



Convention on the Rights of the Child

Committee on the Rights of the Child

Fifty-fifth session

13 September – 1 October 2010

Consideration of reports submitted by States parties under article 12, paragraph 1, of the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution, and child pornography

Concluding observations: Sierra Leone

1. The Committee considered the initial report of Sierra Leone (CRC/C/OPSC/SLE/1) at its 1550th meeting (CRC/C/SR.1550), held on 15 September 2010 and adopted at its 1583rd meeting, held on 1 October 2010, the following concluding observations.

Introduction

2. The Committee welcomes the submission of the State party's initial report. The Committee further welcomes its written replies (CRC/C/OPSC/SLE/Q/1/Add.1) to the list of issues and appreciates the dialogue with the State party's delegation. The Committee, however, regrets the lack of detail in the information provided in both the report and the replies to the lists of issues.

3. The Committee reminds the State party that these concluding observations should be read in conjunction with the concluding observations adopted on the State party's second periodic report under the Convention on 6 June 2008 (CRC/C/SLE/CO/2), and with the concluding observations adopted on its initial report under the Optional Protocol on the involvement of children in armed conflict (CRC/C/OPAC/SLE/CO/1) on 1 October 2010.

I. General observations

Positive aspects

4. The Committee welcomes the following measures taken by the State party since its ratification of the Optional Protocol in May 2002:

(a) The enactment of the Child Rights Act in 2007 which, inter alia, sets the minimum age of marriage at 18 years and criminalizes exploitative labour, the engagement of children in hazardous work as well as torture and other cruel and inhuman or degrading treatment or punishment;

(b) The adoption of the Anti-Human Trafficking Act in 2005, which criminalizes, inter alia, the illicit transfer of children, child labour, the removal of child organs for ritual and other purposes, and trafficking; and

(c) The creation, in November 2004, of a Trafficking in Persons (TIP) Task Force, a multi-agency body with representation from civil society organizations whose role is to coordinate measures to address trafficking.

5. The Committee also welcomes the ratification by the State party of:

(a) The Optional Protocol on the involvement of children in armed conflict on 15 May 2002;

(b) The African Charter on the Rights and Welfare of the Child, on 13 May 2002.

II. Data

Data collection

6. The Committee notes with appreciation the State party's efforts in the area of data collection, including sector-specific data-collection systems in a number of government Ministries and crime statistics database maintained by the Sierra Leone Police. It is concerned, however, at the absence of an integrated data collection system on areas of relevance to the Optional Protocol. In particular, the Committee regrets the lack of data on key areas covered by the Optional Protocol, including the number of victims of the sale of children, child prostitution and child pornography, and the number of children provided with assistance towards their social reintegration and physical and psychological recovery as envisaged by article 9, paragraph 3 of the Optional Protocol.

7. The Committee recommends that the State party:

(a) Establish a comprehensive data collection system in order to ensure that data, disaggregated, inter alia, by age, sex, geographical area and socio-economic background, are systematically collected and analysed;

(b) Use the data collected as a basis for designing policies to implement the Optional Protocol and assessing progress achieved towards this objective;

(c) Seek the assistance of relevant United Nations agencies and programs, including UNICEF, in this regard.

III. General measures of implementation

Legislation

8. The Committee welcomes the promulgation of the Child Rights Act (2007) which covers many important aspects of child protection. The Committee is concerned, however, that the State party is yet to achieve full harmonization between its domestic laws and the provisions of the Optional Protocol and that there is ambiguity in the legislation between the sale of children and trafficking. The Committee reminds the State party that its legislation must satisfy its obligation with regard to the sale of children, which concept overlaps with but is not identical to trafficking in persons, in order to adequately implement the prohibition on the sale of children contained in the Optional Protocol and to ensure explicit reference to this act constituting an offence under the Optional Protocol.

9. The Committee recommends that the State party conduct a review of its national legislation with a view to ensuring its full harmonization with the principles and provisions of the Optional Protocol. It encourages the State party to ensure that the review process is conducted in a transparent and participatory manner in collaboration with civil society and the broader community and to seek support, as necessary, from relevant international organizations. The Committee invites the State party to include information on the implementation of this recommendation in its next periodic report under the Convention.

Coordination

10. The Committee notes the designation of the Ministry of Social Welfare, Gender and Children Affairs as the lead agency for the coordination of efforts to address the child protection matters covered by the Optional Protocol and the monitoring of child rights legislation. The Committee, nevertheless, expresses its concern that the Ministry of Social Welfare, Gender and Children Affairs lacks adequate human and financial resources to fulfil its mandate, as a result of which it has not been effective in its role at the national, regional and municipal levels and between the different agencies involved.

11. The Committee recommends that adequate human and financial resources be made available to the Ministry of Social Welfare, Gender and Children Affairs with a view to ensuring the effective coordination of plans and policies among the agencies involved in the implementation of the Optional Protocol at all levels.

National Plan of Action

12. While noting that a Children's Policy was elaborated in 2006 and that the Ministry of Social Welfare, Gender and Children Affairs has prepared a plan of action covering a limited range of activities in the field of child protection, the Committee regrets the lack of a specific plan of action to address the child protection matters covered by the Optional Protocol.

13. The Committee recommends that the State party develop a national plan of action to implement the Optional Protocol and, to this end, ensure the allocation of sufficient human and financial resources. The Committee further recommends that the State party address, in its plan of action, the constraints to the implementation of the Optional Protocol identified in its report, including corruption and the perpetuation of harmful practices which render children vulnerable to violations of their rights under the Optional Protocol.

Independent monitoring

14. The Committee commends the State party on the establishment, in 2007, of the Human Rights Commission, with a mandate to ensure the promotion and protection of human rights, including children's rights. The Committee is, however, concerned that the National Commission for Children envisaged under the Child Rights Act is yet to be established.

15. The Committee recommends that the State party:

(a) Take expeditious measures to establish and bring into operation the National Commission for Children, in accordance with the Paris Principles;

(b) Ensure that the National Commission for Children has adequate human and financial resources to monitor the implementation of children's rights, including the rights contained in the Optional Protocol;

(c) Ensure effective coordination between the Human Rights Commission and the National Commission for Children;

(d) Take into account the Committee's general comment No. 2 (2002) on the role of independent national human rights institutions in the promotion and protection of the rights of the child.

Dissemination and awareness-raising

16. The Committee notes with appreciation the State party's advocacy and awareness-raising campaigns on rape and sexual violence and abuse, particularly in the context of advocacy in relation to the Anti-Human Trafficking Act and the Child Rights Act. It also welcomes the awareness-raising activities in schools around the issue of sexual violence and the participation of children in radio discussions focusing on child labour, sexual violence and child trafficking. The Committee, nevertheless, expresses its concern that such dissemination has not adequately addressed the sale of children, child prostitution and child pornography, as a result of which awareness of the Optional Protocol among the general public remains low. The Committee regrets the lack of information on plans to continue the dissemination activities conducted in recent years.

17. The Committee recommends that the State party:

(a) Continue and strengthen its efforts to increase awareness of the rights of children, particularly among parents and caregivers, and include, in its campaigns and programmes, awareness-raising on the provisions and principles of the Optional Protocol, including by encouraging the participation of the media;

(b) Ensure that the relevant information is available in all national languages, in a child friendly format, and that it is made easily accessible to children;

(c) Seek the active support of local leaders, including religious and community leaders, in its awareness - raising initiatives.

18. The Committee invites the State party to include information on the implementation of this recommendation in its next periodic report under the Convention.

Training

19. The Committee welcomes the inclusion of subjects such as gender-based violence and sexual abuse into the student teachers' curriculum and the training provided to social workers, health workers, police officers in the Family Support Units, magistrates and community leaders, among others, on rape and sexual abuse. The Committee is, however, concerned that specific training on the Optional Protocol has not been included in the training programmes and is not currently envisaged in the future as part of systematic training for professionals working with and for children.

20. The Committee recommends that the State party strengthen systematic gender-sensitive education and training on the principles and provisions of the Optional Protocol, including on prevention and victim assistance, for all professional groups working with children, particularly child victims of crime, including the police, lawyers, prosecutors, judges, medical staff, social workers, religious leaders, border and migration officials and the media.

Allocation of resources

21. While acknowledging the considerable resource constraints faced by the State party following the protracted armed conflict which ended in 2002, the Committee notes with concern the State party's information that no specific budget allocations have been made for the implementation of the Optional Protocol.

22. The Committee strongly recommends that the State party provide specific budget allocations for the implementation of the Optional Protocol, ensuring a balanced distribution of resources throughout the country and taking into account the needs of children who are particularly vulnerable to acts constituting violations of the Optional Protocol. The Committee further recommends that the State party introduce resource tracking from a child rights perspective with a view to monitoring resource allocations for children.

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

Measures adopted to prevent offences referred to in the Optional Protocol

Incidence of offences under the Optional Protocol

23. The Committee notes with concern the high number of children who are victims or are at risk of becoming victims of the offences proscribed by the Optional Protocol. The Committee takes note of certain practices, including the widespread practices of child marriage and of parents relinquishing custody of their children to relatives or acquaintances (*men kipin*), as well as the high number of children living or working in the streets who are particularly vulnerable to sexual and other forms of exploitation in violation of the Optional Protocol. The Committee expresses its concern at the absence of an effective strategy to address the particular vulnerabilities of such children.

24. The Committee recommends that the State party adopt and implement an effective strategy to address the high incidence of violations of the Optional Protocol, particularly among children whose socio-economic situation places them at an elevated risk of such violations. In this regard, the Committee encourages the State party to adopt a holistic approach addressing the relevant root causes and risk factors, including poverty, harmful traditional practices, gender and absence of parental care. Furthermore, the Committee encourages the State party to ensure that the strategy is developed and implemented through a participatory process in collaboration with civil society, taking into account the views of children.

Forced labour and servitude

25. The Committee notes that, while the State party has adopted measures such as the Child Rights Act and the Anti-Human Trafficking Act, both of which prohibit exploitive child labour, the exploitation of children in forced labour, inter alia, as domestic workers and in hazardous labour, particularly in the mining sector and in agriculture, servitude remains widespread. In addition, the Committee is concerned at the lack of investigation and prosecution of offenders.

26. The Committee recommends that the State party:

(a) Enforce the legislation in place for the protection of children from all forms of exploitation of children in forced labour in violation of the Optional Protocol, including through the effective investigation of cases and the prosecution of offenders;

(b) Take effective steps to remove children from situations of forced labour and other situations of servitude. The Committee encourages the State party to ensure that this process is conducted in a transparent and participatory manner in collaboration with civil society and with full participation of children themselves;

(c) Address the root causes of child economic exploitation through, inter alia, the full implementation of its Poverty Reduction Strategy (2008-2012).

27. The Committee recommends that the State party consider ratifying:

(a) The Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the 2000 Convention against Transnational Organized Crime, which the State party signed on 27 November 2001;

(b) ILO Convention No. 138 (1973) concerning Minimum Age for Admission to Employment;

(c) ILO Convention No. 182 (1999) concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour.

Birth registration

28. The Committee takes note of the ongoing nationwide birth registration programme and the designation of primary health-care facilities as alternative birth registration centres. It is, however, concerned that the majority of children in Sierra Leone are not registered at birth due to lack of information and a poor understanding of the importance of birth registration, the lack of registration facilities in remote and rural areas and the prohibitive costs involved. The Committee emphasizes that birth registration is a vital tool for the identification of children as such which, in turn, promotes their more effective protection.

29. The Committee recommends that the State party:

(a) Ensure that birth registration is free and compulsory in practice;

(b) Establish appropriate administrative mechanisms at all levels, including village and local levels, to register the births of all children;

(c) Consider the use of mobile birth registration units, particularly for remote areas;

(d) Conduct awareness-raising campaigns, with the support of community leaders, to promote birth registration;

(e) Provide information, in its next periodic report under the Convention, on the impact of the measures taken to improve birth registration.

V. 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

30. The Committee notes that the Anti-Human Trafficking Act covers a wide range of offences related to those covered by the Optional Protocol. While there may be areas of overlap between these categories of offences, the Committee is concerned that the State party's penal law does not prohibit and penalize all the offences proscribed by the Optional Protocol. The Committee, furthermore, regrets that the penal law does not envisage the possibility of prosecuting legal persons involved in the sale of children, child prostitution and child pornography.

31. The Committee recommends that the State party revise and bring its penal law into full compliance with articles 2 and 3 of the Optional Protocol. In particular, the State party should criminalize:

(a) The sale of children by offering, delivering or accepting, by whatever means, a child for the purpose of sexual exploitation, transfer of organs of the child for profit, or engagement of the child in forced labour or improperly inducing consent, as an intermediary, for the adoption of a child in violation of the applicable legal instrument on adoption;

(b) Offering, obtaining, procuring or providing a child for child prostitution;

(c) Producing, distributing, disseminating, importing, exporting, offering, selling or possessing child pornography;

(d) An attempt to commit any of these acts and complicity or participation in any of these acts;

(e) The production and dissemination of material advertising any of these acts.

32. The Committee further recommends that the State party provide, in its penal law, for the prosecution of legal persons who commit offences under the Optional Protocol, and encourages it to consider ratifying the 2000 United Nations Convention against Transnational Organized Crime.

Legal aspects of adoption

33. While noting that the Adoption Act (1989) prohibits the adoption of a child in exchange for monetary consideration, the Committee is concerned that the improper inducement of consent for the adoption of the child is not prosecuted and that children have been sold or trafficked through false adoption schemes due to misunderstanding of their parents,

34. The Committee recommends that the State party strengthen its efforts to combat illegal adoption, including by taking all necessary measures with a view to ensuring that the crimes covered under the Optional Protocol are fully criminalized and harmonized in the national criminal law, in particular that the improper inducement of consent for the adoption of a child is duly prosecuted. In addition, the Committee recommends that the State party consider ratifying and implementing the Hague Convention on Protection of Children and Cooperation in Respect of Inter-Country Adoption (1993).

Extraterritorial jurisdiction and extradition

35. The Committee notes that the State party's legislation does not provide for the exercise of extraterritorial jurisdiction over the offences set out in the Optional Protocol, as envisaged in article 4 thereof.

36. The Committee recommends that the State party take the necessary measures to ensure that its domestic law provides for extraterritorial jurisdiction in full compliance with article 4 of the Optional Protocol. The Committee encourages the State party to consider ratifying the 1994 Economic Community of West African States' (ECOWAS) Convention on Extradition (and the 1992 ECOWAS Convention on Judicial Mutual Assistance in Criminal Matters in order to strengthen cooperation between countries in the sub-region.

VI. 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 of offences prohibited under the Optional Protocol

Criminal justice system protection measures

37. The Committee welcomes the National Referral Protocol for child victims of sexual and gender-based violence, the creation of several Family Support Units attached to police stations and the conclusion of a memorandum of understanding on child victim and witness protection matters between the Sierra Leone Police and the Ministry of Social Welfare, Gender and Children Affairs. It is, however, concerned that Family Support Units are available in only a few police stations, that there is a shortage of social workers and other critical staff in the Units and that formal arrangements for the protection of child victims and witnesses are inadequate, including arrangements to ensure confidentiality throughout the course of the proceedings. Furthermore, the Committee is concerned that the State party does not provide child witnesses and victims with the possibility of giving testimony by video or audio and does not formally limit the number of interviews to which they may be subjected.

38. The Committee recommends that the State party:

(a) Continue , in consultation with experts in the field, to review and strengthen procedures for the provision of support and assistance to child victims and witnesses;

(b) Ensure that the best interests of the child are a primary consideration in the treatment afforded by the criminal justice system to child victims and witnesses;

(c) Allocate sufficient human and financial resources with a view to ensuring that Family Support Units are adequately staffed, equipped and established in all police stations;

(d) Implement fully and effectively the National Referral Protocol and the memorandum of understanding on child victim and witness protection matters are fully implemented;

(e) Ensure that judges, prosecutors, police, social workers, medical staff and other professionals working with child witnesses receive training on child-friendly interaction with victims and witnesses at all stages of the criminal and judicial processes in accordance with article 8 , paragraph 1 of the Optional Protocol and the United Nations Guidelines on Justice in Matters involving Child Victims and Witnesses of Crime (ECOSOC resolution 2005/20), including but not limited to amending the Criminal Procedure Code.

Recovery and reintegration

39. The Committee is concerned at the lack of effective mechanisms at the national level to address the rights and needs of child victims in a comprehensive and coordinated manner. It is, further, concerned about the insufficient support services available for victims as well as the significant limitations in existing child protection programmes, including limited capacity and resources, unequal

geographic distribution of services and poor quality of care.

40. The Committee recommends that the State party ensure that adequate human, financial and technical resources, as well as high quality services, are available for the assistance of all child victims, including for their full social reintegration and their full physical and psychological recovery in accordance with article 9 , paragraph 3 of the Optional Protocol. The State party should also ensure that all child victims of the offences described in the Optional Protocol have access to adequate procedures to seek, without discrimination, compensation from those legally responsible, in accordance with article 9 , paragraph 4 of the Optional Protocol.

VII. International assistance and cooperation

41. The Committee recommends that the State party strengthen international cooperation by multilateral, regional and bilateral arrangements for the prevention and investigation of all offences under the Optional Protocol and the prosecution and punishment of those responsible for acts involving the sale of children, child prostitution, child pornography and child sex tourism. In this respect, the State party is encouraged to implement the ECOWAS Regional Action Plan to address the growing problem of Illicit Drug Trafficking, Organized Crime and Drug Abuse in West Africa (2008-2011).

42 . The Committee encourages the State party to continue its cooperation with United Nations agencies and programs and non-governmental organizations in the development and implementation of measures aimed at the effective implementation of the Optional Protocol.

VIII. Follow-up and dissemination

Follow-up

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

Dissemination of concluding observations

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

IX. Next report

45 . 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 , due on 1 September 2012 , in accordance with article 44 of the Convention .