

STATE PARTY EXAMINATION OF UZBEKISTAN 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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Uzbekistan acceded to the Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography (OPSC) on 23 December 2008. On 5 June 2013, the Committee on the Rights of the Child (the Committee) examined the initial periodic report of Uzbekistan.

Opening Comments

The delegation of Uzbekistan was led by H.E. Dr. Akmal Saidov, Chairman of the National Human Rights Centre. He was supported by a delegation consisting of representatives of the Minister of Labour and Social Protection of Population, the Council of the Federation of Trade Unions and the Ministry of Foreign Affairs.

Dr. Saidov thanked the Rapporteurs for their professional analysis of the report submitted, as well as the written replies.

Mr Kotrane, the Rapporteur for the OPSC, recognised the progress made by the State party in adopting relevant legislation, including amendments to the Criminal Code. Ms Winter, Co-Rapporteur for the OPSC, congratulated Uzbekistan for ratifying the OPSC. She considered that some progress has already been achieved, especially on a practical level.

General Measures of Implementation

Legislation

The Committee was concerned about the criminal legislation of the State, which did not fully comply with the requirements of the OPSC. It recalled that the OPSC required States to incorporate all of its provisions in domestic legislation. It also explained that criminal law provisions needed to be precise and could not be worded broadly at the risk of being too open

to potentially subjective interpretation. The OPSC contained precise definitions of sale of a child, child prostitution and child pornography that should be directly transposed into domestic legislation.

Regarding the definitions contained in article 3 of the OPSC, the Committee asked whether the subjection of children to forced labour, instances of adoption that constituted sale, as well as the sale of the organs of a child, were described as cases of sale of a child and punished accordingly. The Committee also observed that the exportation or possession of child pornographic materials was not criminalised as such.

The delegation indicated that the Criminal Code had been amended and included the definitions contained in the OPSC, including a new definition of child pornography. It agreed that no national interpretation should be added when incorporating the provisions of the OPSC into national law; it admitted there were discrepancies between the various national provisions and that some qualifying elements of crimes under the OPSC were not encompassed in the legislation, such as the storage, holding or exportation of pornographic products. The comments of the Committee would be taken into account to bring the legislation into line with the OPSC. The delegation added that the government considered the content of article 3 of the OPSC as minimum requirements. The delegation indicated that child labour was prohibited under the Criminal Code, as was trafficking and the recruitment of children for any form of exploitation.

The Committee recalled that the OPSC did not require an exact transposition of its provisions only; for instance, the OPSC did not provide for any sanctions, which would need to be added by the State.

The Committee observed that perpetrators of sexual exploitation of children would be sanctioned with fines corresponding to twenty or forty times the amount of the minimum wage; it asked whether perpetrators could also receive sentences that included deprivation of liberty in addition to those fines. The delegation recognised that the sanctions for crimes contained in the OPSC might be insufficient under national legislation and the government would study this issue further.

The Committee enquired about the intention of the State to ratify the third Optional Protocol to the CRC. The delegation answered that the State would consider the matter.

Awareness-raising and training

The Committee welcomed the efforts made to raise awareness about trafficking but was still concerned that the OPSC had not been sufficiently disseminated. It asked whether any further measures had been, or would be, taken in that regard.

Data

The Committee observed that data on child victims of sale, prostitution and pornography were lacking and insufficiently disaggregated. The delegation said that the written replies contained the appropriate data, disaggregated by ethnicity, gender and origin. A commission to combat trafficking, established in 2011, had taken measures regarding the dissemination of information such as booklets, posters and banners on trafficking, which had been distributed and displayed in public settings. Furthermore, films had been produced and broadcasted and the issue was also taught in schools with the support of special handbooks.

International cooperation

The Committee asked the State about its cooperation with international bodies, such as the Special Representative of the Secretary-General on Violence against Children, and whether it intended to ratify the Rome Statute of the International Criminal Court. The delegation indicated that it had signed the Rome Statute of the International Criminal Court but could not give a definite answer on its ratification. Uzbekistan was working closely with United Nations Special Procedures Mandate Holders in general and had responded to approximately 36 requests of United Nations experts, including in the area of child rights.

Prevention

Vulnerable groups

The Committee asked whether research had been conducted in order to design appropriate responses for the identification of children in vulnerable situations in order to address the root causes of the sale of children, child prostitution and child pornography. The delegation answered that most trafficked children came from socioeconomically disadvantaged families. This issue was being addressed by social services at national and regional levels. Non-governmental organisations had also set up crisis centres, with the support of UNICEF, and worked for the rehabilitation of child victims, as well as their reintegration into society.

Helpline

The Committee asked whether there were helplines accessible to children and staffed by professionals specifically trained to talk to children and follow up on their specific situations.

Prohibition and Related Matters

Child labour

Pertaining to child labour, the Committee was concerned about the practice of children involved in cotton picking. It recognised that progress had been achieved as very young children were no longer being used in the fields anymore and asked about the existence of a monitoring mechanism to ensure that this would remain the case.

The delegation answered that the increase of the minimum age for child labour up to 16 years had been a significant achievement, and was in line with the International Labour Organisation's recommendations (ILO). In addition, the educational system was organised in such a way that children were required to attend school until the age of 18. The law did provide for the possibility to both study and perform some kinds of work for short periods of time, both for economic reasons and also to teach children important values, as well as how to take responsibility. Labour inspections were carried out in fields of cotton-picking, according to collective agreements. In addition, a special decree was passed every year by the Ministry of Labour, calling headmasters to dissuade their pupils from being involved in this sector. The monitoring of the situation was therefore active.

The Committee recalled that it only required States' legislations to be in line with ILO's standards, which also prohibited the worst forms of child labour for all children under 18 years of age. The delegation answered that there was an explicit prohibition of the employment of children in any form of hazardous work that would be harmful to their health

and safety of children under the age of 18. For instance, there was a prohibition of night work or excessively severe work for children. It was also prohibited to oblige children to work under threat and that where such cases were identified, appropriate measures were taken against perpetrators.

The Committee insisted on the fact that under ILO Convention number 105, forced labour was not only defined as work performed under an explicit threat but also as the fact, for the State, to encourage children to work in bad conditions and for little or no pay. Coercing children to work to contribute to the economy of the country or to teach them certain values was also considered a form of forced child labour and therefore sale of a child.

Prosecution of legal entities

The Committee observed that legal entities could be held criminally responsible for trafficking in persons and welcomed legislation to this effect. It asked whether legal entities could equally be held criminally responsible under national legislation for crimes defined in the OPSC. The delegation indicated that there was no criminal liability of legal entities in the national legislation, except in instances of trafficking. There were currently discussions to extend this criminal liability to other crimes.

Extradition

The Committee asked whether the OPSC was sufficient basis for the extradition of the author of an offence contained in OPSC. The delegation indicated that extradition was possible according to the Minsk Convention ratified by States parties to the Commonwealth of Independent States; extradition was also possible under bilateral agreements. The Committee welcomed those provisions but recalled that the OPSC encouraged States to consider the treaty itself as a basis for extradition, without the criteria of double criminality.

Extraterritorial jurisdiction

The Committee noted that the legislation authorised Uzbek courts to try cases where offences under the OPSC had been committed outside the territory of Uzbekistan, against a child who was either an Uzbek child or resident. The Committee asked whether this competence would be extended to cases where offences under the OPSC were committed outside the territory of Uzbekistan by Uzbek citizens or permanent residents of Uzbekistan.

Protection of the Rights of Victims, Recovery and Reintegration

Support for child victims

The Committee asked whether there were alternative measures to institutionalisation of victims of crimes encompassed in the OPSC, such as the placement of child victims in foster families if return to their natural families was not possible. The delegation answered that victims, including victims of trafficking, were provided with all medical, psychological, social and educational support required.

The Committee noted the existence of a centre for recovery of victims of trafficking in the capital of the country, Tashkent. It asked whether such centres, or any similar services, also existed in other parts of the country. In addition, data did not show how many children had been treated in this centre. The delegation indicated that the centre had so far not treated any

children. It was only located in the capital as there was no current need to establish centres in other regions. This possibility would be looked at if such a need arose.

Protection of the child victim during criminal proceedings

The Committee observed that progress had been made in the protection of child victims during criminal proceedings; however, it asked what kind of measures were taken during investigations of cases of trafficked children and particularly whether police officers were specially trained and used video recording during a child's interrogation.

The Committee noted the existence of programmes run by non-governmental organisations to protect children within the judicial system and asked whether there were any State programmes with the same aim.

The delegation answered that a law on pre-trial custody had recently been adopted and was being implemented.

Concluding Remarks

Mr Kotrane, the Country Rapporteur, considered that the discussion had been fruitful and recalled that it was the Committee's duty to discuss technical questions with States on the implementation of the OPSC. He acknowledged efforts made by Uzbekistan, especially in adopting and amending different laws and called on the State to do more, including by transposing the definitions of the crimes under the OPSC into national legislation, amending the criminal responsibility of legal entities to cover all offences under the OPSC, and extending the extraterritorial competence of national tribunals.

Ms Khazova, one of the Country Rapporteurs, thanked the delegation for the dialogue and discussion. She hoped that the Concluding Observations would be taken into account in the State's further work on the promotion and protection of children's rights.

Dr. Saidov thanked the members of the Committee for their openness and constructive dialogue. He particularly valued the Committee's understanding of the OPSC. He recalled that no country had a perfect situation in terms of protection of the rights of the child; however, the government of Uzbekistan shared the Committee's concerns.

Dr. Saidov added that a broad awareness campaign would be conducted about the Committee session in the Uzbek media, at the Parliament and through non-governmental organisations. He recalled the importance of the Parliament in the implementation of the OPSC and concluded by assuring the Committee that the government would work with the entire society and non-governmental organisations to implement the OPSC and would link the recommendations of the Committee with the 40 child rights recommendations received the previous month during Uzbekistan's Universal Periodic Review.