



STATE PARTY EXAMINATION OF JAPAN'S INITIAL REPORT ON THE OPSC

54TH SESSION OF THE COMMITTEE ON THE RIGHTS OF THE CHILD

25 MAY – 11 JUNE 2010

Topics covered in this report: *General Implementation, Prevention, Prohibition and Related Matters, Protection of the Rights of Victims, and International Assistance and Cooperation.*

Japan ratified the Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography (OPSC) on 24 January 2005. On 28 May 2010, the Committee on the Rights of the Child (the Committee) considered Japan's initial report under the OPSC.

Opening Comments

Mr. Hideaki Ueda, the Ambassador in charge of Human Rights and Humanitarian Affairs, was the head of delegation. He highlighted Japan's recent legislative reforms to combat the crimes of the OPSC, such as the Act on Activities Relating to Child Prostitution and Child Pornography and the Online Dating Sites Regulation Act. He reaffirmed Japan's commitment to children's rights in general.

Mr. Koompraphant, the Country Rapporteur, began by asking the delegation to recognise the crimes of the OPSC as such, and children as victims. He noted that due to the international nature of sale, strong cooperation was necessary to implement the Optional Protocol. He requested more information on international cooperation so that the Committee could help Japan with implementation. He also wanted to know how Japanese domestic law adopted the principles of the Optional Protocol, in particular to comply with Articles 3 – 9. He asked the delegation to explain what social and educational measures were taken to prevent these crimes and treat victims.

General Measures of Implementation

The Committee asked if there was a coordinating mechanism or body in place to implement the OPSC. The delegation responded that the government was combating sale through the National Action Plan developed in 2009 that dealt with human trafficking, prevention, eradication and protection of victims. The related competent ministries took necessary actions. In order to monitor the implementation of the National Plan of Action, as well as manage coordination, an inter-ministerial liaison was established within the cabinet. The Committee pointed out that the National Action Plan only seemed to address trafficking, whereas sale was much broader. The delegation clarified that there were other National Action Plans to combat other offences such as child pornography and sexual exploitation.

The Committee asked to what extent civil society was involved in legislative reforms on issues relating to the OPSC. The delegation replied that in 2005, the government had sponsored a task force with 128 other states, NGOs and international organisations.

The Committee asked what kind of data was being collected. It also requested information about the budget to combat sale, as prevention and proper prosecution were extremely expensive. The delegation did not have the materials to answer that question and apologised.

Prevention

The Committee asked about the measures taken to combat organised crime involved with the sale of children, taking into consideration evolving technology. It also enquired about what was being done to combat sex tourism. The delegation replied that there was a Cabinet level group that worked with International Organizations such as the International Organization of Migration to eliminate human trafficking, transfer and sales. The delegation reported that Japan had organised a regional conference with other Asian countries on these issues almost every year since 2002. In addition, Japan had a strong partnership with Interpol.

The Committee asked if Japan had an advanced system for tracking IP addresses to track child pornography. The delegation replied that Japan did not, but that if somebody came across child pornography, he or she could report it anonymously, either through the hotline or a letter writing system. In response to a question about the number of hotlines for children, the delegation explained that there were three, but only two were run by the government.

Prohibition and Related Matters

The Committee asked if possession of child pornography was a crime and what criminal sanctions were in place for distributing child pornography. The delegation replied that the law prohibiting child pornography was very clear, but that simple possession without intent to distribute was not a crime. The delegation informed the Committee that distribution of explicit manga comics was prohibited by the penal code provision on obscene materials.

The Committee could not find a clear, consolidated code prohibiting the sale of children, and remarked that Japan seemed to be confusing trafficking with sale, which is simply the transfer of a child, not necessarily for any sexual purpose. The delegation said that Japan had the proper legal framework to ensure consistency between the OPSC and domestic legislation.

Protection of the Rights of Victims

The Committee asked for clarification on the distinction between Child Guidance Centres and the Youth Support Centres. The delegation explained that the Youth Support Centres were managed by the police, although other clinical professionals were employed. These centres were managed by the police and were often the first contact points for child victims, particularly in cases of abuse or exploitation. Personnel working in these centres were trained in child psychology. Child Guidance Centres were not affiliated with the police, and were mostly staffed with child psychology specialists. They provided more long term treatment and care. If a child in the Youth Support Centres needed long term care, he or she was sent to the Child Guidance Centres.

The Committee asked if judges, the police and prosecutors were trained to deal with children who were victims of sale. The delegation said that prosecutors had international human rights training. In addition, forensic interview techniques from the West were being studied, but videotaping was impossible because of procedural rules. The Committee asked if a specialised lawyer could be present. The delegation replied that there were usually no special lawyers for child victims.

The Committee asked Japan to ensure that child victims of sale were not treated as perpetrators, since it seemed that the criminal code treated all prostitutes as criminals without any age

distinction. The delegation replied that children were always treated as victims, even though prostitution was listed as a crime: It clarified that the law was intended to address those who engage in sale and purchase of child prostitutes. The Committee recommended that this law be made very clear in order to prevent any misinterpretations. It asked whether victims of child prostitution could be deported, but no specific response was given.

The Committee asked if it was possible to limit the number of times a child could be heard in court in order to minimise secondary victimisation, and if audio or video evidence could count as evidence in court. The delegation replied that multiple officials could interview the child victim, but that due consideration was given to the mental and psychological state of the child. In certain cases a guardian was asked to attend. While testifying in a trial, the victim could be shielded from the perpetrator, and a video feed could be set up so that the testimony could take place in a separate room.

International Assistance and Cooperation

The Committee asked if the State party had considered ratifying the Council of Europe Convention on the Protection of children against sexual exploitation and sexual abuse. The delegation said that it was interested in acceding to the Convention, but that it was still in the process of studying it. The Committee asked why Japan had not ratified the Hague Convention.

The Committee asked about the competence of Japanese courts to exercise universal jurisdiction in cases under the OPSC. The Committee noted that dual criminality seemed to be necessary for extradition and prosecution. The delegation explained that in the event that a Japanese citizen committed a crime of sexual exploitation of a child abroad, there were provisions in the Child Welfare Law that allowed Japan to prosecute. There were examples where this had actually taken place. The delegation had specific extradition treaties with several countries, and in absence of a treaty, Japan could demand or approve extradition based on dual criminality. Furthermore, the delegation informed the Committee that a conviction in a foreign court did not preclude Japanese courts from prosecuting the perpetrator. The Committee asked what would happen if a foreigner who was a resident in Japan committed a crime abroad. The delegation replied that the resident could be tried in either the country where the crime was committed, or Japan, or both.

Concluding Remarks

Mr. Koompraphant thanked the delegation for the dialogue and promised to try to give constructive information in the Concluding Observations.

The delegation thanked the Committee for the opportunity to discuss the implementation of the OPSC and for their professional questions. The delegation apologised for any confusion due to the recent policy changes, and promised to continue to try to promote children's rights despite current shortcomings.