



Convention on the Rights of the Child

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Committee on the Rights of the Child

Concluding observations on the initial report of Burkina Faso, submitted under article 12 of the Optional Protocol on the sale of children, child prostitution and child pornography, adopted by the Committee at its sixty-second session (14 January–1 February 2013)

1. The Committee considered the initial report of Burkina Faso (CRC/C/OPSC/BFA/1) at its 1766th and 1767th meetings (see CRC/C/SR/1766-1767) held on 21 January 2013, and adopted the following concluding observations at the 1784th meeting held on 1 February 2013.

I. Introduction

2. The Committee welcomes the submission of the State party's initial report (CRC/OPSC/BFA/1) and the written replies to its list of issues (CRC/C/OPSC/BFA/Q/Add.1). The Committee appreciates the constructive dialogue held with the State party's multisectoral delegation.

II. General observations

3. The Committee reminds the State party that these concluding observations should be read in conjunction with its concluding observations adopted on the State party's combined third and fourth report under the Convention on the Rights of the Child (CRC/C/BFA/CO/3-4, 2010) and those on the initial report under the Optional Protocol on the involvement of children in armed conflict (CRC/OPAC/BFA/CO/1, 2013).

Positive aspects

4. The Committee welcomes the following legislative measures taken by the State party in areas relevant to the implementation of the Optional Protocol, including:

- (a) Act No. 017-2009/AN of 5 May 2009 on the suppression of organized crime;
- (b) Decree No. 2009-365/PRES/PM/MTSS/MS/MASSN of 28 May 2009 on the listing of dangerous work prohibited to children.

5. The Committee also welcomes the following institutional measures:

- (a) The establishment of a central authority on matters relating to international adoption (Decree No. 618 of 12 October 2010);
- (b) The adoption of a national plan of action on combating the worst forms of child labour, in June 2012; and
- (c) The establishment, in October 2012, of a children's rights section within the national human rights institution, with the mandate to examine complaints on violations of children's rights.

III. Data

Data collection

6. The Committee welcomes the data provided by the State party regarding trafficking, in particular on the number of victims, prosecutions and child victims provided with assistance. The Committee also notes that a national study on violence against children (including sexual violence) was undertaken in the 45 provinces of the country. However, the Committee regrets the lack of data disaggregated, inter alia, by sex, age, nationality and ethnic origin, region and socioeconomic status, and information on all offences covered by the Optional Protocol, which greatly limits the State party's capacity to monitor, assess and prevent offences under the Protocol.

7. **The Committee reiterates its previous concluding observations under the Convention (CRC/C/BFA/CO/3-4, para. 19, 2010) and urges the State party to:**

- (a) **Strengthen its efforts to develop and implement a comprehensive and coordinated data collection system, including analysis, monitoring and impact assessment, covering all areas covered by the Optional Protocol;**
- (b) **Ensure that this system is disaggregated, inter alia, by sex, age, nationality and ethnic origin, region and socioeconomic background, with particular attention to children who are at risk of becoming victims of crimes under the Optional Protocol; and**
- (c) **Use the data collected as a basis for designing policies to implement the Optional Protocol and assessing progress achieved towards this objective.**

IV. General measures of implementation

Legislation

8. While noting the State party's indication that a draft law defining and criminalizing the sale of children, child prostitution and child pornography had been submitted to the Parliament and that a general Child Protection Code is being elaborated, the Committee is concerned that the existing legislation does not explicitly address all the offences covered under the Optional Protocol. It is also concerned by the delay in the adoption of the Code.

9. **In line with articles 2-3 of the Optional Protocol, the Committee urges the State party to:**

- (a) **Fully incorporate the Optional Protocol in its domestic legal system with a view to prohibiting expressly by law all offences covered under it, and to that end, expedite the adoption of the draft law within a clear time frame;**
- (b) **Ensure that the aforementioned draft law defining and criminalizing the sale of children, child prostitution and child pornography includes a clear definition,**

and prohibits all cases of “sale of children” – a concept which is similar to, but not identical with, trafficking in persons ; and

(c) **Take all appropriate measures to expedite the process of elaboration and adoption of the Child Protection Code, as a matter of priority, as recommended by the Committee in its previous concluding observations under the Convention (CRC/C/BFA/CO/3-4, para. 9, 2010).**

National plan of action

10. The Committee notes that the State party elaborated a national plan of action to combat trafficking and sexual violence against children for the period 2008-2011, which covers some offences under the Optional Protocol. However, the Committee is concerned about the lack of a comprehensive plan specifically addressing all issues covered under the Protocol and the absence of specific measures on the prevention of offences covered by the Protocol.

11. **The Committee recommends that the State party ensure that its comprehensive policy for the implementation of the Convention includes a separate strategy specifically targeting all issues covered under the Optional Protocol, and that it is provided with adequate human, technical and financial resources for its implementation, with clear targets and indicators. In doing so, the State party should pay particular attention to the implementation of all provisions of the Protocol taking into account the Declaration and Agenda for Action and the Global Commitment adopted at the first, second and third World Congress against Sexual Exploitation of Children and Adolescents held in Stockholm, Yokohama, Japan, and Rio de Janeiro, Brazil, in 1996, 2001 and 2008, respectively.**

Coordination and evaluation

12. While noting that the Permanent Secretariat of the National Council for the Survival, Protection and Development of Children (CNSPDE) is the authority responsible for deciding policies, plans and programmes relating to children’s rights and welfare, the Committee is concerned that its mandate does not specifically include coordination. The Committee is also concerned about the lack of coordination, in practice, among the various government entities with regard to the implementation of the Optional Protocol, resulting in unclear division of tasks and overlapping responsibilities among governmental bodies.

13. **The Committee urges the State party to clarify the CNSPDE mandate and to establish effective coordination mechanisms among the various entities involved in the implementation of children’s rights policies, including regional and local authorities, with a view to effectively addressing violations under the Optional Protocol. In addition, in the light of its previous recommendations under the Convention (CRC/C/BFA/CO/3-4, para. 11, 2010), the Committee recommends that the State party provide the Permanent Secretariat with adequate human, technical and financial resources to enable it to fulfil its mandate in the implementation of the Protocol.**

Dissemination and awareness-raising

14. The Committee notes the State party’s efforts in undertaking awareness-raising activities and training on children’s rights, trafficking and child labour, as well as the significant work of the village vigilance and supervision committees. However, the Committee expresses concern that such activities have not adequately included the sale of children, child prostitution and child pornography, as a result of which awareness of the Optional Protocol among the general public remains low, in particular among children,

professionals working with and for children, as well as community and religious leaders. It is further concerned that acts covered by the Protocol remain largely underreported, in particular by girl victims, due mainly to the sociocultural sensitivity surrounding these crimes in the State party.

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

(a) **Continue and strengthen its efforts, including by encouraging participation of the media, to increase awareness of the rights of children, particularly among children in vulnerable situations, parents, caregivers and all relevant professional groups, as well as community and religious leaders. Such efforts should include the dissemination of information and education programmes on the harmful effects of the sale of children, child prostitution and child pornography, preventive measures and the importance of reporting such offences; and**

(b) **Seek the active support of local leaders, including religious and community leaders, in its awareness-raising initiatives, and intensify its collaboration with the village vigilance and supervision committees and with the different sociocultural groups, with a view to identifying specific obstacles and opportunities for advocacy and awareness-raising on the offences covered by the Optional Protocol.**

Allocation of resources

16. While noting the budgetary allocations for the prevention, protection and rehabilitation of victims of trafficking and violence, the Committee regrets the lack of identifiable budget allocations assigned to activities designed to implement the Optional Protocol and the lack of information on measures taken to combat corruption.

17. **The Committee recommends that the State party take all possible measures to ensure that sufficient resources, including earmarked budget resources for preventive measures, are allocated notably to the Ministry of Social Action and National Solidarity, CNSPDE, as well as law-enforcement agencies and social workers for their activities in respect of the Optional Protocol. The Committee further reiterates its recommendation that the State party strengthen its anti-corruption mechanisms (CRC/C/BFA/CO/3-4, para. 17 (e), 2010).**

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

Measures adopted to prevent offences prohibited under the Optional Protocol

18. The Committee is concerned by the limited measures taken by the State party to prevent offences under the Optional Protocol, including the exploitation of children in forced labour, especially in domestic work and hazardous labour, such as the informal mining and agriculture sectors. The Committee is also concerned about the lack of attention dedicated to identifying root causes and risks leading to offences under the Protocol, such as:

(a) The low level of birth registration in the State party and the resulting difficulty to establish the age of children, especially in rural areas; and

(b) The prevalence of discriminatory practices and attitudes, as well as gender-based violence, which negatively impact on children, for example female genital mutilation and polygamy.

19. **Recalling its previous recommendations under the Convention (CRC/C/BFA/CO/3-4, paras. 35 and 55, 2010), the Committee urges the State party to:**

(a) **Strengthen its efforts to establish a national system of free birth registration and increase its awareness-raising activities about birth registration, especially in rural areas;**

(b) **Set up educational programmes for parents and children in order to challenge discriminatory customs and traditions and stereotypical attitudes regarding the roles and responsibilities of women and girls in the family and in society;**

(c) **Adopt a comprehensive and targeted approach which studies and addresses the relevant root causes and risk factors of offences under the Optional Protocol, including poverty and absence of parental care, and which targets children in the most vulnerable situations;**

(d) **Intensify its efforts to design and implement preventive strategies against all the offences covered by the Optional Protocol and take effective steps to remove children from situations of forced labour and other situations of servitude, including by establishing effective mechanisms for the detection and referral of children in need; and**

(e) **Consider ratifying International Labour Organization (ILO) Convention No. 189 (2011) concerning decent work for domestic workers.**

Sale of children

20. The Committee reiterates its concern about the widespread and persistent practice of early and forced marriages (CRC/C/BFA/CO/3-4, para. 58, 2010) and about the practice of *confiage* (CRC/C/BFA/CO/3-4, para. 48, 2010), both of which, in many cases, amount to the sale of children. It is concerned in particular about the lack of preventive measures, as well as the low number of cases detected and the strikingly low number of prosecutions.

21. **In the light of its concluding observations under the Convention (CRC/C/BFA/CO/3-4, paras. 25, 49 and 59) and of the recommendations of the African Committee of Experts (2009), the Committee on the Rights of the Child urges the State party to increase its efforts to set the minimum age for marriage for boys and girls at 18 and to ensure effective enforcement of its legislation criminalizing early and forced marriages. The Committee further recommends that the State party urgently take all necessary measures aiming at ending the practice of *confiage*.**

Child sex tourism

22. While noting that sex tourism is explicitly prohibited by article 6 of the Tourism Orientation Law, the Committee is concerned about the absence of adequate measures taken by the State party to effectively prevent child sex tourism.

23. **The Committee calls on the State party to establish an effective legislative framework and adopt all necessary administrative procedures and social policies to prevent, monitor and eliminate child sex tourism. The Committee further urges the State party to conduct advocacy with the tourism industry of the harmful effects of child sex tourism, widely disseminate the World Tourism Organization (UNWTO) Global Code of Ethics for Tourism among travel agents and tourism agencies, and encourage these enterprises to become signatories to the Code of Conduct for the Protection of Children from Sexual Exploitation in Travel and Tourism.**

Child prostitution and child pornography

24. The Committee is concerned at the prevalence of child prostitution and child pornography, and reiterates its concern regarding the emergence of new forms of violence, in particular paedophilia and cybercrimes (CRC/C/BFA/CO/3-4, para. 42, 2010).

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

(a) **Undertake research on the root causes, nature and extent of child prostitution and child pornography in order to develop relevant preventive measures; and**

(b) **Develop, in close cooperation with the community, children and child victims, education programmes on preventive measures and the harmful effects of child prostitution and child pornography.**

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

Existing criminal or penal laws and regulations

26. While noting that the State party's anti-trafficking legislation and the Labour Code prohibit some of the acts covered by the Optional Protocol, the Committee is concerned that the State party's criminal law does not specifically penalize all the offences covered by the Protocol, including acting as an intermediary for the adoption of a child.

27. **The Committee recommends that the State party bring its legislation into compliance with articles 2-3 of the Optional Protocol by ensuring that the draft law defining and criminalizing the sale of children, child prostitution and child pornography fully includes:**

(a) **The sale of children by offering, delivering or accepting, by whatever means, a child for the purpose of sexual exploitation, transfer of organs of the child for profit, or engagement of the child in forced labour or improperly inducing consent, as an intermediary, for the adoption of a child in violation of the applicable legal instrument on adoption;**

(b) **Offering, obtaining, procuring or providing a child for child prostitution;**

(c) **Producing, distributing, disseminating, importing, exporting, offering, selling or possessing child pornography;**

(d) **An attempt to commit any of these acts and complicity or participation in any of these acts; and**

(e) **The production and dissemination of materials advertising any of these acts.**

28. The Committee expresses deep concern about children having been arrested pursuant to article 428 of the Criminal Code on a presumption of soliciting during operations led by the municipal police forces. It is further concerned by information given by the State party indicating that children involved in prostitution are subject to criminal prosecution and punishment unless it is established that they were victims of trafficking or exploitation.

29. **The Committee recommends that the State party take all necessary measures to ensure that children exploited in prostitution are treated as victims and not subject to prosecution and criminal punishment, and to amend its Criminal Code accordingly in order to reflect it in its legislation.**

Prosecution

30. While noting initiatives taken by the State party to combat the use of *talibés* and *garibous* children for the purpose of begging, the Committee is deeply concerned about the weak enforcement of existing anti-trafficking legislation with regard to *talibés* and *garibous* children, evidenced by the low number of prosecutions and convictions of religious leaders and parents who send children to beg in the streets. Further, the Committee reiterates its concern at the extremely low sanctions pronounced against persons committing paedophilia (CRC/C/BFA/CO/3-4, para. 72, 2010).

31. **The Committee calls on the State party to :**

(a) **Enforce the legislation in place for the protection of children from all forms of exploitation and to actively investigate those cases, prosecute and sanction all offenders, with a view to strengthening the deterrent effect of its existing legislation; and**

(b) **Take appropriate measures to ensure that those who perpetrate sexual offences against children are effectively punished with sanctions proportionate with their crime.**

Extraterritorial jurisdiction and extradition

32. The Committee is concerned that the establishment of its extraterritorial jurisdiction over crimes committed by one of its nationals in the territory of another State cannot be exercised without the complaint of a victim and is subject to the requirement of double criminality. The Committee is also concerned that the State party does not rely on the Optional Protocol as a legal basis for extradition.

33. **The Committee urges the State party to take the necessary measures to introduce the possibility of ex officio prosecution and to repeal the requirement of double criminality for the prosecution of offences referred to in article 3, paragraph 1, of the Optional Protocol, when they are committed abroad. The Committee further calls on the State party to use, where necessary, the Protocol as a legal basis for extradition, in conformity with article 5 of the Protocol.**

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

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

34. The Committee regrets the insufficient information regarding the identification and protection of child victims of offences under the Optional Protocol. While noting that article 21 of Act No. 029-2008 of 15 May 2008 on combating trafficking in persons and similar practices provides for the protection of victims and witnesses in cases of trafficking, the Committee is nevertheless concerned about inadequate measures taken by the State party to ensure the rights and interests of child victims and witnesses at all stages of the criminal justice process, including access to legal assistance, as well as the protection of their privacy and their safety.

35. **The Committee recommends that the State party:**
- (a) **Ensure the establishment and operation of mechanisms for identifying child victims, in particular in vulnerable situations.**
 - (b) **Adopt the necessary legal framework and measures to ensure the protection of child victims, and establish clear procedures and standards for the provision of support and assistance to child victims and witnesses, including through increased information-sharing and cooperation between the police, the social services and the village vigilance and supervision committees;**
 - (c) **Ensure that the best interests of the child are a primary consideration in the treatment afforded by the criminal justice system to child victims and witnesses;**
 - (d) **Provide child victims with adequate legal assistance at an early stage of legal proceedings, as well as psychological, medical and social support, where necessary;**
 - (e) **Ensure the right of child victims to have their privacy fully respected and avoid the inappropriate dissemination of information that could lead to their identification; and**
 - (f) **Ensure that judges, prosecutors, police, social workers, medical staff and other professionals working with child witnesses receive training on child-friendly interaction with victims and witnesses at all stages of the criminal and judicial processes in accordance with article 8, paragraph 1, of the Optional Protocol and the Guidelines on Justice in Matters involving Child Victims and Witnesses of Crime (Economic and Social Council resolution 2005/20).**

Recovery and reintegration of victims

36. While noting the existence of a procedural guide for the care, rehabilitation and reintegration of child victims of trafficking, as well as transit centres for such victims, the Committee is concerned that the State party's recovery and reintegration measures are limited to victims of trafficking and that existing child protection programmes do not adequately take into account the needs of child victims of sale, prostitution and pornography.

37. **The Committee recommends that the State party ensure that adequate human, financial and technical resources, as well as high-quality services, are available for the assistance of all child victims, their physical and psychological recovery and their full social reintegration, in accordance with article 9, paragraph 3, of the Optional Protocol.**

Helpline

38. While welcoming the establishment, in September 2011, of the toll-free helpline "116" to report violence against children and for the protection of child victims of violence, the Committee is concerned at the lack of information on the allocation of sufficient resources to ensure its quality, outreach and sustainability.

39. **The Committee recommends that the State party:**
- (a) **Support the existing helpline by allocating sufficient resources to ensure the quality of its services and its long-term activities;**
 - (b) **Conduct systematic training and capacity-building for persons operating the existing helpline in order to effectively prevent and respond to cases of sale of children, child prostitution and child pornography; and**

(c) Ensure that it has an outreach component, so that it is fully accessible and known to all children throughout the country, and facilitate collaboration between the helpline and child-focused non-governmental organizations, the police, as well as health and social workers.

VIII. International assistance and cooperation (art. 10)

Multilateral, bilateral and regional agreements

40. The Committee notes with satisfaction the elaboration of a cooperation agreement between the State party and Côte d'Ivoire on transnational trafficking due to be signed in January 2013.

41. In the light of article 10, paragraph 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, including by strengthening procedures for, and mechanisms to coordinate, the implementation of such arrangements, with a view to improving prevention, detection, investigation, prosecution and punishment of those responsible for any of the offences covered under the Protocol.

IX. Ratification of the Optional Protocol on a communications procedure

42. The Committee recommends that the State party, in order to further strengthen the fulfilment of children's rights, ratify the Optional Protocol to the Convention on the Rights of the Child on a communications procedure (OPIC).

X. Follow-up and dissemination

Follow-up

43. The Committee recommends that the State party take all appropriate measures to ensure full implementation of the present recommendations, inter alia, by transmitting them to the relevant government ministries and agencies, the Parliament, and to national and local authorities, for appropriate consideration and further action.

Dissemination of concluding observations

44. 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, youth groups, professional groups, media personnel and children, in order to generate debate and awareness of the Optional Protocol, its implementation and monitoring.

XI. Next report

45. In accordance with article 12, paragraph 2, of the Optional Protocol, the Committee requests the State party to include further information on the

implementation of the Protocol in its next periodic report under the Convention on the Rights of the Child, in accordance with article 44 of the Convention, due on 29 September 2017.
