



## STATE PARTY EXAMINATION OF THE UNITED KINGDOM'S INITIAL REPORT ON THE OPTIONAL PROTOCOL ON THE SALE OF CHILDREN, CHILD PROSTITUTION AND CHILD PORNOGRAPHY

66<sup>TH</sup> SESSION OF THE COMMITTEE ON THE RIGHTS OF THE CHILD  
26 MAY – 13 JUNE 2014

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*The United Kingdom ratified the Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography (OPSC) on 20 February 2009. On 30 May 2014, the Committee on the Rights of the Child (the Committee) examined the initial periodic report of the United Kingdom.*

## Opening Comments

The delegation of the United Kingdom was led by H.E. Mr. John O'Brien from the Home Office, Director of Safeguarding. He was supported by representatives from the Home Office, the Ministry of Justice and the UK Mission of Geneva.

Mr. O'Brien emphasised that fighting the crimes described in the OPSC was an absolute priority of the State party and added that the Home Office had prepared the responses for the session. He stated that the delegation would be unable to respond to questions on British Overseas Territories.

Mr. O'Brien underlined that the State party aimed to improve every part of the criminal justice system. He highlighted that, in the State party, all the children who had been sexually exploited were considered victims. He also described the Modern Slavery Bill which was the first of its kind in Europe.

Mr. O'Brien noted that there was a major review underway of the National Referral Mechanism (NRM). He explained that the Crown Prosecution Service had published final Guidelines on Prosecuting Cases of Child Sexual Abuse. A Victim's Code had also been produced.

Note: This report is prepared at the discretion of Child Rights Connect. The content is designed to give a summary of the key discussions during the session of the Committee on the Rights of the Child but it is neither an official nor fully comprehensive report. More reports and further information can be found at [www.childrightsconnect.org/index.php/publications-resources/crc#countrysum](http://www.childrightsconnect.org/index.php/publications-resources/crc#countrysum) 1

Ms. Renate Winter and Mr. Wanderlino Nogueira Neto, the Country Rapporteurs for the OPSC, warmly welcomed the delegation and thanked the State party for the Written Replies.

## **General Measures of Implementation**

### ***Legislation***

The Committee underlined that there were differences in legislation between the devolved administrations. It also asked about the implementation of the OPSC in British Overseas Territories. The delegation answered that it was the long standing policy of the State party to encourage territorial governments to request the extension of international human rights treaties to their jurisdiction but that the ultimate responsibility lay with the local authorities to decide what to do based on their capacity of fulfilling international obligations.

The Committee was concerned that the domestic legislation of the State party defined trafficking but not other crimes covered by the OPSC, such as sale of children and pornography. The delegation responded that the concept of sale was broader than the one of trafficking and that it was not generally well understood by law enforcement services. It added that exploitation was a very wide offence and was covered by the Sexual Offences Act of 2003 and the Asylum and Immigration Act of 2004. The delegation underlined that the purchase of a child was not relevant for the crime of trafficking and what mattered was his transfer. Furthermore, selling a child for slavery would fall under the Modern Slavery Bill, which was still being drafted.

The Committee noted that the State party used in its legislation the term of child abuse images, instead of child pornography, and asked if such a term was not too vague. The delegation explained that this term was used from a policy perspective and that the production as well as possession of indecent images was illegal.

### ***Ombudsman***

The Committee asked about the possibility of establishing a Children's Commissioner. The delegation said that it did not have the necessary information to respond to this question and would answer in writing.

The Committee also asked if the Anti-Slavery Commissioner would be independent. The delegation insisted that the Anti-Slavery Commissioner would be fully independent though he would be appointed by the government and would be reporting directly to the Home Office.

### ***Budget***

The Committee asked if the State party had the sufficient resources to ensure prevention, protection and reintegration. The delegation answered that it was difficult to know the exact resources that were available due to the multiagency involvement. The funding came from the criminal justice system, NGOs, law enforcement and local authorities. The delegation pointed out that the National Crime Agency (NCA) had an annual budget of £418 million.

### ***Data collection***

The Committee asked for disaggregated data on vulnerable children. It further asked if there was a broad data collection system which included an impact assessment mechanism. The delegation responded that data was held on the prevalence of abuse which included the number of investigations and prosecutions. It added that local authorities also had information on children at risk, such as those in care who had gone missing.

### ***Dissemination and training***

The Committee asked about awareness raising programmes and how children were empowered to advocate for their own rights. In particular, it asked if the OPSC was included in the school curricula and in the training for neighbourhood police officers. The delegation responded that awareness raising was critical for frontline staff, such as the police, border officers, health professionals, prosecutors and social workers. It added that the Anti-Slavery Commissioner would take a leading role in ensuring high quality training to these professionals.

## Prevention

The Committee noted that the Border Force Modern Slavery Action Plan did not have a section dedicated to children and asked if this would be reconsidered. The delegation acknowledged that this was the case but emphasised that children were at its heart and that law enforcement personnel would receive specific training on minors.

The Committee asked if the State party was targeting potential clients in its prevention efforts. The delegation answered that it did indeed target the demand for sexual services as well as any goods or services produced through slavery. It added that the State party aimed to clarify production lines and to have severe sentences as a deterrent. The delegation added that the Personal Social Health and Economic Education Association had published guidance which covered the safe use of the internet.

## Prohibition and related matters

The Committee enquired about the prosecution of British nationals having committed crimes abroad. It also underlined the different requirements between the devolved administrations for extradition. The delegation explained that the Extradition Act 2003 allowed extradition for any crime with an attached sentence of one year. It added that nationals of the State party could be prosecuted regardless of the place where the crime took place, while for non-nationals the crime had to be committed on the territory of the State party.

The Committee further asked about measures being taken to combat sexual tourism. The delegation said that it did not have the necessary information to respond to this question and would answer in writing.

The Committee noted that the child specific legislation on trafficking was applicable to children up to the age of 16 and asked what legal guarantees covered children until the age of 18. The delegation responded that children until 18 were covered by legislation on sexual exploitation and that the age of 16 was only in respect to consent.

The Committee also emphasised that what mattered was the number of convictions and not the length of the sentence. The delegation explained that the Modern Slavery Bill will entail a life sentence and would lead to an increase in the number of convictions.

The Committee asked about the liability of legal persons. The delegation responded that the general rule in criminal law was that individuals as well as legal entities, including companies, could be prosecuted. The latter could be sanctioned and the State party was considering the use of other measures such as publicity orders.

The Committee expressed concern about the numerous cases of forced marriage reported in the UK and explained that these fell under the crime of sale of children. The delegation answered that the State party had made it a priority to tackle this issue and that the Anti-Social Behaviour, Crime and Policing Act 2014 would criminalise forced marriages.

## **Protection of the rights of victims**

The Committee asked if there was a statutory law on the non-prosecution of victims of trafficking. It also enquired about the possibility for victims who have not obtained the victim status to appeal against the decision and asked about what kind of provisions existed on legal assistance. It further asked if children coerced into committing crimes other than prostitution were considered as victims. The delegation pointed out that the NRM was going through a major review which focused on key issues such as identification, access to support, collection of data, support given and governance. However, the NRM did not have a formal process for victims to appeal the decision on their status. In relation to children who were forced into committing crimes, the delegation informed that there were guidelines for prosecutors, according to which they should not prosecute those children, unless it was in the public interest.

The Committee noted a case of excessive cross examination during a trial of a girl who had been gang-raped and asked what measure had been taken by the State party in order to avoid re-traumatisation of victims during court proceedings. It added that it wished to know what special training was being provided to professionals working with child victims. The Committee further noted that psychological support was only available after the investigation and underlined that this was in contradiction with the OPSC. The delegation explained that a trial was being run to provide systematically a specialist independent advocate to children victim of trafficking in order to support them during the whole judicial proceedings. Moreover, a trial was underway in three courts to test pre-recorded cross examinations. The delegation added that Guidelines on Prosecuting Cases of Child Sexual Abuse had been published and that a Parliamentary Commission had raised concerns about the prosecution of victims. It further answered that there was no general prohibition on psychological aid during an investigation and that it was attributed on a case by case basis as there was no mandatory psychological assistance.

The Committee enquired about the training that border personnel received in order to perform age assessments. It noted the conflict of interest that existed between the interest of the victim and the exercise of national sovereignty. The delegation highlighted the importance of frontline services and said that new specialised safeguarding teams had been set up. These teams ensured that frontline officers had the required knowledge on international standards. The delegation also explained that the Child Exploitation and Online Protection Command (CEOP) assisted these teams. It underscored that border personnel were to adopt a victim centred approach which took precedence over the immigration status of the individual.

The Committee asked why many child victims were accommodated in Bed and Breakfasts and asked if such a measure would be reviewed. The delegation said that it did not have the necessary information to respond to this question and would answer in writing.

The Committee asked if compensation was available for victims of trafficking and if there were any example of using the perpetrators' assets. The delegation responded that in the Modern Slavery Bill it would be required to consider compensation for the victim. If assets from perpetrators were identified, the court could issue a confiscation order and the State party was considering imposing the duty to use those assets for compensating the victim.

## **International assistance and cooperation**

The Committee noted the successful case of international cooperation which led to the arrest of 11 paedophiles in the State party. The delegation spoke of the International Child Protection Network and how the CEOP command worked with international partners. It noted that the NCA had undertaken extraterritorial cases and that there was a special tracker team. It also underlined the collaboration with EUROPOL and INTERPOL.

## **Concluding remarks**

Ms. Renate Winter and Mr. Wanderlino Nogueira Neto thanked the delegation for the constructive dialogue. They asked the State party to consider the recommendations made by the Committee.

The delegation said that it was looking forward to the Concluding Observations. It underlined that the State party was working at shifting the culture of professionals to see children first and foremost as victims. It also emphasised that children were at the heart of the Modern Slavery Bill and that progress was being made in the support children received during court proceedings.