

STATE PARTY EXAMINATION OF RWANDA'S INITIAL REPORT ON THE OPTIONAL PROTOCOL ON THE SALE OF CHILDREN, CHILD PROSTITUTION AND CHILD PORNOGRAPHY

63RD SESSION OF THE COMMITTEE ON THE RIGHTS OF THE CHILD

27 MAY – 14 JUNE 2013

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Rwanda ratified the Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography (OPSC) on 14 March 2002. On 31 May 2013, the Committee on the Rights of the Child (the Committee) examined the initial report of Rwanda.

Opening Comments

The delegation of Rwanda was led by Ms Zaina Nyiramata, Executive Secretary of the National Commission for Children in Rwanda. She was supported by a small delegation of representatives from the Ministry of Justice and Chargé d'Affaires.

Mr Kotrane, the Country Rapporteur, commended the State party for the progress it had made in bringing its legislation in line with the provisions of the OPSC. He highlighted that although the State's legislation made several provisions regarding trafficking, there were no explicit provisions regarding the sale of children, including the prohibition of the sale of organs and forced child labour. Mr Kotrane asked the delegation to comment on this and elaborate on the measures the State would take to address these issues.

General Measures of Implementation

Legislation

The Committee noted that the State had made significant progress in the implementation of the OPSC, particularly as a result of Law No. 54/2011 and the new Penal Code. The Committee noted, however, that the legislation had been structured in a very generic manner and that although it included provisions for trafficking, it did not incorporate all the acts covered by the OPSC such as sale of a child, sale of organs and forced child labour. The Committee stated that the law should be amended to ensure that all acts under the OPSC were criminalised by law.

The delegation confirmed that a new Penal Code had been created to criminalise acts against children such as the infliction of suffering, the imposition of degrading and humiliating punishments, human trafficking, and the involvement of children in pornography, exploitation, armed conflict, labour, narcotic drugs and arms trafficking.

The delegation highlighted that its legislation made explicit provisions for children that had been trafficked for the purposes of prostitution and stated that the term ‘trafficking’ was a term that was broadly applied to address offences of child trafficking, child prostitution and sale of children. The delegation acknowledged that further provisions needed to be incorporated into domestic law to cover the scope of offences under the OPSC. In order to create such provisions, the State would carry out a study to identify the gaps in current legislation.

Coordination and monitoring

The Committee asked the delegation about the body that was responsible for coordinating and monitoring violations of children’s rights in relation to the OPSC.

The delegation stated that the law mandated the National Commission for Children to coordinate all child rights-related policy and programme interventions. The Commission was also responsible for receiving complaints from children or their representatives, including the conduct of investigations of child rights violations under the OPSC. Additionally, the Ministry for Gender and Family Protection had a mandate to develop, coordinate and implement policies and strategies.

Dissemination and training

The Committee commended the State Party’s efforts to disseminate the CRC and translate it into the local languages, as well as distribute it to different professionals working with children. The Committee asked if awareness had been raised about the OPSC and inquired about which institution was responsible for the application and dissemination of the OPSC.

The delegation highlighted that the State had made efforts to disseminate the OPSC as extensively as possible and ensure that the document was available at the district. It stated that the National Commission for Human Rights was the body responsible for raising awareness on all national laws and treaties ratified by the State. It was also responsible for advising on the application of protocols and preparing State reports. The delegation stated that although its reporting process had not complied with the designated timeframe set out under the OPSC, it would make every effort to do so in the future.

Prohibition and related matters

Extraterritorial jurisdiction

The Committee noted that Article 10 of the Penal Code stipulated that Rwandan citizens committing crimes outside of the State party required dual criminality in order for offenders to be prosecuted by Rwandan courts. The Committee asked what efforts had been made to remove this requirement.

The delegation explained that Rwandan courts did have the competence to judge OPSC offences committed outside the territory of Rwanda and had been working with Interpol on such matters. In particular, the delegation highlighted that it was possible to bring cases that had occurred abroad regarding offences relating to crimes of genocide, war crimes, child trafficking and crimes against humanity. With regards to trafficking of children from one country to another, the delegation stated it had the jurisdiction to deal with such cases; however in practice, problems had arisen in the process of investigation.

Child pornography

The Committee asked the delegation to elaborate on the measures that had been taken regarding child pornography and how it was monitored. Noting that it had not seen the new

Penal Code, the Committee inquired about whether there were any legal provisions regarding the import, export and possession of child pornography.

The delegation stated that it was reviewing the process of controlling child pornography and acknowledged that in practice it was necessary to establish whether the Penal Code effectively criminalised all acts related to the creation, dissemination and possession of child pornographic materials. Currently, that there were no provisions in the State's legislation regarding the possession of child pornography; however, the matter was currently being examined with a view to amending the law accordingly.

The delegation recognised that internet-based child pornography remained an area that needed further coordination efforts in order to monitor and follow up on suspected cases. The delegation noted that this was an area that needed careful consideration so as to ensure that no infringements were made regarding people's freedom of expression.

Child trafficking

The Committee inquired about the steps that had been taken to address child trafficking.

The delegation stated that child trafficking had been criminalised through specific legislation and the Penal Code; and that severe sanctions were imposed on persons responsible for child trafficking.

Protection, Recovery and Reintegration

Victim support

The Committee asked what assistance had been made available for victims of sale, prostitution and pornography in terms of their recovery and social reintegration; and the level of training of staff involved in the delivery of such services. The Committee inquired about whether there had been cases where compensation had been provided to children. The delegation was also asked whether offences could be reported.

The delegation highlighted that victims benefitted from one-stop centres which provided psychosocial and legal help for victims of gender-based violence. To ensure accessibility for all victims, the centres had been established various districts. The delegation also stated that resources had been made available by the government in this respect; however further resources were necessary. For children, these centres acted as safe-houses to ensure their safety in situations of violence.

The delegation highlighted that victims were protected under both the Criminal Code and under Civil Law, and that they were able to get redress, as well as damages awarded to them.

Concluding Remarks

Mr Madi thanked the delegation for a frank and open dialogue and encouraged the State to continue its efforts. He highlighted that mutual concerns had been considered and that further efforts were needed to improve the implementation of the OPSC.

Ms Zaina Nyiramata expressed her appreciation for the recommendations that had been made by the Committee. She stated that it was necessary for the State to review its legislation and ensure that it was in a position to fully apply the OPSC and incorporate it fully into domestic legislation over time. She stated that the State party would make every effort to ensure that this became a reality.