



Convention on the Rights of the Child

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Committee on the Rights of the Child

Seventy-fourth session

16 January–3 February 2017

Agenda item 4

Consideration of reports of States parties

List of issues in relation to the report submitted by Malawi 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

Addendum

Replies of Malawi to the list of issues*

[Date received: 29 January 2017]

* The present document is being issued without formal editing.



Introduction

1. The Government of Malawi is pleased to submit responses to the list of issues and questions by the CRC Committee in relation to Malawi's periodic report.

Issue 1

Please provide information on any steps taken to pass legislation that would introduce the Optional Protocol into the domestic legislation of Malawi. Please also inform the Committee if the Optional Protocol has been invoked before the courts

2. The Government of Malawi has already domesticated provisions of the Optional Protocol into the Constitution with regards to the minimum age for recruitment in the armed forces in the Malawi Defence Force Act. The Government is also taking measures to amend the definition of a child in the Constitution from age of 16 to under 18. A Bill to this effect was tabled before Parliament end of 2016.

Issue 2

Please clarify which body is responsible for the implementation of the Optional Protocol and the coordination of activities related to the implementation

3. The Ministry responsible for Gender, Children, Disability and Social Welfare is the responsible policy holder for the protection of children. It has coordination mechanism that bring together other relevant sectors.

Issue 3

Please provide information on any measures taken by the State Party to disseminate the Optional Protocol and implement awareness-raising programmes. Please also provide information on training activities related to the Optional Protocol for children and professionals working for and with children, especially for members of the peacekeeping and armed forces, the police, immigration officials and judges

4. The Government of Malawi has conducted a number of awareness raising meetings through the observation of the Day of the African Child, International Day Against Child Abuse and other campaigns geared at eradicating child abuse. These meetings have highlighted some of the areas contained in the Optional Protocol. SADC secretariat has also supported Malawi Government with capacity building in peacekeeping. The Ministries responsible for gender and children, foreign affairs, civic education, culture and information benefited from the trainings. The Malawi Police Service and Malawi Defense Force also periodically undergo peace keeping training where Peace and Security Council resolutions are shared for the protection of children.

Issue 4

Please provide the data available on the number of child victims of offences under the Optional Protocol among refugee and asylum-seeking children living within the jurisdiction of the State party

5. Malawi has not yet registered data of child victims under the offences in the Optional Protocol.

Issue 5

In view of reports that the number of children in possession of a birth certificate is very low and that the Defence Force Act does not require any proof of age, please explain what safeguards and practical measures are in place to prevent children from joining the armed forces before the age of 18

6. During recruitment, the Malawi Defence Force (MDF) conduct clinical examinations to assess the age of the candidates. All shortlisted candidates are further tracked through leaders from their respective home areas/districts and schools. This assists the recruiting officer to have an objective assessment of the ages for the candidates.

Issue 6

Please indicate whether any measures have been taken to explicitly criminalize the enrolment and use of children in the armed forces. Please inform the Committee on any measures taken to establish the responsibility and accountability of recruitment officers for the recruitment and the use of children under 18 years old

7. Section 19(2) of the Defence Force Act provides that “A recruiting officer shall not enlist a person under the age of eighteen (18) years or over the age of twenty – four years.” It is thus, an offence for service members to recruit a person below the age of 18.

Issue 7

Please indicate the minimum age requirement for enrolment into the Army Secondary School, the number of children enrolled in the school, the proportion of academic and military training in the curriculum and whether the students enrolled in the schools are trained in the use of firearms

8. There is no age restriction in the enrollment into Army Secondary School, as long as the children have passed the Primary School Leaving Certificate Examinations (PSLCE), which they sit for in standard 8 of Primary Education. In accordance with the education system in Malawi, the average age of children entering secondary schools is 13 years old.

9. Army Secondary School is run as any other secondary school and uses the same curriculum as all other secondary schools, the name comes from the location of the school as it is located on a Barracks.

Issue 8

Please indicate whether any measures have been taken to prevent children under the age of 18 from taking part in hostilities. Please also indicate what steps have been taken to prevent the recruitment of children by local chiefs to protect land

10. The Government conducted a study on violence against children and young women in Malawi. A response plan and campaign strategy were developed. The plan and the campaign are promoting the rights of children which include refraining of children from being subjected to violence. The Ministry of Gender, Children, Disability and Social Welfare also engages chiefs as custodians of culture in modifying or eliminating all harmful practices and promotes violence. For instance, Nankwenya is one of the traditional practices that promoted violence and it has since been eliminated.

11. Malawi also encourages children and youth participation through children corners, children and youth parliaments, which speak on behalf of all children and youth on matters that affect children.

Issue 9

Explain whether there is extraterritorial jurisdiction as well as the possibility for extradition for crimes covered under the Optional Protocol and, if so, under which specific legislation

12. The laws governing firearms acquisition do not have extraterritorial jurisdiction.

Issue 10

What legislative and practical measures have been taken to expressly prohibit the acquisition and use of firearms by children? And what steps have been taken to regulate the use of homemade firearms

13. Regulation 6 of Public Security Regulations, under section 3 of the Preservation of Public Security Act restricts illegal acquisition and use of firearms. This provision extends to children. The Firearms Act provides that a firearm carrier/owner obtain a permit/license to legally own a firearm.
