



STATE PARTY EXAMINATION OF SWEDEN'S INITIAL REPORT ON THE OPTIONAL PROTOCOL ON SALE OF CHILDREN, CHILD PROSTITUTION AND CHILD PORNOGRAPHY (OPSC)

58TH SESSION OF THE COMMITTEE ON THE RIGHTS OF THE CHILD
19 SEPTEMBER - 7 OCTOBER 2011

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Sweden ratified the Optional Protocol on Sale of Children, Child Prostitution and Child Pornography (OPSC) on 19 January 2007. On 3 October 2011, the Committee on the Rights of the Child (the Committee) examined the initial report of Sweden.

Opening Comments

The delegation of Sweden was led by Ms Marianne Jenryd, the Director General for Legal Affairs from the Ministry of Health and Social Affairs. Ms Jenryd was supported by representatives from the Ministry of Health and Social Affairs, the Ministry for Children and the Elderly and the Ministry of Justice, plus colleagues from the Permanent Mission in Geneva.

Ms Jenryd noted that the day of the presentation coincided with the international children's day in Sweden and added that the government was fully committed to upholding and respecting its obligations under the OPSC. Ms Jenryd added that for more than 20 years, Sweden the CRC had formed the cornerstone of Swedish domestic and international policies on children's rights, which had enabled children and youth to develop, participate and influence society, based on the fundamental principles of the CRC. As such, initiatives taken had been carried out in a cross-sectoral and coordinated manner, as directed by the CRC Coordination Office within the Ministry of Health and Social Affairs. This Office was also responsible for monitoring the implementation of the CRC and its Optional Protocols within the entire government structure and international networks.

December 2010 had marked the entry into force of a new strategy to strengthen the rights of the child in Sweden, which expressed the fundamental approach that should be taken by public sector actors to safeguard the rights of children. This strategy would guide future

policy creation, in such a way that would uphold the physical and mental integrity of the child and would afford early intervention mechanisms to assist and support children and families.

The Swedish National Action Plan on Sexual Exploitation, adopted in 1998, had been updated in 2007. The third plan would be adopted and come into force in 2012. The national action plan on trafficking, from 2008 to 2010, had outlined 36 measures that would be taken to combat trafficking of persons, including children, for sexual purposes. The Swedish National Board for Youth Affairs had conducted a study among 13 to 25 year-olds, to highlight their experience with exposure to sexual exploitation through online sources. The findings of this survey had been used to produce directives for social services and the education system.

Ms Jenryd noted that legislation was the main instrument for the implementation of the OPSC and that improvements to legislation were constantly being made. Since 2009, a new penal provision covered contact with children for the purpose of grooming. Furthermore, the trafficking offence had been amended to strengthen protection for victims and make it easier to apply. Legislation had also been improved for children exploited for pornography. Legislation on sex crimes created in 2005 had recently been evaluated and reflected the fact that sexual crimes against children were now considered to be more serious, by Swedish society. The Social Services Act had been amended to guide cooperation among social services and other authorities such as the National Board of Health and Welfare, the Swedish Police Board and the education system, to account for the rehabilitation of victims of sexual crimes. This included the development of appropriate practices for how child victims should be interviewed and asked for an account of what happened.

In pre-school settings, the Personnel Act now required employees to provide a criminal record check to a potential employer. The decision to hire somebody with a history of having committed a sexual offence, rested with the employer.

In follow-up to the 2009 Concluding Observations issued to Sweden by the Committee, the government had taken steps to address Child Sex Tourism. The delegation noted that it had been impossible to gather statistics on how many children had been abused by travelling offenders, but noted that the number of children was not important because no child should be exposed to this type of abuse. Such cases of abuse were dealt with by one of the three international child prosecutor's offices, which specialised in cross-border crimes. The government recognised the cross-border nature of these crimes and had taken steps to cooperate with other States to address the issues, including sale of children, prostitution and child pornography. The delegation noted the role that private companies in the tourism industry could play, to address the issue of child sex tourism.

Ms Jenryd noted the positive impact of children and youth being able to access information and communicate online, but added that the government is also aware of the risks. A survey conducted in Sweden had shown that one third of children between 13 and 15 years had been contact by someone they thought to be an adult, for sexual purposes. The government was taking steps to raise awareness among children and adults, and also to see how social services could interact with children online.

Ms Maria Herczog, the Country Rapporteur, thanked Ms Jenryd for her presentation and noted that she was well aware of the efforts that Sweden had made to address the issues under the OPSC, having attended the 1996 First World Conference Against the Sexual Exploitation

of Children in Stockholm, where she was particularly impressed by the level of cooperation between the government and civil society organisations.

Ms. Herczog noted that the financial crisis, and subsequent budget cuts, had impacted all countries in their delivery of services for the wellbeing and protection of children. Many children were deprived of much needed protection and preventive measures were not as well established as they could be. The government should use its knowledge on the root causes of why people become offenders/victims, to design better preventive programmes.

Regarding the legal framework, Ms. Herczog regretted that the CRC and its Optional Protocols have not been fully integrated into national law. Furthermore, she asked why several key international instruments for the protection of the rights of children, had been signed but not ratified.

Concerning the National Plan of Action, Ms. Herczog asked how the 2012 edition would plan for the quality and efficiency of the judicial system in dealing with offenders and victims of OPSC-related crimes. She also wanted to know how training programmes could be extended to all professionals, in an integrated manner, who come into contact with children in these circumstances, including those working courts and as part of law enforcement agencies.

Ms. Herczog asked for further information on how the government was strengthening its international cooperation at national and international levels, and furthermore how it was raising awareness in different fora about the root causes of why people commit such offences, and how they can be prevented. Ms. Herczog noted, that the Council of Europe had adopted the Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse in July 2007 and that it had come into force in Sweden in July 2010. This instrument offered a harmonised legal framework to deal with OPSC-related offences. She asked whether the convention had been translated into Swedish and whether there had been any public awareness raising campaigns and/or training for professionals working with children. In closing, Ms. Herczog asked whether the government planned to integrate the 11-point EU Strategy to protect children from violence, including victims of sexual exploitation.

General Measures of Implementation

Dissemination and training

The Committee noted the new government strategy that had been approved on children's rights in Sweden, which included nine principles, one of which was to provide information to children, parents, the general public and professionals working with children. In particular, this information would be used to train social services professionals through the National Board for Health and Social Welfare, which was also active in implementing the national action plan on trafficking.

The delegation noted that the national action plan on trafficking had been commissioned by the government to address prosecutions of those involved in the sale of persons, particularly children. One measure that fell under this plan was to provide training materials for social services, health professionals, sheltered housing staff, as well as people working with children and youth in various other capacities. To deliver this training, two professionals would be invited from each county in Sweden, who would then in turn be responsible for disseminating the training among their colleagues upon return home.

The Committee also noted the power of mainstream media tools, such as the Lelia Forever

movie, which had successfully helped to raise awareness about severe abuses among the general public. The Committee asked what kind of training was being delivered to parents and children to prevent sale, trafficking and other forms of exploitation of children. Specifically, the Committee asked about public campaigns, for example on the basis of the Committee's General Comment 13 on Violence Against Children, which had been adopted on 10 February 2011. The Committee asked whether this document had been translated into Swedish and disseminated in society.

Legislation

The Committee noted that Sweden had a dualist legal system, whereby international treaties needed to be transposed into national criminal law in order to come into force in domestic courts. The Committee added that some offences under the OPSC had been transposed and clearly defined in national legislation, while others had not.

The Committee raised the issue that there was a contradiction between the criminal and penal codes regarding the age of sexual consent. The age of sexual consent currently stood at 15 years of age. However, this exposed children of 15 to 17 years to sexual exploitation, in that the onus would be on the children between these ages to prove that they had not consented to the sexual acts, including those for which remuneration was involved, under consideration in a criminal investigation. The Committee asked how the government would act to bridge this gap in legislation and was particularly concerned that in practice, the legislation was limited to cross-border victims.

The delegation explained that the transposition of international human rights treaties into domestic law had been a government priority. The transposition process had to respond adequately to the national administrative system, which distinguishes between the obligations of the State at the federal level, and regional-level governance within the country. The delegation noted that the CRC and its Optional Protocols provided a minimum standard for children's rights and was confident that Sweden's domestic law went beyond the minimum obligations under both the CRC and the OPSC, adding that it was open to a discussion on how it could further improve its laws to ensure maximum protection for children. The delegation added that a survey was currently being conducted on how the CRC had thus far influenced domestic legislation, the results of which would be available in November 2011, and which would feed into the 2012 comprehensive national action plan on children's rights.

Concerning the implementation of the Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse, this document had been translated into Swedish. The delegation noted that the double criminality requirement on crimes related to the purchase of sexual services from a child and for sexual posing by a child, would need to be removed.

The Committee emphasised that the OPSC does set out subjective rights and not simply a list of objectives. These rights were clearly defined in the OPSC and were not subject to interpretation; therefore, domestic codes would have to, verbatim, consider violations and criminalise the offences as they are defined in the OPSC.

Coordination and monitoring

The Committee asked which ministry was responsible for coordinating implementation of the OPSC in Sweden and asked whether the CRC Coordination Committee has been allocated

sufficient human, financial and technical resources to be able to fulfill its task.

The delegation noted that the portfolio for the promotion of the rights of the child was with the Minister of Children and the Elderly. The delegation noted that the overall level of intolerance among Swedish people, towards violence against children, and particularly child pornography, child prostitution, was a good basis for advances in legislation that afforded strong protection for children. Legislative amendments, in turn, influenced peoples' normative thinking. Sweden was the first country to ban corporal punishment by law, in 1979, and to criminalise prostitution, in 1999.

Budget

The Committee noted the advances made in legislative reform, but was concerned about the allocation of resources for implementation purposes. Adequate resources should be allocated for data collection, dissemination of OPSC provisions and principles, and the work required to deepen society's understanding of the crimes contained in the protocol and how they could be prevented.

Role of the Child Ombudsman

The Committee asked about the role of the Child Ombudsman in Sweden to receive complaints from children in Sweden.

Data Collection

The Committee noted a lack of statistical data on child victims of trafficking, as well as on the prevalence of child victims of prostitution trafficked into the country. The Committee asked about the functioning of BRA, the organisation reportedly responsible for official crime statistics and asked how many such crimes had been reported. Of those reported, the Committee asked whether there was any follow-up, and called for an explanation on how data was used to inform policy.

Prevention

Sale of Children

The delegation responded to the Committee's concern regarding the sale of children, by explained that the government had recently concluded its national action plan to combat trafficking for prostitution and other sexual purposes. A key part of this plan was the integrated training of professionals, developed by the Crime Victim Compensation and Support Authority. Other activities included clear impact on the number of procuring offences, including purchase of a sexual service from a child. The County Administrative Board of Stockholm coordinated concerned stakeholders, including NGOs, and had developed guidelines on how to act through a centrally developed working method, to deal with trafficking cases. This methodology addressed rehabilitation of victims and offered directives to the 290 municipalities, which were individually responsible for the administration of their respective health and social services. The commission of the County Administrative Board of Stockholm had been extended for a further three years, and national support teams had been set up to deliver advice to municipal authorities, on how to implement the methodology.

The Committee noted that this central methodology could also be extended to the labour market. The Committee reminded the delegation that trafficking and sale of children were two separate phenomena, and asked if the government had developed a specific plan to

address sale of children, as well as child prostitution and pornography. The delegation answered that sale of children had been incorporated into action being taken against trafficking.

Sex Tourism

The Committee asked about cases in which Sweden prosecuted Swedish nationals who committed OPSC-related crimes overseas. Of these, the Committee wanted to know how many cases had been considered since 2007 and noted that it would welcome the extraction of the dual criminality requirement, as well as the exception made for minor cases of child pornography as the Committee asserted that there was no such thing as a *minor* case.

Internet Service Providers and other Private Entities

The Committee asked whether internet service providers and credit card companies had an obligation to report incidences of child pornography online. The delegation responded saying that administration fees or fines were imposed, but that there was no criminal liability on the part of the companies. The delegation explained that the Swedish penal code does provide for the responsibility of legal entities, and that those charged would be fined. The Committee asked whether the government was considering the amendment of this particular penal provision to include the criminal offences defined under the OPSC and whether liability would extend to the transport industry, internet service providers, as well as travel and tourist companies.

The Committee noted that information from the Ethical Council of four Swedish Pension Funds showed that these entities had set up codes of ethics to ensure environmental and ethical considerations were met by foreign companies that the pension funds were invested in, which constituted sizeable funds in companies around the world. The Committee asked whether this Ethical Council also included, as part of its criteria, all offences included in the OPSC. It asked whether this Council could extend the code of ethics to all companies operating in the country and not just those being invested in.

The delegation explained that there was a system of corporate fines set out in the penal code, for crimes committed in the course of business activity. The Committee commented that a fine was not enough of a deterrent or punishment and asked whether there was a provision that could force the company to close. The delegation explained that the penal code did not include provisions that could force the company to close, but noted that there were provisions in other legislation, to prevent people from continuing business activity.

Prohibition and Related Matters

Definition of offenses

The Committee noted that the government should use the OPSC to establish a criminal arsenal to combat activities relating to sale of children, child prostitution and child pornography. It asked about the criminalisation of parents in cases where they forced their children to beg and carry out petty criminal acts.

The delegation responded that trafficking in human beings was a criminal offence, which covered the recruitment and transfer of children with the intention to use them for sexual exploitation and/or the removal of organs. Purchasing a child for sexual exploitation was also a crime and anybody acting as a mediator could also be sanctioned.

The delegation added that the preparation and holding of child pornographic material was dealt with in a particular way. It was illegal to import, export and hold child pornographic material of any kind, including descriptions and literature. The Committee noted that the penal code stated that if posing as a model for pornographic purposes could “jeopardise” the child’s health and/or dignity, then it was a crime. The Committee noted that the definition included in the Swedish penal code was not specific enough and that justice for victims could not be left open to a judge’s interpretation. The delegation added that any incitation to a child under 15 years could lead to a sentence of up to two years. The Committee was concerned about the discrepancy in the law as it provided differently for children less than 15 years of ages, as compared with children between the ages of 15 and 17 years of age.

Grooming

The Committee noted that grooming should be recognised as a common practice as part of child sexual exploitation and prostitution. Reportedly, 30 per cent of Swedish youth surveyed had been contacted by adults for purposes of grooming. Of the youth surveyed who had reported their incident, only one had resulted in a prosecution. The Committee asked whether there was any follow-up when children reported such contact and wondered whether the law enforcement authorities became involved.

Extraterritorial Jurisdiction, Dual Criminality and Extradition

The delegation explained that extraterritorial jurisdiction applied to all crimes under Chapter Six of the penal code and that the government was considering removing the dual criminality requirement for the purchase of sexual services from – and sexual posing by – a minor. Concerning extradition, the delegation stated that the OPSC could not be used as a legal basis for extradition. If a State requested the extradition of an individual, no bilateral agreement between Sweden and the country concerned, was necessary. In these cases, Swedish law was used to determine the outcome of the decision. The delegation added that the extradition of a Swedish national could take place within Europe, provided that a European arrest warrant had been issued. A Swedish citizen could also be extradited to a Nordic State if he or she had lived there for at least two years.

The Committee asked whether the government would try individuals for the crime committed, even if the demand to extradite that individual had not been honoured.

Protection of the Rights of Victims

Victim Compensation

Regarding compensation for victims of crimes defined in the OPSC, the Criminal Injuries Compensation Act applied only in cases where a crime happened in Sweden, or if the victim was resident in Sweden. The Committee asked what the reasons were for not extending the provisions of the Act to victims of Swedish nationals committed overseas.

Victim Support

The Committee asked whether the assistance and protection services to victims was centralised in Stockholm. They noted that the specialists working with foreign child victims did not receive the same training and development opportunities as those working with Swedish citizens, thus compromising the quality of services delivered to foreign child victims. The Committee asked what training was delivered to social services professionals to

be able to deliver quality support to victims, and what level of attention was paid to a child perspective in the delivery of social services.

The Committee asked whether Sweden had established the Europe-wide 116-000 hotline for reporting missing children. The Committee mentioned the helpline currently being hosted by ECPAT Sweden, which received hundreds of calls each year. The delegation stated that it hoped to establish the 116-000 service in 2012. Currently, there was another helpline service being run by NGOs, with financial support from the government, called 'Rights of the Child in the Society'. This service received calls from parents and children and specialists were on hand to receive calls and direct them to the relevant authorities if permitted by the caller. Children could also contact social services through online platforms.

Identification and Treatment of Offenders

The Committee noted that there were several approaches that could be taken to the prevention of OPSC-related crimes, including rehabilitation programmes for offenders and the appropriate support for youth with sexuality problems. The Committee asked how past offenders' behaviour was monitored once their sentence had been carried out.

The Committee mentioned research that had shown that sexual addiction problems developed at puberty and that people who liked to have sex with children usually struggled to form relationships with adults. The Committee asked whether there were programmes in place to promote the healthy psychological development of youth, including counselling programmes that addressed sexuality and intimacy problems.

Immigration

The Committee noted that it was reportedly difficult for victims of trafficking to obtain residence permits on those grounds. Concerning the growing number of refugee children in Sweden, the Committee asked whether new programmes, for example for Roma and other groups of children, would be developed in a culturally sensitive manner, to raise awareness among those children about situations that might expose them as possible victims of child prostitution and/or pornography.

International Assistance and Cooperation

The Committee recalled article 10 of the OPSC, which calls on States parties to cooperate with less economically developed countries to better implement the protocol. The Committee noted that much collaboration had been undertaken with foreign governments in the areas of investigation and linking with other concerned States to assist child victims with social reintegration and recovery. The committee asked whether, as a preventive measure, Sweden was working to address root causes such as poverty and underdevelopment.

The delegation noted that it was one of the few countries contributing one per cent of its Gross National Product to international aid and cooperation. The delegation listed a series of funds and projects that it was contributing to throughout the world and mentioned its new project to address the elimination of child sex tourism.

Other Legal Provisions

The Committee highlighted that Chapter 16 of the Swedish penal code dealt with instances of sexual abuse as infractions under public order and not as violations against the rights of the child concerned. The Committee stressed the importance of the voice of the child being central to the criminal investigation and at the heart of criminal legislation for violations of children's rights.

Concluding Remarks

The Rapporteur thanked the delegation for its participation in the discussion, but regretted that there had been insufficient time to talk more in depth about key issues under the OPSC. Ms Herczog was concerned that the CRC and the OPSC had not been fully integrated into domestic legislation and suggested that conferences and seminars with government institutions and other relevant stakeholders could be held to discuss and move the issues forward.

The head of delegation echoed Ms Herczog's concern that the delegation had not been able to fully answer all questions posed by the Committee. Ms Jenryd looked forward to receiving the recommendations from the Committee, which would be of value to future planning on children's rights, and recalled that Sweden would submit its fifth periodic CRC report in September 2012.