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COMMITTEE ON THE RIGHTS OF THE CHILD

47th 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: Timor Leste

1. The Committee considered the initial report of Timor Leste (CRC/C/OPSC/TLS/1) at its 1290th meeting (see CRC/C/SR.1290), held on 17 January 2008, and, at its 1313th meeting, held on 1 February 2008, adopted the following concluding observations:

Introduction

2. The Committee welcomes the submission of the State party's initial report under this Protocol as well as the replies to the list of issues submitted in a timely fashion. The Committee also appreciates the constructive dialogue held with the high-level delegation.

3. The Committee recommends that these concluding observations be read in conjunction with the concluding observations adopted on the State party's initial reports on the Convention and on the Optional Protocol on the Involvement of Children in Armed Conflict.

A. Positive aspects

4. The Committee welcomes the fact the State party has begun to take steps towards the implementation of the Optional Protocol, including the establishment of a Working Group on Trafficking, chaired by the Ministry of Foreign Affairs and Cooperation which has helped to ensure that the draft Penal Code complies with relevant international standards, and urged the development of a national action plan on human trafficking.

B. Main subjects of concern and recommendations

I. Data

Data collection

5. The Committee regrets that information and data on the extent of sale of children, child prostitution and child pornography and on the number of children involved in these activities are very limited, due to the absence of a comprehensive data collection system.

6. The Committee recommends that the State party:

(a) Establish a comprehensive data collection system to systematically collect and analyze data on the offences covered by the Protocol, disaggregated *inter alia* by age, sex, socio-economic background and geographical area. Data should include information on the number of prosecutions and convictions for offences covered by the Protocol.

b) Seek the assistance of relevant UN agencies and programmes, including UNICEF.

II. General measures of implementation

National Plan of Action

7. The Committee notes with concern that a comprehensive National Plan of Action on the implementation of the rights of the child, including with regard to protection from the offences addressed by the Protocol, has not been developed. It further notes that the operating procedures on human trafficking, which had been drafted by the Working Group on Trafficking in 2004, and the National Action Plan on Human Trafficking, the development of which had been urged by that Working Group, are not yet in place.

8. The Committee recommends that the State party:

(a) Proceed to develop a comprehensive National Plan of Action on the implementation of the rights of the child and ensure that effective measures aimed at the implementation of the Protocol are included in that Plan; and

(b) Develop a National Action Plan on Human Trafficking, as proposed by the Working Group on Trafficking, and consider adopting the operating procedures on trafficking drafted by that Working Group.

Coordination and evaluation of the implementation of the Protocol

9. The Committee notes that the Ministry of Social Solidarity and the Immigration and Police agencies are the main Government agencies with statutory competence in the fields covered by the Optional Protocol, and that the Ministry of Justice, the Ministry of Education and Culture and the Secretary of State for Promotion of Equality also exercise functions in this area. The Committee further notes that the Office of the Advisor on Human Rights is charged with the coordination of relevant activities, which role will be taken over by the National Commission for the Rights of the Child once this body is established.

10. The Committee recommends that the State party:

(a) Expedite the establishment of the National Commission for the Rights of the Child, as stated in the concluding observations on the State party report on the implementation of the Convention on the Rights of the Child (recommendation No. 13); and

(b) Take all necessary measures to ensure effective coordination among the institutions with responsibilities for the implementation of the Optional Protocol, including the Ministry of Social Solidarity and the Immigration and Police agencies, as well as effective monitoring of all implementation activities.

Dissemination and training

11. The Committee notes that no specific measures have been taken to publicize the provisions of the Optional Protocol to the wider public, and that there have been no systematic training activities on issues related to the Protocol.

12. The Committee recommends that the State party:

(a) Take measures to introduce systematic education and training on the provisions of the Optional Protocol for all relevant professional groups and cooperate with civil society with regard to awareness-raising on issues related to the Protocol;

(b) Take measures to disseminate information with regard to the provisions of the Optional Protocol among the wider public, including children, through inclusion in school curricula, translation of relevant materials into local languages, encouraging the participation of the community and other appropriate means; and

(c) Continue to seek assistance of UN agencies and programmes, including UNICEF.

Allocation of resources

13. The Committee regrets that no specific information is available on the budget allocated for the implementation of the Optional Protocol.

14. The Committee recommends that the State party:

(a) Provide information on the budget allocations for the implementation of the Optional Protocol;

(b) Provide the necessary human and financial resources for the development and implementation of projects and plans aimed at prevention and protection; and

(c) Integrate considerations relevant to the implementation of the Protocol in the development and implementation of poverty reduction strategies and policies.

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

Measures adopted to prevent offences referred to in the Optional Protocol

15. The Committee expresses concern that no effective measures have been adopted to prevent the offences referred to in the Optional Protocol and to address risk factors.

16. The Committee recommends that the State party:

(a) Strengthen its laws, administrative measures and social policies and programmes aimed at the prevention of such offences in line with article 9 (1) of the Optional Protocol; and

(b) Implement adequate measures aimed at addressing underlying risk factors, such as poverty, underdevelopment and cultural attitudes, which contribute to the vulnerability of children to sale, prostitution and pornography.

17. The Committee, stressing the fact that a proper system of birth registration is among the most important preventive measures against the offences covered by the Optional Protocol, welcomes the State party's efforts to promote birth registration. However, the Committee remains concerned that the rate of birth registration is still very low, especially in rural and remote areas.

18. The Committee urges the State party to intensify its efforts to improve its birth registration system in order to guarantee the registration of all children within its jurisdiction, in line with the recommendations in paragraphs 35 and 36 of the concluding observations adopted on the State party's report under the Convention.

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

Existing criminal or penal laws and regulations

19. The Committee notes the State party's intention to criminalize all acts and activities listed in paragraph 3 of the Optional Protocol in its Penal Code, but regrets that the State party's current legislation does not provide adequate and comprehensive protection.

20. The Committee urges the State Party to:

(a) Ensure that legislation in the area of child protection and notably in the area covered by the Optional Protocol applies to all persons below 18;

(b) Ensure that the sale of children is prohibited in all cases listed under article 3 (1) (a) of the Protocol; and

(c) Adopt and implement specific legislation adequately defining and punishing child pornography and child prostitution in accordance with articles 3 (1) b and (c) of the Protocol.

21. The Committee further 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, 2000*, in addition to the instruments referred to in paragraphs 52 and 79 of the Committee's concluding observations on the State party's report under the Convention on the Rights of the Child (*1993 Hague Convention on the Protection of Children and Cooperation in Respect of Inter-Country Adoption*; and *ILO Convention No. 182 concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour*).

Jurisdiction/ Extradition

22. The Committee regrets that the State party has not provided information with regard to its approach to extra-territorial jurisdiction over the offences referred to in the Optional Protocol in the cases mentioned in article 4, and with regard to the question of extradition.

23. The Committee recommends that the State party take all necessary measures to establish its jurisdiction over the offences referred to in the Protocol in conformity with article 4. Furthermore, in light of article 5 of the Optional Protocol, the Committee recommends that the State party:

(a) Include the offences referred to in article 3, paragraph 1, of the Protocol as extraditable offences in future extradition treaties;

(b) Consider the Optional Protocol as a legal basis for extradition in respect of the offences covered by it, in case a request for extradition is received from another State Party with which it has no extradition treaty.

V. Protection of the rights of child victims

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

24. The Committee is concerned about the absence of a comprehensive and consistent system of measures and safeguards to protect child victims and witnesses within the judicial system.

25. The Committee recommends that the State party:

(a) 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 the stigmatization and social marginalization of these children;

(b) Ensure the protection of child victims and witnesses at all stages of the criminal justice process in light of article 8 (1) of the Protocol. The State party should be guided in this respect by the UN Guidelines on Justice in Matters involving Child Victims and Witnesses of Crime (ECOSOC Resolution No. 2005/20).

Recovery and reintegration of victims

26. The Committee notes that the State party, through its Ministry of Health and the Secretary of State for the Promotion of Equality, in cooperation with other agencies and entities, provides psychological support and reintegration services. The Committee is concerned, however, that the availability of counselling and rehabilitation services in the State party is inadequate.

27. The Committee recommends that the State party:

(a) 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 (3) of the Protocol;

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

(c) Ensure that all child victims of the offences described in the present Protocol have access to adequate procedures to seek, without discrimination, compensation for damages from those legally responsible, in accordance with article 9(4) of the Protocol.

Helpline

28. The Committee is aware that child helplines can be a useful tool to monitor the situation of children and protect them from the offences covered by the Protocol. In this regard, it is concerned that there is no child helpline currently functioning in the State party.

29. The Committee recommends that the State party:

- (a) Establish a 3-digit, toll-free 24-hour national helpline for children;**
- (b) Provide support to establish and maintain the service; and**
- (c) Ensure that it has an outreach component for the most marginalized groups.**

VI. International assistance and cooperation

30. While noting that the State party has worked in close cooperation with the international community, the Committee is concerned that the potential of regional and bilateral technical cooperation for the implementation of the Protocol has not been fully explored.

31. The Committee recommends that the State party strengthen regional and bilateral technical cooperation for the prevention, detection and investigation of acts involving the sale of children, child prostitution and child pornography.

32. The Committee also encourages the State party to continue its cooperation with UN agencies and programmes as well as non-governmental organizations in the development and execution of programmes aimed at the implementation of the Optional Protocol.

Law enforcement

33. The Committee encourages the State party to take steps to establish international judicial and police cooperation activities for the prevention, detection and investigation of acts covered by the Protocol, and for the prosecution and punishment of those responsible.

VII. 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 Parliament and local authorities, for appropriate consideration and further action.

Dissemination

35. The Committee recommends that the report and written replies submitted by the State party as well as the concluding observations adopted in relation thereto be made widely available to the public at large, civil society organizations, youth groups, professional groups, community leaders, media personnel and children in order to generate debate and awareness of the Optional Protocol, its implementation and monitoring.

VIII. 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.
