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## Convention on the Rights of the Child

### COMMITTEE ON THE RIGHTS OF THE CHILD

#### Forty-fifth 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: Bangladesh

The Committee considered the initial report of Bangladesh (CRC/C/OPSC/BGD/1) at its 1248th meeting (see CRC/C/SR.1248), held on 4 June 2007, and adopted at its 1255th meeting, held on 8 June 2007, the following concluding observations.

#### A. Introduction

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 (CRC/C/OPSC/BGD/Q/1/Add.1) submitted in a timely fashion. The Committee also appreciates the dialogue held with the delegation.

**GE.07-42915** The Committee reminds the State party that these concluding observations should be read in conjunction with its previous concluding observations adopted on 3 October 2003 on the State party's second periodic report on the Convention, , contained in CRC/C/15/Add. 221, and the ones adopted on 27 January 2006 on the State party's initial report under the Optional Protocol on the Involvement of Children in Armed Conflict, contained in CRC/C/OPAC/BGD/CO/1.

#### B. Positive aspects

The Committee notes with appreciation:

The programme of repatriation and reintegration - launched in August 2005 with the support of UNICEF - of about 200 children who were involved in camel racing in the United Arab Emirates;

The State party's agreement to issue birth certificates to all refugee children also retroactively;

The cooperation between the Government and national and international non-governmental organizations (NGO) in various activities, including awareness raising and dissemination of the Optional Protocol;

The participatory process that led to the preparation of the State party's report, which included contribution, among others, from NGOs and UNICEF Bangladesh.

The Committee also welcomes the ratification by the State party of the following international instruments:

The Optional Protocol on the Involvement of Children in Armed Conflict on 6 September 2000;

The International Labour Organization (ILO) Convention No. 182 concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour, on 12 March 2001;

The 2002 SAARC (South Asian Association for Regional Cooperation) Convention on preventing and combating trafficking in women and children for prostitution.

#### C. Principal areas of concern and recommendations

## 1. Data

### Data collection

The Committee regrets that while there is a certain amount of information available on trafficking, data on the extent of the sale of children, child prostitution and child pornography and on the number of children involved in these activities is very limited, mainly due to the absence of a comprehensive data collection system.

**The Committee recommends that a comprehensive data collection system be established in order to ensure that data, disaggregated, inter alia, by age, sex, minority group, socio-economic background and geographical area are systematically collected and analysed, as they provide essential tools for measuring policy implementation. Data should also include information on the number of prosecutions and convictions for such offences, disaggregated by the nature of the offence. The State party should seek the assistance of United Nations agencies and programs, including UNICEF, in this regard.**

## 2. General measures of implementation

### Legislation

The Committee is concerned that national legislation is not fully in compliance with the provisions of the Protocol. It is also concerned at the inadequate implementation of existing laws.

**The Committee recommends that the State party fully harmonize its legislation with the provisions of the Optional Protocol and take all necessary measures to ensure that the existing legislation is adequately implemented.**

### National Plan of Action

The Committee notes the adoption of the 2002 National Plan of Action against the Sexual Abuse and Exploitation of Children, including Trafficking (NPA SAECT), and the establishment of a Monitoring Committee for its implementation, and welcomes the information that this Plan would also cover the sale of children, child prostitution and child pornography.

**The Committee recommends that the State party provide the Monitoring Committee for the implementation of the 2002 National Plan of Action with the necessary resources and power to effectively carry out its monitoring mandate.**

### Coordination and evaluation of the implementation of the Protocol

The Committee notes that the Ministry of Women and Children's Affairs (MOWCA) is the institution responsible for the coordination of the implementation of the Optional Protocol among the different ministries. In this respect, the Committee further notes the establishment of a Standing Committee by MOWCA to monitor the implementation of the rights of the child in line with the Convention and the Optional Protocols. However, the Committee is concerned at the effectiveness of the coordination role exercised by MOWCA, the absence of a Directorate/Department for children and the real impact of the work of the Standing Committee.

**The Committee recommends that the State party take all necessary measures to establish a separate Directorate/Department for children and youth to exercise a coordination and monitoring role for all the activities related to the implementation of the Optional Protocol, and provide adequate human and financial resources necessary to support this office, MOWCA and the Standing Committee to strengthen their work and effectiveness.**

### Dissemination and training

The Committee notes with appreciation numerous awareness-raising and training activities targeting key actors in the fight against commercial sexual exploitation of children, even though it notes that they are mainly conducted by NGOs. The Committee is concerned that issues of social stigma (especially against girl victims), child pornography and boy victims of prostitution are not covered adequately in the awareness-raising and training programmes.

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

**Continue and strengthen systematic education and training on the provisions of the Optional Protocol for all relevant professional groups;**

**Strengthen measures to disseminate the provisions of the Optional Protocol among its population, especially children and parents, by using school curricula and appropriate material specifically designed for children;**

**In cooperation with civil society, promote - in line with article 9 (2) of the Protocol - awareness in the public at large, including children, of the preventive measures and harmful effects of all the offences referred to in the Protocol, through information by all appropriate means, education and training, including by translating into local languages, and by encouraging the involvement in such information and education and training programmes of the community and, in particular, children and child victims of both sexes ;**

**Continue to seek assistance of United Nations agencies and programs, including UNICEF.**

### Allocation of resources

The Committee welcomes the increase in the budget allocation to the social sector under the 2006/2007 Annual Development Programme, but regrets that no specific information is available on the budget allocated for the activities related to the implementation of the Protocol.

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

**Provide more information on the budget allocations for the implementation of the Optional Protocol;**

**Provide the necessary human and financial resources for the development and implementation of projects and plans, especially at the local level, aimed at the prevention, protection, rehabilitation and prosecution of the offences covered by the Protocol;**

**Adopt a human rights approach to its budgeting with particular focus on children, including in the development and implementation of poverty reduction strategies and policies.**

### **3. Prevention of the sale of children, child prostitution and child pornography**

#### **Measures adopted to prevent offences referred to in the Optional Protocol**

The Committee welcomes the setting-up of an inter-ministerial Committee to prevent trafficking in women and children within the Ministry of Home Affairs and the Government-NGO Coordination Committee on Trafficking in Women and Children. The Committee also welcomes the establishment of partnership between the Government, NGOs and Intergovernmental organizations aimed at combating the sale of children, child prostitution and child pornography. However, the Committee is concerned that commercial sexual exploitation of children is a serious problem which continues to grow in the State party, especially in the form of child prostitution and trafficking for that purpose.

**The Committee recommends that the State party, in line with article 9 (1) of the Optional Protocol, continue to strengthen, implement and disseminate laws, administrative measures, social policies and programmes to prevent the offences referred to in the Protocol.**

The Committee, while welcoming the State party's efforts to improve the situation of particularly vulnerable groups, such as street children and children of sex workers, and the high attention given to girls' education as a preventive measure, is concerned that there are many obstacles in the fight against the sale of children, child prostitution and child pornography, including poverty, lack of adequate resources, cultural attitudes discriminating against women and girls, and social stigma.

**The Committee recommends that the State Party continue to give adequate attention, including at the financial level, to projects addressing the root causes, such as poverty, underdevelopment and cultural attitudes, of the vulnerability of children to sale, prostitution, pornography and sex tourism, including at the local level. The State party should also endeavour to promote the strengthening of international cooperation in this respect.**

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 Births and Deaths Registration Act of 2004. However, the Committee remains concerned that the rate of birth registration is still very low, especially in rural and remote areas. The Committee is also concerned that there are cases of children born to refugees married to Bangladeshi nationals who are not recognized as Bangladeshi and may remain in a situation of statelessness.

**The Committee recommends that the State party accelerate the implementation of the Births and Deaths Registration Act of 2004 and intensify its efforts to improve its birth registration system in order to guarantee the registration of all children within its jurisdiction. Furthermore, the Committee recommends that children of whom one parent is a Bangladeshi national be recognized as Bangladeshi nationals.**

The Committee is concerned at the falsification of identity documents in order to "legalize" early marriages or involve children in prostitution, which is a legal activity for adults in possession of a government certification.

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

**Ensure that every child has a valid birth certificate;**

**Intensify its efforts to verify accurately the age of children and combat the falsification of identity documents;**

**Take measures to ensure that information is available, especially to adolescent girls, on the harmful effects of early marriages;**

**Intensify its efforts to protect children from early and forced marriages, which may often have elements of practices prohibited under the Protocol, i.e. sale of children and/or child prostitution.**

### **4. Prohibition and related matters**

#### **Existing criminal or penal laws and regulations**

The Committee notes with concern that:

Children aged between 16 and 18 are not covered by the 2000 "Suppression of Violence Against Women and Children Act";

Not all types of sale of children listed in article 3 (1) (a) of the Protocol are covered under the State party's legislation;

Child pornography, which seems to be a growing concern in Bangladesh, and child prostitution are not adequately defined and punished in conformity with article 2 (b) and (c) and 3 (1) (b) and (c) of the Optional Protocol;

The State party's legislation does not seem to adequately cover exploitation of boys in prostitution, which may leave them without legal protection and adequate recovery and reintegration services.

**The Committee recommends that the State Party:**

**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;**

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

**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;**

**Amend its legislation in order to ensure that adequate legal protection is granted to boy victims of the offences covered by the Optional Protocol;**

**Ratify the United Nations Convention against Transnational Organized Crime and its supplementing Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children;**

**Ratify the 1993 Hague Convention on the Protection of Children and Cooperation in Respect of Inter -Country Adoption.**

#### **Jurisdiction**

The Committee is concerned at the information that the State party, in some of the cases mentioned in article 4 of the Protocol, exercises of its jurisdiction over the offences referred to therein provided that the State where the crime is committed is also a party to the Protocol.

**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 .**

#### **Extradition**

The Committee is concerned that the Extradition Act of 1974 only applies when the State party has entered a separate extradition treaty with the country concerned.

**The Committee recommends, in the light of article 5 of the Optional Protocol, that the State party:**

**Include the offences referred to in article 3 (1) of the Protocol as extraditable offences in any existing extradition treaty which it entered and in every extradition treaty which it will subsequently conclude;**

**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;**

**Treat the offences referred to in article 3 (1), for the purpose of extradition between States Parties, as if they had been committed not only in the place in which they occurred but also in the territories of the States required to establish their jurisdiction in accordance with article 4.**

#### **5. Protection of the rights of child victims**

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

The Committee notes that while some measures protecting the rights and interests of child victims are included in the Children Act of 1974, there is no specific law for the protection of child victims and witnesses of crime. It is also concerned at the information that victims of the practices covered by the Protocol, notably child prostitution, are sometimes charged with immoral behaviour and detained until their case is heard and that, after the trial, especially boy victims are often placed in child correctional centres.

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

**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 are taken to avoid the stigmatization and social marginalization of these children;**

**Take all necessary measures to ensure that, in the treatment by the criminal justice system of children who are victims of the offences described in the Protocol, the best interests of the child shall be a primary consideration;**

**In the light of article 8 (1) of the Protocol, ensure the protection of child victims and witnesses at all stages of the criminal justice process. The State party should be guided in this respect by the Guidelines on Justice in Matters involving Child Victims and Witnesses of Crime (Economic and Social Council resolution 2005/20).**

## **Recovery and reintegration of victims**

The Committee notes the initiative started with the “One Stop Crisis Centres” for victims and that MOWCA has set-up a subcommittee on recovery and rehabilitation. However, the Committee is concerned that the availability of counseling and rehabilitation services in the State party is still inadequate and not systematized.

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

**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;**

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

**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.**

## **Ombudsman for children**

The Committee notes with concern that, despite various initiatives aimed at the establishment of an ombudsman for children, so far the State party does not have an independent mechanism mandated to review the implementation of the Convention and its Protocols, nor to receive and consider complaints from children or on their behalf.

**The Committee recommends that the State party establish an independent and effective Ombudsman for Children in accordance with the Paris Principles and the Committee’s general comment No 2 (2002) on the role of independent national human rights institutions in the protection and promotion of the rights of the child, mandated, inter alia, to deal with complaints from and on behalf of children in a child-sensitive and expeditious manner and to provide remedies for violations of children’s rights under the Protocol. This body should also be provided with the necessary human and financial resources to efficiently and expeditiously perform its mandate.**

## **Helpline**

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

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

**Establish, in collaboration with NGOs working in this area, a 3-digit, toll-free 24-hour national helpline for children;**

**Provide support to establish and maintain the service;**

**Ensure that it has an outreach component for the most marginalized groups, including in less accessible areas.**

## **6. International assistance and cooperation**

While welcoming that the State party has ratified the 2002 SAARC Convention on preventing and combating trafficking in women and children for prostitution (see *supra* paragraph 5 (c)), the Committee is concerned that only one bilateral agreement has been entered into by the State party to implement the provisions of the above-mentioned Convention.

**The Committee recommends that the State party enter into further bilateral agreements with neighbouring countries, providing for the prevention, care, reunification and rehabilitation of child victims of trafficking for the purpose of prostitution.**

**The Committee also recommends that the State party strengthen international cooperation by multilateral, regional and bilateral arrangements for the prevention, detection, investigation, prosecution and punishment of those responsible for acts involving the sale of children, child prostitution, child pornography and child sex tourism.**

**The Committee encourages the State party to continue its cooperation with United Nations agencies and programs, including interregional programs, and NGOs, in the development and implementation of measures aimed at an adequate application of the Optional Protocol.**

## **Law enforcement**

**The Committee encourages the State party to continue its efforts to strengthen its judicial and police cooperation activities at the international level for the prevention, detection, investigation, prosecution and punishment of those responsible for acts involving the sale of children, child prostitution, child pornography and child sex tourism.**

## **7. Follow-up and dissemination**

### **Follow-up**

**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 relevant government Ministries, the Parliament and to local authorities, for appropriate consideration and further action.

#### **Dissemination**

**The Committee recommends that the report and written replies submitted by the State party and the related recommendations (concluding observations) adopted by the Committee 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.**

#### **8. Next report**

**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, in accordance with article 44 of the Convention.**

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