



Convention on the Rights of the Child

Committee on the Rights of the Child

Fifty-sixth session

17 January | 4 February 2011

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: Mexico

1. The Committee considered the initial report of Mexico (CRC/C/OPAC/MEX/1) at its 1604th and 1605th meetings (see CRC/C/SR.1604 and 1605), held on 31 January 2011, and adopted at its 1612th meeting, held on 4 February 2011, the following concluding observations.

I. Introduction

2. The Committee welcomes the submission of the State party's initial report, but regrets that it did not follow the Committee's guidelines. The Committee further welcomes the written replies to the list of issues (CRC/C/OPAC/MEX/Q/1/Add.1) and appreciates the constructive dialogue held with the multisectoral delegation.

3. The Committee reminds the State party that the present concluding observations should be read in conjunction with its concluding observations adopted on the State party's third periodic report under the Convention on the Rights of the Child (CRC/C/MEX/CO/3) and on the initial report under the Optional Protocol on the sale of children, child prostitution and child pornography (CRC/C/OPSC/MEX/CO/1).

4. The Committee expresses its concern over the climate of violence, which has a significant impact on the rights and lives of children in the State party.

II. Positive aspects

5. The Committee welcomes the ratification by the State party of the Rome Statute of the International Criminal Court, in 2005.

6. The Committee notes with satisfaction the efforts made by the State party to enhance the respect for human rights, particularly in the Ministry of Defence.

III. General measures of implementation

Reservations

7. The Committee is concerned that the State party's interpretative declaration to article 4 of the Optional Protocol seems to exclude or modify the legal effect of this article's application to the State party, thus in fact making it a reservation. It welcomes, however, the State party's commitment to reviewing this declaration.

8. The Committee recommends that the State party withdraw its interpretative declaration to article 4 of the Optional Protocol.

Coordination

9. The Committee notes that a number of government entities are involved in the implementation of the Optional Protocol, and that the coordination is not clear between the different ministries at the federal and state level.

10. The Committee recommends that the State party establish a clear mechanism responsible for the coordination of the implementation of the Optional Protocol, both at the horizontal level and at the federal, state and local levels.

Dissemination and training

11. While welcoming information that members of the armed forces receive human rights training, the Committee is concerned that

training on the provisions of the Optional Protocol is insufficient. It is also concerned that awareness of the Optional Protocol among the general public is low.

12. The Committee recommends that the State party ensure that the principles and provisions of the Optional Protocol are widely disseminated among the general public and in particular among children. It further recommends that the State party strengthen human rights training for members of the armed forces with specific training on the provisions of the Optional Protocol. Furthermore, the Committee recommends that the State party develop awareness-raising, education and training programmes on the provisions of the Optional Protocol for relevant professional groups working with children, in particular prosecutors, lawyers, judges, law enforcement officers, social workers, medical professionals, teachers, media professionals and local and district officials.

Data

13. The Committee regrets the insufficient data relating to children, as regards the acts covered by the Optional Protocol.

14. The Committee recommends that the State party establish a central data collection system in order to identify, inter alia, the number of children involved with non-State armed groups, and the number of children present within its jurisdiction who may have been recruited or used in hostilities by non-State armed groups abroad. It further recommends that the State party improve the system of collection and analysis of data on recruitment of children by non-State armed groups and voluntary recruitment by the armed forces disaggregated, inter alia, by age, sex, state and municipality and socio-economic background, and on children in military schools.

Cooperation with civil society

15. The Committee welcomes the acknowledgement by the State party of contributions made by Mexican non-governmental organizations (NGOs) that submitted information to the Committee on the Optional Protocols. However, the Committee expresses its deep concern that many human rights advocates and activists have been murdered in recent years.

16. The Committee recommends that the State party establish a formal mechanism of coordination with NGOs to follow up on the Committee's concluding observations to the State party reports on the Optional Protocols. It further urges the State party to promote a climate of respect for human rights and for human rights advocates, through, inter alia, national education and communication programmes and, more specifically, to create mechanisms for protecting human rights defenders and child rights advocates.

IV. Prevention

Military schools

17. The Committee is concerned that children who study in military schools have military status and, if they break the law, are subject to the Military Code of Justice, according to its article 154. The Committee is also concerned that children who study in military schools can leave the school only according to the rules established by the internal regulations of the school, and that they must commit themselves to serve in the military for at least double the time they spent studying in the military school. It is further concerned at reports that students in military schools have taken part in the fight against drug trafficking, by participating in the search for and destroying of illegal drugs, which seriously jeopardizes the rights and lives of children. The Committee is concerned that military schools are managed solely by the Ministry of Defence.

18. The Committee recommends that the State party:

- (a) Ensure that children who study in military schools are considered as civilians until they turn 18;**
- (b) Ensure that children in military schools in conflict with the law are referred to civil courts, and treated in accordance with articles 37 and 40 of the Convention on the Rights of the Child and the Committee's general comment no. 10 (2007) on children's rights in juvenile justice;**
- (c) Ensure that children who study in military schools receive an education in accordance with articles 28, 29 and 31 of the Convention on the Rights of the Child, taking into account the Committee's general comment no. 1 (2001) on the aims of education;**
- (d) Prohibit corporal punishment, taking into account the Committee's general comment no. 8 (2007) on the right of the child to protection from corporal punishment and other cruel or degrading forms of punishment;**
- (e) Provide children attending military schools with adequate access to independent complaints and investigation mechanisms ;**
- (f) Ensure that the Ministry of Education monitor the military schools under the responsibility of the Ministry of Defence;**
- (g) Ensure that children in military schools do not participate in the search for or destroying of illegal drugs or in any other way take part in the fight against drug trafficking .**

Recruitment

19. While noting the State party's declaration upon ratification of the Optional Protocol declaring 18 years as the minimum age for voluntary recruitment to the armed forces, the Committee is concerned at the exception to this minimum age, which sets 16 years as the minimum age for technicians in transmission units. The Committee is also concerned that, according to article 25 of the Military Service Act, early enlistment is allowed for 16- and 17-year-old children who wish to leave the country at the time when they would be required by law to undertake military service, and for "those who are obliged to request early enlistment because of their studies".

20. The Committee recommends that the State party revoke article 25 of the Military Service Act, end the practice of early enlistment for 16- and 17-year-old children, and raise the minimum age for voluntary recruitment to 18 years, without exceptions.

Prevention of recruitment by non-State groups

21. The Committee is concerned that the State party lacks information on the use of children by non-State armed groups, and that therefore it has not undertaken measures to prevent the recruitment of children by non-State groups.

22. The Committee recommends that the State party take all the necessary measures to ensure that no children are recruited by non-State armed groups, inter alia by identifying and monitoring the various non-State armed groups in the country, including paramilitary groups, organized crime groups and security companies. The Committee requests the State party to provide information on this issue in its next report on the Convention and the two Optional Protocols.

Peace education

23. The Committee notes that human rights education and peace education is insufficient in the school curricula. The Committee is concerned at the high level of violence in the State party, affecting children including in schools and the communities, and particularly at the violence suffered by children who are excluded from the education system.

24. The Committee recommends that the State party strengthen its efforts to provide human rights education and, in particular, peace education for all children in school, and train teachers with a view to including these themes in children's education. The Committee recommends that the State party reinforce its efforts in the various sectors of government and society to practice forms of mediation for peaceful resolutions to conflicts, with an emphasis on violent conflicts that involve children.

V. Prohibition and related matters

Legislation

25. While welcoming the proposed reform of the Federal Penal Code, aimed at criminalizing the recruitment of children and their use in hostilities, the Committee is concerned that, at present, there is no specific provision in the Federal Penal Code criminalizing the recruitment of children.

26. In order to further strengthen measures for the prevention of the recruitment of children and their use in hostilities, the Committee urges the State party:

(a) To revise the Federal Penal Code and include a provision which explicitly criminalizes violations of the provisions of the Optional Protocol regarding the recruitment and involvement of children in hostilities, and include a definition of direct participation in hostilities, taking into account the relevant instruments to which it is party, including the Rome Statute of the International Criminal Court;

(b) To consider establishing 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;

(c) To ensure that all military codes, manuals and other military directives are in accordance with the provisions of the Optional Protocol.

Jurisdiction

27. The Committee regrets that the State party's jurisdiction over offences committed abroad is subject to the criterion of double criminality.

28. The Committee recommends that the State party establish extraterritorial jurisdiction for the authors of offences identified in the Optional Protocol, when the author or the victim is a national of the country or has any other links with the State party.

VI. Protection, recovery and reintegration

Measures adopted to protect the rights of child victims

29. The Committee expresses its great concern at the high number of child rights violations and child victims (about 1,000 dead children over the last four years) as a result of the fight of the army against organized crime and the lack of investigation of crimes perpetrated by military personnel.

30. The Committee urges the State party:

- (a) To collect data on the number of children detained, injured or killed in the fight of the army and police forces against non-State armed groups;**
- (b) To investigate all crimes against children and ensure that civil courts have jurisdiction over crimes against children committed by the army;**
- (c) To avoid impunity by ensuring that perpetrators are prosecuted and punished;**
- (d) To take appropriate actions to protect children from police and military action in the context of measures taken to ensure public security, as well as from armed violence by non-State armed groups;**
- (e) To create the formal mechanisms and relevant legal frameworks that guarantee human rights and the protection of children, especially girls, from violence by the military and non-State armed groups;**
- (f) To establish specific regulations and protocols for the military and security forces on how to ensure the integrity of children during investigations of and actions against non-State armed groups.**

Assistance for physical and psychological recovery

31. While welcoming efforts to protect the rights of unaccompanied children, such as the Inter-Institutional Round Table on Unaccompanied Migrant Children and Adolescents and Migrant Women, the Committee regrets the lack of information on measures taken to identify children who may have been used in conflict in Mexico, and refugee and asylum-seeking children who may have been recruited or used in hostilities abroad. The Committee further regrets the lack of information on measures taken for the physical and psychological recovery and social reintegration of these children.

32. The Committee encourages the State party to establish an identification mechanism for children who may have been recruited or used in hostilities, and to take the necessary measures for their physical and psychological recovery and social reintegration. Such measures should include careful assessment of the situation of these children, reinforcement of the legal advisory services available for them and the provision of immediate, culturally responsive, child-sensitive and multidisciplinary assistance for their physical and psychological recovery and their social reintegration in accordance with the Optional Protocol.

VII. International assistance and cooperation

International cooperation

33. The Committee encourages the State party to strengthen international cooperation for the implementation of the Optional Protocol, including in the prevention of any activity contrary thereto and in the rehabilitation and social reintegration of persons who are victims, in accordance with article 7 of the Optional Protocol. In this regard, the State party should seek technical assistance from, inter alia, the United Nations Children's Fund (UNICEF).

Arms import

34. The Committee is concerned about the import of small arms to the State party, and the easy access that children have to these arms.

35. The Committee recommends that the State party take all the necessary measures to ensure that children do not have access to small arms.

VIII. Follow-up and dissemination

36. The Committee recommends that the State party take all appropriate measures to ensure full implementation of the present recommendations, by, inter alia, transmitting them to the Ministry of Defence, members of the cabinet and parliament, and to the local authorities in all 31 states and the Federal District.

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

IX. Next report

38. In accordance with article 8, 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, due on 20 April 2011.