



Convention on the Rights of the Child

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Committee on the Rights of the Child Sixty-second session

Summary record (partial)* of the 1767th meeting

Held at the Palais Wilson, Geneva, on Monday, 21 January 2013, at 3 p.m.

Chairperson: Ms. Lee (Vice-Chairperson)

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* No summary record was prepared for the rest of the meeting.

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In the absence of the Chairperson, Ms. Lee, Vice-Chairperson, took the Chair.

The discussion covered in the summary record began at 3.15 p.m.

Consideration of reports of State parties (continued)

Initial report of Burkina Faso under the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography (continued) (CRC/C/OPSC/BFA/1; CRC/C/OPSC/BFA/Q/1 and Add.1)

Initial report of Burkina Faso under the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict (continued) (CRC/C/OPAC/BFA/1; CRC/C/OPAC/BFA/Q/1 and Add.1)

1. *At the invitation of the Chairperson, the delegation of Burkina Faso resumed places at the Committee table.*
2. **Mr. Zouma** (Burkina Faso) said that the rights of children were protected in Burkina Faso and violations of those rights were punishable under the law on the media. For example, the Higher Council for Communications had banned a daily from operating for two weeks in December 2012 for having published images of street children. Forums had also been organized to raise awareness about the protection of children's rights and the appropriate use of images and information in the media. The law also prohibited publishing photos or broadcasting images of accused young offenders under arrest or in detention.
3. **Ms. Merindol Ouoba** (Burkina Faso) said that Burkina Faso complied with the international rules on extradition in cases involving the sale of children. Persons in Burkina Faso, regardless of nationality, were punishable under the Criminal Code for such offences. The law also established criminal liability for offences of that kind perpetrated outside the country by or against nationals of Burkina Faso. Those cases could be prosecuted once the victim in question filed a complaint or the relevant foreign authorities submitted an official report to the Government. Cases were not prosecuted if the offenders could show that they had been tried abroad or had already served a sentence for the act in question.
4. It was difficult for Burkina Faso to prosecute cases in which acts against children prohibited by domestic law were not considered to be criminal offences under the laws of other countries. Her Government had had a similar problem in prosecuting citizens of Burkina Faso who were outside the country for practising female genital mutilation, for example, which was subject to severe fines or imprisonment in Burkina Faso. It was therefore seeking to enter into cooperation agreements with neighbouring countries.
5. **Mr. Cardona Llorens** said that the domestic courts should exercise their jurisdiction in cases in which nationals of Burkina Faso involved in offences against children abroad returned to the country, regardless of whether the acts in question were considered criminal offences in the country where they were committed. He wished to know whether they did so.
6. **Ms. Merindol Ouoba** (Burkina Faso) said that the domestic courts did in fact exercise their jurisdiction in all cases involving nationals of Burkina Faso who were present in the country, regardless of whether the act in question constituted a criminal offence elsewhere. The problem lay in the lack of capacity of the justice system to determine whether a given offence had been committed by the alleged perpetrators abroad. If the relevant acts were committed in a friendly neighbouring country or involved a repeat offence, the authorities of the neighbouring State were likely to report the offence to the authorities of Burkina Faso. However, it was much more difficult for the authorities to prosecute cases where there was a failure to report an offence. Nevertheless, her Government explored various channels with others in the region to bring perpetrators of crimes against children to justice.

7. **Mr. Kotrane** (Country Rapporteur for the Optional Protocol on the sale of children, child prostitution and child pornography) said that there was a need for legal provisions expressly stating that courts had jurisdiction over all cases involving the offences referred to in the Optional Protocol, even if they were committed abroad. The lack of such provisions made prosecution far more difficult. So long as there was no specific law setting out the court's jurisdiction in such matters, the Committee would continue to raise its concern with the State party.
8. **Ms. Merindol Ouoba** (Burkina Faso) said that the points raised had been under discussion in the current efforts to reform the law, including the Code of Criminal Procedure, the Criminal Code and the law on the implementation of the Rome Statute of the International Criminal Court, which the Government was seeking to enact.
9. **Mr. Manly** (Burkina Faso) said that criminal law applied to both individuals and legal entities.
10. **Ms. Merindol Ouoba** (Burkina Faso) said that there was a need to distinguish between individuals and legal entities. The Government was carrying out awareness-raising campaigns among tourism professionals to prevent the exploitation of children. As in many other developing countries, it was difficult to gather all the necessary information to determine the scope of the problem, regardless of the fact that Burkina Faso was not a major tourist destination. Nevertheless, travel agencies took on the responsibility of reporting any signs of abuse, keeping children away from harm and notifying the appropriate care institution or shelter of the need to intervene.
11. **Mr. Kotrane** said that there was insufficient legislation on the liability of legal entities for the protection of children. It was not clear from the report whether the law covered the criminal liability of legal entities, including penalties against the heads of such entities, for breaches of the rights under the Convention.
12. **Mr. Manly** (Burkina Faso) said that by referring to the criminal responsibility of legal entities, he meant that it was the heads of such entities who bore responsibility. Under the law, they could be fined or imprisoned for their acts and their companies could be shut down.
13. **The Chairperson** asked what funds had been set aside by the Government to implement the Optional Protocol and what measures had been taken regarding the children forced to beg under religious cover, known as *talibés* or *garibous*.
14. **Ms. Congo Zongo** (Burkina Faso) said that Burkina Faso did not have a budget line specifically for children. However, funds had been set aside for the departments responsible for children's issues, which were often complemented with funds from technical and financial partners. Funds allocated to the Ministry of Social Action and National Solidarity, for example, were used to combat trafficking in persons and violence against children. Procedures had been established for the care of child victims, including medical attention and psychological and nutritional support. The social services helped such children to reunite with their families and become reintegrated into society. Education and rehabilitation services were also available.
15. **The Chairperson** said that the Committee was taking up the issue of victims of the sale of children, child prostitution and child pornography, which differed somewhat from the global issue of violence against children. Specific funds should be earmarked for the implementation of the Optional Protocol. Otherwise, there was a risk that the Ministry in question would not have sufficient funds to address the issues raised.
16. **Ms. Aidoo** asked what the Government was doing to overcome the lack of data, studies and research on the children affected by the offences covered by the Optional Protocol and to ensure that funding for such research was a top priority.

17. **Ms. Congo Zongo** (Burkina Faso) said that her Government was drafting legislation on the victims of the sale of children, child prostitution and child pornography. The children who currently received care had been victims of trafficking, which could be likened to the sale of children. Nevertheless, there was a need to pass a specific law so that the notion of the sale of children was clearer. There was already a specific law on trafficking. The Government received support from the United Nations Children's Fund (UNICEF) and others, which made it possible for reports of violations to be followed up and for teams to intervene immediately. She trusted that such funding would continue to enable her Government to provide services to children in need. The Ministry of Social Action and others continued to issue appeals for increased funding to carry out their activities. The new poverty reduction strategy had a section on social protection, with a sharp focus on child protection.

18. **Ms. Merindol Ouoba** (Burkina Faso) said that children were a top priority for her Government. The Ministry of Social Action coordinated all Government efforts to protect children and ensure that every child could exercise his or her rights. However, while the Government had made children a priority, it did not always have the capacity to achieve its objectives.

19. **Ms. Congo Zongo** (Burkina Faso) said that the situation of children forced to beg under religious cover was addressed by the programmes to care for street children. There were also vocational training and advocacy campaigns and awareness-raising efforts in the Muslim community. The Muslim community itself was involved in addressing the issue of the Koranic students, including the establishment of a committee to protect such children. Many forums on the issue had been held, and efforts were under way to come up with the most effective strategies to combat the phenomenon. As the phenomenon stemmed from cultural traditions, it would take time to address it. A strategy was in place to ensure that all children received a formal education and that all children receiving religious instruction were also required to take regular school classes.

20. **The Chairperson** asked if anyone had been prosecuted for exploiting Koranic students.

21. **Mr. Manly** (Burkina Faso) said that there had been a number of cases that had been prosecuted involving teachers accused of forcing children to beg, some of which had led to convictions, most recently in early 2012.

22. **The Chairperson** asked what penalties were imposed for such offences and whether there were repeat offenders.

23. **Mr. Manly** (Burkina Faso) said that begging was outlawed in Burkina Faso, and that the Government hoped to eradicate the practice soon through awareness-raising campaigns. The Koranic teacher in the case just mentioned had recruited children under false pretences, only to send them to beg in the streets and to work in his fields. He had been charged and prosecuted following complaints from the children's parents.

24. **Ms. Merindol Ouoba** (Burkina Faso) said that it was important to distinguish between *talibés* and *garibous*. The word "*talibé*" meant "student" and referred to children whose parents sent them to Koranic schools to learn the Koran, while the word "*garibou*" meant "beggar" and referred to children from deprived families whose parents sent them out on the streets to beg. Both parents and religious leaders who forced children to beg were punished.

25. **Mr. Zoungrana** (Burkina Faso) said that the Government was developing strategies to eliminate child begging and was working to get the Muslim community involved in awareness-raising efforts.

26. **The Chairperson** asked the delegation to respond to the questions raised earlier concerning the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict.
27. **Mr. Manly** (Burkina Faso) said that an interministerial committee was in the process of reviewing national criminal legislation to determine which provisions needed to be amended to be brought into line with the international instruments that Burkina Faso had ratified.
28. **Mr. Zoungrana** (Burkina Faso) said that the National Council for the Survival, Protection and Development of Children served as an interministerial coordinating mechanism for the implementation of the Convention on the Rights of the Child, the Optional Protocol on the involvement of children in armed conflict and the Optional Protocol on the sale of children, child prostitution and child pornography. In addition to its regular meetings, every three years the Council organized a forum to discuss issues affecting children. It also collected data that were included in the periodic reports to the Committee. Although its resources were limited, it received support from the country's technical and financial partners.
29. Children were eligible for admission to the Kadiogo Military Academy on completion of primary school, normally at 11 or 12 years of age. The Academy had recently reopened with a revised curriculum for girls and boys alike. Classes were taught by secondary school teachers, and both military and civilian subjects were offered. On graduation, students could either apply to a military institution for further education and training or pursue a civilian career. No complaints had been received about the operation of the Academy.
30. All persons who wished to enlist in the military were required to present identity documents. While the Government recognized that some persons attempted to use falsified documents, the majority of cases involved adults trying to pass themselves off as younger than they were. The Government attempted to ensure that both men and women had equal opportunities to enlist. A children's rights unit within the Armed Forces was responsible for training the troops on children's rights issues, and there had been no reports of any violations of children's rights by military personnel.
31. **The Chairperson** asked if there was any reporting mechanism in place through which children could lodge a complaint of ill-treatment in military schools.
32. **Mr. Zoungrana** (Burkina Faso) said that there was no such mechanism in place. However, children could inform their parents about any ill-treatment that they received.
33. **Mr. Madi** asked how many years children studied in the Kadiogo Military Academy and whether the military training included training in the use of firearms.
34. **Mr. Zoungrana** (Burkina Faso) said that the students of the Academy pursued a normal course of study leading to a high school diploma. Military training was limited to respect for military discipline and order and did not include training in the use of firearms.
35. **The Chairperson** said it had been reported that students attended military-related classes on Thursday mornings.
36. **Ms. Merindol Ouoba** (Burkina Faso) said that, originally, the Kadiogo Military Academy had been exclusively for boys who wanted to pursue a military career. After being closed for more than 10 years, the Academy had reopened and undergone restructuring and was military in name only. It currently accepted girls and offered seven years of traditional education. The subject military discipline was essentially civic education and involved activities such as raising the national flag and singing the national anthem. Some parents had campaigned for the school to be reopened, not because they

wanted their children to receive military training, but because they felt the Academy would offer a high-quality education.

37. **Mr. Manly** (Burkina Faso) said that there were plans to add military discipline to the curriculum in other schools, although the subject would be called something else, because all children should be taught to respect their country and its institutions. The teachers at the Academy were civilians and often taught the same courses in other schools. The students of the Academy were required to sit the same examinations as other students to obtain their diploma.

38. **Mr. Zouma** (Burkina Faso) said that there was no direct link between the Kadiogo Military Academy and the Armed Forces. Students who, on graduation, wished to become military officers must first complete three years of higher education and pass an examination to enter an officer training academy. Other educational establishments were available for those who wished to become non-commissioned officers or gendarmes.

39. **Ms. Congo Zongo** (Burkina Faso) said that the National Council for Emergency Assistance and Rehabilitation had provided training on preventing the recruitment of children in armed conflicts to officers at its regional branches, and a committee for the protection of children had been established to prevent violations of children's rights. Since the start of the current conflict in Mali, the Army of Burkina Faso had been patrolling the border to ensure that children were not brought across it for recruitment into armed groups.

40. The National Commission for Refugees had been working in cooperation with NGOs on the ground to harmonize the data on refugees. Schools had been set up for children in the refugee camps, which helped to ensure that they did not become involved in the conflict in Mali. The Ministry of Social Action and National Solidarity was working with partners such as UNICEF to monitor the rights of child refugees in border areas, and refugees themselves had been included in committees that helped to carry out those monitoring efforts.

41. **Ms. Merindol Ouoba** (Burkina Faso) said that an interministerial committee had been established to overhaul certain domestic legal provisions to bring them into line with the Rome Statute of the International Criminal Court. One of the main challenges facing the country was cooperation with other States, especially those that had not ratified the Rome Statute. There had been no reports of any children from Burkina Faso being forced into or sold to armed groups in neighbouring countries.

42. University courses were offered on international humanitarian law and international legal instruments, and various ministries provided training in those subjects to members of the Armed Forces. An interministerial committee on international humanitarian law had been established to coordinate those training efforts.

43. **Ms. Wijemanne** asked how the Government could be sure that no children from Burkina Faso had been recruited by or sold to armed groups across the border. She wished to know whether any research had been conducted in that area, and whether there were any monitoring or reporting mechanisms in place.

44. **The Chairperson** asked whether recruitment into armed groups was expressly criminalized in the State party's domestic laws.

45. **Mr. Pollar** wished to know whether the Criminal Code prohibited the recruitment of children in particular, by either State or non-State actors.

46. **Mr. Gastaud** (Country Rapporteur for the Optional Protocol on the involvement of children in armed conflict) wondered what specific measures the Government had taken to fully monitor its borders and thereby ensure that no children from Burkina Faso were recruited by armed groups in Mali. He asked the delegation to comment on the fact that

some of the acts criminalized in the Rome Statute had not been defined as criminal offences in domestic law in Burkina Faso. He requested further information about the services provided for refugees in the country.

47. **The Chairperson** asked for clarification as to whether or not the State party had enacted legislation on implementing the Rome Statute.

48. **Ms. Merindol Ouoba** (Burkina Faso) said that, while it was impossible to be completely certain that no child from the country had been recruited to fight in the ongoing conflict in Mali, from the outset of the conflict the Government had deployed large numbers of law enforcement officials along the borders to prevent such recruitment. The law to implement the Rome Statute was still in the process of being drafted.

The meeting was suspended at 4.30 p.m. and resumed at 4.50 p.m.

49. **Mr. Manly** (Burkina Faso) said that the authorities of the State party had no knowledge of children who were nationals of Burkina Faso having been recruited by armed groups, but the delegation would welcome any information to the contrary that the Committee might be able to provide. The National Commission for Refugees took charge of and identified incoming refugees and provided them with shelter, food, health care and counselling. Schools for refugee children had been opened and young refugees of university age were sent to the capital for enrolment in public universities. At a time when the State party was facing food shortages, it was taking greater pains to care for refugees than for its own nationals.

50. **Ms. Merindol Ouoba** (Burkina Faso) said that legislation regarding the recruitment of children by armed groups was being reviewed with the aim of making it fully compliant with the State party's international obligations. It had no objection to the involvement of the International Criminal Court in cases in Burkina Faso regarding children in armed conflicts.

51. **Mr. Pollar** said that the International Criminal Court was concerned mainly with instances of children under the age of 15 being recruited by armed groups or for military service. Domestic law must specifically address the recruitment of minors aged between 15 and 18.

52. **The Chairperson** asked why there was a need to review legislation on underage recruitment if Act No. 052-2009/AN on implementation of the Rome Statute had been passed in 2009.

53. **Ms. Merindol Ouoba** (Burkina Faso) said that enforcement of the Act had proved difficult in the absence of an implementation decree. The Act also required further amendments, in line with the current comprehensive review of criminal legislation.

54. **Mr. Manly** (Burkina Faso) said that the minimum age for recruitment into the armed forces had been raised from 18 to 20 years in 2012.

55. **The Chairperson** said that the Committee would like to know to what extent the Ministry of Defence was involved in coordinating implementation of the Optional Protocol on the involvement of children in armed conflict and whether the State party had sufficient resources for the task, particularly in view of the rapidly changing situation in Mali.

56. **Mr. Zoungrana** (Burkina Faso) said that the Ministry of Defence was part of a general coordinating mechanism for the implementation of both Optional Protocols. Although the Government did not have a specific budget for the Optional Protocols, funding for their implementation was provided out of the general budget.

57. **Ms. Congo Zongo** (Burkina Faso) said that immigration officials in border areas were trained to deal with refugee children who had been recruited as combatants or had

otherwise suffered because of armed conflict. They worked with NGOs to monitor violations of children's rights.

58. **Mr. Zoungrana** (Burkina Faso) said that the security forces monitored the border with Mali to protect all persons coming from there to Burkina Faso, prevent the entry of armed groups into Burkina Faso and protect the local population.

59. **Mr. Pollar** asked whether efforts were made specifically to identify and care for refugee children who had been involved in armed conflict.

60. **Mr. Manly** (Burkina Faso) said that refugee children from Mali received appropriate psychological care on arrival in the State party, in addition to food and education.

61. **Ms. Zabsonre Ouedraogo** (Burkina Faso) said that she wished to underline the importance of the public awareness-raising campaigns run by various ministries to foster tolerance and harmony between local and refugee communities.

62. **Ms. Merindol Ouoba** (Burkina Faso) said that her Government had taken practical steps to deal with succeeding waves of refugees from famine and conflict in Mali. The work of counting and identifying the refugees was difficult and the resources available to Burkina Faso were insufficient. The State party cooperated closely with the Office of the United Nations High Commissioner for Refugees (UNHCR) and UNICEF to manage refugees flows. Burkina Faso was ill-equipped to confront such problems alone.

63. **Mr. Kotrane** said it appeared that little had been done to adapt domestic criminal legislation to the provisions of the Optional Protocol on the sale of children, child prostitution and child pornography, as required by the Optional Protocol itself. The State party should adopt specific legislation on the sale of children, child prostitution and child pornography. The State party must also do more to prevent sex tourism, early and forced marriages, the practice of rural parents sending their children to live with city-dwelling relatives (*confiage*), child labour and the use of children to beg in the streets. More should also be done to raise public awareness of those issues. Article 428 of the Criminal Code needed to be reviewed and steps taken to ensure that children arrested under that provision were treated as victims rather than as offenders. Ratification by the State party of the Optional Protocol to the Convention on the Rights of the Child on a communications procedure would be a positive step.

64. **Mr. Gastaud** said that the Committee would remain concerned about the involvement of children in Burkina Faso in armed conflict as long as the State party had not amended its legislation in line with the Optional Protocol on the involvement of children in armed conflict.

65. **The Chairperson** said that the scope of the Optional Protocol on the sale of children, child prostitution and child pornography went well beyond the matter of human trafficking and expressed the hope that the State party would make its domestic legislation fully compliant with international law as soon as possible.

The discussion covered in the summary record ended at 5.25 p.m.