



Alternative report to

the Committee on the Rights of the Child

on implementation of the OPTIONAL PROTOCOL

to the Convention on the Rights of the Child on

the

INVOLVEMENT OF CHILDREN IN ARMED

CONFLICT (OPAC)

ANGOLA

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CORE QUESTIONS AND RECOMMENDATIONS

Questions and recommendations arising directly from the Committee's previous concluding observations on Angola are marked as such.

Questions

- What steps has the state party taken to ensure that all individuals recruited as children by both the National Union for the Total Independence of Angola (UNITA) and the Angolan Armed Forces (FAA), have received or will receive age and gender-appropriate recovery and reintegration assistance?
- What steps has the state party taken to ensure that demobilisation and reintegration programmes specifically address the needs of girls who were recruited, including those who were used as 'wives' and their children?
- What progress has been made in clearing land mines, providing mine awareness programmes to children, and physical rehabilitation for child victims of landmines? (CRC/C/15/Add.246)
- What measures have been taken to prevent the recruitment of children by armed groups in Cabinda, to protect them from armed violence, and assess the impact of those measures?
- What measures are in place to identify children who may have been victims of child recruitment amongst the asylum-seeking and migrant population, and to provide them with appropriate assistance programmes for their physical and psycho-social recovery? What role is played by non-governmental organisations, the media, the private sector and the community, in particular children, in the design and implementation of such programmes? How do these programmes address the specific needs of girls?

Recommendations

The state party should:

- Ratify the Rome Statute of the International Criminal Court without further delay and ensure that the war crime of conscripting or enlisting children or using them to participate actively in hostilities is incorporated into national legislation;
- Amend the Military Service Law to clarify that the earliest date at which an individual can be enlisted or conscripted into the national armed forces is their eighteenth birthday and not the year in which they turn 18;
- Amend the Military Penal Code to explicitly criminalise the recruitment (forced or voluntary) of any person below the age of 18 years in both wartime and in peace;
- Amend the draft Penal Code to criminalise the recruitment of children below the age of 18 years by non-state armed groups in both wartime and in peace;
- Amend the draft Penal Code to prohibit both the direct and indirect participation of children in hostilities, including criminalising their use by state armed forces and non-state armed groups;
- Prioritise efforts to ensure birth registration is free and compulsory, making appropriate administrative mechanisms available at local levels to register the birth of all children, and conduct public campaigns to raise awareness of the need to register births;
- Ensure that all former child soldiers, including those who were not combatants, receive age and gender appropriate psychosocial support and assistance with reintegration. All children who participated in military groups should be eligible for rehabilitation programmes (CRC/C/15/Add.246);
- Ensure that victims of unlawful child recruitment, including those who are now adults, have access to remedies and reparations, in line with the Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human

Rights Law and Serious Violations of International Humanitarian Law adopted by the General Assembly in 2006 in its resolution 60/147;

- Respect the principle of non-refoulement and ensure that the best interests of the child are prioritised in all actions or decisions concerning irregular migrants, refugees and asylum seekers below the age of 18;
- Ensure that unaccompanied foreign children in the jurisdiction of the State party who have been involved in armed conflict are treated in accordance with paragraphs 54 to 60 of the Committee's general comment No. 6 (2005) on the treatment of unaccompanied and separated children outside their country of origin;
- Take all necessary measures to protect children against landmines, including by continuing and strengthening its mine clearance programmes and programmes for mine awareness and physical rehabilitation of child victims (CRC/C/15/Add.246);
- Take all necessary measures to provide adequate protection for children in the enclave of Cabinda (CRC/C/15/Add.246).

GENERAL MEASURES OF IMPLEMENTATION

Angola ratified OPAC in 2007, ILO Convention 182 on Worst Forms of Child Labour in 2001, and the African Charter on the Rights and Welfare of the Child in 1992. It has endorsed the Paris Principles and Commitments on Children Associated with Armed Forces or Armed Groups and the Safe Schools Declaration.

Angola signed the Rome Statute of the International Criminal Court (ICC) in 1998 but as of July 2017 has not ratified it.

Recommendations

The state party should:

- Ratify the Rome Statute of the ICC without further delay and ensure that the war crime of conscripting or enlisting children or using them to participate actively in hostilities is incorporated in to national legislation;
- Extend its full cooperation to the ICC in its investigation and prosecution of such crimes, including identifying and locating witnesses, arresting and surrendering accused persons in their jurisdiction, and cooperating in the implementation of reparations to the victims.

PREVENTION

(arts. 1, 2, 4; para. 2, and art. 6; para. 2)

CONSCRIPTION AND FORCED RECRUITMENT

Conscription is in force in Angola. According to the Law on Military Service (Lei Geral do Serviço Militar) No 1/93, 26 March 1993), male Angolan citizens are liable to serve in the armed forces between the 1st of January in the year in which they reach 20 years of age, until the 31st of December in the year in which they reach 45 years of age, according to the terms established in the law.¹ This

¹ Lei Geral do Serviço Militar No 1/93, 26 March 1993, Article 2, "Os cidadãos angolanos do sexo masculino, desde o dia 1 de Janeiro do ano em que completem 20 anos de idade, até ao dia 31 de Dezembro do ano em que completem 45 anos de idade, estão obrigados a servir nas Forças Armadas na forma e termos estabelecidos na presente Lei."
http://www.saflii.org/ao/legis/num_act/lqdsdm235.pdf

is reflected in the binding declaration made by Angola upon ratification of OPAC.² Military service normally lasts between 2 – 3 years (Article 9). Women aged 20 – 40 years with professional expertise of use to the armed forces may be conscripted into the Military Service Reserves.³ The process by which conscription takes place, including registration, is detailed in the legislation.⁴

Ordinarily, these provisions would ensure compliance with the requirement under OPAC Article 2 to ensure that persons under the age of 18 are not compulsorily recruited. However, Article 8 of the Military Service Law states that 'The National Assembly may, in case of necessity, on proposal of the Council of Ministers, order the military incorporation of citizens from the age of 18 years.⁵ If this exceptional process of conscription operates in the same manner as the standard conscription procedure, it would mean that young people (gender is not specified in the text) can be conscripted from the 1st of January in the year in which they reach 18 years of age. This would potentially entail the conscription of large numbers of 17-year-olds.

Recommendations

The state party should:

- Amend Article 8 of the Military Service Law to clarify that the earliest date at which an individual can be conscripted or otherwise compulsorily recruited into the armed forces is their eighteenth birthday and not the year in which they turn 18;
- Amend the Military Penal Code to explicitly criminalise the forced recruitment or attempted forced recruitment of any person below the age of 18 years.

VOLUNTARY ENLISTMENT AND SAFEGUARDS

Women over the age of 20 years may enlist voluntarily in the armed forces.⁶ Men may enlist voluntarily from the age of 18 years.⁷ It is not evident from the legislation, however, whether age 18 is established from the date of the recruit's actual birthday or simply from 1 January of the year in which they will reach 18 years of age. If the latter, this would entail the possible enlistment of 17-year-olds.

Reliable proof of age in Angola is not routinely available. According to UNICEF figures, only 36 per cent of births in Angola are registered, falling to just 24 per cent among the poorest segment of the population.⁸ This is significantly below the average for Least Developed Countries (45 per cent). In the absence of routine birth registration or other formal documentation of identity, it is difficult to

² "Declaration: The Government of the Republic of Angola declares, in accordance with Article 3 of paragraph 2 of the Optional Protocol to the Convention on the Rights of the Child, related to Children and Armed Conflict, that in the terms of its Military Service legislation, the inclusion of persons in the Angolan Army, as appropriate, is done upon their reaching 20 years of age, and that the minimum age for voluntary enlistment is 18 years."

https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-11-b&chapter=4&clang=en#EndDec

³ Lei Geral do Serviço Militar, 1993, "Poderão ser incorporados no Serviço Militar Obrigatório de Reserva as mulheres de 20 à 40 anos de idades que possuam preparação especial ou profissional de interesse para as Forças Armadas."

http://www.saflii.org/ao/legis/num_act/lqds235.pdf

⁴ Lei Geral do Serviço Militar, 1993, http://www.saflii.org/ao/legis/num_act/lqds235.pdf

⁵ Lei Geral do Serviço Militar, 1993, "A Assembleia Nacional quando as necessidades se impuserem, sob proposta do conselho de Ministros, pode determinar a incorporação militar de cidadãos a partir dos 18 anos de idade."

http://www.saflii.org/ao/legis/num_act/lqds235.pdf

⁶ Lei Geral do Serviço Militar, 1993, Article 3, "Poderão ingressar voluntariamente nas Forças Armadas, as mulheres maiores de 20 anos, de acordo com o que para efeito for regulamentado."

http://www.saflii.org/ao/legis/num_act/lqds235.pdf

⁷ Lei Geral do Serviço Militar, 1993, Article 11, "Os cidadãos nacionais do sexo masculino poderão solicitar o ingresso para o serviço militar activo em regime de voluntariado. Constituem condições gerais de admissão: a) Ter pelo menos 18 anos de idade" http://www.saflii.org/ao/legis/num_act/lqds235.pdf

⁸ UNICEF, Global birth registration data, last updated May 2016. <http://data.unicef.org/topic/child-protection/birth-registration/>

guarantee potential recruits or conscripts can reliably prove (or disprove) their eligibility to join the armed forces.

Recommendations

The state party should:

- Prioritise efforts to ensure birth registration is free and compulsory, making appropriate administrative mechanisms available at local levels to register the birth of all children, and conduct public campaigns to raise awareness of the need to register births;
- Issue military instructions to recruiters that if it cannot be established that an individual has reached the minimum age for enlistment, the benefit of the doubt should be given and they must not be recruited;
- Ensure that all those involved in the recruitment process are fully aware of their obligations under international and domestic law, including in relation to the minimum age for recruitment. Recruiters should be personally responsible for verifying the reliability of the identification documents. Age criteria and age verification procedures for recruitment should be included in basic training for military recruiters and reflected in military instructions and guidelines;
- Ensure military instructions include disciplinary sanctions for those who recruit persons below the minimum specified age and amend the Military Penal Code to criminalise the recruitment of persons below the age of 18 both in wartime and peace;
- Ensure military recruiters know what documentation constitutes reliable proof of age, and that a copy of proof of age documentation is placed on the file of every candidate for recruitment;
- Conduct public awareness campaigns to ensure that all sections of the population are adequately informed about recruitment criteria including in relation to minimum age for conscription and voluntary recruitment, and about legal protections granted to children during armed conflict by international humanitarian and human rights law. Information on minimum recruitment ages, provisions of OPAC, and other relevant standards should be made widely known to children and their parents and other relevant members of society;
- Amend the Law on Military Service and related policy to ensure that the earliest date at which an individual can be enlisted is the eighteenth birthday and not the year in which they turn 18.

MILITARY SCHOOLS

According to the admissions criteria on the official website, candidates for entry into the Military Technical Institute (Instituto Superior Técnico Militar, ISTM) must be aged between 18 – 21 (civilians) or 18 – 24 (military).⁹ It is not specified, however, whether applicants must already be 18 years of age upon commencing their course, or whether candidates who will reach 18 years in the academic year can be accepted. The different age criteria for 'civilian' and 'military' candidates indicate that not all students are military personnel. It is unclear in what way the obligations and status of these two groups may differ.

Civilian candidates for admission to the Army Military Academy (Academia Militar do Exército) must have reached, or be about to reach, 19 years of age at minimum. Military candidates must be no older than 22 years of age on 31 December in the year they apply. No minimum age for military candidates is specified.¹⁰

⁹ <http://www.istm-angola.com/admissao/>

¹⁰ <http://academiamilitar.gv.ao/candidaturas/condicoes>

Minimum age criteria were not readily available concerning the various institutions operated by the Angolan navy. However, these institutions provide advanced professional training of naval personnel and the minimum age for enlistment into the armed forces can therefore be assumed to apply.¹¹

Child Soldiers International found no evidence of military schools designated for children below the age of 18 years.

Recommendations

The state party should:

- Ensure that the minimum age at which candidates can be admitted to the ISTM is the date of their eighteenth birthday and not the year or academic year in which they turn 18.

Questions

- Are there any schools or other educational facilities in Angola for children below the age of 18 which are run by, or in collaboration with, the national armed forces? Do they have civilian or military status?
- What is the minimum age for military candidates to the Army Military Academy?

NON-STATE ARMED GROUPS

Conflict re-intensified in 2016 in Cabinda between non-state armed groups associated with the Front for the Liberation of the State of Cabinda (FLEC) and the Angolan armed forces (FAA).¹² Child Soldiers International has not found any reports of child recruitment, but in light of the social and political circumstances in the area there is a high risk of underage recruitment.

Recommendations

The state party should:

- Take all necessary measures to provide adequate protection for children in the enclave of Cabinda (CRC/C/15/Add.246);
- Amend the draft Penal Code to criminalise the recruitment of children below the age of 18 years by non-state armed groups in both wartime and in peace.

Questions

- Is there any evidence that children are being recruited by non-state armed groups in Cabinda?
- What measures have been taken to prevent the recruitment of children by armed groups in Cabinda, to protect them from armed violence, and assess the impact of those measures?

PROHIBITION AND RELATED MATTERS

(art. 1, 2, 4, paras. 1 and 2)

¹¹ <http://mga.ao/estabelecimento-de-ensino/academia-naval/>

¹² See for example GeoPolitical Conflict, 'Angola's low-level Cabinda insurgency shows signs of life', 1 November 2016. <https://geopoliticalconflict.com/2016/11/01/angolas-low-level-cabinda-insurgency-shows-signs-of-life/>

A comprehensive revision of the penal code is underway in parliament. A vote on the final text was due to take place on 28 June 2017 but has been postponed.¹³

Article 371 ('war crimes against civilians') of the draft legislation criminalises

'Whoever, in violation of international law and on the occasion of an international or internal armed conflict or military occupation of a state, territory or part of it:

c) recruits or allows the recruitment and service in warring forces minors under the age of 16;'¹⁴

This provision falls short of the higher standard (age 18) that Angola has committed to (for both recruitment and use in hostilities) in its declaration under OPAC, the African Charter on the Rights and Welfare of the Child and its own national legislation on military service. To reflect these higher commitments, the Penal Code should criminalise all recruitment of children below the age of 18 years and their use in hostilities, by both state armed forces and non-state armed groups, in all circumstances (not only in times of armed conflict or military occupation).

The Military Penal Code (Law No 4/94, 28 January 1994) does not refer to or explicitly prohibit or criminalise the recruitment and/or use in hostilities of children below the age of 18 years.¹⁵

Recommendations

The state party should:

- Enact legislation to prohibit both the direct and indirect participation of children in hostilities, including criminalising their use by state armed forces and non-state armed groups;
- Ensure laws criminalising child recruitment and use have extra-territorial application. Legislation should permit national judicial authorities to undertake criminal investigations and prosecutions of individuals suspected of unlawfully recruiting and using children in hostilities regardless of where the crime was committed or the nationality of the accused or victim;
- Ensure that individuals reasonably suspected of recruiting children are prosecuted and brought to trial in an independent, impartial civilian court in proceedings which meet international fair trial standards.

PROTECTION, RECOVERY AND REINTEGRATION

(art. 6, para. 3)

The inadequate attention to demobilisation and reintegration of child soldiers following the end of the civil war in Angola has been widely reported. In its 2004 concluding observations on Angola's CRC report, the Committee noted its deep concern 'that inadequate attention is given to the plight of former child soldiers, in particular girls' and recommended that special attention should be paid to

¹³ Angola24hours, 'Parlamento aprova lei que vai melhorar eficiência ao bilhete de identidade', 28 June 2017. <http://www.angola24horas.com/index.php/politica/item/10299-parlamento-aprova-lei-que-vai-melhorar-eficiencia-ao-bilhete-de-identidade>

¹⁴ Anteprojecto de Código Penal (Draft Penal Code). http://www.saflii.org/ao/legis/num_act/cp76.pdf, English translation - <http://www.sme.ao/attachments/article/249/ANTEPROJECTO%20DE%20C%C3%93DIGO%20PENAL.EN.pdf> Articles 363 and 364 of the draft penal code also criminalise recruitment of armed forces personnel or mercenaries to wage war on a foreign state or overthrow the legitimate government through violent means, but do not include specific criminalisation of the recruitment of children.

¹⁵ Lei dos Crimes Militares 1993 (Military Penal Code), Lei n.º 4/94 de 28 de Janeiro. http://library.fes.de/pdf-files/bueros/angola/hosting/l_crim.pdf

'former child soldiers and children, in particular girls, who were domestic workers, porters, etc.'¹⁶ Human Rights Watch detailed the failings of the DDR programme at length in the report 'Forgotten fighters: Child soldiers in Angola', including the institutional exclusion of child soldiers from the formal DDR programme.¹⁷ According to Human Rights Watch, many child soldiers leaving the UNITA forces received only an identification card and some international food aid. Children separated from the FAA received even less support – they were generally not registered as combatants and instead transferred directly to 'family areas' where they were not eligible for official reintegration programmes.¹⁸

The Committee also noted in 2004 the large number of landmines which remained across the country at the end of the conflict and the ongoing threat these posed to children. Landmine clearance programmes have continued since this time, but large areas remain affected.

Recommendations

The state party should:

- Ensure that all former child soldiers, including those who were not combatants, receive age and gender appropriate support to promote their psychosocial recovery and assistance with reintegration (CRC/C/15/Add.246);
- Take all necessary measures to protect children against landmines, including by continuing and strengthening its mine clearance programmes and programmes for mine awareness and physical rehabilitation of child victims (CRC/C/15/Add.246);
- Ensure that victims of child recruitment, including those who are now adults, have access to remedies and reparations, in line with the Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law adopted by the General Assembly in 2006 in its resolution 60/147.

Questions

- What steps has the state party taken to ensure that all individuals recruited as children by both UNITA and FAA forces, have received or will receive age and gender-appropriate support to promote their psychosocial recovery and reintegration?
- What steps has the state party taken to ensure that demobilisation and reintegration programmes specifically address the needs of girls who were recruited, including those who were used as 'wives' and their children, including the stigma many encountered on return home and may still be facing?
- What progress has been made in clearing landmines, providing mine awareness programmes to children, and physical rehabilitation for child victims of landmines?

REFUGEE AND ASYLUM-SEEKING CHILDREN

Angola is party to the 1951 Refugee Convention, its 1967 Protocol and the 1969 Organisation of African Unity Refugee Convention. A national refugee status determination programme has been established with UNHCR assistance. However, UNHCR has also criticised the regular expulsion of

¹⁶ Committee on the Rights of the Child, Concluding Observations on initial report of Angola submitted under Article 44 of the Convention on the Rights of the Child, UN Doc: CRC/C/15/Add.246, 2004, paras 60 – 63.

http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CRC%2fC%2f15%2fAdd.246&Lang=en

¹⁷ Human Rights Watch, 'Forgotten Fighters: Child Soldiers in Angola', 2003.

<https://www.hrw.org/reports/2003/angola0403/>

¹⁸ Conciliation Resources, 'From military peace to social justice? The Angolan peace process', 2004. <http://www.c-r.org/accord-article/beyond-silencing-guns-demobilisation-disarmament-and-reintegration>

foreign nationals, 'thousands of whom are periodically expelled from Angola in degrading conditions.'¹⁹ A new asylum law was adopted in 2015, which was criticised for severely restricting existing rights of asylum seekers and refugees by creating reception/detention centres in the border provinces.²⁰

Since April 2017 there has been a high level of displacement from the Democratic Republic of Congo (DRC) into Angola. As of June 2017, increasing violence in Kasai (DRC), including the forced recruitment of children by militias, had caused the internal displacement of approximately 1.3 million people, and 30,000 Congolese asylum-seekers have arrived in northern Angola (Lunda Norte Province).²¹

As of June 2017, UNHCR has pre-registered approximately 25,700 Congolese refugees in Lunda Norte, of whom 75 per cent are women, children and elderly. UNHCR has also identified a number of unaccompanied and separated children.²² Congolese asylum-seekers are staying in reception centres in Dundo, Lunda Norte, where conditions are poor and over-crowded. UNHCR expects the influx to Angola to continue and estimates some 50,000 people will seek refuge over the course of the year.

Several sources reported parents sending their children to Angola to avoid recruitment by militias in Kasai,^{23 24} where an estimated 2,000 children were being used by militias.²⁵ According to a UNICEF spokesperson, many children arrive unaccompanied at the refugee camps in Angola and "some of these children ... come wounded, some of them with their limbs mutilated or parts of their bodies burned, some with bullets still in their bodies."²⁶ There were also reports of children being killed or injured in the fighting, and imprisoned. More than 4,000 children had been separated from their families and at least 300 seriously injured, according to UNHCR.²⁷

Recommendations

The state party should:

- Respect the principle of non-refoulement and ensure that the best interests of the child are prioritised in all actions and decisions concerning irregular migrants, refugees and asylum seekers below the age of 18;
- Ensure that unaccompanied foreign children in the jurisdiction of the State party who have been involved in armed conflict are treated in accordance with paragraphs 54 to 60 of the Committee's general comment No. 6 (2005) on the treatment of unaccompanied and separated children outside their country of origin.

Questions

¹⁹ UNHCR, 'UNHCR Global Appeal 2010/2011: Angola'. <http://www.unhcr.org/4b05112a9.pdf>

²⁰ UNHCR, 'UNHCR Operation in Angola Factsheet', September 2015.

<http://www.unhcr.org/uk/protection/operations/524d80079/angola-fact-sheet.html?query=angola>

²¹ UNHCR, 'Congolese situation – Angola Response, Supplementary Appeal January – December 2017', June 2017. <http://reliefweb.int/sites/reliefweb.int/files/resources/UNHCR%20Congolese%20situation%20-%20Angola%20Response%20Supplementary%20Appeal%20-%20Jan-Dec%202017%20--%20June%202017.pdf>

²² Ibid.

²³ VoA, Lisa Schlein 'Thousands of Congolese flee violence in DRC's Kasai province', 21 April 2017.

<https://www.voanews.com/a/thousands-congolese-flee-violence-drcs-kasai-province/3820088.html>

²⁴ Infomigrants, 'DRC's homemade refugee crisis', 1 June 2017. <http://www.infomigrants.net/en/post/3457/drc-s-homemade-refugee-crisis>

²⁵ Ibid.

²⁶ Ibid.

²⁷ UN, 'UN refugee agency sending urgent relief items for Congolese civilians fleeing to Angola', 21 April 2017.

<https://refugeemigrants.un.org/un-refugee-agency-sending-urgent-relief-items-congolese-civilians-fleeing-angola>

- What measures are in place to identify children who may have been victims of child recruitment amongst the asylum-seeking and migrant population, and to provide them with appropriate assistance programmes for their physical and psychosocial recovery?
- What role is played by non-governmental organisations, the media, the private sector and the community, in particular children, in the design and implementation of such programmes? How do these programmes address the specific needs of girls?

INTERNATIONAL ASSISTANCE AND COOPERATION

(art. 7, para. 1)

According to the Stockholm International Peace Research Institute Arms Transfers Database Angola supplied armoured vehicles to Cote d'Ivoire in 2002²⁸, coinciding with the start of a conflict in which children were reported to have been recruited and used in hostilities by the recipient state's armed forces.

Angola has not acceded to the Arms Trade Treaty.²⁹

Recommendations

The state party should:

- Adopt legislation to prevent the sale or transfer of arms and other forms of military assistance to states when the final destination is a country in which children are known to be, or may potentially be, unlawfully recruited or used in hostilities by armed forces. This provision should also apply to states that provide direct or indirect support to armed groups that recruit children;
- Accede to the Arms Trade Treaty.

²⁸ Stockholm International Peace Research Institute Arms Transfers Database.
http://armstrade.sipri.org/armstrade/html/export_values.php

²⁹ United Nations Office for Disarmament Affairs. <https://www.un.org/disarmament/convarms/att/>