

COMMITTEE ON THE RIGHTS OF THE CHILD

Fiftieth 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: The Republic of the Maldives

1. The Committee considered the initial report of the Maldives (CRC/C/OPSC/MDV/1) at its 1390th meeting (see CRC/C/SR.1390), held on 2009, and adopted at its 1398th meeting, held on 30 January 2009, the following concluding observations.

Introduction

2. The Committee welcomes the submission of the State party's initial report, although regrets the delay in its submission. The Committee further welcomes its written replies (CRC/C/OPSC/MDV/Q/1/Add.1) to the list of issues and appreciates the constructive dialogue with a high-level and multi-sectoral delegation.

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 second and third periodic report on 8 June 2007 (CRC/C/MDV/CO/3) and with the concluding observations adopted on the initial report under the Optional Protocol on the involvement of children in armed conflict (CRC/C/OPAC/MDV/CO/1) on 30 January 2009.

I. General Observations

Positive aspects

4. The Committee welcomes the reference to special protection of children in article 35 of the new Constitution adopted in August 2008.

II. Data

5. The Committee notes efforts to develop a national database for registering violations, however is concerned over the lack of data, disaggregated by age, sex, minority group and origin on the prevalence of sale, child prostitution and child pornography. Specifically, the Committee regrets the lack of information on the number of victims, reported cases, investigations, sanctions of perpetrators and recovery and reintegration measures for victims.

6. The Committee recommends that the State party expedite the establishment of a national database in order to ensure that data relating to areas covered by the Protocol, disaggregated *inter alia* by age, sex, minority group and origin, are systematically collected and analysed as they provide essential tools for measuring policy implementation.

III. General measures of implementation

Reservations

7. The Committee regrets the State party's reservation to articles 14 and 21 upon signature of the Convention of the Rights of the Child and, while acknowledging as positive the State party's statement during the dialogue of its intent to remove the reservation, is concerned that no progress has been made in withdrawing, or limiting the extent of, the State party's reservation since the consideration of the State party's second and third periodic report in 2007 (CRC/C/MDV/CO/3, para. 10).

8. The Committee reiterates its previous recommendation that the State party review its reservation with a view to withdrawing or limiting it, in accordance with the Vienna Declaration and Plan of Action adopted by the World Conference on Human Rights on 25 June 1993 (A/CONF.157/23).

Coordination and evaluation of the implementation of the Protocol

9. The Committee notes the recent restructuring and the shift of responsibility to coordinate child rights issues from the Ministry of Gender and Family to the Ministry of Health and Family. The Committee is concerned that such changes may affect the continuity of the work on child rights.

10. The Committee recommends the State party to review the coordination of child rights, and in particular, of the Protocol as soon as possible and ensure that the responsible authority have a clear mandate and adequate human and financial resources in order to ensure effective implementation of the Protocol.

National Plan of Action

11. The Committee regrets the lack of information as to whether the Protocol is covered by a national plan of action for children.

12. The Committee encourages the State party to adopt and implement a comprehensive national plan of action for children and ensure that it takes into account both the Protocols as well as the Convention on the Rights of the Child.

Dissemination and training

13. The Committee notes that certain training activities have been conducted for law enforcement officers and members of the judiciary, however regrets that training for professionals is still lacking, including for the judiciary, and that public awareness raising activities on the provisions of the Protocol have so far been very limited.

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

a) Make the provisions of the Optional Protocol widely known, particularly to children, their families and communities, through, *inter alia*, school curricula and long-term awareness-raising campaigns;

b) Promote, in line with article 9(2) of the Protocol, awareness in the public at large, including children, through information by all appropriate means, education and training, about the preventive measures and harmful effects of the offences referred to in the Protocol, including by encouraging the participation of the community and, in particular, children and child victims, in such information, education and training programmes;

c) Develop further cooperation with NGOs, civil society organisations and the media in order to support awareness-raising and training activities on issues related to the Protocol;

d) Continue and strengthen gender-sensitive education and training on the provisions of the Protocol for all professional groups, in particular for the judiciary through the Judicial Services Commission and for law enforcement officials, working with child victims of the crimes covered by the Protocol.

Allocations of resources

15. The Committee regrets the lack of human and financial resources for criminal investigations, legal assistance and the physical and psychological recovery and reintegration of victims.

16. The Committee recommends that the State party increase budget allocations for coordination, prevention, promotion, protection, care, investigation and suppression of acts covered by the Optional Protocol, including by earmarking human and financial resources for the implementation of programmes relating to its provisions, and in particular for criminal investigations, legal assistance and physical and psychological recovery of victims to relevant authorities and civil society organizations.

Independent monitoring

17. The Committee welcomes that the mandate of the Human Rights Commission of the Maldives allows it to receive complaints from, or on behalf of children on violations of the Convention and the Protocol, and that the Human Rights Commission has emphasized children's rights in its work. The Committee is concerned that the Human Rights Commission may face challenges to exercise its independence in terms of its budget and appointment procedures.

18. **The Committee recommends that the State party ensure that adequate human and financial resources are allocated to the Human Rights Commission of the Maldives to enable it to discharge all of its mandated activities in line with the Principles relating to the Status of National Institutions (the “Paris Principles”). The Committee underlines the importance that the State party respect the independence of the Human Rights Commission and not interfere unduly with regards to budget allocations and appointment of its members. The Committee recommends that the State party take into account the Committee’s General Comment No. 2 (CRC/GC/2002/2) on the role of independent human rights institutions in the protection and promotion of the rights of the child, in order to enable the Human Rights Commission to pay due attention to the concerns of children, e.g. by establishing a children’s rights unit in order to be easily accessible for children at the local level and to facilitate dealing with complaints by or on behalf of children in a child-sensitive manner by well-trained staff, and when cases have been referred to authorities ensure that they are followed up on by the Human Rights Commission.**

Civil society

19. **The Committee welcomes the ongoing collaboration with civil society and encourages the State party to further strengthen such partnerships, in particular in relation to implementation of the concluding observations, evaluation of progress made and also in the context of the next reporting process under the Convention and its Protocols.**

IV. Prevention of the sale of children, child prostitution and child pornography (art.9, paras. 1 and 2)

Measures adopted to prevent offences covered by the Optional Protocol

20. The Committee notes as positive the Child Protection Unit within the Maldives Police Service, however is concerned that it is not sufficiently accessible for children and lacks adequate human and financial resources.

21. **The Committee recommends the State party to ensure that the Child Protection Unit within the Maldives Police Service is accessible to children and provided with adequate human and financial resources.**

22. The Committee is concerned that the State party is not taking sufficient measures to prevent child prostitution. The Committee is concerned over information in the State party report regarding links between drug abuse and child prostitution. The Committee is furthermore concerned over the increasing rate of tourism and its potential links with child prostitution, as noted by the State party during the dialogue.

23. **The Committee recommends that the State party take additional preventive measures to combat drug abuse. Furthermore, the Committee reiterates its recommendation from 2007 (CRC/C/MDV/CO/3, paragraph 93) that the State party pay particular attention to the existing risk factors, such as increasing child sex tourism in the region, and continue to collaborate with the Maldives Tourism Promotion Board (MTPB) and tourism service providers in this respect in order to better meet the Code**

of Conduct set up by the World Tourism Organisation on the protection of children from commercial sexual exploitation in travel and tourism.

V. Prohibition of the sale of children, child pornography and child prostitution and related matters (arts. 3; 4, paras. 2 and 3; 5; 6 and 7)

Existing criminal or penal laws and regulations

24. The Committee is concerned that all the offenses under the Protocol have not been criminalised, i.e. incorporated into the Penal Code. Furthermore, the Committee is concerned that children, as young as 10 years old, who have been victims of offences under the Protocol may be criminalised according to sharia law (including charges of zina). The Committee regrets the lack of information regarding the liability of legal persons.

25. **The Committee recommends that the State Party expedite the ongoing legal reform and bring its Penal Code in full compliance with articles 2 and 3 of the Protocol.**

26. **Furthermore, the Committee recommends that the State party ratify the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the UN Convention against Transnational Organized Crime, the ILO Convention no. 182 concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour as well as the Hague Convention No. 33 on Protection of Children and Cooperation in Respect of Intercountry Adoption.**

Jurisdiction

27. The Committee regrets that the lack of incorporation of the offenses under the Protocol into the Penal Code impedes the State party to establish jurisdiction over offenses under the Protocol when committed against a Maldivian national in another country.

28. **The Committee recommends that the State party ensure that all legal and practical measures necessary be undertaken in order to be able to effectively establish jurisdiction over offences in accordance with article 4 of the Protocol.**

VI. Protection of the rights of child victims (arts. 8 and 9, paras.3 and 4)

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

29. The Committee notes as positive the establishment of Social Protection Centres in different atolls. The Committee is however concerned that children, who have been victims of offenses under the Protocol, may be treated as offenders. Specifically, the Committee is concerned that court proceedings and procedures fail to take into account the needs of children who have been victims, that victim compensation is not available and that reintegration and recovery measures are inadequate. The Committee furthermore notes that a child helpline is in the process of being set up, however regrets the lack of progress in this regard since the consideration of the State party's second and third periodic report in 2007 (CRC/C/MDV/CO/3, para. 62).

30. **The Committee recommends that the State party;**

- a. Take all necessary measures, including prompt legal reform, to ensure that child victims of any of the crimes under the Protocol are not criminalised;**
- b. Presume young victims of sexual exploitation to be children, and not adults, if in doubt;**
- c. Allocate adequate financial and human resources to the competent authorities in order to improve the legal representation for child victims;**
- d. Guarantee that all child victims of the offences described in the 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 Optional Protocol;**
- e. Ensure that resources be earmarked in order to strengthen social reintegration and physical and psychosocial recovery measures, in accordance with article 9 (3) of the Protocol, in particular by providing multidisciplinary assistance for child victims;**
- f. Expedite the process of setting up a toll-free child helpline.**

31. The Committee notes that child victims should be protected at all stages of the criminal justice process in accordance with article 8 of the Protocol. The Committee encourages the State party to be guided by the Guidelines on Justice in Matters involving Child Victims and Witnesses of Crime (Economic and Social Council resolution 2005/20) in this regard and should, specifically;

- a. Allow the views, needs and concerns of child victims to be presented and considered in proceedings where their personal interests are affected;**
- b. Use child-sensitive procedures to protect children from hardship during the justice process, including by the use of special interview rooms designed for children, child-sensitive methods of questioning; and by reducing the number of interviews, statements and hearings.**

VII. International assistance and cooperation

International assistance

32. The Committee recommends the State party's to seek international support for cooperation projects relating to implementation of the provisions of the Protocol, in particular in order to provide assistance for victims and training for professionals.

Law enforcement

33. The Committee notes that insufficient information is provided with respect to the assistance and cooperation provided by the State party at all steps of the penal or criminal procedure with regard to the offences as provided in article 3, paragraph 1, of the Optional Protocol, i.e. in the detection, investigation, prosecution, punishment and extradition proceedings.

34. The Committee encourages the State party to provide more detailed information in this respect in its next report.

VIII. Follow-up and dissemination

Follow-up

35. 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 the members of the Cabinet of Ministers and the People's Council (Majlis), and to all atolls, when applicable, for appropriate consideration and further action.

Dissemination

36. 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, the media, youth groups, professional groups in order to generate debate and awareness of the Convention, its implementation and monitoring. Furthermore, the Committee recommends that the State party make the Optional Protocol widely known to children and their parents through, *inter alia*, school curricula and human rights education.

IX. Next report

37. 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 combined fourth and fifth periodic report under the Convention on the Rights of the Child, due on 12 September 2011.
