



Convention on the Rights of the Child

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Committee on the Rights of the Child

Concluding observations on the initial report of Uzbekistan submitted under article 12 of the Optional Protocol to the Convention the sale of children, child prostitution and child pornography, adopted by the Committee at its sixty-third session (27 May – 14 June 2013)

1. The Committee considered the initial report of Uzbekistan (CRC/C/OPSC/UZB/1) at its 1800th meetings (see CRC/C/SR1800) held on 5 June 2013, and adopted at the 1815th meeting, held on 14 June 2013, the following concluding observations.

I. Introduction

2. The Committee welcomes the submission of the State party's initial report (CRC/C/OPSC/UZB/1) providing detailed information regarding its fulfilment of the rights guaranteed by the Optional Protocols as well as the written replies to the list of issues (CRC/C/OPSC/UZB/Q/1/Add.1, 2013). The Committee also appreciates the constructive dialogue held with the multisectoral delegation of the State party.

3. The Committee reminds the State party that these concluding observations should be read in conjunction with its concluding observations on the State party's combined third and fourth periodic report under the Convention on the Rights of the Child and on the initial report under the Optional Protocol on the involvement of children in armed conflict adopted on 14 June 2013, contained in CRC/C/CRC/UZB/CO/3-4 and CRC/C/OPAC/UZB/CO/1, respectively.

II. General observations

Positive aspects

4. The Committee welcomes the various measures taken by the State party in areas relevant to the implementation of the Optional Protocol, including:

(a) The Law "On joining by the Republic of Uzbekistan the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography" in 2008;

(b) The Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention against Transnational Organised Crime 2000 (Palermo Protocol) in August 2008;

(c) The Convention for the Suppression of the Traffic in Persons and of the Exploitation of Prostitution of Others 1950, in February 2004; and

(d) The Hague Convention No. 28 on the Civil Aspects of International Child Abduction, in May 1999.

5. The Committee further welcomes the progress achieved in the creation of institutions and the adoption of national plans and programmes that facilitate the implementation of the Optional Protocol, including:

(a) The “Plan of additional actions to implement in 2012-2013 the Convention concerning Forced or Compulsory Labour and the Convention on the Prohibition” and “Immediate Action for the Elimination of the Worst Forms of Child Labour” in May 2012;

(b) The National Action Plan for implementation of the Convention on the Minimum Age for Admission to Employment and the Convention on the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour in September 2008; and,

(c) The National Action Plan "On measures to improve the efficiency of the fight against human trafficking" in July 2008.

III. Data

Data collection

6. While noting with appreciation the information on data provided by the State party's report, the Committee is concerned about the lack of a comprehensive data collection system to enable the recording, referral and follow-up of all cases covered by the Optional Protocol and to analyse and assess progress in the implementation of the Optional Protocol.

7. The Committee recommends that the State party develop and implement a comprehensive system for data collection, analysis, monitoring, and impact assessment of all the areas covered by the Optional Protocol. The data should be disaggregated, inter alia, by gender, age, national and ethnic origin, geographical location, and socio-economic status, with particular attention to children in the most vulnerable situations. Data should also be collected on the number of prosecutions and convictions, disaggregated by the nature of the offence. The Committee also recommends that the State party establish a system of common indicators when collecting data across its territory and that the data be analysed and utilised as essential tools for assessment, policy development and implementation.

IV. General measures of implementation

General principles of the Convention on the Rights of the Child (arts. 2, 3, 6 and 12)

Legislation

8. While noting efforts made to incorporate various provisions of the Optional Protocol into the criminal legislation of the State party, the Committee is concerned that such efforts

have almost exclusively focused on trafficking and not on the crimes of sale of children as defined by the Optional Protocol.

9. **The Committee recommends that the State party take all necessary measures to ensure the full incorporation of the Optional Protocol in its domestic criminal legislation. It also recommends that the State party ensure that the definition of sale of children, which is similar to but not identical to trafficking in persons, is included in the national legislation in order to adequately implement the provision on sale contained in the Optional Protocol.**

National plan of action

10. While welcoming the three national plans of action on combatting child labour and trafficking mentioned in paragraph 5 above, the Committee is concerned that these national plans of action do not adequately address all the issues covered under the Optional Protocol.

11. **The Committee recommends that the State party ensure that its national plan of action for the Convention includes elements aimed at specifically addressing all issues covered under the Optional Protocol and provide adequate human, technical and financial resources for its implementation. In doing so, the State party should pay particular attention to the implementation of all provisions of the Optional Protocol, taking into account the Declaration and Agenda for Action and the Global Commitment adopted at the First, Second and Third World Congresses against Commercial Sexual Exploitation of Children held in Stockholm, Yokohama and Rio de Janeiro in 1996, 2001 and 2008, respectively.**

Coordination and evaluation

Coordination

12. The Committee takes note of the establishment of Interdepartmental Commission to Counter Trafficking in Persons in 2008 and the establishment of local interdepartmental commissions to counter the trafficking in persons in all regions of the country. However, the Committee is concerned that the State party does not have a mechanism for the overall coordination, monitoring and implementation of the Optional Protocol.

13. **With reference to its recommendations on the State party's coordination mechanism for the implementation of the Convention (CRC/C/UZB/CO/3-4, para. 7(a)), the Committee recommends that the State party strengthen cooperation and coordination between and among relevant ministries and government entities at the national, regional and local levels, as regards the implementation of the Optional Protocol. The State party is further recommended to ensure that these entities are provided with adequate human, technical and financial resources in order to fully implement the Optional Protocol.**

Dissemination and awareness-raising

14. The Committee welcomes the State party's initiatives to raise awareness about the Optional Protocol such as the large-scale distribution of information pamphlets and broadcasting of radio and television programmes on combatting human trafficking. The Committee is nevertheless concerned that these have been focused on the prevention of trafficking and that the Optional Protocol has not been sufficiently promoted and disseminated in particular among implementing agencies, the public at large and children. It also notes with concern the absence of education programmes on the Optional Protocol for children.

15. **The Committee recommends that the State party:**

(a) Develop, in close cooperation with the community, children and child victims, information and education programmes on preventive measures and the harmful effects of the sale of children, child prostitution and child pornography;

(b) Disseminate the Optional Protocol among all relevant professional groups, especially members of the police, judges, prosecutors, representatives of the media, social workers;

(c) Undertake in-depth studies in different regions and sociocultural groups to identify specific obstacles and opportunities for advocacy and awareness-raising regarding the offences covered in the Optional Protocol; and,

(d) Develop and conduct, in consultation with children, education programmes on the Optional Protocol.

Training

16. The Committee appreciates the numerous training activities provided by the State party. It remains concerned, however, that efforts to provide adequate training to professionals working with and/or for children, in particular judges, prosecutors, law enforcement officers, education and health professionals, and social workers, are not systematic and do not include all areas covered by the Optional Protocol.

17. The Committee recommends that the State party allocate resources for multidisciplinary training programmes developed through a participatory process involving communities and other stakeholders on all areas covered by the Optional Protocol. Such training should be provided to all relevant professional groups, ministries and institutions working with and/or for children. The Committee further recommends that the State party ensure the systematic evaluation of all training programmes on the Optional Protocol with a view to enhancing their impact and relevance.

Allocation of resources

18. The Committee regrets that the State party has not provided information on the specific allocation of resources for the implementation of the provisions of the Optional Protocol, particularly with regard to resources for research and data collection, prevention of the offences covered by the Optional protocol, criminal investigations, legal assistance and physical and psychological recovery measures for child victims.

19. The Committee urges the State party to ensure that sufficient resources are allocated for the implementation of all areas covered by the Optional Protocol, by providing, in particular, the necessary human, technical and financial resources, including for research and data collection, for the development and implementation of programmes aimed at prevention, protection, physical and psychological recovery and social reintegration of victims, as well as the investigation and prosecution of the offences covered by the Optional Protocol.

Civil society

20. With reference to its recommendations on the State party's engagement with civil society for the implementation of the Convention (CRC/C/UZB/CO/3-4, para. 19), the Committee is further concerned that civil society organisations were not consulted in the preparation of the initial report. Furthermore, civil society organizations with knowledge and expertise in areas relevant to the Optional Protocol have not been involved in the design of policies and activities for the implementation of the Optional Protocol.

21. The Committee recommends that the State party strengthen its collaboration with civil society organizations in all matters concerning the implementation of the Optional Protocol, not only by supporting them in their efforts to provide adequate services to child victims, but also by increasing their role in the development and monitoring of policies and services.

V. Prevention of the sale of children, child prostitution and child pornography (art. 9, paras. 1 and 2)

Measures adopted to prevent offences prohibited under the Protocol

22. The Committee notes the Plan of Action for 2011-2012 for “Improving the Efficiency of the Fight and Prevention of Human Trafficking” undertaken by the State party. However, the Committee is concerned that targeted preventive measures against the exploitation of children, including their engagement in forced labour, prostitution and pornography, and measures to identify and address the root causes of the offences and extent thereof remain limited.

23. The Committee encourages the State party to:

(a) Undertake research on the extent and root causes of the exploitation of children, including forced labour, prostitution and pornography, in order to identify children at risk and assess the extent of the problem; and,

(b) Undertake targeted preventive measures including against exploitation over the Internet, and cooperate with international intergovernmental and non-governmental organizations concerning the implementation of awareness-raising campaigns in all areas covered by the Optional Protocol.

VI. Prohibition of the sale of children, child pornography and child prostitution and related matters (arts. 3; 4, paras. 2 and 3; 5; 6 and 7)

Existing criminal or penal laws and regulations

24. The Committee notes as positive the State party’s Act on Countering Trafficking in Persons. However, the Committee remains concerned that the State party’s legislation does not criminalise all offences under the Optional Protocol. Furthermore, the Committee is concerned that the State party’s definition of forced labour as “work under threat” under Article 7 of its Labour Code is not in compliance with international standards, including the International Labour Organisation Convention No. 29 concerning Forced Labour.

25. The Committee recommends that the State party revise its Criminal Code in order to criminalize:

(a) The sale of children by offering, delivering or accepting, a child for the purpose of sexual exploitation, transfer of organs of the child for profit, or engagement of the child in forced labour or improperly inducing consent, as an intermediary, for the adoption of a child in violation of the applicable legal instrument on adoption

(b) Offering, obtaining, procuring or providing a child for child prostitution;

(c) **Producing, distributing, disseminating, importing, exporting, offering, selling, possessing or knowingly accessing/viewing child pornography including virtual child pornography, suggestive representations of children which do not depict children engaged in explicit sexual activity (child erotica);**

(d) **An attempt to commit any of these acts and complicity or participation in any of these acts;**

(e) **The production and dissemination of material advertising any of these acts; and,**

(f) **The exacting of any work or service from any child under the menace of a penalty.**

Liability of legal persons

26. The Committee is concerned that legal persons, including corporations, are not criminally liable under the State party's legislation for offences covered by the Optional Protocol.

27. **The Committee recommends that the State party revise its Criminal Code to ensure the full and direct criminal liability of legal persons for offences covered by the Optional Protocol.**

Extraterritorial jurisdiction and extradition

28. The Committee notes that Uzbekistan is a State party to the Minsk Convention on mutual legal assistance in criminal and civil law matters. However, the Committee is concerned that the State party does not have legislation which enables the nationality of the victim to determine and assert jurisdiction over persons and events outside its territory in instances where the rights of its child citizens have been violated. The Committee is also concerned that the State party does not consider article 5 of the Optional Protocol as a legal basis for extradition. The Committee is therefore concerned that no extradition would be allowed if the other state has not ratified the Optional Protocol. The Committee is also concerned that double criminality is required in all cases of extradition.

29. **The Committee recommends that the State party take steps to ensure that domestic legislation enables it to establish and exercise extraterritorial jurisdiction over all crimes covered by the Optional Protocol and consider article 5 of the Optional Protocol as a legal basis for extradition, in the absence of bilateral or multilateral treaty of extradition and even if the other State has not ratified the Optional Protocol.**

VII. Protection of the rights of child victims (arts. 8 and 9, paras. 3 and 4)

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

30. The Committee is concerned that current measures for protecting the rights and interests of child victims of offences prohibited under the Optional Protocol tend to be limited to trafficking and are thus insufficient. Furthermore, the Committee is also concerned that these measures have not been adequately institutionalized.

31. **In the light of article 9, paragraph 3, of the Optional Protocol, the Committee recommends that the State party:**

(a) Establish mechanisms and procedures for the early detection and identification of child victims of the offences under the Optional Protocol, including by establishing cooperation mechanisms between law enforcement agencies and relevant ministries. It further recommends that personnel responsible for such detection and identification, including judges, prosecutors, the police, social workers, medical staff and other professionals working with child victims are trained on child rights, child protection and interviewing skills;

(b) Issue clear instructions to all prosecutors to actively prosecute those cases; and,

(c) Ensure that complaint mechanisms are easily accessible and available to children whose rights may have been violated.

Criminal justice system protection measures

32. The Committee notes that victims of trafficking who cooperate with law enforcement authorities do receive protection during the trial process. However, the Committee is concerned that the State party does not have a formal program to provide protection for victims and witnesses of offences covered under the Optional Protocol. Furthermore, although the State party's legislation prohibits victims of trafficking from being punished for acts committed as a result of being trafficked, the Committee is concerned that these laws are not uniformly enforced.

33. The Committee recommends that the State party strengthen measures to protect the rights and interests of child victims of all offences under the Optional Protocol and, in particular, ensure the establishment and operation of mechanisms for identifying and protecting victims of offences under the Optional Protocol and ensure that child victims thereof are not treated as offenders. Furthermore, the Committee recommends that the State party take measures to guarantee that all child victims have access to adequate procedures to seek, without discrimination, compensation for damages from those legally responsible, in accordance with article 9, paragraph 4, of the Optional Protocol, and establish a fund for compensation for child victims, for those cases where they cannot obtain compensation from the perpetrator.

34. In accordance with the State party's obligations under article 8 of the Optional Protocol, the Committee further recommends that the State party ensure, through adequate legal provisions and regulations, that all child victims and/or witnesses of crimes, for example, child victims of abuse, domestic violence, sexual and economic exploitation, abduction and trafficking, and witnesses of such crimes, are provided with the protection required by the Optional Protocol and that the State party fully take into account the Guidelines on Justice in Matters involving Child Victims and Witnesses of Crime (Economic and Social Council resolution 2005/20, annex).

Recovery and reintegration of victims

35. The Committee commends the State party for having established a national rehabilitation centre to assist and protect victims of human trafficking. Notwithstanding these efforts, the Committee is concerned that the State party's recovery and reintegration measures are limited to victims of trafficking and do not adequately take into account the needs of child victims of sale of children, child prostitution and pornography offences covered under the Optional Protocol.

36. The Committee recommends that the State party:

(a) Take all necessary measures to ensure that child victims of the offences covered under the Optional Protocol are provided with appropriate assistance,

including for their full social reintegration and physical and psychological recovery, by, *inter alia*, effectively implementing its planned rehabilitation programmes;

(b) Guarantee that all child victims, including those who are not nationals or residents of the State party, have access to adequate procedures to seek, without discrimination, compensation for damages from those legally responsible, in accordance with article 9, paragraph 4, of the Optional Protocol, and establish a victims' compensation fund, for those cases where victims cannot obtain compensation from the perpetrator; and,

(c) Undertake measures to ensure that its rehabilitation and safe return programmes are available throughout its territory.

Helpline

37. The Committee is concerned that the State party does not have a helpline covering all offences under the Optional Protocol and that there is a lack of adequate resources to ensure national coverage and service accessibility, as well as to assist in long-term support of activities.

38. The Committee recommends that the State party establish a National helpline for all offences under the Optional protocol, and ensure that it covers the whole country, has an Internet division/department, is accessible 24 hours, has an easy to remember 3-4 digital numbers and adequate financial and technical resources as well as personnel trained to respond to children and analyze the calls for appropriate action.

VIII. International assistance and cooperation (art. 10)

Multilateral, bilateral and regional agreements

39. In the light of article 10, paragraph 1, of the Optional Protocol, the Committee encourages the State party to continue to strengthen international cooperation through multilateral, regional and bilateral arrangements, especially with neighbouring countries, including by strengthening procedures for and mechanisms to coordinate the implementation of such arrangements, with a view to improving prevention, detection, investigation, prosecution and punishment of those responsible for any of the offences covered under the Optional Protocol.

IX. Ratification of the Optional Protocol on a Communications Procedure

40. The Committee recommends that the State party, in order to further strengthen the fulfilment of children's rights, to ratify the Optional Protocol to the Convention on the Rights of the Child on a Communications Procedure (OPIC).

X. Follow-up and dissemination

Follow-up

41. The Committee recommends that the State party take all appropriate measures to ensure the full implementation of the present recommendations, *inter alia*, by transmitting them to the President, relevant Government ministries, the Parliament,

the Constitutional court, and to regional and local authorities, for appropriate consideration and further action.

Dissemination of concluding observations

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

XI. Next report

43. In accordance with article 12, paragraph 2, the Committee requests the State party to include further information on the implementation of the Protocol in its next periodic report under the Convention on the Rights of the Child, in accordance with article 44 of the Convention.