



Convention on the Rights of the Child

Distr.: General
19 September 2014

Original: English

**ADVANCE UNEDITED
VERSION**

Committee on the Rights of the Child

Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict

Concluding observations on the initial report of Venezuela adopted by the Committee at its sixty-seventh session (1-19 September 2014)

1. The Committee considered the initial report of Venezuela (CRC/C/OPAC/VEN/1)) at its 1905th meeting (see CRC/C/SR/1905) held on 2 September 2014, and adopted at the 1929th meeting, held on 19 September 2014, the following concluding observations.

I. Introduction

2. The Committee welcomes the submission of the State party's initial report. However it regrets that the State party did not submit written replies to the list of issues. The Committee expresses appreciation for the high-level and multisectoral character of the delegation of the State party.

3. The Committee reminds the State party that the present concluding observations should be read in conjunction with the concluding observations on the State party's combined third to fifth periodic reports under the Convention (CRC/C/VEN/CO/3-5) as well as those on the initial report under the Optional Protocol on the sale of children, child prostitution and child pornography (CRC/C/OPSC/VEN/CO/1), adopted on 19 September 2014.¹

II. General observations

Positive aspects

4. The Committee welcomes the ratification by the State party of:

¹ The term "children" encompasses anyone under the age of 18, including adolescents. In Spanish, it should be translated into "niños, niñas y adolescentes".

(a) The Protocol against the Illicit Manufacturing of and Trafficking in Firearms, Their Parts and Components and Ammunition, supplementing the United Nations Convention against Transnational Organized Crime, in June 2013;

(b) The Convention on Prohibitions or Restriction on the Use of Certain Conventional Weapons which may be deemed to be Excessively Injurious or to have Indiscriminate Effects and its Protocols in April 2005;

(c) The Rome Statute of the International Criminal Court, in June 2000;

(d) The Convention on the Prohibition of the Use, Stockpiling Production and Transfer of Anti-Personnel Mines and on their Destruction in April 1999; and

(e) The Geneva Conventions of 1949, in February 1956 and the Additional Protocols I and II thereto, in July 1998.

5. The Committee welcomes the various positive measures taken in areas relevant to the implementation of the Optional Protocol, in particular:

(a) The Law for Disarmament and Control of Arms and Ammunition, in June 2013;

(b) The adoption of the Act to Ban Video Games and Warlike Toys, in December 2009;

(c) The adoption of the Law Against Kidnapping and Extorsion, in June 2009;

(d) The adoption of the Law for the Protection of Children and Adolescents in Rooms with Internet, Video Games and Other Multimedia, in September 2006; and

(e) The declaration made at the time of ratification that the minimum age for conscription and voluntary recruitment is 18 years of age.

III. General measures of implementation

Legislation

6. The Committee welcomes that the Optional Protocol is directly applicable in the State party's legal system and that international agreements have priority over national legislation in case of contradiction. The Committee is nevertheless concerned that there are provisions of the Optional Protocol that have not yet been incorporated into the State party's domestic legislation.

7. Pursuant to article 6 of the Optional Protocol, the Committee recommends that the State party undertake a review of its domestic legislation with a view to fully incorporating the provisions of the Optional Protocol into its domestic legislation.

National plan of action

8. The Committee is concerned that the State party has not yet adopted a national plan of action on children which, *inter alia*, includes all issues covered by the Optional Protocol.

9. The Committee urges the State party to finalize the National Plan of Action for Children and Adolescents (2015-2019), addressing specifically all issues covered under the Optional Protocol and provide adequate human, financial and technical resources for its implementation.

Coordination

10. The Committee regrets the lack of information provided by the State party about the coordination among different institutions, including the Ministry of Defence (Ministerio del Poder Popular para la Defensa), in order to adequately implement the Optional Protocol.

11. **With reference to paragraph 13 of its concluding observations under the Convention, the Committee urges the State party to designate a coordinating body capable of providing leadership and effective general oversight for the monitoring and evaluation of activities on child rights under the Convention and its Optional Protocols at cross-sectoral, national, state and local levels. The State party should ensure that this coordinating body is provided with the necessary human, technical and financial resources for its effective operation.**

Dissemination and awareness raising

12. The Committee takes note that the State party has undertaken some initiatives to disseminate the Optional Protocol, including among the armed forces. However, it regrets the lack of adequate information provided about the content and the extent of these initiatives as well as the groups that have been targeted.

13. **Pursuant to article 6, paragraph 2, of the Optional Protocol, the Committee recommends that the State party strongly enhance its efforts to make the principles and provisions of the Optional Protocol widely known to the public at large, and to teachers, children and their families in particular.**

Training

14. While noting some training initiatives on children rights, the Committee regrets the lack of adequate information provided by the State party on specific training organized on the provisions of the Optional Protocol.

15. **The Committee encourages the State party to provide training on the Optional Protocol for all military and civilian personnel of the Armed Forces, including those involved in international peacekeeping operations, and systematically include the provisions of the Optional Protocol in the curricula. It further recommends that the State party ensure that all personnel working with and for children, in particular authorities working for and with asylum-seeking and refugee children, police, lawyers, judges, military judges, medical professionals, teachers, social workers and journalists, receive training on the Optional Protocol.**

Data

16. The Committee is deeply concerned about the absence of disaggregated data provided by the State party in relation to the implementation of the Optional Protocol due to the lack of a central data collection system on children rights which also includes data related to the Optional Protocol.

17. **The Committee urges the State party to include in the central data collection system (SIENNA) data, *inter alia*, on:**

(a) **Children, including refugee and asylum-seeking, who may have been recruited or used in hostilities, in the territory of the State party and/or abroad. Information on the time, total duration and form of recruitment and/or use of the child should also be included; and**

(b) **Children benefitting from physical and psychological recovery and social reintegration programmes.**

All data should be disaggregated by, *inter alia*, sex, age, nationality, ethnic origin and socioeconomic background.

IV. Prevention

Prevention of recruitment by non-State groups

18. The Committee takes note of the information provided by the State party that non-State armed groups are not present in its territory. However, the Committee is deeply concerned about numerous and consistent reports that children, including girls, have been recruited and/or used by non-State armed groups from a neighbouring country in border areas.

19. **The Committee reminds the State party of its obligations under the Optional Protocol to take all necessary measures to prevent effectively the recruitment or use of children by non-State armed groups, in particular refugee, asylum-seeking and indigenous children, as well as those living in poverty or rural areas. In that regard, the Committee urges the State party to:**

(a) **Undertake any legal, administrative or institutional measures necessary to prevent recruitment of children and protect them from violence by non-State armed groups. The root causes for recruitment, such as poverty and discrimination, and the particular needs of girls victims must be taken into consideration when designing these measures;**

(b) **Establish appropriate mechanisms to identify children at risk of being recruited or used by non-State armed groups, including children living in poverty and/or in remote or rural areas, as well as refugee, asylum-seeking, indigenous, Afro-descendant and migrant children; and**

(c) **Develop awareness raising and educational programmes on the negative consequences of participating in armed conflicts targeting children, parents, teachers and any other relevant stakeholder in the border areas.**

Military schools

20. The Committee notes the information provided by the State party during the dialogue concerning the functioning of the military schools. However the Committee is concerned about the absence of disaggregated data on children attending military schools as well as the lack of an efficient independent complaints mechanism.

21. **The Committee recommends that the State party:**

(a) **Collect disaggregated data about children attending military schools; and**

(b) **Establish an independent complaints mechanism for children attending military schools.**

Military education in regular schools

22. The Committee is concerned about:

(a) Reports that mandatory Pre-Military Instruction is part of the curricula in regular schools and vocational education; and

(b) The 2011 Ministry of Defence resolution enacting a Comprehensive Military Education Plan, which includes the subject "Comprehensive Defence Education" as a part of the mandatory curricula in regular schools. The Committee is deeply concerned that the

resolution appoints the civilian armed forces ("Bolivarian militias") as the entity responsible to implement this subject in schools.

23. **The Committee urges the State party to :**

(a) **Explicitly prohibit the Pre-Military Instruction in regular schools and vocational education; and**

(b) **Amend the 2011 Ministry of Defence resolution enacting a Comprehensive Military Education Plan with the aim to ensure that training related to military issues is removed from the curricula of regular schools and that all subjects in the curricula are delivered by qualified civilian teachers.**

Human rights and peace education

24. The Committee is concerned about the insufficiency of adequate information concerning the promotion of the culture of peace, including the issues related to the Optional Protocol and human rights education, as a mandatory part of primary and secondary school programmes and in the teachers' training programmes.

25. **Taking into consideration its general comment No. 1 (2001) on the aims of education, the Committee recommends that the State party include human rights and peace education in the curricula of all schools and in teacher-training programmes, with special reference to the Optional Protocol.**

V. Prohibition and related matters

Criminal legislation and regulations in force

26. While taking note that the Constitution prohibits forced recruitment and that the Conscription and Military Enlistment Act sets the minimum age of military service at 18, the Committee regrets that the legislation does not explicitly criminalize recruitment and use of children by the armed forces. The Committee also regrets that, apart from the prohibition of forced recruitment of children by armed groups by the Act against Kidnapping and Extortion, other forms of recruitment and the use of children in hostilities by non-State armed groups, including private security companies, are not explicitly criminalized.

27. **The Committee strongly recommends that the State Party amend its criminal legislation to explicitly criminalize all forms of recruitment and use of children in hostilities under the age of 18 by the armed forces and non-State armed groups, including private security companies. The State party should ensure that penalties stipulated by the law are commensurate with the gravity of the crimes.**

28. The Committee is further concerned that, in spite of the legal prohibition of providing children with arms, cases of children accessing firearms have been documented.

29. **The Committee recommends that the State party take all necessary measures to:**

(a) **Seize all the arms currently in children's possession and ensure that they do not have any access to arms and ammunitions, including by allocating adequate human, financial and technical resource for the implementation of the Law for Disarmament and Control of Arms and Ammunition;**

(b) **Investigate all cases of selling of arms to children, prosecute the alleged perpetrators and adequately punish those convicted; and**

(c) **Ensure that those responsible for disarmament and for controlling the sale of arms and ammunitions are made aware of the Optional Protocol, and that their decisions are guided by its provisions.**

Extraterritorial jurisdiction and extradition

30. The Committee regrets that legislation in the State party does not establish extraterritorial jurisdiction over all the crimes enlisted in the Optional Protocol. The Committee is also concerned that double criminality is required in all cases of extradition.

31. **The Committee urges the State party to take all necessary steps to ensure that domestic legislation enables it to establish and exercise extraterritorial jurisdiction over all offences under the Optional Protocol. The Committee further recommends that the State party take steps to ensure that a double criminality requirement is not used in cases of extradition for crimes covered by the Optional Protocol.**

VI. Protection, recovery and reintegration

Measures adopted to protect the rights of child victims

32. The Committee regrets that no investigation has been launched in regard to reports that children, including girls, have been recruited and/or used by non-state armed groups from a neighbouring country in border areas. The Committee further regrets that a complaint filed in this regard by civil society organizations with the State Prosecutor in 2012 has never been addressed.

33. **The Committee urges the State party to take all necessary measures to:**

(a) **Urgently and thoroughly investigate cases of recruitment and/or use of children by non-State armed groups from a neighbouring country, prosecute the alleged perpetrators and compensate the victims;**

(b) **Develop specific regulations and protocols for the relevant authorities on how to ensure the protection of the rights of children during investigations of and actions against non-State armed groups; and**

(c) **Ensure that child-friendly complaint and protection mechanisms are available and adequately resourced, in particular in border areas.**

Assistance for physical and psychological recovery and social reintegration

34. While noting all the social programmes implemented by the State party, the Committee regrets the lack of specific physical and psychological recovery and social reintegration programmes targeting child victims of offences covered by the Optional Protocol, who have very particular needs. The Committee also regrets the lack of adequate measures taken to identify children who could benefit from those programmes, such as children recruited and/or used by non-State armed groups from a neighbouring country in border areas and refugee and asylum-seeking children who may have been recruited and/or used in hostilities abroad.

35. **The Committee recommends that the State Party:**

(a) **Establish an identification mechanism for children who may have been recruited and/or used in hostilities, including refugee and asylum-seeking children;**

(b) **Take all necessary measures to ensure that child victims of the offences covered under the Optional Protocol are provided with adequate assistance 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;

(c) Guarantee that all child victims and their families have access to adequate procedures to seek, without discrimination, compensation for damages; and

(d) Seek technical assistance from UNICEF and UNHCR for the implementation of these recommendations.

VII. International assistance and cooperation

International cooperation

36. The Committee recommends that the State party continue and strengthen its cooperation with the International Committee of the Red Cross and with the Special Representative of the Secretary-General for Children and Armed Conflict, and that it explore increased cooperation with the United Nations Children's Fund (UNICEF) and other United Nations entities in the implementation of the Optional Protocol.

Arms export

37. The Committee welcomes the adoption of the Law for Disarmament and Control of Arms and Ammunition. However, the Committee regrets that the law does not explicitly criminalize the export and/or transit of arms to countries where children may be involved in armed conflicts.

38. The Committee recommends that the State party enact legislation criminalizing the export and/or transit of arms, especially of small arms and light weapons, to countries where children may be involved in armed conflict.

VIII. Follow-up and dissemination

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

40. The Committee recommends that the initial report and written replies submitted by the State party and the related concluding observations adopted by the Committee 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, in order to generate debate and awareness of the Optional Protocol, its implementation and monitoring.

IX. Next report

41. 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 the present concluding observations in its next periodic report under the

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