



# Convention on the Rights of the Child

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## Committee on the Rights of the Child

### **Concluding observations on the report submitted by Benin 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\***

#### **I. Introduction**

1. The Committee considered the report of Benin (CRC/C/OPSC/BEN/1) at its 2325th and 2326th meetings (see CRC/C/SR.2325 and 2326), held on 26 September 2018, and adopted the present concluding observations at its 2340th meeting, held on 5 October 2018.
2. The Committee welcomes the submission of the report of the State party and the written replies to the list of issues (CRC/C/OPSC/BEN/Q/1/Add.1). The Committee expresses appreciation for the constructive dialogue held with the high-level delegation of the State party.
3. The Committee reminds the State party that the present concluding observations should be read in conjunction with the concluding observations on the combined third to fifth periodic reports submitted by the State party under the Convention (CRC/C/BEN/CO/3-5), adopted on 29 January 2016, and on the report of the State party submitted under the Optional Protocol on the involvement of children in armed conflict (CRC/C/OPAC/BEN/CO/1), adopted on 5 October 2018.

#### **II. General observations**

##### **Positive aspects**

4. The Committee notes with appreciation the State party's ratification of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families in 2018.
5. The Committee welcomes the various measures taken by the State party in areas relevant to the implementation of the Optional Protocol, including its adoption of the amended Criminal Code in 2018.

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\* Adopted by the Committee at its seventy-ninth session (17 September–5 October 2018).



### III. Data

#### Data collection

6. The Committee notes the databases containing information on vulnerable children and on the situational analysis of children, and the methods used to identify child victims of offences under the Optional Protocol. However, the Committee is concerned that there is no centralized and disaggregated data-collection system for all areas covered by the Optional Protocol. The Committee is also concerned that data and information on child protection are not integrated into the national information systems, such as the information and data system of the observatory for the family, women and children, and the comprehensive system for the production, analysis and management of statistics.

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

(a) **Develop and implement a comprehensive, coordinated and effective system of data collection, analysis, monitoring and impact assessment for all areas covered by the Optional Protocol, including child prostitution, child pornography and sexual exploitation of children in the context of travel and tourism, with agreed child indicators;**

(b) **Disaggregate data by, inter alia, sex, age, nationality and ethnic origin, region and socioeconomic status;**

(c) **Integrate the data-collection system into the existing national information systems on child protection issues;**

(d) **Systematically collect data on the perpetrators of offences against children and on the number of prosecutions and convictions, disaggregated by the nature of the offence, and step up efforts to establish a system of information-sharing among relevant government entities, such as the Ministry of Justice, Legislation and Human Rights, the Directorate of the Family, Children and Adolescence, the Central Office for the Protection of Minors and the Central Office for the Suppression of Cybercrime, that complies with the Convention and the right of the child to have his or her privacy fully respected;**

(e) **Utilize the information collected for evidence-based programming, policy, law, decision-making, impact assessments and the monitoring of progress on the implementation of the Optional Protocol, including to inform decisions on budget allocation.**

### IV. General measures of implementation

#### Legislation

8. The Committee notes the adoption of the amended Criminal Code in 2018 but is concerned about the weak implementation of the legislation relevant to the Optional Protocol due to social norms and attitudes enabling the sexual exploitation of and violence against children.

9. **The Committee recommends that the State party take all measures necessary to fully and effectively implement the legislation relating to the Optional Protocol and to change social norms and attitudes enabling the sexual exploitation of and violence against children.**

#### Comprehensive policy and strategy

10. The Committee welcomes the establishment of the National Child Protection Policy and the National Policy for the Development of the Judiciary, and their related action plans. It is nevertheless concerned at the lack of a comprehensive plan or programme to address all issues covered under the Optional Protocol.

11. **With reference to its 2016 concluding observations under the Convention (CRC/C/BEN/CO/3-5, para. 11), the Committee recommends that the State party:**

- (a) **Develop a comprehensive strategy aimed at specifically addressing all issues covered under the Optional Protocol;**
- (b) **Provide adequate human, technical and financial resources for the implementation of that strategy.**

#### **Coordination and evaluation**

12. The Committee is concerned at the lack of clarity on and duplication of the mandates of the National Commission on the Rights of the Child, the National Monitoring and Coordination Office for Child Protection and the National Steering Committee to Combat Child Labour. The Committee is also concerned that coordination at the central, regional and community levels, as stipulated by the National Child Protection Policy, has not yet been fully achieved.

13. **With reference to its 2016 concluding observations under the Convention (CRC/C/BEN/CO/3-5, paras. 12 and 13), the Committee recommends that the State party:**

- (a) **Ensure effective coordination between the various agencies and committees working on implementing child rights policies, including those under the Ministry of Justice, Legislation and Human Rights, the Ministry of the Family, Social Affairs, National Solidarity, Persons with Disabilities and Older Persons, and the Directorate of the Family, Children and Adolescence;**
- (b) **Ensure the full operation of the coordination mechanisms listed in the National Child Protection Policy and ensure they have adequate financial, human and technical resources for their effective functioning at the central, regional and community levels;**
- (c) **Consider establishing a mechanism at a high interministerial level with a clear mandate and sufficient authority to coordinate, monitor and evaluate all activities related to the implementation of the Convention and its Optional Protocols on the sale of children, child prostitution and child pornography and on the involvement of children in armed conflict, at the cross-sectoral, national, provincial and municipal levels.**

#### **Dissemination and awareness-raising**

14. The Committee is concerned that the Optional Protocol is not sufficiently disseminated and that there is limited knowledge of the Optional Protocol among government officials, children and members of civil society organizations involved in relevant issues.

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

- (a) **Disseminate more widely information on the offences covered by the Optional Protocol and on prevention measures among government officials and the general public, particularly among children in vulnerable situations, parents, caregivers and all relevant professional groups and community and religious leaders, especially by involving the media in awareness-raising activities;**
- (b) **Swiftly adopt a national strategy for human rights education, as recommended in the framework of the World Programme for Human Rights Education, and ensure that the principles and provisions of the Optional Protocol are prominently featured.**

#### **Training**

16. The Committee notes the workshop on child protection for police and military officers organized by the national police academy in 2017 and the training on the judicial protection of children organized for professionals in the justice system in 2013 and 2014. However, the Committee is concerned that the measures taken are not systematic and do not adequately cover all offences under the Optional Protocol. It is also concerned that training on the Optional Protocol has not been systematically provided for all the main professional groups responsible for its enforcement.

17. **The Committee recommends that the State party systematically include all aspects covered by the Optional Protocol, including the prevention and prosecution of offences, and child-friendly justice processes and programmes for the treatment and reintegration of children who are victims of such offences, in the training of all relevant professional groups, in particular judges, prosecutors, law enforcement and immigration officers, social workers and investigators.**

#### **Allocation of resources**

18. The Committee is concerned about the lack of specific budget allocations for the full and effective implementation of all areas of the Optional Protocol, and the inadequate monitoring of the implementation of the budget.

19. **With reference to its 2016 concluding observations under the Convention (CRC/C/BEN/CO/3-5, para. 14), the Committee recommends that the State party ensure that sufficient and targeted resources are allocated for the effective implementation of all areas of the Optional Protocol, including by increasing the financial resources allocated to the sectors responsible for child protection and ensuring the equal distribution of national resources to protect children who are especially vulnerable to the offences covered by the Optional Protocol.**

## **V. Prevention of the sale of children, child prostitution and child pornography (art. 9 (1) and (2))**

#### **Measures adopted to prevent offences prohibited under the Protocol**

20. The Committee notes the legislative and administrative measures taken by the State party to prevent offences under the Optional Protocol, including the adoption of the 2015 Children's Code, the National Policy for the Development of the Judiciary and its related strategy, the National Plan to Combat Trafficking in Persons (2018–2025), the national plan of action to eliminate the worst forms of child labour (2012–2015), the National Child Protection Policy (2014–2025), and the zero-tolerance campaign to end child marriage (2017). However, the Committee is concerned about:

- (a) Widespread poverty that disproportionately affects children and renders them particularly vulnerable to offences covered by the Optional Protocol and to trafficking in persons;
- (b) The low level of birth registration, in particular for children living in remote and rural areas, children from disadvantaged families and children in residential care;
- (c) The sexual abuse of children, particularly girls, by teachers in return for better grades, and children's exchange of sex for money with older men who act as their "protectors";
- (d) The exploitation of children in situations of forced or hazardous labour, especially in the domestic service and agricultural sectors;
- (e) The persistence of harmful practices that may amount to crimes under the Optional Protocol, such as *vidomegon* (placing children in families which traditionally are responsible for their care and their education, in particular), placing children in voodoo convents, and attacking and killing "witch children" and children with albinism to obtain their body parts;
- (f) The prevalence of cases of trafficking in children from and into neighbouring countries, particularly for domestic servitude and commercial sexual exploitation in cases of girls, and for forced labour in mines, quarries, markets and farms in cases of boys, especially in diamond-mining districts;
- (g) Ineffective prevention strategies, such as the early identification of groups of children who are vulnerable to sale, prostitution or pornography, and inadequate measures to address the root causes of these offences;
- (h) The high number of children in street situations, migrant children, abandoned children and orphans in the State party;

- (i) The issue of missing children and the lack of recent data in this regard.
21. **The Committee recommends that the State party increase its preventive measures to address all areas covered by the Optional Protocol, and in particular that it:**
- (a) **Prioritize policies that emphasize the prevention of the offences covered by the Optional Protocol and raise awareness among the general public and the most vulnerable and poor communities, including by providing information on the harmful effects of those offences and the relevant sanctions, and monitor and evaluate the effectiveness of those policies;**
  - (b) **Ensure effective and functioning birth registration centres throughout the country and increase efforts to promote public awareness about the importance of birth registration and about the process of acquiring a birth certificate;**
  - (c) **Establish child-friendly mechanisms and guidelines for the mandatory reporting of cases of sexual abuse and exploitation of children, especially in schools, and ensure that perpetrators are brought to justice;**
  - (d) **In order to combat the sale of children for forced labour, implement the provisions of the Labour Code concerning child labour, enforce the prohibition of the types of work considered to be hazardous for children under Decree No. 2011-029, and strengthen community-based mechanisms to prevent and combat the economic exploitation of children;**
  - (e) **Investigate and prosecute persons responsible for harmful practices that may amount to offences under the Optional Protocol, and work closely with traditional leaders and community-based organizations to raise awareness of the harmful effects of those practices and to eradicate them;**
  - (f) **Adopt a comprehensive policy and strategy covering all the offences under the Optional Protocol, develop systematic procedures to identify child victims, train law enforcement officials on identification and referral procedures and provide adequate support to child victims of trafficking;**
  - (g) **Develop child-sensitive prevention programmes to address the root causes and multiple vulnerabilities that place children, families and communities at risk, and promote child protective social norms through community development projects, civil society organizations such as youth groups, faith-based organizations and the media, including social networks;**
  - (h) **Strengthen the referral and follow-up procedures and specialized mechanisms to identify children who are at risk of becoming victims, or who are victims, of offences covered by the Optional Protocol, in particular for children in vulnerable situations such as those living in poverty or in rural areas;**
  - (i) **Ensure that ongoing attention is paid to the issue of missing children; collect and analyse regular statistics and adopt effective strategies for receiving reports and responding to them swiftly to increase the possibility of finding those children and preventing them from becoming victims of crimes under the Optional Protocol;**
  - (j) **Seek technical support from the United Nations Children's Fund and other specialized agencies.**

#### **Adoption**

22. The Committee notes the establishment of the central authority for international adoption in June 2018, but is concerned that children are not sufficiently protected from sale in the context of international adoption.
23. **The Committee recommends that the State party enforce the provisions of the Personal and Family Code that provide for a strict adoption process, and allocate adequate resources to the newly established central authority for international adoption.**

**Sexual exploitation of children in travel and tourism**

24. The Committee is concerned about the growing number of child victims of sexual exploitation in the context of travel and tourism in the State party, particularly along the coast within the departments of Mono and Littoral.

25. **The Committee urges the State party to continue to conduct advocacy with the tourism industry on the harmful effects of the sexual exploitation of children in travel and tourism, widely disseminate the Global Code of Ethics for Tourism of the United Nations World Tourism Organization among travel agents and tourism agencies, and encourage operators in the travel and tourism industry to become signatories to the Code of Conduct for the Protection of Children from Sexual Exploitation in Travel and Tourism. The Committee also urges the State party to impose appropriate penalties on the perpetrators of child sexual exploitation in travel and tourism.**

**Measures to prevent and address online child sexual exploitation and abuse**

26. The Committee is concerned about the growing risk of online child sexual exploitation and abuse, particularly due to increased access to harmful websites through Internet cafes, and the limited capacity of the Central Office for the Suppression of Cybercrime to supervise that access. The Committee is further concerned at the number of reported cases involving the circulation of photographs of naked children by mobile phone.

27. **With reference to Human Rights Council resolution 31/7, entitled “Rights of the child: information and communications technologies and child sexual exploitation”, and to the outcomes of the “We Protect” summits held in London in 2014 and in Abu Dhabi in 2015, the Committee recommends that the State party, in close collaboration with relevant industries and organizations, adopt a national response for preventing and addressing online child sexual exploitation and abuse, consisting at a minimum of:**

(a) **A national policy to prevent and respond to online child sexual exploitation and abuse through an appropriate legal framework, a dedicated coordination and oversight entity, and specific analysis, research and monitoring capabilities;**

(b) **A strategy for preventing online child sexual exploitation and abuse, including a public education programme to raise awareness and mandatory school education on online behaviour and safety, and for increasing knowledge and reporting of online child sexual exploitation and abuse; the participation of children in the development of policies and practices; industry engagement to block and remove online content involving child sexual exploitation and abuse, report incidents to law enforcement authorities and develop innovative solutions; special measures to manage online offences committed by children and adolescents themselves with a focus on education rather than punishment; close cooperation with organizations working to end child sexual exploitation online; and ethical and informed media reporting;**

(c) **Adequate financial and technical support to allow the Central Office for the Suppression of Cybercrime to effectively carry out its mandate;**

(d) **Appropriate support services for children, including integrated services during investigation, prosecution and aftercare; trained professionals working with and for children; and accessible procedures for complaints, compensation and remedies;**

(e) **A dedicated, proactive, responsive and victim-focused criminal justice system with a trained police force, prosecution and judiciary; management of offenders, including special management of child offenders, to prevent reoffending, nationally or internationally; and a national database linked to the International Child Sexual Exploitation image database of the International Criminal Police Organization (INTERPOL).**

## **VI. Prohibition of the sale of children, child pornography and child prostitution and related matters (arts. 3, 4 (2) and (3) and 5–7)**

### **Impunity**

28. The Committee is concerned about the lack of information on the number of cases that are duly investigated and the number of perpetrators who are prosecuted and sentenced. The Committee is also concerned that impunity is widespread due to traditional beliefs and customs and the fact that most cases involving the sale of children, child prostitution and child pornography are resolved amicably and not in accordance with the principle of the best interests of the child.

29. **The Committee recommends that the State party take all measures necessary to ensure that all cases involving the sale of children, child prostitution and child pornography are investigated effectively and that perpetrators are prosecuted and punished with appropriate sanctions commensurate with the gravity of their crimes.**

### **Extraterritorial jurisdiction and extradition**

30. The Committee, while welcoming the cooperation agreements between the State party and Nigeria, the Congo and other West African countries, regrets that there is insufficient international coordination, resulting in a low number of extraditions of the perpetrators of offences covered by the Optional Protocol.

31. **The Committee recommends that the State party take steps to improve coordination with Nigeria, the Congo and the other West African countries with regard to extradition for offences covered by the Optional Protocol; include the offences covered by the Optional Protocol in all its future extradition agreements and consider using the Optional Protocol as a legal basis for extradition for those offences in cases where there is no bilateral extradition treaty with the country concerned.**

## **VII. Protection of the rights of child victims (arts. 8 and 9 (3) and (4))**

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

32. The Committee notes the existence of a helpline for child victims, the establishment of the community committees to monitor referral mechanisms to give children access to justice, and the 10 focal point units for child protection, which have registers to record all offences committed against children. However, the Committee remains concerned that:

- (a) The system in place for identifying victims of child pornography, child prostitution and the sale of children, including trafficking, is inadequate and inefficient;
- (b) The Central Office for the Protection of Minors does not have the means or resources to conduct its activities outside of the capital city;
- (c) Child-friendly courts have been set up in only 2 out of 14 existing courts.

33. **In the light of article 9 (3) of the Optional Protocol, the Committee recommends that the State party:**

- (a) **Establish mechanisms and procedures for the early identification of child victims of offences under the Optional Protocol and ensure that those responsible for identifying those victims, including law enforcement officers, border and immigration authorities, judges, prosecutors, social workers and medical staff, are trained in children's rights, child protection and child-friendly interviewing skills and that their mandates have adequate financial and technical support;**
- (b) **Allocate sufficient human, technical and financial resources to ensure that all child victims have access to free or subsidized legal aid and support from child**

psychologists, social workers or other suitably qualified persons; ensure that appropriate procedures are in place for seeking, without discrimination, compensation and redress; and ensure that the best interests of the child are given primary consideration;

(c) **Provide the Central Office for the Protection of Minors with adequate resources to allow it to extend its capacities and services to all regions of the State party;**

(d) **Continue to reinforce the existing child-friendly courts by providing adequate budget support and create new child-friendly courts within the remaining 12 courts.**

#### **Recovery and reintegration of victims**

34. The Committee notes the establishment of the children's reception and transit centre and other measures taken to support the recovery and reintegration of victims referred to in the State party's written replies to the list of issues (CRC/C/OPSC/BEN/Q/1/Add.1, paras. 55–60). However, the Committee is concerned that the State party:

(a) Does not provide an adequate response to child victims of the offences under the Optional Protocol and that most services, including shelters and temporary accommodation for child victims, are provided by non-governmental organizations, with very limited support from the Government;

(b) Has very limited services available to support the physical and psychological recovery and social reintegration of victims;

(c) Does not enforce Decree No. 2012-416 establishing the norms and standards applicable to children's shelters and protection centres.

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

(a) **Strengthen public sector involvement in the development and monitoring of financial resources allocated to the provision of services for children affected by offences covered by the Optional Protocol, and support the activities of civil society organizations in this area;**

(b) **Strengthen the existing services provided by the police, social workers, magistrates and health professionals with adequate human, financial and technical support;**

(c) **Identify host families to increase and support alternative measures for victims of trafficking and child exploitation;**

(d) **Integrate the services and centres to support the physical and psychological recovery and full reintegration of child victims into the support structures of the child protection system and provide the necessary human, technical and financial resources for their effective implementation;**

(e) **Enforce the implementation of the norms and standards applicable to children's shelters and protection centres and conduct regular monitoring of these centres.**

#### **Helpline**

36. The Committee is concerned that the helpline provided by the Central Office for the Protection of Minors is not fully operational and that child victims are not sufficiently familiar with the relevant telephone numbers.

37. **The Committee recommends that the State party provide adequate human, financial and technical support to ensure that the national children's helpline is fully operational and accessible, and invest in programmes to raise awareness of its function and increase its accessibility.**



## **VIII. International assistance and cooperation (art. 10)**

### **Multilateral, bilateral and regional agreements**

38. In the light of article 10 (1) of the Optional Protocol, the Committee encourages the State party to continue to strengthen international cooperation through multilateral, regional and bilateral arrangements, especially with neighbouring countries, such as Nigeria, and with Gabon and the Congo, including by strengthening procedures and mechanisms for coordinating the implementation of such arrangements, with a view to making progress in respect of the prevention of offences covered by the Optional Protocol and the detection, investigation, prosecution and punishment of those responsible for any such offences.

## **IX. Ratification of the Optional Protocol on a communications procedure**

39. The Committee recommends that, in order to further strengthen the fulfilment of children's rights, the State party ratify the Optional Protocol on a communications procedure.

## **X. Implementation and reporting**

### **A. Follow-up and dissemination**

40. The Committee recommends that the State party take all appropriate measures to ensure that the recommendations contained in the present concluding observations are fully implemented, including by transmitting them to the Ministry of Justice, Legislation and Human Rights, the Ministry of the Family, Social Affairs, National Solidarity, Persons with Disabilities and Older Persons, the National Children's Advisory Council, the National Commission on the Rights of the Child, the Directorate of the Family, Children and Adolescence, and the Central Office for the Protection of Minors, for appropriate consideration and further action.

41. The Committee recommends that the report and the written replies to the list of issues submitted by the State party and the present concluding observations be made widely available, including through the Internet, to the public at large, civil society organizations, youth groups, professional groups and children, in order to generate debate on and awareness of the Optional Protocol and its implementation and monitoring.

### **B. Next periodic report**

42. In accordance with article 12 (2) of the Optional Protocol, the Committee requests the State party to include further information on the implementation of the Optional Protocol and the present concluding observations in its next periodic report to be submitted in accordance with article 44 of the Convention.