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COMMITTEE ON THE RIGHTS OF THE CHILD

Forty-ninth session

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 12(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: UGANDA

The Committee considered the initial report of Uganda (CRC/C/OPSC/UGA/1) at its 1346th meeting (see CRC/C/SR.1346), held on 16 September 2008, and adopted at its 1369th meeting, held on 3 October 2008, the following concluding observations.

Introduction

The Committee welcomes the submission of the State party's initial report, although it regrets the delay in its submission. The Committee further welcomes its written replies (CRC/C/OPSC/UGA/Q/1/Add.1) to the list of issues and appreciates the constructive dialogue with a high-level and multi-sectoral delegation.

The Committee reminds the State party that these concluding observations should be read in conjunction with its previous concluding observations adopted on the State party's second periodic report on 30 September 2005 (CRC/C/UGA/CO/2) and with the concluding observations adopted on the initial report under the Optional Protocol on the involvement of children in armed conflict (CRC/C/OPAC/UGA/CO/1) on 3 October 2008.

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General observations

Positive aspects

The Committee notes with appreciation :

- (a) The Child Orphans and Other Vulnerable Children's Policy and Action Plan of 2004;
- (b) The Child Labour Unit established within the Department of Labour to address the worst forms of child labour;
- (c) The establishment of Children and Family Protection Units (CFPU) in police stations;
- (d) The collaboration with the Office of the United Nations High Commissioner for Human Rights through the agreement, which established a national country office in Uganda in 2006.

II. Data

The Committee is concerned at the lack of data, disaggregated by age, sex, minority group and geographic location, on the prevalence of the sale of children, child prostitution and child pornography.

The Committee recommends that the State party establish a central database for registering violations of child rights and that it ensure that data relating to offenses covered by the Protocol, are systematically collected and disaggregated inter alia by age, sex, minority group and

geographic location and analysed, as they provide essential tools for measuring policy implementation.

III. General measures of implementation

Coordination and evaluation of the implementation of the Optional Protocol

The Committee is concerned at the State party's information that the National Council for Children is not able to effectively execute its mandate due to inadequate funding and weak organization.

The Committee recommends that the State party review the coordination of the Optional Protocol as soon as possible and ensure that the National Council for Children has a clear mandate and adequate human and financial resources in order to ensure its effective implementation. In particular, the Committee recommends that the State party strengthen the coordination between the National Council and the Ministry of Gender, Labour and Social Affairs.

National Plan of Action

The Committee, while noting information in the State party reply to the list of issues that an Action Plan has been developed and in the process of being adopted, regrets that there is no National Plan of Action in place to combat the violations of the Optional Protocol, in view of the high incidence of sale of children, child prostitution and child pornography.

The Committee recommends that the State party, as a matter of priority, adopt the National Plan of Action to combat violations of the provisions of the Optional Protocol and implement it in consultation with relevant civil society actors.

Dissemination and training

The Committee notes that awareness-raising activities on the provisions of the Protocol are inadequate and have primarily been undertaken by civil society without State party support. The Committee furthermore is concerned that training on the Optional Protocol among professionals, for example the police, lawyers, prosecutors, judges, social workers and immigration officials is insufficient.

The Committee recommends that the State party:

- (a) Make the provisions of the Optional Protocol widely known, particularly to children, their families and communities, through, in particular the school curricula and long-term awareness-raising campaigns;
- (b) Promote, in line with article 9(2) of the Protocol, awareness in the public at large, including children, through information by all appropriate means, education and training, about the preventive measures and harmful effects of the offences referred to in the Protocol, including by encouraging the participation of the community and, in particular, children and child victims, in such information, education and training programmes;
- (c) Develop cooperation with civil society organisations and the media in order to support awareness-raising and training activities on issues related to the Optional Protocol.
- (d) Continue and strengthen systematic gender-sensitive education and training on the provisions of the Optional Protocol for all professional groups working with child victims of the crimes covered by the Optional Protocol.

Allocation of resources

The Committee is concerned that insufficient resources have been allocated to the implementation of the provisions of the Protocol and in particular notes the lack of resources for criminal investigations, legal assistance and physical and psychological recovery measures for victims. The Committee furthermore notes that the National Poverty Eradication Action Plan does not adequately incorporate a child rights perspective to enable the allocation of resources therein for the implementation of the provisions of the Optional Protocol.

The Committee encourages the State party to significantly increase budget allocations for coordination, prevention, promotion, protection, care, investigation and suppression of acts covered by the Optional Protocol, including by earmarking human and financial resources for the implementation of programmes relating to its provisions, and in particular for criminal investigations, legal assistance and physical and psychological recovery of victims to relevant authorities and civil society organizations. Finally, the Committee urges the State party to include

a child-rights perspective, including the provisions of the Optional Protocol in the National Poverty Eradication Action Plan .

Independent monitoring

The Committee welcomes the work undertaken by the Uganda Human Rights Commission (UHRC). However, the Committee is concerned that UHRC does not have the human and financial resources to monitor the Optional Protocol or children's rights generally and that it does not have child accessible complaints mechanisms at the regional and local levels. The Committee is also concerned the UHRC has been refused immediate unannounced access to agencies subject to its mandate.

The Committee recommends that the State party ensure that adequate human and financial resources are allocated to the Ugandan Human Rights Commission (UHRC) in order for it to exercise its mandate to monitor human rights treaties and be accessible for children at regional and local levels. The Committee also recommends that the UHRC be given unfettered access to any agency within its mandate.

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

The Committee notes as positive certain initiatives for preventive action, such as the introduction of Children and Family Protection Units in police station, the creation of the Media Council to monitor exposure to pornography and collaboration with ILO/IPEC. The Committee, however, notes that preventive measures are inadequate and that documentation and research are insufficient on the root causes, nature and extent of the sale of children, child prostitution and child pornography. Finally, the Committee is concerned over reports indicating the sale of children for sacrifices and the ritual killings.

The Committee recommends that the State party allocate specific budget resources for preventive measures and that these be carried out in collaboration with UNICEF, ILO/IPEC and civil society organisations. Furthermore, the Committee encourages the State party to carry out further documentation and gender-sensitive research on the nature and extent of the sale of children, child prostitution and child pornography, in order to identify the root causes, the extent of the problems and prevention measures.

The Committee recommends that the State party identify the regions most affected by violations under the Optional Protocol and to design specific prevention measures in this regard, including collaboration and bilateral agreements with neighbouring States. Furthermore, the Committee recommends that the State party comply with the recommendation of the Uganda Human Rights Commission to hold a public inquiry to investigate reports indicating the sale of children for sacrifices and ritual killings. It further recommends that a targeted media campaign be implemented to condemn such practices.

Adoption

The Committee notes the rising number of applications for legal guardianship of children and the reduced number of applications for adoption. The Committee is concerned that this may be aimed at circumventing the regulations which apply to adoption and result in practices contrary to the Optional Protocol.

The Committee recommends that the State party stringently scrutinize applications for legal guardianship of children in order to avoid practices contrary to the Protocol. Furthermore, the Committee recommends that the State party ratify the Hague Convention on Protection of Children and Cooperation in Respect of Intercountry Adoption.

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

The Committee, while noting the pending bill on the prevention of trafficking in persons, is concerned that not all the provisions of the Optional Protocol have been fully incorporated into the Penal Code. The Committee is also concerned that child victims of sexual exploitation may be

criminalized and notes that the Penal Code provides less protection for boys who have been victims of violations of the Optional Protocol.

The Committee recommends that the State Party expedite the adoption of the legal reform bill and bring its Penal Code in full compliance with articles 2 and 3 of the Optional Protocol. The Committee also recommends that in its legislation the State party ensure that all children affected by violations of the Optional Protocol be treated as victims, not offenders. Furthermore, the Committee recommends that the State party ratify the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime.

Jurisdiction

The Committee regrets that the Penal Code does not establish jurisdiction over all offences under the Optional Protocol and notes that the draft bill on prevention of trafficking in persons does not include the nationality of the victim as an element for the establishment of jurisdiction.

The Committee recommends that the State party ensure that all legal and practical measures necessary be undertaken in order to be able to effectively establish jurisdiction over offences in accordance with article 4 of the Optional Protocol.

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

The Committee notes efforts by the State party to protect the rights of child victims and witnesses in judicial proceedings by protecting their identity. The Committee is, however, concerned that children who have been victims of offences under the Protocol are stigmatized and re-victimized by being treated as offenders.

The Committee recommends that the State party:

- (a) Take all necessary measures, including prompt legal reform, to ensure that child victims of any of the crimes under the Optional Protocol not be criminalized. Child victims should be protected at all stages of the criminal justice process in accordance with article 8 of the Optional Protocol;
- (b) Allocate adequate financial and human resources to the competent authorities in order to improve the legal representation for child victims;
- (c) Presume, if in doubt, that young victims of sexual exploitation are children, and not adults.

Furthermore, the Committee encourages the State party to be guided by the Guidelines on Justice in Matters involving Child Victims and Witnesses of Crime (Economic and Social Council resolution 2005/20) and should in particular:

- (a) Allow the views, needs and concerns of child victims to be presented and considered in proceedings where their personal interests are affected;
- (b) Use child-sensitive procedures to protect children from hardship during the justice process, including by the use of special interview rooms designed for children, child-sensitive methods of questioning; and by reducing the number of interviews, statements and hearings.

Recovery and reintegration

The Committee notes that social reintegration and physical and psychosocial recovery measures for child victims are quite inadequate and that victims face difficulties in gaining access to seek compensation.

The Committee recommends that the State party;

- (a) Ensure that resources be earmarked in order to strengthen social reintegration and physical and psychosocial recovery measures, in accordance with article 9, paragraph 3, of the Optional Protocol, in particular by providing interdisciplinary assistance for child victims;
- (b) Guarantee that all child victims of the offences described in the Optional Protocol have access to adequate procedures and to seek, without discrimination, compensation for damages from those legally responsible, in accordance with article 9, paragraph 4, of the Optional Protocol.

VII. International assistance and cooperation

International cooperation

The Committee recommends that the State party seek international support for cooperation projects relating to implementation of the provisions of the Optional Protocol, in particular in order to provide assistance for victims, and as a priority among them, for girls. The State party is encouraged to seek technical assistance from UNICEF for this purpose.

The Committee welcomes the State party's collaboration with the Office of the United Nations High Commissioner for Human Rights and encourages it to extend the agreement continuing the presence of the national country office in Uganda in order to further implementation of the Optional Protocol.

Law enforcement

The Committee notes that insufficient information is provided with respect to the assistance and cooperation provided by the State party at all steps of the penal or criminal procedure with regard to the offences as provided in article 3, paragraph 1, of the Optional Protocol, i.e. in the detection, investigation, prosecution, punishment and extradition proceedings.

The Committee encourages the State party to provide more detailed information in this respect in its next report.

VIII. Follow-up and dissemination

Follow-up

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 relevant government ministries, the Cabinet and district as well as community authorities, for appropriate consideration and further action.

Dissemination

The Committee recommends that the report and written replies submitted by the State party and related recommendations (concluding observations) adopted be made widely available, including through the Internet (but not exclusively), to the public at large, civil society organizations, the media, youth groups, professional groups in order to generate debate and awareness of the Optional Protocol, its implementation and monitoring. Furthermore, the Committee recommends that the State party make the Optional Protocol widely known to children and their parents through, inter alia, school curricula and human rights education.

IX. Next report

In accordance with article 12, paragraph 2, the Committee requests the State party to include further information on the implementation of the Optional Protocol in its combined third, fourth and fifth periodic report under the Convention on the Rights of the Child, due on 15 March 2011.
