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STATE PARTY EXAMINATION OF INDIA'S INITIAL PERIODIC REPORT ON THE OPTIONAL PROTOCOL ON THE SALE OF CHILDREN, CHILD PROSTITUTION AND CHILD PORNOGRAPHY

66TH SESSION OF THE COMMITTEE ON THE RIGHTS OF THE CHILD
26 MAY – 13 JUNE 2014

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India ratified the Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography (OPSC) on 16 August 2005. On 3 June 2014, the Committee on the Rights of the Child (the Committee) examined initial periodic report of India.

Opening Comments

The delegation of India was led by Mr. Shankar Aggarwal, the Secretary of the Ministry of Women and Child Development. He was supported by a substantive delegation consisting of the Joint Secretary of the Ministry of External Affairs, representatives of the Ministry of Labour, Health and Family Welfare, Home Affairs, Women and Child Development, Human Resource Development, and the Ambassador and Permanent Representative as well as other representatives of the Permanent Mission of India to the United Nations Office and Other International Organizations.

Mr. Aggarwal indicated that the implementation of the OPSC had started in India, yet acknowledged that much work remained to be done to complete its application in law and practice. A number of landmark legislations had been adopted, which strengthened the overall child protection framework. The main legislation providing for care and protection was the 2000 Juvenile Justice (Care and Protection of Children) Act, and its amended version, the 2012 Protection of Children from Sexual Offences Act and the National Policy for Children, which was adopted in 2013. Additionally, a set of measures had been developed to ensure a child-

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friendly access to justice for children victims and witnesses and children in conflict with the law. Finally, Mr. Aggarwal reiterated the State party's commitment to fight trafficking in persons, especially in women and children.

Ms. Hiranthi Wijemanne, the Coordinator of the Task Force for the OPSC, welcomed the delegation and hoped for a constructive dialogue on the implementation of the OPSC.

General Measures of Implementation

Legislation

The Committee asked whether the 2012 Protection of Children from Sexual Offences Act covered all offences under the OPSC, including sexual assault, sexual harassment and the use of child for pornography. It also asked if the sale of children had been properly criminalized and what measures had been taken to counter child-trafficking and the sale of children. The delegation replied that the 2012 Protection of Children from Sexual Offences Act provided for protection against the offences of sexual assault, sexual harassment and pornography. It also defined a child as any person below the age of 18 and made sentences stricter, especially when committed by persons in position of trust and authority. The delegation explained that a number of legislative measures, including the Section 67 of the 2000 Information Technology Act, the Indecent Representation of Women (Prohibition) Act and the Indian Penal Code were undertaken to protect children from cyber pornography. With regard to trafficking, the delegation reiterated its commitment to prevent and combat trafficking and sale of children. In 2011, the State party ratified the UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children. In 2013, anti-trafficking provisions were strengthened by the Criminal Law Amendment Act. Finally, in 2002, the State party signed the Convention on Preventing and Combating Trafficking in Women and Children for Prostitution within the South Asian Regional Association for Regional Cooperation (SAARC).

Dissemination and training

The Committee asked what measures had been taken to disseminate and raise awareness about the OPSC, especially among children. The delegation indicated that the government had carried out public awareness campaigns on trafficking and sale of children, targeting particularly educational institutions. It had also used social media to disseminate information. Moreover, under the Protection of Children from Sexual Offences Act, training of professionals working with children had been extended. In all judicial academies, for example, judges had been sensitized and nearly 10 000 police officers had been trained to address cases of trafficking of children adequately. The government had created, in cooperation with UNODC, 225 integrated Anti-Trafficking Units at district level that had contributed to a greater dissemination of information regarding trafficking among communities.

Data collection

The Committee asked whether the State party had a system of data collection on sexual offences against children. The delegation replied that disaggregated data related to criminal offences under the OPSC, including sexual exploitation, had been collected. The Observatory on Trafficking in Human Beings was the body responsible for monitoring and collecting data. The National Informatics Centre (NIC) had developed a National Portal called "Track Child" which collected data on missing children and had also a live database to monitor the progress of the found children. With regard to crimes related to child pornography, the 2008 amended version of the 2000 Information and Technology Act provided for data collection.

Prevention

Prevention programmes and poverty reduction

The Committee asked whether prevention programmes existed and were applied to avoid trafficking and sexual exploitation, taking into account the fact that children and adolescents were the most vulnerable to those crimes. The delegation explained that the 2009 Integrated Child Protection Scheme (ICPS) had been implemented with the aim to improve the wellbeing of children in difficult circumstances, as well as to reduce the risk factors, such as poverty and lack of education that led to abuse, neglect, exploitation, abandonment and separation of children from parents. Legislations, such as the 2013 Food Security Act, the 2009 Free and Compulsory Education Act, and the 2005 National Rural Employment Guarantee Act played an important role in vulnerability reduction and hence in prevention of trafficking and sexual exploitation of children for commercial purposes.

Trafficking

The Committee asked for more information on the measures taken by the State party to harmonize its legislation on trafficking and bring it into full conformity with the OPSC. The delegation noted that there were two main Bills addressing trafficking. The 1956 Immoral Traffic (Prevention) Act contained provisions to prevent trafficking in women and children for commercial sexual exploitation and provided for redress and rehabilitation of victims of trafficking. Additionally, Section 370 of the 2013 amended version of the Criminal Law Act addressed trafficking for various purposes such as physical exploitation, slavery, servitude, forced removal of organs and also includes sexual exploitation.

Protection of the Rights of Victims

Child-friendly criminal proceedings

The Committee asked whether children had access to child-friendly judicial proceedings and benefited from special protection. The delegation indicated the 2000 Juvenile Justice Act as well as the 2012 Protection of Children from Sexual Offences Act provided for child-friendly justice and special protection during proceedings. The delegation explained that a child-friendly process for reporting and recording testimonies had been developed. Moreover, the establishment of a Court of Session in each district was facilitating speedy trials. The delegation further noted that for cases involving children, evidence needed to be recorded within 30 days and the trial by the Special Court needed to be completed within a year. The National Commission for Protection of Child Rights (NCPCR) had been mandated to monitor the special courts.

Helplines

Under the Integrated Child Protection Scheme, an emergency helpline service (1098) had been developed, functioning 24h/7days. In 2014, there had been 280 operational child-line services gathering 552 partners. Helpline services had been run by social workers, who would assist the child in risk to connect with adequate actors on the ground.

International Assistance and Cooperation

Extradition

The Committee asked whether the State party signed any bilateral agreements, including

extradition treaties on mutual legal assistance in criminal matters. With regard to the repatriation and reintegration of child victims of trafficking, the State party developed bilateral Standard Operating Procedures, particularly with Bangladesh and Nepal under the SAARC Convention on Preventing and Combating Trafficking in Women and Children for Prostitution. A Memorandum of Understanding (MoU) was signed with Bangladesh, Myanmar and the government had been also negotiating the signature of a MoU with Nepal.

Concluding Remarks

Mr. Mezmur, the Coordinator of the Task Force for the OPAC, thanked the delegation for its efforts to respond to the questions of the Committee and bring clarifications, which reflected the good will of the government to uphold their obligations.

Mr. Vivek Joshi thanked the Committee and Rapporteurs for the dialogue. He noted that the session had been useful for the State to understand in more detail its obligations under the OPSC.