisectoral delegation of the State party.

3. The Committee reminds the State party that the present concluding observations should be read in conjunction with the concluding observations on the second periodic report submitted by the State party under the Convention (CRC/C/CUB/CO/2), adopted on 17 June 2011, and on the initial report of the State party submitted under the Optional Protocol on the sale of children, child prostitution and child pornography (CRC/C/OPSC/CUB/CO/1), adopted on 2 October 2015.

#### II. General observations

##### Positive aspects

4. The Committee welcomes the State party's accession to or ratification of:

(a) The Protocol against the Illicit Manufacturing of and Trafficking in Firearms, Their Parts and Components and Ammunition, supplementing the United Nations Convention against Transnational Organized Crime, in February 2007;

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\* Adopted by the Committee at its seventieth session (14 September-2 October 2015).



(b) The Geneva Conventions of 1949, in April 1954, and the Additional Protocols I and II thereto, in November 1982 and June 1999, respectively.

### III. General measures of implementation

#### Legislation

5. The Committee notes that children between the ages of 16 and 18 may not be fully protected from offences under the Optional Protocol.

6. **The Committee encourages the State party to review its legal framework to ensure the protection of all children under the age of 18 from offences under the Optional Protocol.**

#### Declarations/reservations

7. The Committee notes that, under the State party's declaration with respect to article 3 (2) of the Optional Protocol, the earliest that Cuban citizens may be recruited into the armed forces voluntarily is the year of their seventeenth birthday.

8. **The Committee encourages the State party to set 18 years as the minimum age for recruitment into the armed forces, without exception.**

#### Coordination

9. The Committee welcomes the appointment of the First Vice-President as the national authority responsible for following and coordinating issues related to children's rights. However, it is concerned about the lack of clarity and the duplication of structures responsible for the implementation of children's rights, as well as the lack of a single entity responsible for ensuring a holistic and coherent approach, including for implementing the Optional Protocol.

10. **The Committee, recalling its previous recommendation (see CRC/C/CUB/CO/2, para. 9), recommends that the State party designate a single entity capable of providing leadership and effective general oversight for the monitoring and evaluation of activities relating to children's rights under the Convention and its Optional Protocols across sectoral ministries and from the central to the local level of government, and to ensure optimal coordination among the various agencies and committees working on developing and implementing children's rights policies.**

#### Independent monitoring

11. The Committee notes the information provided by the State party regarding the existence of several national monitoring mechanisms. However, it is concerned about the lack of an independent national human rights institution to regularly monitor progress in the fulfilment of children's rights under the Optional Protocol and to receive and address complaints from children.

12. **In the light of its latest recommendation under the Convention (see CRC/C/CUB/CO/2, para. 13), the Committee urges the State party to establish an independent mechanism, in line with the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles), to monitor the fulfilment of rights under the Optional Protocol and to deal with children's complaints in a child-friendly and expeditious manner.**

### **Dissemination and awareness-raising**

13. The Committee is concerned about the limited efforts that have been made to disseminate information on the Optional Protocol and about the lack of knowledge and awareness of its provisions among civil society organizations, children and the population in general.

14. **The Committee recommends that the State party enhance its efforts to disseminate the principles and provisions of the Optional Protocol and make them well known, including by developing specific information campaigns to raise awareness among government officials, military officers (including at the local level), parents, teachers, students, children and civil society actors.**

### **Training**

15. The Committee regrets the lack of information on the measures taken to develop training on the Optional Protocol among relevant professional groups, children and the population in general, and among Cubans participating in humanitarian missions abroad.

16. **The Committee recommends that the State party develop systematic and comprehensive education modules on the provisions of the Optional Protocol and on international humanitarian law for all relevant professional groups, in particular the military, law enforcement personnel, education professionals, social workers, children and civil society actors.**

## **IV. Prevention**

### **Compulsory recruitment**

17. The Committee is concerned that national legislation does not explicitly state that the minimum age for participating in hostilities is 18 in times of national emergency.

18. **The Committee recommends that the State party define 18 as the minimum age for participation in hostilities, including in times of national emergency.**

### **Voluntary recruitment**

19. The Committee is concerned that the conditions regulating voluntary recruitment, which may occur for individuals under the age of 18, including shorter military service periods, beneficial access to higher education and employment opportunities, may influence how genuine the voluntary character of this recruitment is.

20. **The Committee recommends that the State party ensure that consent to voluntary recruitment is genuine.**

### **Military schools**

21. The Committee is concerned that children as young as 14 years of age may enrol in military schools operated by the Armed Forces. It is also concerned that the minimum age for entering a military school of higher education is 17 and that military training, including the use of weapons, is provided from the first year. The Committee is concerned about the lack of information regarding military schools operated by the Ministry of the Interior, in particular the school curricula, the civilian status of students and the applicable disciplinary rules and regulations.

22. **The Committee recommends that the State party ban military-type training, including the use of firearms, for children under the age of 18 and ensure that any military school for children takes into account human rights principles.**

#### **Production and Defence Brigades**

23. The Committee is concerned that children may join the Production and Defence Brigades, whose members can be mobilized to participate in hostilities in cases of emergency.

24. **The Committee recommends that the State party review the legislation governing the Production and Defence Brigades to effectively ensure that child members are prohibited from participating in hostilities in cases of national emergency.**

#### **Human rights and peace education**

25. **With reference to its general comment No. 1 (2001) on the aims of education, the Committee recommends that the State party undertake efforts to introduce a culture of peace through its educational initiatives on the negative effects of conflict and to systematically include education on human rights and international humanitarian law in school curricula, with special reference to crimes under the Optional Protocol.**

## **V. Prohibition and related matters**

#### **Criminal legislation and regulations in force**

26. The Committee regrets that legislation does not explicitly prohibit and criminalize recruitment and the use of children by the armed forces, security companies and non-State armed groups. The Committee is also concerned that the recruitment of children under the age of 15 has not been defined as a war crime in the State party's legislation and that national legislation does not explicitly state that the minimum age for participating in hostilities is 18 in times of national emergency.

27. **The Committee recommends that the State party:**

(a) **Explicitly prohibit and criminalize the recruitment and use of children under the age of 18 in hostilities by armed forces, non-State armed groups and security companies;**

(b) **Define and punish the recruitment of children under the age of 15 as a war crime, and consider ratifying the Rome Statute of the International Criminal Court;**

(c) **Review its national legislation to explicitly state that the minimum age for participating in hostilities is 18 in times of national emergency.**

#### **Extraterritorial jurisdiction**

28. The Committee is concerned that the State party has not established extraterritorial jurisdiction over acts prohibited under the Optional Protocol.

29. **The Committee recommends that the State party establish extraterritorial jurisdiction over acts prohibited under the Optional Protocol, including the conscription or enlistment of children into the armed forces or armed groups, and the**

use of children as active participants in hostilities, if such crimes are committed by or against a national or a person who otherwise has a close link with the State party.

#### **Extradition**

30. The Committee is concerned that a dual criminality requirement could be applied in cases of extradition for crimes covered by the Optional Protocol.

31. The Committee recommends that the State party take steps to ensure that a dual criminality requirement is not applied in cases of extradition for crimes covered by the Optional Protocol.

### **VI. International assistance and cooperation**

32. The Committee recommends that the State party continue and strengthen its cooperation with the International Committee of the Red Cross and with the Special Representative of the Secretary-General for Children and Armed Conflict, and that it explore increased cooperation with the United Nations Children's Fund and other United Nations entities with regard to the implementation of the Optional Protocol.

### **VII. Ratification of the Optional Protocol on a communications procedure**

33. The Committee recommends that the State party, in order to further strengthen the fulfilment of children's rights, ratify the Optional Protocol on a communications procedure.

### **VIII. Follow-up and dissemination**

34. The Committee recommends that the State party take all appropriate measures to ensure the full implementation of the present recommendations by, *inter alia*, transmitting them to the parliament, relevant ministries, including the Ministry of Defence, the Supreme Court and local authorities, for appropriate consideration and further action.

35. The Committee recommends that the report and written replies submitted by the State party and the present concluding observations be made widely available, including through the Internet, to the public at large, civil society organizations, youth groups, professional groups and children, in order to generate debate on and awareness of the Optional Protocol and its implementation and monitoring.

### **IX. Next report**

36. In accordance with article 8 (2) of the Optional Protocol, the Committee requests the State party to include further information on the implementation of the Optional Protocol and the present concluding observations in its next periodic report, to be submitted in accordance with article 44 of the Convention.

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