



**Convention on the Rights of the
Child**

Distr. GENERAL/CRC/C/OPSC/KAZ/CO/117 March
2006

Original: ENGLISH

COMMITTEE ON THE RIGHTS OF THE CHILD

Forty-first 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: Kazakhstan

1. The Committee considered the initial report of Kazakhstan (CRC/C/OPSC/KAZ/1) at its 1084th meeting (see CRC/C/SR.1084), held on 11 January 2006, and adopted at its 1120th meeting, held on 27 January 2006, the following concluding observations.

A. Introduction

2. The Committee welcomes the submission of the State party's initial report, however it regrets that it does not follow the established reporting guidelines. The Committee appreciates the constructive dialogue held with the delegation and notes with appreciation the additional information submitted in writing as an immediate follow-up to the dialogue.

3. The Committee reminds the State party that these concluding observations should be read in conjunction with its previous concluding observations adopted on the State party's initial report on 6 June 2003 contained in CRC/C/15/Add.213.

B. Positive aspects

4. The Committee notes with appreciation:

(a) The adoption of a National Plan of Action on Trafficking on 29 February 2004 and a subsequent Plan for 2006-2008;

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(b) The establishment of an inter-agency commission to combat trafficking;

(c) The direct application and precedence of the Optional Protocol over domestic legislation.

C. Principal areas of concern and recommendations

C.1. General measures of implementation

Coordination and evaluation of the implementation of the Protocol

5. The Committee takes note of the information provided on the various ministries and governmental bodies involved in implementing the Optional Protocol, but remains concerned about the insufficient coordination among these bodies so as to ensure comprehensive, intersectoral policies at both central and local levels to protect the rights covered by the Optional Protocol. The Committee also regrets the lack of mechanisms for the periodic evaluation of the implementation of the Protocol.

6. The Committee encourages the State party to strengthen coordination, at both central and local levels, in the areas covered by the Optional Protocol and to establish mechanisms for the periodic evaluation of the implementation of the Protocol.

Dissemination and training

7. The Committee is concerned that efforts to raise awareness among relevant professional categories and the public on the areas covered by the Protocol remain insufficient.

8. The Committee recommends that adequate and effective resources be earmarked for well-targeted and effective public awareness campaigns and for the development of training materials and courses for all relevant professionals

including police officers, public prosecutors, judges, medical staff and other professionals involved in the implementation of the Optional Protocol. In addition, the Committee recommends that the State party make the provisions of the Optional Protocol widely known, particularly to children through, inter alia, school curricula.

Non-discrimination

9. The Committee is concerned about the stigmatization of children who have contracted HIV/AIDS as a consequence of being victims of trafficking or prostitution.

10. The Committee recommends that the State party undertake awareness raising measures among the population in order to combat and prevent discrimination of the children mentioned under paragraph 7 and sensitize legal and other professionals on the effects of HIV/AIDS on the affected children and ensure that these children have equal access to education, health care and other social services.

Data collection

11. The Committee regrets the lack of data disaggregated by age, sex and minority group as well as the lack of research on the prevalence of national and cross-border trafficking, child prostitution and child pornography.

12. The Committee recommends that the State party ensure that in-depth studies are undertaken into issues covered by the Protocol and that data, disaggregated, inter alia, by age, sex, minority group, are systematically collected and analysed inasmuch as they provide essential tools for measuring policy implementation.

Budget allocations

13. The Committee regrets the lack of information provided on budget allocations for the implementation of the Optional Protocol.

14. The Committee encourages the State party to provide more complete information on the budget allocations for the implementation of the Optional Protocol and National Action Plan on Trafficking.

C.2. Prohibition of the sale of children, child pornography and child prostitution

Existing criminal or penal laws and regulations

15. The Committee welcomes the fact that provisions prohibiting the sale of children, child prostitution and pornography have been included in the national Criminal Code. However, the Committee is concerned that the national legal framework does not incorporate all elements of articles 2 and 3 of the Protocol:

(a) Article 133 of the Criminal Code does not cover sufficiently the sale of children for the purpose of forced labour (art. 3, 1 (a) (i) c OP);

(b) Article 270 of the Criminal Code regarding recruitment for prostitution mentions specific methods of this recruitment but does not make punishable the recruitment of a child for prostitution regardless of the methods used;

(c) Article 273 of the Criminal Code does not explicitly prohibit possession of child pornography (art. 3 (1) (ii) (c));

(d) Legal persons cannot be liable for crimes under the Optional Protocol;

(e) Legal provisions with regard to adoption need strengthening by adherence to international standards and establishment of a central regulating authority.

16. The Committee recommends that the State party:

(a) Review the existing provisions in the Criminal Code in order to bring them into full compliance with the Optional Protocol (either via amendments or via new provisions);

(b) Conduct a thorough study of the use of the Internet for the dissemination of child pornography or other forms of sexual exploitation (e.g. recruitment for prostitution) and introduce specific legal provisions to combat these phenomena, including the full mandatory cooperation of Internet providers in this regard;

(c) Strengthen the legislative framework by ratifying the Hague Convention No. 33 on Protection of Children and Cooperation in Respect of Inter-country Adoption (1993); the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime (2000); the Council of Europe Convention on Cyber Crime (2001); and the Council of Europe Convention on Action against Trafficking in Human Beings (2005).

C.3. Penal/criminal procedure

Jurisdiction and extradition

17. The Committee is concerned that the requirement of double criminality, either for extradition or domestic prosecution of crimes allegedly committed abroad, hampers the prosecution of offences outlined in articles 1, 2 and 3 of the Optional Protocol.

18. The Committee recommends that the State party amend legislation in order to abolish the requirement of double criminality for extradition and/or prosecution of offences committed abroad.

C.4. Protection of the rights of child victims

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

19. The Committee is concerned that the provisions of article 8 of the Optional Protocol have not been adequately integrated into the relevant laws of the State party.

20. The Committee recommends that the State party undertake the necessary legislative amendments in order to bring the national law into full compliance with article 8 of the Optional Protocol paying special attention to the right of the child victim to present his/her views, needs and concerns in a criminal procedure against the alleged perpetrator, to be appropriately supported throughout the process and to have his privacy and identity fully respected and protected. It further recommends that the State party be guided in this respect by the United Nations Guidelines on Justice in Matters Involving Child Victims and Witnesses of Crime (Economic and Social Council resolution No. 2005/20).

21. The Committee regrets the lack of information on special measures undertaken to protect the rights and interests of victims of the sale of children, prostitution and pornography such as the provision of legal, medical and psychosocial assistance.

22. The Committee urges the State party to implement appropriate measures for victims of the sale of children, prostitution and pornography, which should include in particular:

- (a) Non-criminalization of the victims;**
- (b) Free legal aid;**
- (c) Medical and psychosocial attention;**
- (d) Free telephone hotlines;**
- (e) Accessible crisis centres;**
- (f) Social reintegration programmes for child victims;**
- (g) Access to shelter and temporary residence permission for foreign trafficking victims during the investigation period.**

C.5. Prevention of the sale of children, child prostitution and child pornography

Measures adopted to prevent offences referred to in the Optional Protocol

23. The Committee notes recent attempts to conduct investigations and prosecutions for incidents involving the sale of children and child prostitution, however, it remains concerned that the number of initiated investigations and prosecutions is scarce in relation to the extent of the problem. In particular, the Committee remains concerned about allegations of complicity by State officials in trafficking and that corruption impedes the effectiveness of prevention measures.

24. Given the fact that the credibility of the administration of justice is essential in order to undertake preventive measures effectively, the Committee urges the State party to ensure that any suspicion of complicity by State officials is investigated and sanctioned. Furthermore, the Committee recommends that the State party encourage further coordination between authorities responsible for the administration of justice, local authorities and NGOs on the implementation of preventive measures.

25. The Committee is especially concerned about the vulnerability of street children, children who are foreign citizens or who belong to ethnic minorities.

26. The Committee recommends that the State party pay particular attention to the situation of vulnerable groups of children who are at particular risk of being exploited and abused. In this respect it recommends that the State party allocate adequate human and financial resources for the implementation of programmes for the protection of the rights of vulnerable children, with special attention to their education and health care. More attention should also be devoted to raising awareness among these children of their rights.

27. The Committee welcomes the awareness-raising campaigns that have been conducted for the public, e.g. via the radio and directly aimed at children, e.g. via schools as part of the National Action Plan. However, it is concerned that targeted preventive measures remain outstanding.

28. The Committee encourages the State party to undertake further targeted preventive measures and liaise with NGOs concerning the implementation of awareness-raising campaigns. In particular, the Committee encourages the State party to undertake research on the nature and extent of commercial sexual exploitation of children, including prostitution and pornography, to identify the causes and extent of the problem.

C.6. International assistance and cooperation

Law enforcement

29. The Committee encourages the State party to continue and strengthen its international judicial, police and victim-oriented cooperation activities with a view to preventing and combating the sale and trafficking of children, child prostitution and child pornography and to provide more detailed information in the next report.

C.7. Follow-up and dissemination

Follow-up

30. The Committee recommends the State party to take all appropriate measures to ensure full implementation of the present recommendations, inter alia, by transmitting them to relevant government ministries, the Parliament and to provincial authorities for appropriate consideration and further action.

Dissemination

31. The Committee recommends that the report and written replies submitted by the State party and related recommendations (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 Convention, its implementation and monitoring.

C.8. Next report

32. 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 due, in accordance with article 44 of the Convention, on 10 September 2006.
