



Convention on the Rights of the Child

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Committee on the Rights of the Child

Fifty-ninth session

16 January – 3 February 2012

Consideration of reports submitted by States parties under article 12, paragraph 1, of the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography

Concluding observations: Togo

1. The Committee considered the initial report of Togo (CRC/C/OPSC/TGO/1) at its 1681st meeting (see CRC/C/SR.1681), held on 24 January 2012, and adopted at its 1697th meeting, held on 3 February 2012, the following concluding observations.

I. Introduction

2. The Committee welcomes the submission of the State party's initial report as well as the written replies (CRC/C/OPSC/TGO/Q/1/Add.1) to the list of issues. The Committee appreciates the constructive dialogue with the high-level and multisectoral State party delegation.

3. The Committee reminds the State party that these concluding observations should be read in conjunction with the concluding observations adopted on the State party's third and fourth report under the Convention on the Rights of the Child (CRC/C/TGO/CO/3-4).

II. General observations

Positive aspects

4. The Committee welcomes the adoption of the following:
 - (a) Act No. 2007-017 of 6 July 2007 on the Children's Code;
 - (b) Act No. 2006-010/PR of 13 December 2006 on the Labour Code; and
 - (c) Act No. 2005-009 of 3 August 2005 on the suppression of child trafficking in Togo;
5. The Committee also welcomes the following institutional and policy measures:
 - (a) The establishment of the child helpline "Allo 111" on 14 January 2009; and

(b) The National Plan of Action against trafficking in persons, especially women and children, in 2007.

III. Data

6. While noting that a national data collection system on child protection was set up by the Ministry of Social Affairs, the Committee is however concerned that data collection on offences under the Optional Protocol remains ad hoc, fragmented and seriously limited, which greatly limits the State party's capacity to monitor, assess and prevent offences under the Optional Protocol. The Committee also notes with concern that data collection relies heavily on external funding, which compromises national ownership and sustainability.

7. The Committee recommends that the State party strengthen its efforts to develop and implement a comprehensive and coordinated data collection system, including analysis, monitoring and impact assessment, covering all areas provided for in the Optional Protocol and ensure that this system is coordinated with the data collection relating to all areas of the Convention on the Rights of the Child. The data should be disaggregated, inter alia, by sex, age, nationality and ethnic origin, region and socio-economic background, with particular attention to children who are at risk of becoming victims of crimes under the Optional Protocol. Data should also be collected on the number of prosecutions and convictions, disaggregated by nature of the offence. The Committee recommends that the State party continue seeking technical support from, inter alia, the United Nations Children's Fund (UNICEF) in relation to this recommendation.

IV. General measures of implementation

Coordination and evaluation

8. The Committee notes that the General Directorate for the Protection of the Child, under the Ministry of Social Action and National Solidarity, is responsible for the coordination of the implementation of the Optional Protocol. The Committee is however concerned about the multiplicity of governmental entities with coordination functions relating to the implementation of the Optional Protocol and the lack of a clear division of responsibilities among the entities.

9. The Committee recommends that the State party rationalize the work of the various existing child rights bodies and ensure that the coordination mechanism for the Optional Protocol has a high status, sufficient authority and adequate human, technical and financial resources to effectively coordinate actions among sectors and provinces. The Committee also urges the State to establish clear referral mechanisms and to ensure that all actors involved in child protection are enabled to work in a harmonized fashion to prevent the sale of children, child prostitution and child pornography, and provide a holistic response to children who have been abused or exploited.

Legislation

10. The Committee notes with appreciation that the State party adopted Act No. 2005-009 on the suppression of child trafficking in Togo, on 13 August 2005. The Committee is however concerned that not all the offences under the Optional Protocol are properly defined in the State party's legislation.

11. **The Committee urges the State party to provide a clear definition, and prohibit all cases, of “sale of children” – a concept which is similar to, but not identical with, trafficking in persons –, as set forth in article 2 and 3 of the Protocol.**

National plan of action

12. The Committee notes with concern that the comprehensive strategy to fight against child trafficking, pornography and prostitution, and the five-year national strategy plan developed and validated by all actors in 2008 has not yet been adopted, and that in the absence of such a strategy, most of the efforts to prevent and combat offences under the Optional Protocol are carried out by civil society organizations.

13. **The Committee urges the State party to speed up the process of adoption of the comprehensive strategy to fight against child trafficking, pornography and prostitution and the related five-year national strategy plan, and to ensure that they are properly incorporated into the National Child Protection Policy. The State party should ensure that the strategy contains medium- and long-term targets to prevent and punish all the offences provided for in the Optional Protocol. The Committee also urges the State party to allocate the necessary human, financial and technical resources for full and effective implementation of the strategy, in cooperation with relevant partners, including civil society. The Committee further recommends that the State party seek international assistance in this respect, including from OHCHR and UNICEF.**

Dissemination and awareness-raising

14. The Committee welcomes the State party’s initiatives to raise awareness about the Optional Protocol through the 2009 national campaign carried out via digital mobile cinema in areas where children are at high risk of being trafficked. The Committee is nevertheless concerned at the lack of systematic and comprehensive dissemination and awareness-raising activities on the Optional Protocol in the State party, which contributes to a low level of understanding and awareness of the offences covered by the Optional Protocol among the public, children and professional groups working with and for children. The Committee is further concerned that the sale of children, child prostitution and child pornography remain largely invisible and are not spoken of, due to the sociocultural sensitivity surrounding these crimes in the State party.

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

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

(b) **Disseminate the Optional Protocol among all relevant professional groups, especially members of the police, judges, prosecutors, representatives of the media, social workers and members of the Child Protection Committees and the National Council for Human Rights; and**

(c) **Undertake in-depth studies in different regions and sociocultural groups to identify specific obstacles and opportunities for advocacy and awareness-raising on the offences under the Optional Protocol.**

Training

16. The Committee notes the State party’s acknowledgement that specialized training for judges, public prosecutors, the police, social workers, health-care providers, members of the media and other professionals is inadequate in both qualitative and quantitative terms.

The Committee is also concerned about the lack of precise information from the State party on how it intends to overcome these shortcomings.

17. **The Committee recommends that the State party strengthen its efforts to ensure that all professionals working for and with children, in particular judges, law enforcement officials, teachers, health and social workers, and personnel working in all forms of alternative care, are adequately and systematically trained on the provisions of the Optional Protocol.**

Allocation of resources

18. While noting that grants are allocated on an annual basis to provide care for child victims of offences under the Optional Protocol, the Committee regrets the lack of information on clearly identifiable budget allocations to activities specifically designated for the implementation of the Optional Protocol by line ministries, in particular the Ministry of Social Action and National Solidarity. The Committee is also concerned that the sharp decrease in the budget allocated to the health and education sectors, and the high level of corruption in the State party continue to divert the already limited resources available for the implementation of the Optional Protocol.

19. **The Committee recalls its recommendation to prioritize budgetary allocations to ensure implementation of the economic, social, cultural and other rights of children (CRC/C/15/Add.255, para. 18 (a)) and recommends that the State party take all possible measures to ensure that sufficient resources are allocated notably to the Ministry of Social Action and National Solidarity, in particular its General Directorate for the Protection of the Child, law enforcement agencies and social workers for their activities in respect of the Optional Protocol. The Committee further urges the State party to take concrete and active measures to combat corruption.**

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

Measures adopted to prevent offences prohibited under the Optional Protocol

20. The Committee takes note of the poverty alleviation programmes directed specifically at women and children, as well as the outreach activities to sensitize traditional leaders. The Committee is however concerned that the administrative measures, social policies and programmes are insufficient to adequately prevent children from becoming victims of these offences. The Committee notes with particular concern that:

(a) Half of the children in the State party are not registered at birth, which greatly exposes them to the risk of becoming victims of sale, prostitution and pornography;

(b) Limited measures have been taken to combat gender-based discrimination and violence which constitute major factors in the sale of children, child prostitution and child pornography. In this regard, the Committee expresses serious concern at the extent of sexual abuse committed against schoolchildren by male teachers throughout the State party;

(c) Only very few specific activities have been conducted targeting children in vulnerable situations, such as children in street situations who are particularly at risk of sexual exploitation, and that most of these activities have been organized by non-governmental organizations.

21. The Committee recommends that the State party:

(a) Take all necessary measures to ensure that all children are registered at birth so as to help prevent their becoming victims of sale, prostitution and pornography;

(b) Carry out research on the nature and extent of the sale of children, child prostitution and child pornography, in order to identify the root causes of the phenomena, including poverty, harmful practices and absence of parental care;

(c) Take effective measures to identify groups of children, including girls, children living in extreme poverty and children in street situations, at risk of being victims of the offences prohibited under the Optional Protocol, and provide them with the necessary support and assistance; and

(d) Eradicate gender-based discrimination and violence, and in particular repeal laws still in force that discriminate against women, and criminalize without further delay domestic violence, including marital rape.

Child sex tourism

22. The Committee is concerned that child sex tourism is developing and that the State party has yet to adopt the necessary measures to prevent and combat this phenomenon.

23. The Committee urges the State party to undertake more concrete actions to prevent child sex tourism in the country, and to address child sex tourism cases. In particular, the Committee urges the State party to organize large awareness-raising programmes, including campaigns, specifically directed at tourists. The Committee further urges the State party to cooperate closely with travel operators, the media, non-governmental and civil society organizations and to widely disseminate the UNWTO Global Code of Ethics for Tourism to travel and tourism agencies, and encourage them to adopt the Code of Conduct for the Protection of Children from Sexual Exploitation in Travel and Tourism.

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

Existing criminal or penal laws and regulations

24. The Committee expresses concern that:

(a) The offence of the sale of children has not been clearly defined in the Children's Code;

(b) Prostitution of children above 15 years is not considered a crime;

(c) There are no existing aggravating circumstances for child pornography; and

(d) The burden of proof is borne by the victim;

25. The Committee urges the State party to review the provisions of its national legislation and ensure that they are in full compliance with the provisions of the Optional Protocol. In particular, the State party should:

(a) Define and criminalize the sale of children, in accordance with the Optional Protocol, in particular the sale of children for the purpose of illegal adoption, engagement of the child in forced labour and transfer of organs of the child

for profit, in conformity with article 3, paragraphs 1 (a)(i)b and c, 1(a)(ii) and 5, of the Optional Protocol;

(b) Ensure that prostitution of children is always considered a crime and punished with sentences commensurate to this crime;

(c) Revise and bring its penal provisions on child pornography into full compliance with articles 2 and 3 of the Optional Protocol; and

(d) Shift the burden of proof to perpetrators of offences covered by the Optional Protocol.

26. The Committee is seriously concerned that sexual exploitation of children occurs throughout the State party in various places, such as brothels and hotels, and that it is on the rise. The Committee is also deeply concerned that there is no system in place to detect and dismantle brothels and other places of prostitution, and to arrest pimps and their accomplices; nor is there a mechanism to properly control the production and dissemination of materials that advertise practices prohibited under the Optional Protocol, such as pornography involving children. The Committee is also concerned about the widespread practice of early and forced marriages, especially child marriages in exchange for a bride price or in lieu of debt, and the practice of “confiage,” which in many cases amounts to the sale of children.

27. The Committee urges the State party to take more active measures to ensure effective enforcement of its legislation prohibiting child prostitution. In particular, the Committee urges the State party to promptly establish an effective system to detect and dismantle brothels and other places where child prostitution takes place and to control the production and dissemination of materials that advertise practices prohibited by the optional protocol such as pornography involving children. To this aim, the State party should allocate the necessary human, technical and financial resources to its police forces. The Committee further urges the State party to take all the necessary measure to eliminate all practices that amount to the sale of children.

Impunity

28. The Committee is seriously concerned that no one has yet been prosecuted under the provisions of the Children’s Code which prohibit child prostitution, and that legal proceedings against perpetrators of other offences prohibited under the Optional Protocol are often abandoned due to the corruption of law enforcement officials, including judges. The Committee expresses deep concern that the sense of impunity of perpetrators of child sexual exploitation is so entrenched, that hundreds of children between 9 and 15 years of age continue to be openly exploited into prostitution in the capital Lomé, in particular at a place that is so well known that it is called the “child market”.

29. The Committee urges the State party to take all necessary measures to combat the impunity that perpetrators of offences under the Optional Protocol enjoy and to this aim, issue clear instructions to all prosecutors to actively prosecute those cases. The State party should also draw the attention of law enforcement authorities to the sanctions that may be imposed on them in case of inaction and corruption.

Jurisdiction and extradition

30. The Committee is concerned that crimes under the Optional Protocol are not specifically mentioned in legislation concerning crimes committed abroad, and that extraterritorial jurisdiction is subject to double criminality. The Committee is also concerned that the State party does not rely on the Optional Protocol as a legal basis for extradition.

31. **The Committee urges the State party to take the necessary measures to ensure that all the offences referred to in article 3, paragraph 1, of the Optional Protocol are extraditable offences, and that the requirement of double criminality for extradition and/or prosecution of offences committed abroad is repealed. The Committee also urges the State party to use, where necessary, the Optional Protocol as a legal basis for extradition, in conformity with article 5 of the Optional Protocol.**

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

Measures adopted

32. While noting as positive the State party's preference for foster care arrangements for child victims of offences under the Optional Protocol, the Committee notes with concern that there is no legal provision to ensure the security of child victims and the individuals or members of civil society organizations who provide them with protection and assistance, although they are often threatened. The Committee is also particularly concerned that:

(a) Medical examinations of child victims are unaffordable, and the victims or the non-governmental organizations supporting them have to pay a high price to obtain a medical certificate to serve as proof before the court; children involved in criminal proceedings are not properly informed and nor provided with legal assistance;

(b) In some instances, information which may lead to the identification of the child victim has been disclosed by the judges; and

(c) Although a compensation fund exists in the State party, effective compensation for child victims of offences prohibited under the Optional Protocol is rarely ensured;

33. **The Committee recommends that the State party adopt the necessary legal framework and measures to ensure the protection of child victims of offences prohibited under the Optional Protocol, as well as the security of individuals or organizations which provide them with protection and assistance. In particular, the State party should:**

(a) **Ensure that children victims of sexual exploitation have free access to medical services and that a medical certificate is provided to them free of charge;**

(b) **Ensure that all victims of sale of children, child prostitution and child pornography involved in criminal proceedings are provided with adequate information and legal counsel at every stage of the proceedings;**

(c) **Take all necessary measures, including, inter alia, conducting awareness-raising programmes and campaigns, targeting professionals, including judges, prosecutors, the police, social workers, medical staff and other professionals working with child witnesses, as well as society at large, to ensure that personal information which may lead to the identification of child victims is not disclosed publicly, and that child victims are not exposed to stigmatization and social marginalization;**

(d) **Replenish the national compensation fund and ensure that child victims who have not obtained compensation from the perpetrators can obtain full compensation from this fund; and**

(e) **Ensure that all professionals receive training on child-friendly interaction with child 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, annex).

Recovery and reintegration

34. The Committee is concerned at the lack of a clear procedure or referral service for the protection and care of child victims of sexual exploitation and abuse, and at the consequently unpredictable manner in which such child victims are being taken care of. The Committee is also concerned that social reintegration and physical and psychological recovery measures are almost exclusively provided by non-governmental organizations.

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

VIII. International assistance and cooperation

36. **The Committee recommends that the State party strengthen international cooperation through multilateral, regional and bilateral arrangements for the prevention and investigation of all offences prohibited under the Optional Protocol, and the prosecution and punishment of those responsible for acts involving the sale of children, child prostitution, child pornography and child sex tourism. In this respect, the Committee encourages the State party to implement the Economic Community of West African States (ECOWAS) Regional Action Plan (2008-2011) to combat illicit drug trafficking, organized crime and drug abuse.**

37. **The Committee encourages the State party to continue its cooperation with United Nations agencies and programmes, as well as with non-governmental organizations in developing and implementing measures aimed at the effective implementation of the Optional Protocol.**

IX. Follow-up and dissemination

Follow-up

38. **The Committee recommends that the State party take all appropriate measures to ensure the full implementation of the present recommendations, inter alia, by transmitting them to the Head of State, the Supreme Court, Parliament, relevant ministries and local authorities for appropriate consideration and further action.**

Dissemination of concluding observations

39. **The Committee recommends that the report and written replies submitted by the State party and these concluding observations be made widely available, including (but not exclusively) through the Internet, to the public at large, civil society organizations, youth groups, professional groups, and children, in order to generate debate and awareness of the Optional Protocol, its implementation and monitoring.**

X. Next report

40. In accordance with article 12, paragraph 2, 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 under the Convention, due on 1 September 2017, in accordance with article 44 of the Convention.
