



ngo group for the crc

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

**59TH SESSION OF THE COMMITTEE ON THE RIGHTS OF THE CHILD
16 JANUARY – 3 FEBRUARY 2012**

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Azerbaijan ratified the Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography (OPSC) on 3 July 2002. On January 18 2012, the Committee on the Rights of the Child (the Committee) examined the initial report of Azerbaijan.

Opening Comments

The delegation of Azerbaijan was led by Ms Hijran Huseynova, the Head of the State Committee on Family, Women and Children Affairs. She was supported by a delegation consisting of the Ambassador, Permanent Representative of the Republic of Azerbaijan to the United Nations Office and other international organisations in Geneva, and of representatives of the Ministry of Internal Affairs, the Ministry of Education the Ministry of Health, of the Ministry of Economic Development, the Ministry of Labour and Special Protection, the Ministry of Foreign Affairs, the Ministry of Finance, the Ministry of Justice, the Permanent Mission and the State Committee on Family, Women and Children Affairs of the Republic of Azerbaijan.

Ms Al-Shehail, the Country Rapporteur for the OPSC, welcomed the positive steps undertaken by the government and especially the law and National Plan preventing human trafficking. She nevertheless noted that the Azerbaijani society did not seem to be prepared to discuss topics such as child prostitution or pornography.

General Measures of Implementation

Legislation

The Committee observed that some of the offences embodied in the OPSC had not been reflected in the Azerbaijani Criminal Code. The delegation stated that according to the Constitution, the supremacy of international conventions was guaranteed in case of conflict between a domestic and an international provision. It explained that standards of international law were applied directly and that the Supreme Court of Azerbaijan had issued a recommendation stating that judges could refer directly to international law. It added that references to the OPSC would be strengthened and welcomed by courts and other legal bodies. The Committee raised the issue of the limitation of the principle of supremacy in criminal law, stating that if offences were not punishable under the law of Azerbaijan, the country would not be able to sentence perpetrators. It invited the delegation to reform the criminal law to make sure that the OPSC provisions were accurately reflected and that acts were punishable by law.

The Committee acknowledged and welcomed the State's legislation and efforts on human trafficking, but emphasised that there was an important difference between the concepts of sale of children and child trafficking. The Committee also asked whether other provisions of the OPSC on child pornography and prostitution or forced and domestic labour were implemented in the domestic legislation and concretely applied. The delegation answered that provisions of international instruments were taken into account and it reported that for instance the distribution of pornographic material was unlawful under Azerbaijani law. It recognised that the trade of children was not punished as such, but explained that children were covered by the general provisions on trade of human beings. The delegation recognised that the current legislation needed to be improved to ensure greater protection for children and that the recommendations of the Committee would be taken into account in this working process.

Dissemination and training

The Committee asked about efforts made to raise awareness among the general population about the OPSC. The delegation recognised that this was currently a very pressing issue, adding that it would be necessary to make further efforts in this regard. It reported that measures had been taken to train members of the police, courts and legal bodies and emphasised the importance of training the trainers. It also reported that the State had been working on the translation of the OPSC into Azeri and Russian, and had disseminated the text in printed media and in justice and police academies. It specified that dissemination was an on-going and continuous process.

Monitoring

The Committee asked whether a specific mechanism within the government had been tasked with coordinating the implementation of the OPSC. If not, it inquired whether there was any intention to create one. The delegation answered that Azerbaijan had problems with implementing human rights, but informed the Committee that the government was working more globally on human rights issues, especially through a new programme issued in 2011, which covered every provision of the various international conventions ratified by Azerbaijan. It added that the government would take into consideration international experience and what had been said during the session of the Committee to implement these broader programmes.

The role of civil society

Ms Huseynova stated that initiatives of the civil society were very helpful, especially in informing people where to get support in case of violations of human rights and it confirmed that cooperation between governmental bodies and non-governmental organisations was important. She added that reports from NGOs were appreciated and that these organisations should turn more to governmental bodies to get reliable information in order not to be misled on the actual situation. She stated that the government was prepared to have a more systematic dialogue with those organisations.

The delegation stressed the importance of the involvement of the mass media and the need to train journalists covering topics on violence against children and trafficking of children to respect the interest of the person or the child involved. It indicated for instance that close-ups or photographs of child victims were not allowed.

Prevention

Human trafficking

The delegation stressed that the government had undertaken preventive measures to combat human trafficking through laws and resolutions. It indicated that Azerbaijan had ratified the UN Convention on Preventing Organised Crime and its protocol on the Suppression of Human Trafficking. It added that the government had established two National Plans and a working group and that a law combatting human trafficking had been adopted in 2009. A website was also dedicated to the fight against human trafficking.

The delegation reported that human trafficking was recognised as a crime under Azerbaijani law and that efforts were made to include potential victims into the educational system to protect them against human trafficking. It explained that there was a legal framework to protect street children from trafficking, in particular a law that sought to prevent the street children phenomenon. The delegation also reported that a plan of measures had been set up in 2005 to resolve some issues related to children without parental supervision and children in conflict with the law, carrying out activities of rehabilitation and preventing them from being subjected to trafficking. The delegation especially mentioned a pilot project dedicated to children in conflict with the law establishing a clinic for rehabilitation to which six hundred children had been referred. Children were provided with psychological, social and legal assistance at the centre. The delegation nevertheless recognised that the legislative framework should be improved and that the recommendation of the Committee would help the State to do so.

Helplines

The Committee asked for clarification on the number of existing helplines and about the kind of assistance they provided. The delegation reported that the country had several helplines; one of the main lines, “102”, was open every day and worked in three languages. The delegation highlighted that this helpline dealt mainly with social issues and that children could talk with a psychologist and were directed to the relevant agencies for follow-up. It added that the Department for Protection of Children had made a film in cooperation with the United Nations Population Fund (UNFPA), publishing several helpline numbers at the end of the film. It was broadcasted in schools and on public television.

The Committee raised concern about the fact that the high number of helplines might be confusing for children looking for help and suggested that a single line would be more accessible. The delegation answered that, while the main line was the one of the Ombudsman office, other lines could be helpful and that all their telephone numbers were made widely available. The delegation expressed the fear that the existence of a single hotline could lead to mistakes in guiding children to the appropriate structure, but acknowledged that the proposal of the Committee would be taken into account.

Prohibition and Related Matters

Sex tourism

The Committee asked whether there was any provision on sex tourism in the set of norms of Azerbaijan. The delegation answered that the government was addressing this problem through campaigns to raise awareness about sexual exploitation and its legal consequences. It added that tourist agencies were engaged with the government for awareness-raising and explained that posters, pocketbooks and CDs were sent by the Government Agency on Combatting Sexual Trafficking to schools and youth centres where young people were at risk.

Prosecution of legal entities

The Committee asked whether there were opportunities to prosecute legal entities, as it was a requirement of the OPSC. The delegation answered that there was no criminal liability for legal entities but that a special working group was currently working on a reform of the criminal code and had received a proposal in that regard.

Protection of the Rights of Victims, Recovery and Reintegration

Protection of the child victim during the procedural process

The delegation stated that the concept of a child victim and his or her particular needs for protection from the law, were recognised. The Committee asked about the implementation of article 8 of the OPSC dealing with the protection of child victims, to avoid the “double victimisation” of child witnesses. The delegation explained that an individual approach for each victim was appropriate and that, when testifying, specificities of children that had been subjected to violence had to be taken into account. It explained that a psychologist was present to talk with the child and prepare him or her for the testimony and that there were special offices for minors involving specialists such as doctors or teachers. Parents or guardians could also be present to support the child during the hearing. The delegation stated that the judicial system was starting to use new technologies to protect children and avoid direct confrontation with the perpetrator. Recently, the Supreme Court of Azerbaijan had approved the establishment of an inter-agency council for domestic violence against women and children.

Victims assistance and compensation

The delegation explained various measures and mechanisms that had been taken to assist child victims of human trafficking. It reported that centres for victims that focused on rehabilitation, had been created. It explained that rules for the placement of victims in shelters had been established; that new police structures would be built; and that the State was

engaged in disseminating such programmes throughout the country. The delegation listed various measures taken to tackle the issue of assistance for victims, including the increase up to 350 dollars of the monetary compensation for victims, funded by an annual State allocation; the creation of free centres for assistance to victims; the appointment of a national coordinator to centralise data while maintaining confidentiality; and the cooperation of the government with countries of destination, sometimes by signing cooperation agreements. The delegation also explained that the State had a project for the rehabilitation of children, also preventing trafficking, by integrating children into the educational system. The delegation added that the government planned to build five adaptation centres to conduct rehabilitation.

The Committee asked for concrete information on the number of children that had received assistance from this fund and the duration of the assistance received. The delegation stated that 78 children had benefited from assistance in 2008; 46 persons in 2009; 34 persons in 2010; and 22 persons in 2011. In 2011, monetary compensation had been given to eight of them; 11 people had been placed in shelters; and 13 people had found a job. Asked to give clarification on the exact number of children, and not the number of people in general, the delegation stated that in 2011, only one child had been helped in this way, whereas in 2010, eleven children had benefited from the services, including seven infants. The delegation indicated that one of the cases had involved a criminal offence and that in this instance, a criminal case had been opened.

Responsibility of parents

The delegation indicated that there was no provision stating that parents of abused children that were not connected with the abuse could be accountable under the law. The delegation stated that this was an issue of moral responsibility and that the improper exercise by the parents of their duties was not covered by the law.

International Assistance and Cooperation

The delegation insisted on the significance attributed by the State to its implementation of international conventions. It stated that the government had developed regional cooperation relationships and that the Ministry of Justice was working with the European Commission on a development programme. The delegation recognised that cooperation in the region of Caucasus could be problematic at times, despite the best efforts within the region. It recalled that part of the country was still occupied by Armenia but stated that it had positive relations with its neighbours, such as Georgia. It concluded by wishing that cooperation could be broader and could give better results.

The Committee asked specifically about cooperation with neighbouring countries to prosecute perpetrators of certain offences, including a possible exchange of information or assistance to victims between countries. The delegation answered that the State was cooperating on this issue, that some legal documents had been created to that end, and that there was a good practice in achieving closer cooperation.

Extraterritorial jurisdiction

The Committee asked for clarification on the extraterritorial jurisdiction provisions of the Criminal Code of Azerbaijan and, in particular, whether Azerbaijani courts could have jurisdiction over a crime committed abroad by an Azerbaijani citizen residing on the territory of Azerbaijan or in the case where the victim was a child residing in Azerbaijan. The delegation reported that in those cases, courts could take a decision to punish the offences. It

added that suspects could also be extradited, on the basis of a bilateral or multi-lateral agreement, or on the grounds of the law of Azerbaijan on extradition. It stated that the existence of that law was not in contradiction with the OPSC. The Committee recalled that, in the particular case of extraterritorial competence, it was essential to be precise in the definition of offences in order to be clear about the legal basis to exercise extraterritorial jurisdiction.

Concluding Remarks

Ms Al-Shehail concluded by recognising that, although positive steps had been taken, the legislation still needed to be improved in order to more clearly define OPSC-related crimes. She added that several sectors of the legislation should be improved and noted concern that Azerbaijan did not have any monitoring body to protect children's rights and lacked awareness-raising campaigns and training programmes for specialists.

Ms Huseynova thanked the Committee for its questions and suggestions. She reiterated the firm commitment of the State to the norms and obligations of the OPSC. She recalled that the ratification of the Convention on the Rights of the Child had taken place when the country was on the verge of collapse but that in spite of the situation Azerbaijan had demonstrated its commitment to the protection of children's rights. She stated that the government was open to continue dialogues and consultations with the Committee on the issue of implementation and that the recommendations would provide helpful advice to solve the challenges faced by the country. She reaffirmed the concern of the State that all children's rights be respected in Azerbaijan.