



# 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 44 of the Convention

### Concluding observations: Togo

1. The Committee considered the consolidated third and fourth periodic reports of Togo (CRC/C/TGO/3-4) at its 1679th and 1680th meetings (see CRC/C/SR.1679 and CRC/C/SR.1680) held on 23 January 2012, and adopted, at its 1697<sup>th</sup> meeting, held on 3 February 2012, the following concluding observations.

#### I. Introduction

2. The Committee welcomes the submission of the consolidated third and fourth periodic report of the State party (CRC/C/TGO/3-4) and the written replies to the list of issues (CRC/C/TGO/Q/3-4/Add.1), which allowed for a better understanding of the situation in the State party. The Committee expresses appreciation for the constructive and open dialogue held with the high level and multi-sectoral delegation of the State party.

3. The Committee reminds the State party that the present concluding observations should be read in conjunction with its concluding observations adopted on the State party's initial report under the Optional Protocol on sale of children, child prostitution and child pornography (CRC/C/OPSC/TGO/CO/1).

#### II. Follow-up measures undertaken and progress achieved by the State party

4. The Committee welcomes the adoption of the following legislative measures:
- Act No. 2007-017 of 6 July 2007 adopting the Children's Code;
  - Act No. 2010-6018 of 31 December 2010 amending Act No. 2005-6012 of 14 December 2005 on the protection of persons with regard to HIV/AIDS;
  - Act No. 2009-010 of 24 July 2009 abolishing the death penalty;
  - Act No. 2009-010 of 11 June 2009 on the organization of the civil registry system.

- (e) Act No. 2006-010/PR of 13 December 2006 on the Labour Code; and
  - (f) Act No. 2005-009 of 3 August 2005 on the suppression of child trafficking in Togo.
5. The Committee also notes with appreciation the ratification of or accession to:
- (a) The Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict, on 28 November 2005;
  - (b) The Convention on the Rights of Persons with disabilities and its Optional Protocol, in March 2011;
  - (c) The Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime in September 2010; and
  - (d) The Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, in July 2010.
6. The Committee also welcomes the following institutional and policy measures:
- (a) The establishment of the child helpline “Allo 111” on 14 January 2009;
  - (b) The establishment of the Togo National Adoption Committee in 2008 ;
  - (c) The National Plan of Action against trafficking in persons, especially of women and children in 2007; and
  - (d) The 2007 revision of the national plan and sectoral plans for combating child labour and the establishment of a national steering committee (CDN) for the abolition of child labour in Togo in 2008.

### **III. Main areas of concerns and recommendations**

#### **A. General measures of implementation (arts. 4, 42 and 44, para. 6 of the Convention)**

##### **The Committee’s previous recommendations**

7. The Committee welcomes the efforts made by the State party to implement the Committee’s concluding observations on the State party’s second periodic report (CRC/C/15/Add.255 of 2005). Nevertheless, the Committee regrets that some of its concerns and recommendations have been insufficiently or only partially addressed.

**8. The Committee urges the State party to take all necessary measures to address those recommendations contained in the concluding observations on the second periodic report that have not yet been implemented or sufficiently implemented, particularly those related to coordination, data-collection, birth registration and discriminatory practices against girls and children with disabilities, corporal punishment, harmful traditional practices, economic exploitation and administration of juvenile justice. The Committee also urges the State party to provide adequate follow-up to the recommendations contained in the present concluding observations.**

##### **Legislation**

9. While welcoming the adoption of the Children’s Code in 2007, the Committee regrets that this Code is only a compilation of existing legal texts concerning children. The Committee is also concerned that:

(a) Children are not fully recognized as rights holders by the Children's Code and that this code contains many provisions which are not in compliance with the Convention;

(b) The Children's Code is not fully applicable as the implementing regulations have not yet been adopted;

(c) The Personal and Family Code, the revised Criminal Code and the revised Code of Criminal Procedure have still not been adopted; and

(d) Enforcement of child-related laws remains weak due mainly to the limited awareness of law enforcement authorities, as well as to the lack of capacity of the justice system.

**10. The Committee urges the State party to amend the Children's Code and ensure that the basic foundation of the Code is the recognition of children as rights holders as provided by the Convention. The Committee also urges the State party to:**

**(a) Ensure that all the rights of the child enshrined into the Convention are properly integrated into the Children's Code and that all provisions of the code that are contrary to the Convention be repealed;**

**(b) Adopt without delay the implementing regulations of the Children's Code;**

**(c) Accelerate the adoption process of the Personal and Family Code, the revised Criminal Code and the revised Code of Criminal Procedure, and in doing so, carefully look at the concluding observations which follow; and**

**(d) Take all the necessary measures to strengthen law enforcement authorities as well as the justice system and provide effective remedies through courts for child rights violations.**

#### **Coordination**

11. The Committee notes with concern that the National Committee on the Rights of the Child (*Comité National des droits de l'Enfant* – (CDE)) established by article 452 to 455 of the 2007 Children's Code as the coordinating body for the implementation of the Convention has not yet been set up and that coordination of the implementation of the Convention between the different levels of the State is not ensured.

**12. The Committee urges the State party to promptly establish the National Committee on the Rights of the Child, ensure that it has a high status, sufficient authority and is provided with the necessary human, financial and technical resources to effectively carry out its coordinating functions both within the various ministerial bodies and between the different levels of the State.**

#### **National Plan of Action**

13. The Committee expresses concern that the State party has not yet adopted the National Child Protection Policy approved in December 2008 which was due to form part of the strategic and programme framework of the full Poverty Reduction Strategy Paper (PRSP-F) 2009-2011.

**14. The Committee urges the State party to adopt without further delay the National Child Protection Policy approved in December 2008 and ensure that it covers all aspects of the Convention and is effectively integrated into the next State party's Poverty Reduction Strategy Paper (PRSP).**

### **Independent monitoring**

15. The Committee takes note of the legal reform carried out in 2005 to bring the National Commission for Human Rights (CNDH) into compliance with the Paris Principles (General Assembly resolution 48/134, annex). The Committee remains however concerned that funds allocated to the CNDH have been further reduced over the reporting period although the allocation of resources was already insufficient in 2005 for the Commission to carry out its mandate effectively, as previously noted by the Committee (CRC/C/15/Add.255 para.12). The Committee is also concerned that there is no specific complaints mechanism for children and that the general complaints mechanism of the CNDH remains ineffective and inaccessible to most children.

**16. The Committee reiterates its recommendation (CRC/C/15/Add.255 para.13) that the State party strengthen the human, financial and technical resources of the CNDH. The Committee also urges the State party to**

**(a) Ensure that the CNDH is able to receive, investigate and address complaints by children in a child-sensitive manner and ensures the privacy and protection of victims, and undertake monitoring, follow-up and verification activities;**

**(b) Undertake awareness-raising programs, including campaigns, on the possibility for children to submit complaints to the CNDH, among children, including children living in remote areas and provide all professionals of the CNDH with appropriate training on child rights; and**

**(c) Take into account the Committee's General Comment No. 2 (2002) on the role of independent national human rights institutions in the promotion and protection of the rights of the child and seek technical cooperation in this regard from, among others, the Office of the United Nations High Commissioner for Human Rights (OHCHR) and UNICEF.**

### **Allocation of Resources**

17. In light of the observation that it previously made on the sharp decrease in public expenditure on education and health (CRC/C/15/Add.255, para.17), the Committee expresses serious concern that social expenditure has been further reduced in recent years which has and will continue to negatively impact on the implementation of the rights of the child in the State party. The Committee also remains concerned that corruption continues to be pervasive and to divert resources available for the effective implementation of the Convention.

**18. The Committee urges the State party to allocate adequate budgetary resources in accordance with article 4 of the Convention for the implementation of the rights of children and in particular increase the budget allocated to social sectors, including to the National Child Protection Policy. The Committee also urges the State party to:**

**(a) Utilize a child rights' approach in the elaboration of the State budget by implementing a tracking system for the allocation and the use of resources for children throughout the budget, thus providing visibility to the investment on children. The Committee also urges that this tracking system is used for impact assessments on how investments in any sector may serve the best interests of the child, ensuring that the differential impact of such investment on girls and boys is measured;**

**(b) Conduct a comprehensive assessment of budget needs and establish clear allocations for those areas, that progressively address the disparities in indicators related to children's rights;**

(c) Define strategic budgetary lines for children in disadvantaged or vulnerable situations that may require affirmative social measures and make sure that those budgetary lines are protected even in situations of economic crisis, natural disasters or other emergencies;

(d) Take immediate measures to combat corruption and strengthen institutional capacities to effectively detect, investigate and prosecute corruption cases; and

(e) Take into account the Committee's recommendations during its Day of General Discussion in 2007 on "Resources for the Rights of the Child - Responsibility of States".

#### **Data collection**

19. The Committee is concerned that little progress has been made to set up a comprehensive system of collection of disaggregated data on all areas covered by the Convention and that the lack of reliable data disaggregated on all areas of the Convention remains a major obstacle for the effective planning, monitoring and evaluation of policies, programs and projects for children.

20. **The Committee reiterates its recommendation (CRC/C/15/Add.255 para.20) that the State party improve its system of data collection to cover all areas of the Convention and ensure that all data and indicators are used for the formulation, monitoring and evaluation of policies, programmes and projects for the effective implementation of the Convention. The data should be disaggregated by age, sex, geographic location, ethnicity and socio-economic background to facilitate analysis on the situation of all children. The Committee recommends that the State party take guidance from its General Comment No. 5 of 2003 on the General measures of implementation of the Convention on the Rights of the Child (CRC/GC/2003/5) and to strengthen its technical cooperation with, among others, UNICEF and the United Nations Development Programme in this regard.**

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

21. The Committee notes as positive the significant efforts made by the State party to disseminate and raise awareness about the Convention among members of Parliament, law enforcement authorities, customary and religious chiefs, heads of convents, shamans and community leaders. The Committee notes however that the general level of awareness about the Convention remains limited and that child rights have not been included into school curricula.

22. **The Committee recommends that the State party strengthen its efforts to systematically disseminate and promote the Convention, raising awareness in the public at large and among children in particular, including through the inclusion of child rights into school curricula at all levels.**

#### **Training**

23. The Committee welcomes the efforts made by the State party to improve the training of professionals working with and for children on the principles and provisions of the Convention. The Committee however regrets that training of professionals whose work involves children is not systematic and that only a limited number of professionals receive such training.

24. **The Committee recommends that the State party strengthen its efforts to ensure that all professional groups working for and with children be adequately and**

**systematically trained on children's rights, in particular law enforcement officials, teachers, health workers, social workers and personnel working in all forms of alternative care.**

#### **Cooperation with civil society**

25. While noting the existing cooperation with civil society organizations, the Committee is concerned about the stigmatization of human rights defenders in the State party, the reluctance of public authorities to give legitimacy to their work and the absence of measures to investigate and prosecute authors of threats and other acts of intimidation against them. The Committee is also concerned that women human rights defenders are particularly vulnerable to ostracism within their own families and communities, and are frequently labelled as, *inter alia*, "bad mothers" and "family breakers".

26. **The Committee urges the State party to take concrete steps to give legitimate recognition to human rights defenders and their work, to build a climate of trust and cooperation with civil society and to involve systematically communities as well as civil society, including non governmental organizations and children's organisations in the planning, implementation, monitoring and evaluation of policies, plans and programmes related to child rights. The Committee also urges the State party to ensure that reported instances of intimidation and harassment are investigated promptly. The Committee further urges the State party to implement the recommendations made by the Special Rapporteur on the situation of human rights defenders in this regard (A/HRC/10/12/Add.2).**

#### **Child rights and the business sector**

27. While noting as positive the adoption of a law related to the contribution by the mining industry to local development in May 2011, the Committee is concerned that the legislation in the State party lacks provisions aimed to ensure the protection of child rights, in accordance with international standards to protect, respect and remedy violations by business entities to human rights, including the rights of children.

28. **In light of the Human Rights Council Resolution 8/7 of 2008 adopting the report "Protect, Respect and Remedy" Framework and of Resolution 14/7 of 16 June 2011 requesting the new Working Group to follow-up on this matter, both of which note that the rights of the child be included when exploring the relationship between business and human rights, the Committee recommends that the State party promote the adoption of effective corporate responsibility models by providing a legislative framework that requires companies domiciled or operating in Togo to adopt measures to prevent and mitigate adverse human rights impacts in their operations in the country, whether by its supply chain or associates. The inclusion of child rights indicators and parameters for reporting should be promoted and specific assessments on business' impacts on child rights should be required.**

### **B. Definition of the child (art. 1 of the Convention)**

29. While noting as positive that the legal age of marriage has been raised to 18 years for both boys and girls, the Committee is seriously concerned that early and forced marriages continue to be widely practiced throughout the State party. The Committee is also concerned that article 21 of the Children's Code authorizes the marriage of foreign children with Togolese citizens.

30. **The Committee urges the State party to harmonize legal provisions related to the age of marriage and repeal article 21 of the Children's Code. The Committee**

urges the State party to take active and concrete measures to enforce the legal prohibition of early and forced marriages.

### **C. General principles (arts. 2, 3, 6 and 12 of the Convention)**

#### **Non-discrimination**

31. The Committee is concerned that discrimination against vulnerable groups of children, in particular girls and children with disabilities, persists throughout the State party and that insufficient measures have been taken by the State party to implement the recommendations already made by the Committee in this regard (CRC/C/15/Add.255 para. 26). The Committee is also concerned that according to article 248 of the Children's Code, the child born of adulterous relations from his/her father cannot claim maintenance if he/she has not been recognized by him.

32. **The Committee recommends that the State party take more active measures to end all forms of discrimination against children with particular attention to discrimination against girls and children with disabilities. In particular, the Committee urges the State party to:**

(a) **Speed up its legislative reforms to ensure that all children within the State party's territory are equally protected against discrimination and that provisions that discriminate against women and girls be repealed without further delay and that article 248 of the Children's Code be amended to secure the recovery of maintenance for all children without discrimination based on the origin of his or her birth;**

(b) **Formulate a comprehensive strategy, including a clear definition of targets and the establishment of a monitoring mechanism, to modify and eliminate negative attitudes and practices and change deep-rooted stereotypes that discriminate against vulnerable groups of children, in particular girls and children with disabilities;**

(c) **Undertake such efforts in coordination with a wide range of stakeholders, including concerned children and, women's organizations and involving all sectors of society, so as to facilitate social and cultural change and creation of an enabling environment that promotes equality; and**

(d) **Monitor such efforts and regularly assess progress made towards the achievement of established goals, and include an assessment of the results achieved in its next report.**

#### **Best interests of the child**

33. The Committee notes as positive the inclusion of the principle of the best interests of the child in the Children's Code and its progressive consideration and adoption as a leading principle in actions and decisions concerning children. The Committee notes however that the definition of the best interests of the child contained in article 4 of the Children's Code is extremely vague. Additionally, the Committee is concerned that the Children's Code does not establish an obligation to incorporate the principle of the best interests of the child in all laws and apply it in all legislative, administrative and judicial proceedings, as well as in policies and programmes relating to children.

34. **The Committee urges the State party to strengthen its efforts to ensure that the principle of the best interests of the child is appropriately defined, and integrated and consistently applied in all legislative, administrative and judicial proceedings as well as in all policies, programmes and projects relevant to and with an impact on**

children. The legal reasoning of all judicial and administrative judgments and decisions should be based on this principle.

#### **Right to life, survival and development**

35. The Committee welcomes the adoption of Act No. 2009-011 of 24 July 2009 abolishing the death penalty in the State Party. The Committee also welcomes the significant efforts made by the State party to prevent the occurrence of killings of children born with disabilities, malformations, skin discoloration, as well as of children born with teeth or from mothers who died during delivery, in accordance with the previous recommendation of the Committee (CRC/C/15/Add.255 para. 31). The Committee however remains concerned that such killings still occur in the State party.

36. **The Committee urges the State party to continue to take all necessary measures to prevent the occurrence of the killings mentioned above, to prosecute those responsible for such crimes and to strengthen its efforts to raise awareness among the population at large of the need to eradicate such practices. The Committee further recommends that the State party monitor such efforts and include an assessment of the results achieved in its next report.**

#### **Respect for the views of the child**

37. The Committee notes as positive that the principle of respect for the views of the child is now legally recognized and that a National Child Consultative Council was recently set up to ensure a better inclusion of children in the anti-violence strategies which concern them. The Committee however reiterates its concern that opportunities for the child to express his/her own views in the family, in schools and in the community are still scarce (CRC/C/15/Add.255, para.32) and notes that children are rarely permitted to express their views on matters of concern to them. The Committee is also concerned that children are insufficiently heard in judicial and administrative procedures.

38. **The Committee, recalling that State parties are under the obligation to undertake appropriate measures to fully implement the right of the child to be heard in accordance with article 12 of the Convention, urges the State party to actively combat negative attitudes, which impede the full realization of the child's right to be heard, through public education programmes and campaigns, involving opinion leaders and the media and to pay special attention to the particularly disadvantaged situation of girls in this regard. The Committee also urges the State party to amend its Civil and Criminal Code to ensure that children are heard in judicial and administrative proceedings affecting them. The Committee draws the attention of the State party to its General Comment No.12 of 2009 on the right of the child to be heard (CRC/C/GC/12).**

### **D. Civil rights and freedoms (arts. 7, 8, 13-17, 19 and 37(a) of the Convention)**

#### **Birth Registration**

39. The Committee welcomes the efforts made by the State party to improve birth registration, including the adoption in 2009 of Act No. 2009-10 on the organization of the civil registry system. The Committee is however concerned that half of the children are not registered at birth, due, inter alia, to the insufficient number of birth registration centres in the country, the high price of birth registration and the insufficient information on the positive effects of birth registration provided to parents. The Committee is even more concerned that children without birth certificates cannot obtain identity documents and

education and that a large number of them are not authorized to sit national end-of-year examinations in primary education.

40. **The Committee urges the State party to ensure that all children are properly registered at birth and that birth registration is free and compulsory in practice. To this aim, the State party should:**

(a) **Adopt the decrees and measures contained in the law on the organization of Civil Registration, concerning birth registration and provide adequate resources for its implementation;**

(b) **Increase the number of birth registration facilities, including mobile birth registration units, at the local, community and village levels;**

(c) **Urgently enforce the provisions of the law relating to the organization of the public records in order to regulate and reduce the costs of birth certificates;**

(d) **Conduct awareness-raising campaigns, with the active support of community leaders, to promote birth registration for all children; and**

(e) **Guarantee that children without birth certificate are not deprived of access to education, health and other social services.**

#### **Torture or other cruel, inhuman or degrading treatment**

41. The Committee expresses deep concern that children in conflict with the law are often placed in detention with adults and regularly subjected to beatings and ill treatment by prison officials. The Committee is also concerned that the State party has not taken the necessary measures to establish a child-sensitive mechanism to receive complaints against law enforcement officers and that perpetrators are only inflicted disciplinary sanctions as indicated by the State party in its written replies (CRC/C/TGO/Q/3-4/Add.1 para 24).

42. **The Committee urges the State party to take immediate action to remove children from adults' detention facilities. The Committee also urges the State party:**

(a) **Set up child-sensitive mechanisms to receive complaints against law enforcement officers regarding ill-treatment during arrest, questioning and police custody;**

(b) **Ensure that criminal legal proceedings are systematically engaged against perpetrators of torture and ill treatment of children and that they are provided with penalties commensurate to their crimes;**

(c) **Systematically train police force and prison staff and other authorities on human rights of children; and**

(d) **Ensure physical and psychological recovery and social reintegration of child victims of such ill-treatment.**

#### **Corporal punishment**

43. While welcoming the prohibition of corporal punishment in schools, vocational training centres and institutions contained in article 376 of the Children's Code, the Committee expresses concern that corporal punishment in the home is still not explicitly prohibited in the State party and remains socially accepted. As a result, the vast majority of children continue to be exposed to corporal punishment in schools and in the home.

44. **The Committee urges the State party to explicitly prohibit corporal punishment in the home and to take more active measures to raise awareness on the negative impact of all forms of corporal punishment as recommended by the Committee since**

1997 (CRC/C/15/Add.83 para. 40 and CRC/C/15/Add.255 para. 39). The Committee in particular urges the State party to:

(a) Ensure that laws prohibiting corporal punishment are effectively implemented and that legal proceedings are systematically initiated against those responsible of ill-treating children;

(b) Introduce sustained public education, awareness-raising and social mobilization programmes, involving children, families, communities and religious leaders, on both the physical and the psychological harmful effects of corporal punishment with a view to changing the general attitude towards this practice and promote positive, non-violent and participatory forms of child-rearing and alternative forms of discipline as an alternative to corporal punishment; and

(c) Ensure the involvement and participation of the whole society, including children, in the design and implementation of preventive strategies against violence and other forms of abuse; and

(d) Take guidance from General Comment No. 8 (2006) on the right of the child to protection from corporal punishment and other cruel or degrading forms of punishment.

**E. Family environment and alternative care (arts. 5, 18 (paras.1-2), 9-11, 19-21, 25, 27 (para.4) and 39 of the Convention)**

**Family environment**

45. The Committee expresses concern about the considerable delays by the State party in repealing legal provisions which discriminate against women and girls. The Committee is also concerned that insufficient measures have been taken to change the prevalent gender stereotypes concerning women and girls' tasks and roles, especially in the family and to eradicate practices such as levirate, repudiation and polygamy. The Committee expresses further concern that in cases of repudiation, women lose custody of their children and are forced to return to their parents' home, leaving all their possessions behind.

46. **The Committee urges the State party to accelerate its efforts to revise the Personal and Family Code and to ensure that discriminatory provisions against women are repealed. The Committee also urges the State party to take active measures to eliminate harmful practices that discriminate against women and girls in the family and negatively impact on their children, including levirate, repudiation and polygamy. The Committee further urges the State party to ensure that mothers and fathers equally share the legal responsibility for their children in accordance with article 18 1) of the Convention.**

**Adoption**

47. The Committee welcomes the adoption of Decree No. 2008-103/PR of 29 July 2008 regulating the adoption procedures, as well as the Decree No. 2008-104/PR of 29 July 2008 and Regulation No. 004/2008/MASPFPEPA of 24 October 2008 regulating the functions and membership of the National Adoption Committee (CNAET). The Committee is however concerned that such decrees have not yet been harmonized with the provisions of the Hague Convention on Protection of Children and Co-operation in Respect of Inter-country Adoption ratified in 2009. While taking note of the indication given by the State party in its written replies (CRC/C/TGO/Q/3-4/Add.1 para. 28) that the National Adoption Committee strictly applies the principle of subsidiarity, the Committee notes with concern that fees imposed for domestic adoption render it almost inaccessible for nationals.

48. The Committee encourages the State party to ensure harmonization of its legislation with the provisions of the Hague Convention on Protection of Children and Co-operation in Respect of Inter-country Adoption. The Committee also urges the State party to consider decreasing adoption fees in order to ensure that preference is effectively given to domestic adoption over Inter-country adoption, and that the best interests of the child is always the primary consideration in adoption decisions.

#### **Violence against children, including abuse and neglect of children**

49. The Committee expresses concern that although abuse and neglect remains widespread in the home and socially accepted, there is still no legislation that criminalizes domestic violence, including marital rape. The Committee also expresses concern about the absence of specific policies and programmes to address domestic violence.

50. The Committee urges the State party to enact as a matter of priority legislation criminalizing specifically domestic violence as recommended by the Committee on the Elimination of Discrimination against Women since 2006 (CEDAW/C/TGO/CO/5 para. 19) and the Human Rights Committee (CCPR/C/TGO/CO/4 para. 11). Drawing its attention to General Comment No. 13 of 2011 on the right of the child to freedom from all forms of violence (CRC/C/GC/13), the Committee recommends that the State party:

(a) Prioritize the elimination of all forms of violence against children, including by ensuring the implementation of the recommendations of the United Nations study on violence against children (A/61/299), taking into account the outcome and recommendations of the Regional Consultations for West and Central Africa (held in Bamako, from 23-25 May 2005), and paying particular attention to gender;

(b) Provide information concerning the implementation by the State party of the recommendations of the above-mentioned study in its next periodic report, particularly those highlighted by the Special Representative of the Secretary-General on violence against children, in particular:

(i) The development of a national comprehensive strategy to prevent and address all forms of violence and ill-treatment against children;

(ii) The introduction of an explicit national legal ban on all forms of violence against children in all settings;

(iii) The consolidation of a national system of data collection, analysis and dissemination, and a research agenda on violence and ill-treatment against children.

## **F. Disability, Basic health and welfare (arts. 6, 18 (para. 3), 23, 24, 26, 27 (paras.1-3) of the Convention**

### **Children with disabilities**

51. The Committee, while welcoming the ratification of the Convention on the Rights of Persons with Disabilities in March 2011, expresses deep concern about the prevailing societal attitudes which are conducive to the stigmatization of children with disabilities and even lead to their infanticide. The Committee is also concerned that a high number of children with disabilities are deprived of access to education and health services and that the State party has still not adopted a policy for the integration of children with disabilities into mainstream schools as previously recommended by the Committee. The Committee further notes that in spite of some pilot initiatives, teachers are not provided adequate training to properly integrate children with disabilities.

52. The Committee reiterates its recommendation that the State party adopt an integration policy, allocate adequate resources to strengthen services for children with disabilities, support their families and train professional in the field (CRC/C/15/Add.255 para. 49 c). The State party should in particular:

- (a) Take effective steps to combat isolation and social stigmatization of children with disabilities ;
- (b) Bring perpetrators of killings and any form of violence against children with disabilities to justice;
- (c) Ensure the collection and use of adequately disaggregated and comprehensive data in the development of policies and programmes for children with disabilities;
- (d) Review the situation of these children in terms of their access to suitable health care and education services and give effective priority to the development of inclusive education over the placement of children in specialized institutions;
- (e) Take guidance from the Committee 2006 General Comment on the Rights of children with disabilities (CRC/C/GC/9); and
- (f) Seek assistance in this regard from, among others, UNICEF and the World Health Organization (WHO).

#### **Health and health services**

53. While welcoming the adoption in 2010 of a strategic plan for the health sector, the Committee is however concerned that while health infrastructures and trained health personnel are largely insufficient, especially in remote areas, and health services are unaffordable for most of the families, the State party's budget allocated to health has decreased from 6.44% in 2005 to 5,35% 2011 which is far below the Abuja declaration which recommends for a 15% allocation to Health Care. The Committee is particularly concerned about the high rate of child mortality which often results from preventable and treatable diseases such as malaria, respiratory illnesses, diarrhoea and vaccine-preventable diseases.

54. The Committee recommends that the State party:

- (a) Prioritize the allocation of financial and human resources to the health sector with a special emphasis on primary health care, in order to ensure equal access to quality health services by all children including children living in the remote areas;
- (b) Take immediate action to address preventable health problems among children, including with regard to iodine deficiency, malaria, diarrhoea, acute respiratory diseases, measles, meningitis and malnutrition; and
- (c) Continue to seek technical cooperation from UNICEF and WHO.

#### **Adolescent Health**

55. The Committee is concerned that in spite of the indication given by the State party that a national health service for youth and adolescents was established and is functioning, effective access to reproductive education and education on sexually transmitted infections remains largely insufficient. The Committee is also concerned about the high rate of teenage pregnancies associated with early marriages. The Committee is further concerned that the implementation of the five-year plan to fight against drugs adopted in 2009 has not yet started due to a lack of resources.

56. **The Committee urges the State party to adopt a reproductive health policy for adolescents and ensure that reproductive education be widely promoted and targeted at adolescent girls and boys, with special attention to the prevention of early pregnancy and the control of sexually transmitted infections. The Committee also urges the State party to allocate the necessary resources for the implementation of the 2009 five-year plan to fight against drugs. The Committee further recommends that the State party seek assistance from, inter alia, UNICEF, WHO and UNFPA.**

#### **Harmful practices**

57. The Committee welcomes the efforts made by the State party in cooperation with civil society to combat female genital mutilation (FGM) which prevalence has significantly decreased. The Committee is however seriously concerned that:

(a) FGM is still widely practiced in certain communities and perpetrators of FGM are not brought to justice in spite of the criminalization of those practices;

(b) Harmful practices affecting children and in particular girls, including dowry disputes, initiation rites such as scarification, and rites regarding girls training in voodoo priesthood which were already a matter of concern of the Committee in 2005 (CRC/C/15/Add.255, paras. 56-57) persist in the State party;

(c) In spite of the prohibition of early and forced marriage contained in articles 267 to 270 of the Children's Code, one third of girls are married before the age of 18 years and 16,2 per cent of girls between 15 to 19 years find themselves in polygamous unions. The Committee expresses deep concern that giving away children in exchange for a bride price or in lieu of debts is still practiced and that prosecution of those who marry children has not been given priority.

58. **The Committee urges the State party to continue and intensify efforts to eradicate FGM by targeting more specifically communities which continue to practice them. The Committee also urges the State party to:**

(a) **Enforce existing legislation prohibiting FGM and early and forced marriage by bringing perpetrators to justice and ensure that other harmful practices are outlawed and punished;**

(b) **Strengthen its efforts to raise awareness within the extended family and among traditional and religious leaders of the harmful impact of female genital mutilation and other harmful traditional practices on the psychological and physical health and welfare of the girl child as well as her future family;**

(c) **Assist and empower practitioners of FGM to find an alternative source of income;**

(d) **Discourage polygamy by applying legal and administrative measures and conducting awareness-raising campaigns on its adverse effects on children;**

(e) **Actively promote change of widow rites, inheritance traditions disowning women and girls, repudiation and other practices that impact adversely on women, girls and their children; and**

(f) **Continue and strengthen its cooperation in this regard with, among others, UNICEF.**

#### **HIV/AIDS**

59. The Committee commends the State party for its achievements in the fight and prevention of HIV/AIDS, in particular the efforts to prevent Parent to Child Transmission

of HIV which have led to a significant decrease in the infection of children. The Committee also notes as positive the development of a strategic plan in 2010 to care for and support AIDS orphans whose situation had been insufficiently taken into consideration so far. The Committee is however concerned about the coverage and quality of PMTCT and about the insufficient budgetary allocation provided to ensure quality information for the HIV/AIDS education integrated into the secondary school curricula.

**60. The Committee, in light of its General Comment No. 3 of 2003 on HIV/AIDS and the rights of the child (CRC/GC/2003/3) urges the State party to increase both coverage and quality of PMTCT services in order to reach the objective of virtual elimination of mother-to-child transmission of HIV in 2015. The Committee also urges the State party to reinforce preventive actions among the youth, targeting teenagers that belong to the most vulnerable groups, and ensure that the necessary budget is allocated to the HIV/AIDS education programme provided in secondary schools.**

#### **Standard of living**

61. While welcoming the adoption of the Complete Poverty Reduction Strategy Paper (PRSP-C), 2009-2011, the Committee expresses concern that more than two thirds of children and their families are still living below the poverty line in the State Party, that access to safe drinking water is still very low and that access to sanitation facilities has even been decreasing. The Committee is also concerned that the PRSP-C 2009.2011 did not specifically address child poverty and children's rights.

**62. The Committee recommends that the State party take all necessary measures to build a national system of social protection that would be a holistic and effective response to children's poverty and vulnerability and to this aim, provide parents and families with material assistance and support programmes, particularly with regard to nutrition, clothing and housing and increase access to safe drinking water and sanitation. The Committee also urges the State party to ensure that its next Poverty Reduction Strategy Paper is integrated with its national plan of action on children and specifies tangible measures to address child poverty.**

### **G. Education, leisure and cultural activities (arts. 28, 29 and 31 of the Convention)**

#### **Education, including vocational training and guidance**

63. While welcoming the abolition in 2008 of school tuition fees for early childhood education and primary schools and the progress towards the achievement of gender parity in basic education, the Committee is concerned that the portion of the State party's budget allocated remains insufficient for the effective implementation of the abolition of school fees. The Committee is also concerned that:

(a) One third of children have no access to primary education, with girls, children living in remote areas and children with disabilities being at particular risk of being out of school;

(b) Repetition rate stands at a high level and completion rate of primary education remains very low, especially among girls;

(c) Schools are lacking and teaching infrastructure and resources remain insufficient and inadequate;

(d) An estimated one third of teachers of the State party and up to 50 percent in some regions are volunteers, receive no training and depend on direct payment by parents;

- (e) Access to early childhood education remains extremely limited; and
- (f) Corporal punishment of children within schools as well as economic exploitation and sexual abuse of children by teachers in the exchange of good marks are widespread in the State party.

64. The Committee recommends that the State party, taking into account the Committee's General Comment No. 1 (2001) on the aims of education and the General Comment No. 7 (2005) on implementing child rights in early childhood, significantly increase funding of the public education system in order to ensure effective compulsory and free primary schooling for all children. In particular, the State party should:

- (a) Take as a matter of priority all necessary measures to ensure that girls, children in remote areas and children with disabilities effectively enjoy their right to education;
- (b) Take all necessary measures to increase school enrolment, notably by constructing and setting up new schools and to reduce the teacher-student ratios;
- (c) Improve the quality of education and take all measures to ensure that children complete their schooling, including concrete action to address the reasons behind failure to complete schooling, review school curricula to make them relevant to the pupils' lives and improve access to technology;
- (d) Expand the system of vocational training institutions and make sure that children who have dropped out of school also have access to it;
- (e) Provide all teachers with adequate salaries, expand teacher-training capacities and ensure that all teachers undergo continuous and intensive in-service training and periodic evaluation training;
- (f) Increase access to early childhood education for every child and raise awareness and motivation of parents with respect to preschools and early learning opportunities;
- (g) Ensure that legal proceedings are systematically initiated against teachers who economically and sexually abuse pupils and that appropriate sanctions are taken and well-known; and
- (h) Ensure that human rights, especially child rights, and sexual and reproductive rights are included in school curricula.

## **H. Special protection measures (arts. 22, 38, 39, 40, 37(b) and (d), 30, 32-36 of the Convention)**

### **Economic exploitation, including child labour**

65. The Committee takes note of the various initiatives taken by the State party to address the economic exploitation of children including the ILO-IPEC project to combat child labour through education and the increasing number of labour inspectors. The Committee is however concerned that although thousands of children are economically active, the State party is unable to provide precise data and to assess the impact of its child labour programmes. The Committee is also particularly concerned that:

- (a) Certain provisions of Order No.1464 authorize the employment of children from the age of 16 in work likely to harm their health, safety and moral;

(b) Children, especially girls as young as 9 years working as domestics work very long hours, have no rest days, receive no or very little remuneration and are regularly subjected to verbal, physical and sexual violence; and

(c) A high number of children are involved in hazardous work, notably children known as “porters” who work in the central market of the capital Lomé while many are exposed to insecticides and pesticides in the agricultural sector.

**66. The Committee recommends that the State party strengthen the implementation of its Programme on the Elimination of Child Labour and address the root causes of child economic exploitation. The Committee also urges the State party to:**

**(a) Ensure that the National Steering Committee to Combat Child Labour (CNDLTE) effectively carries out its functions and assess the outcome of the State party child labour programmes;**

**(b) Guarantee that in no case may the performance of hazardous types of work be authorized for children under 18 years old as already recommended in 2010 by the ILO Committee on the of Experts on the Application of Conventions and Recommendations;**

**(c) Take the necessary measures to remove as a matter of priority all children involved in hazardous work. In this regard, the State party should pay particular attention to child domestic workers and ensure that the persons who economically exploit these children and perpetrators of any form of violence against them are brought to justice; and**

**(d) Consider ratifying the ILO Convention N°189 concerning decent for domestic workers.**

#### **Children in street situations**

67. The Committee reiterates its concern (CRC/C/15/Add.255 para. 68) at the large number of children living and working on the streets, and at the vulnerability of these children to various forms of violence, including sexual abuse and economic exploitation. The Committee, while noting that numerous initiatives were taken since 2011 to address the situation of children in street situations, the Committee is concerned that measures remain insufficient to prevent children from working and/or living on the streets and to protect these children.

**68. The Committee reiterates its recommendation that the State party:**

**(a) Develop a comprehensive strategy to address the root causes of the large number of street children, with the aim of reducing and preventing this phenomenon, including by strengthening the capacities of the families;**

**(b) Ensure that children in street situations are provided with adequate nutrition and shelters as well as with health care and educational opportunities in order to support their full development;**

**(c) Provide children in street situations with adequate protection from abuse and violence, and with assistance when they are victims of such violence; and**

**(d) Facilitate the recovery and social reintegration, especially through strengthening family relationships, of children in street situation.**

### **Sexual exploitation and abuse**

69. The Committee expresses serious concern that while sexual abuse and exploitation of children are on the rise in the State party, all the initiatives to combat child sexual violence are taken by civil society organizations as recognized by the State party in its written replies (CRC/C/TGO/Q/3-4/Add.1 para.59). The Committee is also seriously concerned that:

(a) Girl's sexual harassment and rape in schools are so widespread that an entire sexually degrading vocabulary is used against girls by their peers and by teachers to describe such a phenomena;

(b) The price of the medical certificate which could serve as evidence before a court is so high that most of the children and their families cannot afford it; and

(c) The practice of out-of-court settlement and compensation in sexual abuse cases remains widespread and is often encouraged by law enforcement authorities, including judges themselves.

**70. The Committee urges the State party to take immediate action to fight sexual abuse and exploitation. In particular, the Committee urges the State party to:**

**(a) Develop adequate systems of investigation of cases of sexual exploitation and of recovery for the victims;**

**(b) Ensure that medical certificates and care are free for child victims of sexual abuse and exploitation;**

**(c) Prosecute and sanction all perpetrators of sexual violence and exploitation, including teachers and ensure that judges and law-enforcement authorities do not promote or accept out-of-court settlements, but take all appropriate measures to bring the perpetrators to justice and provide them with sentences commensurate to their crime;**

**(d) Take active measures to combat sexual violence and harassment in schools by organizing nationwide communications programmes and strengthen the recruitment of female teachers who provide valuable role models for young girls and reduce the probability of abuse by teachers;**

**(e) Encourage school and health services to detect and report evidence of abuse, ensure full and unannounced inspection of school facilities and wide publicity of the investigations conducted, and establish clear reporting systems for cases of violence in schools; and**

**(f) Undertake awareness-raising programs, including campaigns, particularly for children, parents and other caregivers in order to prevent stigmatization of children victims of sexual exploitation and abuse.**

### **Sale, trafficking and abduction**

71. The Committee welcomes the adoption in 2005 of Act No. 2005-009 on the Trafficking of Children which notably creates the National Commission for the Reception and Reintegration of Child Victims of Trafficking (CNARSEVT) as well as numerous initiatives to combat trafficking in children. The Committee is however concerned that:

(a) Children from poor and rural areas continue to be particularly vulnerable to trafficking inside and outside the State party for the purpose of domestic and agricultural work and sexual exploitation;

(b) Internal trafficking and sale of thousands of children which often take place through the practice of “confiage” have been and continue to be largely neglected; and

(c) Prosecution of traffickers is rare and certain traffickers obtain their release through the corruption of state officials or when prosecuted are given light sentences ranging from 6 months to 2 years in prison;

**72. The Committee urges the State party to strengthen its effort to combat trafficking in children and in particular to conduct an in depth study on internal trafficking and sale of children in order to address them. The Committee also urges the State party to ensure systematic investigation and prosecution of perpetrators of trafficking in children and impose penalties which are commensurate to their crimes and dissuasive enough as already recommended by the ILO Committee of Experts on the Application of Conventions and Recommendations (Observations 2011).**

#### **Helpline**

73. The Committee welcomes the creation in 2009 of the child helpline “Allo 111” which was made available to children and adults to enable them to report anonymously on violations of children’s rights that they endured or witnessed. While noting that the helpline has been very effective, the Committee expresses concern that it is only accessible in one region out of the six regions of the State party.

**74. The Committee recommends that the State Party strengthen its effort to ensure that the child helpline Allo 111 be extended to all areas and regions of the State party and is accessible to all children, including children living in remote areas and children in street situations. The Committee also urges the State party to ensure that awareness-raising campaigns on the Helpline are conducted among all children and to facilitate collaboration of the helpline with child-focused NGOs, police, as well as health and social workers.**

#### **Administration of juvenile justice**

75. The Committee welcomes articles 300 to 346 of the 2007 Children’s Code creating a juvenile justice system in the State party. However, the Committee is concerned that

(a) Children in conflict with the law, and in some cases children in need of social care have been and continue to be detained in conditions amounting to ill and degrading treatment and are often not separated from adults in police stations and detention facilities;

(b) Only one juvenile court has been established in the State party;

(c) The *brigade des mineurs* which only exists in the capital has no budget for its functioning;

(d) Juvenile justice judges have not been provided with adequate specialized training;

(e) Children are rarely provided with legal assistance; and

(f) Children in prisons live in extremely poor sanitary conditions which amount to inhuman and degrading treatment prohibited under art. 37 (a) of the Convention.

**76. The Committee recommends that the State party bring its juvenile justice system fully in line with the Convention, in particular articles 37, 39 and 40, and with other relevant standards including the Standard Minimum Rules for the Administration of Juvenile Justice (the Beijing Rules), the Guidelines for the Prevention of Juvenile Delinquency (the Riyadh Guidelines), the Rules for the Protection of Juveniles Deprived of their Liberty (the Havana Rules) the Vienna Guidelines for Action on Children in the Criminal Justice System; and the**

Committee's General comment No. 10 (2007) on the rights of the child in juvenile justice (CRC/C/GC/10). In particular, the Committee urges the State party to:

(a) Take all necessary measures to ensure that no child be subjected to abuse and torture when in contact or in conflict with the law, especially during the stage of arrest and investigation;

(b) Ensure immediate removal of children from adults detention facilities and place them in a safe, child-sensitive environment where they are treated with humanity and respect for their inherent dignity and where they can maintain regular contact with their families, and are provided with food, education and vocational training;

(c) Strengthen efforts to establish specialized courts throughout the country and ensure that the review of criminal cases concerning children is conducted by judges trained accordingly until juvenile courts are established in all provinces;

(d) Establish the *Brigade des mineurs* throughout the State party and ensure that they are provided with the necessary human, financial and technical resources. While waiting for these brigades to be fully operational, designate in each unit of police and gendarmerie, at least one police officer specialized in children's rights and juvenile justice;

(e) Ensure capacity building and specialization of justice actors, including judges, prison officers, and lawyers on the provisions of the Convention and of the Children's Code;

(f) Provide children, both victims and accused, with adequate legal and other assistance at an early stage of the procedure and throughout the legal proceedings;

(g) Ensure that detention is a measure of last resort and for the shortest possible period of time, and that it is reviewed on a regular basis with a view to withdrawing it;

(h) Promote alternative measures to detention, such as diversion, probation, counselling, community service or suspended sentences, wherever possible;

(i) Develop social reintegration programmes for children in conflict with the law; and

(j) Seek assistance in the area of juvenile justice from the United Nations Interagency Panel on Juvenile Justice and its members, including UNODC, UNICEF, OHCHR and NGOs, and make use of the technical assistance tools developed by the Panel.

#### Protection of witnesses and victims of crimes

77. The Committee also recommends that the State party ensure, through adequate legal provisions and regulations, that all children victims and or witnesses of crimes, e.g. children victims of abuse, domestic violence, sexual and economic exploitation, abduction, and trafficking and witnesses of such crimes, including those perpetrated by State and non-State actors since the March 2011 protests, are provided with the protection required by the Convention and that it take fully into account the United Nations Guidelines on Justice in Matters Involving Child Victims and Witnesses of Crime (annexed to Economic and Social Council resolution 2005/20 of 22 July 2005).

## **I. Ratification of international human rights instruments**

78. The Committee encourages the State party to accede to all core human rights instruments, including the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families and the International Convention for the Protection of All Persons from Enforced Disappearance. The Committee urges the State party to fulfil its reporting obligations under the Optional Protocol on the involvement of children in armed conflict, the report of which is overdue as 2007.

## **J. Cooperation with regional and international bodies**

79. The Committee recommends that the State party cooperate with the African Committee of Experts on the Rights and Welfare of Children of the African Union towards the implementation of the Convention, both in the State party and in other African Union member States.

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

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

81. The Committee further recommends that the third and fourth periodic report and written replies by the State party and the related recommendations (concluding observations) be made widely available in the languages of the country, including (but not exclusively) through the Internet, to the public at large, civil society organizations, media, youth groups, professional groups and children, in order to generate debate and awareness of the Convention and its Optional Protocols and of their implementation and monitoring.

## **L. Next report**

82. The Committee invites the State party to submit its next consolidated 5<sup>th</sup> and 6<sup>th</sup> periodic report by 1 September 2017 and to include in it information on the implementation of the present concluding observations. The Committee draws attention to its Harmonized Treaty Specific Reporting Guidelines adopted on 1 October 2010 (CRC/C/58/Rev.2) and reminds the State party that future reports should be in compliance with the guidelines and not exceed 60 pages. The Committee urges the State party to submit its report in accordance with the reporting guidelines. In the event that a report exceeding the page limitation is submitted, the State party will be asked to review and eventually resubmit their report in accordance with the above-mentioned guidelines. The Committee reminds the State party that if it is not in a position to review and resubmit the report, then translation of the report for purposes of examination by the treaty body cannot be guaranteed.

83. The Committee also invites the State party to submit an updated core document in accordance with the requirements of the Common Core Document in the Harmonized Guidelines on Reporting, approved by the Fifth Inter-Committee meeting of the human rights treaty bodies in June 2006 (HRI/MC/2006/3). The treaty-specific report and the

common core document together constitute the harmonized reporting obligation under the Convention on the Rights of the Child.

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