

Canadian Coalition for the Rights of Children

Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution, and Child Pornography

Response to List of issues concerning additional and updated information related to consideration of the initial report of Canada (CRC/C/OPSC/CAN/1)

Committee on the Rights of the Child
Pursuant to Sixty-first Session
17 September – 5 October, 2012

Introduction

The Canadian Coalition for the Rights of Children (CCRC) decided to submit the following additional information in response to the List of Issues at this time, to assist the UN Committee on the Rights of the Child in its preparation for the formal review of Canada's first report on OPSC in September. There are indications that the government response to the List of Issues will be late, allowing little time for comment. We will provide additional commentary in response to the government's answers before the hearing, if time permits.

The information provided below is in addition to the analysis in the CCRC Alternative Report, *Right in Principle, Right in Practice*, and the detailed research report on the OPSC, which we provided to the committee earlier.

CCRC Responses to the List of Issues

1. *Please provide statistical data at the federal, province and territory levels (disaggregated by sex, age, socio-economic background, indigenous status and ethnic origin) for 2009, 2010 and 2011, on the number of:*
 - (a) *Reports of sale of children, child prostitution and child pornography, with additional information on the type of action taken as a result, including the prosecution and punishment of perpetrators;*
 - (b) *Children trafficked into and out of Canada and children trafficked within the country for the purpose of sale, child prostitution, or child pornography as defined in article 3, paragraph 1, of the Optional Protocol;*
 - (c) *Child victims who have been given assistance with reintegration or been paid compensation.*

Summary Response: The International Bureau for Children's Rights, a member of the CCRC, spent considerable research time and effort to find more detailed and comprehensive data for use in preparing the alternative report, but it was not available, at least not to civil society organizations. What information we found is included in the CCRC detailed research submission on OPSC.

There is no central agency for data collection on children. Law enforcement statistics, assembled under the Canadian Centre for Justice Statistics, do not disaggregate statistical data on child

sexual exploitation in Canada. The lack of detailed information makes it difficult to have an informed discussion about the prevalence of the different types of sexual exploitation of children in Canada and the most effective strategies to prevent them.

2. In view of the National Plan of Action for Children, 'A Canada Fit for Children' containing several provisions addressing offences under the Optional Protocol, please provide detailed information on implementation measures and the budget allocated to them.

Summary Response: *A Canada Fit for Children* contains admirable objectives relating to prevention of sexual exploitation of children, but it does not provide specific strategies to address demand, supply, impunity and deleterious effects of sexual exploitation. There are no data indicators, targets, timeframes, coordination, specific financial resources, or monitoring to assess whether small-scale actions in different parts of the country are making a difference. Other gaps include child participation, coordination and collaboration, awareness-raising, and education. As explained in the CCRC Alternative Report, this plan is not actively used in policy development or program planning.

3. Please indicate which government mechanism(s) is/are established to ensure coordination, monitoring and evaluation between governmental departments and bodies having responsibility for the implementation of the Optional Protocol at federal, provincial and territorial levels. Furthermore, with reference to those provinces/ territories which do not have coordinating mechanisms, please provide detailed information regarding monitoring and evaluation of the implementation of the Optional Protocol at federal, provincial and territorial levels.

Summary: Several interdepartmental and intergovernmental working groups are responsible for implementing policies and initiatives that fall under the various provisions of the OPSC. While specific coordinating committees share information on their specific issues, there is no focal point for the full and comprehensive implementation, monitoring and evaluation of Canada's compliance with the OPSC.

Update to Earlier Report: As an update to the CCRC's earlier submission, we welcome the release of the National Action Plan to Combat Human Trafficking in June 2012. It replaced the earlier Interdepartmental Working Group on Trafficking in Persons with a new coordinating body, named the Human Trafficking Taskforce, chaired by Public Safety Canada. The mandate of the new taskforce is to coordinate implementation of the National Action Plan and report annually on progress made. This is a stronger mandate than the earlier Working Group, which was limited to information sharing. It is too early to assess if the new co-ordinating mechanism will be more effective. (Further discussion of Action Plan on Trafficking under point 4)

Additional Research and Analysis:

The Intergovernmental Committee against the Commercial Sexual Exploitation of Children and Youth is mandated to provide a forum for dialogue and preventive initiatives. Its mandate does not explicitly include implementation of the OPSC.

The *National Strategy to Protect Children from Sexual Exploitation on the Internet* has been well funded and supported by the federal government to coordinate police actions in this area. The

three main objectives of the *National Strategy* include enhancing enforcement capacity, providing for public education and reporting to prevent victimization, and cultivating partnerships with NGOs, the e-learning industry, the private sector and other levels of government to foster effective public awareness, education and crime prevention strategies.¹ One of the partnerships to emerge from the *National Strategy* is CCAICE, the Canadian Coalition against Internet Child Exploitation, a multi-sector group of industry, government, nongovernmental and law enforcement stakeholders tasked with eliminating child exploitation through the Internet while maintaining the free flow of legitimate and broad information, entertainment, and education on the Internet. Also noted are the activities of Cybertip.ca, a child sexual abuse tip-line that was launched nationally in January 2005.

This plan has not included specific dissemination and outreach activities for the Francophone parts of Canada, nor has it developed a plan for the three territories. This strategy is limited to the commercial sexual exploitation of children through the Internet only; it does not address all aspects of OPSC.

Recommendations:

3.1 In particular, the CCRC would like to highlight that OPSC implementation needs a prevention strategy to address demand factors and empower children so they are less vulnerable for exploitation, with a strong co-ordinating body mandated to take action as well as share information to prevent sexual exploitation of children.

3.2 Such a strategy would include collaboration with private sector organizations, such as the fashion industry, marketing firms, Internet service providers, industries that provide technologies for information-sharing and communication, media, travel and tourism industries. A comprehensive strategy would include: adequate resources for law enforcement; the development of effective community and family supports to prevent sexual exploitation of children; and programs to protect child victims and reintegrate survivors.

3.3 An effective prevention strategy needs to engage various provincial and municipal actors, as well as federal and provincial governments.

4. Please clarify if the State party envisages establishing a mechanism for gathering and evaluating data and information at federal, provincial/territorial and municipal levels concerning the implementation of the Optional Protocol.

Summary: There is no indication that a national strategy with a national mechanism for data-gathering and implementation of the OPSC is a priority for the federal government. Steps have been taken to increase the penalties for a wide range of sexual offences, on the assumption that harsh punishment will be an effective deterrent. The punitive measures are based on a principled commitment to protect children from sexual exploitation, but not on detailed evidence and analysis that might lead to effective targeted actions and effective preventive programming. The new laws and policy statements do not make reference to the OPSC or the Convention on the Rights of the Child.

5. Please provide further details on preventive measures which have been taken to protect children in particularly vulnerable situations such as Aboriginal children, children belonging to other minorities, children in street situations, unaccompanied children and children with disabilities from offences under the Optional Protocol.

Summary: Prevention remains the weakest element of the new initiatives designed to stop the sexual exploitation of children in Canada. In particular, more attention is needed to preventive strategies that reduce the vulnerabilities of groups of children that are more likely to be targets for sexual exploitation. This includes informing children about their rights and avenues to pursue their rights, an element that is missing from most of the current crime prevention plans.

Update on Prevention of Human Trafficking:

Bill C-49 amended the *Criminal Code* to specifically prohibit trafficking in persons in Canada.² It came into force on 25 November 2005. The federal government released a new National Action Plan to Combat Human Trafficking in June 2012. The new action plan includes such preventive objectives as awareness raising campaigns in Canada and at Canadian international posts, support for local audits and initiatives to prevent trafficking, and strengthening child protection in international assistance.³

While this plan strongly acknowledges children to be victims of trafficking, there are few specific strategies for children and no mention of strengthening respect for children's rights as part of prevention. The Action Plan, developed from a law enforcement perspective, does not explicitly recognize and address implementation of Canada's obligations under the OPSC or the Convention.

Recommendations:

5. While the CCRC is pleased to see the release of a national action plan on trafficking, it suggests three areas for improvement:
- 5.1. the addition of specific strategies focused on children;
 - 5.2. a stronger focus on preventive strategies designed to reduce the vulnerabilities of groups of children who are likely to be targets for trafficking; and
 - 5.3. minimum standards for responding to child victims of trafficking.

More active engagement with youth-led and youth-serving organizations will be essential to develop and implement effective strategies to prevent the involvement of young people in trafficking.

Another area for increased attention is the role of the private sector in the prevention of human trafficking. One important means to accomplish this goal is the UN recommendation that States parties explicitly require the business sector to exercise due diligence in national and international activities, in line with the UN's "Protect, Respect, and Remedy" Framework.⁴

References and Recommendations from CCRC Alternative Report, *Right in Principle, Right in Practice*:

- Children's Right to be Free from Sexual Exploitation, pp. 36 - 40

6. Please clarify whether there is a legal provision explicitly prohibiting the sale of children and whether it covers all acts and activities described in article 3 (1) (a) of the Optional Protocol including:

(i) Offering, delivering or accepting, by whatever means, a child for the purpose of:

- (a) Sexual exploitation of the child;
- (b) Transfer of organs of the child for profit;
- (c) Engagement of the child in forced labour.

(ii) Improperly inducing consent, as an intermediary, for the adoption of a child in violation of applicable international legal instruments on adoption.

Summary:

7. Please clarify whether legal persons, including corporations, can be held liable for acts or omissions related to the sale of children, child prostitution and child pornography.

Summary: In general, the current provisions under the *Criminal Code* in Canada are adequate to hold individuals accountable for the commission of offences that exploit children. Legal measures relating to omissions are more limited, dealing primarily with the failure to report incidents of child sexual exploitation.

Currently there are no laws to regulate the activities of corporations in relation to the sexual exploitation of children. Canada relies on voluntary codes of conduct to encourage corporate social responsibility and corporate compliance with international human rights norms. However, only two Canadian corporations have signed onto the Code of Conduct for the Protection of Children from Sexual Exploitation in Travel and Tourism.⁵

8. Please provide information on the measures being taken to establish extraterritorial jurisdiction for offences under the Optional Protocol.

Summary: Bill C-15A amended the child sex tourism law in 1997 to permit Canadian prosecution for overseas offences without the requirement that the state in which the Canadian violated the *Criminal Code* request prosecution from Canadian authorities. Recent passage of Bill C-310 strengthens the law. Implementation of the child sex tourism law has been weak.

Recommendations:

8. Early experience suggests areas for attention to effectively enforce this law include:

(1) sending more liaison officers to regions in the world where Canadian nationals are most present and the exploitation of children is a recognized concern; (2) providing further training for Canadian officials posted abroad; and (3) allocating sufficient resources to enable officials to fully enforce the sections of the *Criminal Code* relating to extraterritorial legislation on the issue of child sexual abuse and exploitation.

¹Information accessed on the Department of Public Safety website on July 12th, 2010:

<http://www.publicsafety.gc.ca/media/bk/2005/bg20050124-eng.aspx>

² http://www.parl.gc.ca/About/Parliament/LegislativeSummaries/bills_ls.asp?ls=C49&Parl=38&Ses=1#footnote1

³ These objectives are: promote training for service providers; support and develop new Canadian awareness campaigns and distribute materials at Canadian diplomatic posts internationally; provide identification assistance to communities; and strengthen Child Protection Systems within international assistance programs targeting children

and youth, from the *Canada Action Plan to Combat Human Trafficking*, Public Safety Canada, 2012, available at <http://www.publicsafety.gc.ca/prg/le/cmbt-trffkng-eng.aspx>

⁴ UN General Assembly, Human Rights Council, “Report of the Special Representative of the UN Secretary-General on the issue of human rights and transnational corporations and other business enterprises, John Ruggie,” 21 March 2011, UN Doc. A/HRC/17/31, p. 16.

⁵ Standing Senate Committee on Human Rights (2011), “The Sexual Exploitation of Children in Canada: the Need for National Action,” Ottawa: The Senate of Canada, pp. 63-64, available at <http://www.parl.gc.ca/Content/SEN/Committee/411/ridr/rep/rep03nov11-e.pdf>