



Convention on the Rights of the Child

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COMMITTEE ON THE RIGHTS OF THE CHILD

Forty-ninth 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:

UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND

The Committee considered the initial report of the United Kingdom of Great Britain and Northern Ireland (CRC/C/OPAC/GBR/1) at its 1357th meeting (see CRC/C/SR.1357), held on 24 September 2008, and adopted, on 3 October 2008, the following concluding observations.

A. Introduction

The Committee welcomes the submission of the State party's initial report as well as the written replies to the list of issues, which give substantive information on the legislative, administrative, judicial and other measures applicable in the State party with respect of the rights guaranteed by the Optional Protocol. The Committee also welcomes the frank and constructive dialogue held with a multi-sectoral delegation at a senior level.

The Committee reminds the State party that these concluding observations should be read in conjunction with its concluding observations adopted on the same day on the State party's third and fourth periodic reports contained in CRC/C/GBR/CO/4.

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B. Positive aspects

The Committee welcomes the fact that compulsory recruitment into the British Armed Forces was abolished in 1963.

The Committee welcomes the fact that the State party is an active member of the United Nations Working Group on Children and Armed Conflict and provides strong support to the work of international criminal tribunals trying the most serious crimes of concern to the international community, including those against children.

It further welcomes the ratification by the State party of:

ILO Convention No. 182 concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour, on 22 March 2000.

The Rome Statute of the International Criminal Court on 4 October 2001.

1. General measures of implementation

Dissemination and training

The Committee is concerned that the provisions contained in the Optional Protocol are not disseminated sufficiently and that they are not integrated in military school curricula or in training courses for the military. The Committee is also concerned that, while some personnel receive training on areas addressed by the Optional Protocol, there has been no specific training on it to military personnel and to other relevant professional working with children.

The Committee recommends that the State Party provide training on the Optional Protocol to all members of its armed forces, including those involved in international operations. The Committee recommends that further training on the provisions of the Optional Protocol be provided for all relevant professionals, including those working with asylum-seeking and refugee children, migration authorities, police, lawyers, judges, including military judges, medical professionals, social workers and journalists.

The Committee further recommends that, in the light of article 6, paragraph 2, the State party make the provisions of the Optional Protocol widely known and promoted, by appropriate means, to adults and children alike.

2. Prevention

Direct participation in hostilities

The Committee is concerned at the wide scope of the State party's interpretative declaration on article 1 of the Protocol, according to which deployment of persons under 18 to take direct part in hostilities would not be excluded when, inter alia, the exclusion of children before deployment is not practicable or would undermine the operational effectiveness of the operation. In this respect, while welcoming the information that the introduction of new guidelines and procedures, including the operational location (OPLOC) system, have served to reduce the number of children deployed into areas where they can be exposed to hostilities and that no child has been deployed since July 2005, the Committee is concerned that children may still be potentially deployed to areas of hostilities and involved in hostilities.

The Committee recommends that the State party review this interpretative declaration to ensure that its policy and practice are in conformity with article 1 of the Protocol and that children are not exposed to the risk of taking direct part in the hostilities.

Voluntary recruitment

The Committee notes that, according to the State party's declaration under article 3 made upon ratification, the minimum age for voluntary recruitment is 16 years and regrets the fact that the State party indicates that there are no plans to change this.

The Committee encourages the State party to consider reviewing its position and raise the minimum age for recruitment into the armed forces to 18 years in order to promote the protection of children through an overall higher legal standard. In the meantime, the Committee recommends that, in recruiting among those persons who have not yet attained the age of 18, priority is given to those who are the oldest.

The Committee notes the State party's position that, "in order to compete in an increasingly competitive employment market, the British Armed Forces need to attract young people aged 16 and above into pursuing a career in the armed forces" (State party report (para. 18)). The Committee is however concerned that:

Figures given by the State party show that recruits under the age of 18 represent approximately 32 per cent of the total intake of United Kingdom Regular Armed Forces;

The active recruitment policy may lead to the possibility of targeting those children who come from vulnerable groups;

Parents and/or guardians are only involved at the final stage of the recruitment process to give their consent.

The Committee recommends that the State party:

(a) Reconsider its active policy of recruitment of children into the armed forces and ensure that it does not occur in a manner which specifically targets ethnic minorities and children of low-income families;

(b) Ensure that parents are included from the outset and during the entire process of recruitment and enlistment.

The Committee is concerned that the right to leave the service for child recruits is limited to the first six months of service and that discretionary permission to leave may be asked by Armed Forces personnel under the age of 18 years and 3 months who have expressed clear unhappiness at their choice of career before reaching their 18th birthday.

The Committee recommends that the State party review the requirements for, and expand the exercise of, the "discharge as of right" for child recruits.

The Committee welcomes the fact that the rule providing that under-18 Army recruits were required to serve a minimum period of service up to two years longer than the minimum period for adult recruits is no longer valid. However, the Committee is concerned that the new regulations only apply to new recruits as of 1 January 2008.

The Committee recommends that all persons who were still below 18 on 1 January 2008 also have the right to convert their minimum term of service to four years from the first day of duty.

Peace education

The Committee recommends that the State party, in collaboration with civil society organizations, develop and implement training programmes and campaign to promote the values of peace and respect for human rights and include the subject of peace education and human rights as a fundamental subject in the education system.

3. Prohibition

Legislation

The Committee welcomes that under the State party's International Criminal Court (ICC) Act, any person committing the war crime of conscripting or enlisting children under the age of 15 into the national armed forces or using them to participate actively in hostilities may be prosecuted when the person is a British national, a resident of the United Kingdom or subject to service jurisdiction in the

country. However, the Committee is concerned that the State party does not have legal provisions criminalizing the recruitment or use in hostilities of children in armed conflict, contrary to the Optional Protocol, and that therefore it might not establish its jurisdiction in case of recruitment or use of children under the age of 18.

In order to strengthen the measures for the prevention of the compulsory recruitment of children by armed forces and their use in hostilities or the recruitment of children by armed groups and their use in hostilities, the Committee recommends that the State Party:

Adopt and implement legislation criminalizing the recruitment and involvement of children in hostilities contrary to the Optional Protocol;

Ensure and enforce 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;

Ensure that legislation, including military codes, manuals and other military directives are in accordance with the provisions of the Optional Protocol.

4. Protection, recovery and reintegration

The Committee notes the efforts of the State party in the processing of asylum requests from children recruited or used in hostilities abroad, as well as the requirement for the United Kingdom Border Agency to have a Code of Practice for Keeping Children Safe from Harm. However, the Committee is concerned that, while individual local authorities do have support services in place to assist migrant children entering the United Kingdom, there are no specific measures adopted to assist children recruited or used in hostilities abroad.

The Committee recommends that the State party;

(a) Strengthen measures to identify and systematically collect data on refugee, asylum-seeking and migrant children within its jurisdiction who may have been recruited or used in hostilities;

(b) Ensure that these children receive appropriate care and treatment, including multidisciplinary assistance for their physical and psychological recovery and their social reintegration;

(c) Ensure that the best interests of the child is a primary consideration when processing asylum requests from or on behalf of these children, in particular in decisions concerning their repatriation.

The Committee further recommends that the State party take note of the Committee's general comment No. 6 (CRC/GC/2005/6), in particular its paragraphs 54 to 60, on treatment of unaccompanied and separated children outside their country of origin.

Use of firearms

The Committee regrets that armed guarding of United Kingdom military establishments may be undertaken by military personnel from the age of 17 years, and that this activity entails, as a minimum, weapon handling training and assessment as well as guidance on the use of force and the rules of engagement.

The Committee encourages that the handling and use of firearms is abolished for all children in line with the spirit of the Optional Protocol.

Captured child soldiers

The Committee notes that the State party has military presences in Iraq and Afghanistan and that there are cases in which children involved in the conflict may be detained by the State party's military authorities. In this respect, the Committee notes that there exist guidelines for the armed forces related to the treatment of children who are captured and placed in detention which provide, inter alia, that they are transferred to the International Committee of the Red Cross (ICRC) as quickly as practicable.

The Committee recommends that the State party:

Ensure that children only be detained as a measure of last resort and in adequate conditions in accordance with their age and vulnerability;

Guarantee a periodic and impartial review of their detention and conduct such reviews at greater frequency for children than adults;

Ensure that monitoring bodies have unimpeded access to all facilities where children are detained and that they have access to independent complaint mechanisms;

Inform parents or close relatives of the detention of the child and his or her whereabouts .

Military justice

The Committee is concerned that members of the armed forces under the age of 18 may be subject to the same military justice system as adults.

The Committee recommends that the State party ensure that children in conflict with the law, irrespective of its military or civil nature, are always dealt with within the juvenile justice system and are treated in accordance with the standards enshrined in the Convention (arts. 37 and 40) and illustrated in the Committee's general comment No. 10 on "Children's rights in juvenile justice".

Arms exports

The Committee notes that all licence applications for exports from the United Kingdom are assessed against the Consolidated European Union and National Exports Licensing Criteria (Code of Conduct), which is made up of eight criteria with which to comply. However, while acknowledging that sale of arms to countries where children are known to be or may potentially be recruited or used in hostilities could fall within one or several of these criteria, it is concerned that this prohibition is not expressly included in a binding instrument.

The Committee recommends that the State party expressly prohibit, within its legislation, sale of arms to countries where children are known to be or may potentially be recruited or used in hostilities.

5. International assistance and cooperation

The Committee notes that the State party continues to provide technical cooperation and financial assistance for the implementation of the Optional Protocol, including in partnership with United Nations agencies such as the United Nations Children's Fund (UNICEF) and the Office of the United Nations High Commissioner for Refugees (UNHCR). The Committee encourages the State party to continue its bilateral and multilateral cooperation in the implementation of the Optional Protocol, including in the prevention of any activity contrary to it and in the rehabilitation and social reintegration of persons who are victims of acts contrary thereto.

6. Follow-up and dissemination

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, to Parliament and to the relevant authorities in the Devolved Administrations for appropriate consideration and further action.

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.

7. Next report

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 next report under the Convention on the Rights of the Child, in accordance with article 44 of the Convention.
