



Convention on the Rights of the Child

Committee on the Rights of the Child

Fifty-third session

11-29 January 2010

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: Mongolia

1. The Committee considered the initial report of Mongolia (CRC/C/OPSC/MNG/1) at its 1458th and 1460th meetings (see CRC/C/SR.1458 and CRC/C/SR.1460), held on 12 and 13 January 2010, and adopted at its 1501st meeting, held on 29 January 2010, the following concluding observations.

Introduction

2. The Committee welcomes the submission of the initial report of the State party as well as the replies provided in the responses to its list of issues (CRC/C/OPSC/MNG/Q/1 and Add.1). The Committee also expresses appreciation for the frank and constructive dialogue held with the delegation. However, the Committee regrets that the report of the State party did not follow the revised guidelines for reporting under the Optional Protocol and that the delegation did not include officials from the Ministry of Justice.

3. The Committee reminds the State party that the present concluding observations should be read in conjunction with the concluding observations (CRC/C/MNG/CO/3-4) adopted on 29 January 2010 following the consideration of the State party's combined third and fourth periodic reports.

I. General observations

Positive aspects

4. The Committee notes with appreciation that relevant stakeholders, including civil society organizations and children, have been consulted in the preparation of the report.

5. The Committee also commends the State party's accession to or ratification of the following:

(a) Optional Protocol on the involvement of children in armed conflict in 2006;

(b) International Labour Organization (ILO) Convention No. 182 (1999) concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour in 2001;

(c) Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime in 2008.

II. Data

Data collection

6. The Committee notes with concern the limited statistical data and research on the extent of sale of children, child prostitution and child pornography.

7. The Committee recommends that the State party ensure that research be undertaken into issues covered by the Optional Protocol and that data be disaggregated inter alia by age, sex, socio-economic background and geographical and minority group, and that data be systematically collected and analysed as it provides essential tools for measuring policy implementation. The State party should seek the assistance of United Nations agencies and programmes, including the United Nations Children's Fund (UNICEF), in this regard.

III. General measures of implementation

Legislation

8. The Committee welcomes the information that some of the provisions contained in the Optional Protocol have already been incorporated into the legislation of Mongolia. However, it expresses concern at the lack of precise definitions and that not all offences under the Optional Protocol are incorporated.

9 . The Committee recommends that the State party continue and complete the process of harmonization of its national legislation in line with the principles and provisions of the Optional Protocol.

National Plan of Action

10. While noting the adoption of a National Programme on Protection from Trafficking in Children and Women with the Purpose of Sexual Exploitation in 2005, the Committee is concerned that this programme does not cover violations of all provisions of the Optional Protocol.

11 . The Committee recommends that the State party effectively implement the National Programme on Protection from Trafficking in Children and Women with the Purpose of Sexual Exploitation and consider expanding it in order to address all violations of the provisions of the Optional Protocol , supported with adequate human and financial resources .

Coordination and evaluation

12. The Committee notes that a National Council is in charge of the implementation of the National Programme on Protection from Trafficking in Children and Women with the Purpose of Sexual Exploitation. However, the Committee is concerned at the lack of systematic evaluation of the Council's performance.

13. The Committee recommends that the State party take all necessary measures to ensure that the National Council carry out its mandate in an effective manner and that it be provided with adequate human and financial resources.

Dissemination and training

14. The Committee appreciates the efforts undertaken by the State party in promoting the Optional Protocol, including through training programmes, the publication of books and promotional material on human trafficking and protection of children from sexual exploitation, in collaboration with non-governmental organizations (NGOs). However, the Committee notes that such efforts need to be strengthened and systematized throughout the State party.

15 . The Committee recommends that the State party:

(a) Continue and strengthen systematic education and training on the provisions of the Optional Protocol for all relevant professional groups;

(b) Strengthen measures to disseminate the provisions of the Optional Protocol among its population, in particular children and parents, by using, inter alia, school curricula and appropriate material specifically designed for children;

(c) Promote , in accordance with article 9 , paragraph 2 , of the Optional Protocol and in cooperation with civil society, awareness among the public at large, including children, through information by all appropriate means, education and training, about the preventive measures and harmful effects of all the offences referred to in the Optional Protocol, by , inter alia, encouraging the participation of the community and, in particular, children and child victims of both sexes, in such information, education and training programmes .

Allocation of resources

16. The Committee welcomes the information provided on budget allocations for the implementation of the Optional Protocol. However, the Committee remains concerned that the budget allocated is not sufficient and does not cover all areas of the Optional Protocol.

17 . The Committee recommends th at the State party increase its budget allocation at the national and local levels in order to cover all areas of the Optional Protocol, taking due account of the Committee's recommendations following its 2007 Day of General Discussion on article 4 of the Convention . In particular the Committee recommends that the State party :

(a) Provide the necessary human and financial resources for the development and implementation of plans and projects, especially at the local level, aimed at the prevention, protection, physical and psychological recovery and social reintegration of victims and prosecution of the offences covered by the Optional Protocol;

(b) Adopt a human rights approach and introduce methodologies of budgeting as indicated in the concluding observations of the Committee (CRC/C/MNG/CO/3-4 , para. 18) .

Independent institutions

18. The Committee is concerned that the National Human Rights Commission is not accessible by or available to all children in the country. The Committee is further concerned that children cannot lodge complaints themselves.

19. The Committee recommends that the State party strengthen its efforts to ensure that the National Human Rights Commission can be easily accessible by all children to claim any violation of their rights, including those covered by the Optional Protocol. It further recommends that the State party ensure that the National Human Rights Commission be mandated and have the capacity to receive complaints from children themselves.

IV.Prevention of the sale of children, child prostitution and child pornography

20.The Committee is deeply concerned at the information that the increase in poverty and in child sexual abuse plays a significant role in the increase of commercial sexual exploitation in the State party.

21. The Committee recommends that the State Party continue paying adequate attention, including the allocation of human and financial resources, to projects aimed at addressing the root causes contributing to the vulnerability of children to sale, prostitution, pornography and sex tourism, such as poverty, underdevelopment and cultural attitudes. It also recommends that the State party enhance its efforts in strengthening international cooperation in this respect, particularly with neighbouring countries.

V.Prohibition of the sale of children, child pornography and child prostitution and related matters

Existing criminal or penal laws and regulations

22.The Committee is concerned that the prohibition of the sale of children, child prostitution and child pornography has not been explicitly included in the national legislation of the State party in conformity with articles 2 and 3 of the Optional Protocol. In particular, the Committee is concerned at the lack of a clear definition of the offence of child prostitution in accordance with the Optional Protocol, which has prevented many cases from being adequately addressed.

23. The Committee recommends that the State party undertake a legal study in order to identify inconsistencies and gaps between the national legal system and the Optional Protocol and to seek assistance from UNICEF and other relevant international organizations. The Committee further recommends that the State party take all measures to amend the provisions of its national legislation with a view to fully including all purposes and forms of the sale of children, child pornography and child prostitution in accordance with articles 2 and 3 of the Optional Protocol.

Jurisdiction

24.The Committee, while welcoming that the State party may exercise its jurisdiction in accordance with article 4 of the Optional Protocol, remains concerned at the lack of detailed information on procedures used to deal with all offences covered by the Optional Protocol.

25. The Committee recommends that the State party take the necessary legislative measures to ensure that the domestic law provides for extraterritorial jurisdiction in full compliance with article 4 of the Optional Protocol.

VI.Protection of the rights of child victims

Measures adopted to protect the rights and interests of child victims of offences prohibited under the Optional Protocol

26.The Committee is concerned that children victims of the offences under the Optional Protocol may not always be considered and treated as victims as provided for in article 8 of the Optional Protocol. The Committee also joins its voice to the concern raised by the Committee on the Elimination of Discrimination against Women in November 2008 (CEDAW/C/MNG/CO/7, paras. 27 and 28) regarding the increasing incidence of trafficking and exploitation against women and girls and the low rate of prosecution. It further notes with concern the scarce availability of social reintegration and physical and psychosocial recovery measures for child victims.

27. The Committee recommends that the State party:

(a) Ensure that the current legislation covers child victims at all stages of the criminal justice process in accordance with article 8 of the Optional Protocol and that the best interests of the child shall be a primary consideration. In this regard, the State party should be guided by the United Nations Guidelines on Justice in Matters Involving Child Victims and Witnesses of Crime (Economic and Social Council Resolution No. 2005/20, annex);

(b) Take all necessary measures to ensure that adequate human and financial resources are allocated in order to improve the legal representation for child victims;

(c) Ensure that child victims of any of the offences under the Optional Protocol are as such neither criminalized nor penalized, and that all possible measures be taken to avoid their stigmatization and social marginalization;

(d) Ensure that adequate services are available for all child victims, boys and girls, including for their full social reintegration and their full physical and psychological recovery, in accordance with article 9, paragraph 3, of the Optional Protocol.

28. The Committee further recommends that the State party conduct a study on the processes that the child victims of

sale of children, child prostitution and child pornography go through, starting from the moment they enter the judicial system through to the police and the rehabilitation phase, with a view to identifying the obstacles within the legal and social system and using the outcome of the study to develop and implement an effective and comprehensive policy.

29. The Committee recommends that the State party continue to ensure access to the different child helpline s to assist child victims. In this regard, the Committee recommends that the State party ensure that children are aware of and have access to the helpline s and that it facilitate the collaboration of the helpline with child-focused NGOs and the police, as well as with health and social workers.

Recovery and reintegration of victims

30. The Committee welcomes the information regarding the commendable work done by civil society organizations in providing care, support and protection for the most vulnerable children, including victims of offences under the Optional Protocol. However, the Committee is concerned at the lack of systematic and coordinated mechanisms at the provincial and community levels which could address the rights and needs of child victims in a more comprehensive and coordinated manner.

31. The Committee recommends that the State party:

(a) Take measures to ensure appropriate training, in particular legal and psychological training, for the persons who work with victims of the offences prohibited under the Optional Protocol, in accordance with article 8, paragraph 4, of the Optional Protocol;

(b) Ensure that all child victims of the offences described in the Optional Protocol have access to adequate legal procedures 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

Multilateral, regional, bilateral agreements

32. The Committee encourages the State party to continue its cooperation with United Nations specialized agencies and programme s and civil society organizations and also through bilateral arrangements in order to address the root causes, such as poverty and underdevelopment, contributing to the vulnerability of children to the sale of children, child prostitution, child pornography and child sex tourism.

Law enforcement

33. The Committee encourages the State party to undertake regional and international judicial, police and victim-oriented cooperation activities with other States with a view to preventing and combating the sale of children, child prostitution and child pornography and to provide more detailed information in the next periodic report under the Convention.

VIII. Follow-up and dissemination

Follow-up

34. 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 Supreme Peoples Assembly, and to local authorities, for appropriate consideration and further action.

Dissemination

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

IX. Next report

36. 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 next periodic report under the Convention on the Rights of the Child, in accordance with article 44 of the Convention.