



Convention on the Rights of the Child

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Committee on the Rights of the Child Thirty-eighth session

Summary record of the 1017th meeting

Held at the Palais Wilson, Geneva, on Monday, 24 January 2005, at 10 a.m.

Chairperson: Mr. Doek

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The meeting was called to order at 10.10 a.m.

Consideration of reports of States parties (agenda item 5) (*continued*)

Second periodic report of Togo ((CRC/C/65/Add.27); core document (HRI/CORE/Add.38/Rev.2); list of issues (CRC/C/Q/TGO/2); written replies of the Government of Togo (CRC/C/RESP/78))

1. *At the invitation of the Chairperson, Ms. Boyoti N'Dadiya and Ms. Akiteyi Azanbo (Togo) took places at the Committee table.*

2. **Ms. Boyoti N'Dadiya** (Togo) said that, since the submission of the initial report, significant progress had been made in Togo in child-rights protection, including the creation of the National Commission for the Care and Social Reintegration of Child Victims of Trafficking, the setting-up of local committees in all prefectures and the national plan of action on the fight against child trafficking and labour. The draft Children's Code was being reviewed and brought into line with the relevant international instruments. Togo had ratified the two optional protocols to the Convention on the Rights of the Child. Much remained to be done, but Togo had the political will to make further improvements, with the Committee's help.

3. **Ms. Aluoch** asked whether the second periodic report had been prepared by the National Committee for the Protection and Promotion of Children's Rights; whether the Committee had yet drawn up a plan of action for children in the social and legal fields, as provided for in its mandate; and whether it could take up complaints from children. The report did not specify who coordinated the application of the Convention, or whether the Convention was invoked and enforced by the national courts.

4. Details were needed concerning children's courts and the budget specifically allocated for children. The Committee also needed to know whether the draft Children's Code included a uniform definition of the child.

5. The Individuals and Family Code required customary practices, which were often discriminatory in relation to women and girls, to be respected; it was to be hoped that the forthcoming Children's Code would provide a solution to the problem and would also resolve the issue of the discrimination suffered by the children of Togolese mothers and foreign fathers under the 1998 Nationality Code.

6. In its report, Togo mentioned a variety of measures to improve the registration of births, but, according to some sources, few children were registered within the legal time limit and registration was still not widespread in rural areas, including because the registration centres were far away, costs were high and parents lacked awareness: the fact that a birth certificate was needed to enrol in primary school made it all the more necessary to raise people's awareness of the subject.

7. **Ms. Ouedraogo** noted that the implementation of the Convention in Togo was hampered by obstacles of an economic, social and political nature and by the weight of tradition. Togo was not a party to any of the Hague conventions, or to the United Nations conventions on statelessness and maintenance payments. Togo had not yet submitted its reports on the implementation of the Optional Protocols to the Convention; moreover, its second periodic report was very summary and lacked information on a number of subjects.

8. The draft Children's Code was being recast, but certain articles seemed to need to be brought into line with the Convention, including articles 257, 240, 243 and 340–346. On that subject, the Committee needed to know whether the draft Code provided for marriageable age to be the same for boys and girls.

9. While responsibility for the implementation of initiatives connected with the Convention appeared to lie with the General Directorate for the Protection of the Child and the National Committee for the Protection and Promotion of Children's Rights, both organizations lacked financial and human resources, and there was the question how they shared responsibilities to avoid duplication. It was also necessary to clarify whether monitoring enforcement of the Convention was carried out by the Observatory for Monitoring the Situation of Women and Children, by the National Human Rights Commission (CNDH) or by another body.
10. It would also be useful to know whether plan of action for the protection and promotion of children had been subject to evaluation, and whether there were plans to adopt another. A national policy for children and a three-year plan of action for child protection had also been announced.
11. She asked what follow-up there had been to the Committee's recommendations on data collection, where there were still significant gaps, and asked for details on the National Human Rights Commission. It would be useful in particular to know what kind of complaints it took up and whether children were aware of its existence. At a general level, there was the question of how children were informed about their rights, as the Commission had carried out awareness-raising campaigns in schools only, and the school enrolment rate was very low in Togo. It would also be interesting to know to whom the Commission department responsible for children was accountable, and whether it was able to make recommendations to Government for the protection of children's rights.
12. The Committee also needed to know what arrangements had been put in place to ensure that children had access to information that was not likely to cause them harm; whether the sessions to alert video club owners to the dangers of certain violent and pornographic films had taken place as planned; and whether parents were aware of the risk that their children might gain access via the Internet to documents unsuited to their age.
13. Finally, it would be useful to know what was being done to prohibit corporal punishment, which was still widespread at school as well as in the home, and to encourage alternative, non-violent, forms of punishment.
14. **Ms. Al-Thani** was concerned about discrimination against children with disabilities, and in particular those with birth defects who were sometimes simply killed, and wished to know what was done to punish the perpetrators of such crimes and educate parents to bring about a change in attitudes. She asked whether measures had been taken to protect those orphaned by AIDS against discrimination at school and from child trafficking. Clear information on corporal punishment was essential, as Togo referred to a ministerial ban, while certain sources maintained that the practice was still permitted by law.
15. **Ms. Smith** asked whether corruption posed a major threat to the resources available. She also wished to know what cases were decided by the traditional courts, which were in place in the rural areas, and how judges in ordinary courts were appointed. Details on cooperation between ministries, which sometimes seemed difficult, and with non-governmental organizations (NGOs), would also be useful.
16. **Ms. Anderson** asked whether implementation of the plan of action on the registration of births had begun, and whether young people were able to set up associations. The fact that there seemed to be far more NGOs offering social assistance than engaging in awareness-raising and the promotion of rights suggested that the latter had more difficulty in carrying out their activities and prompted the question whether that situation derived from a distinction drawn in the law.
17. Finally, as teaching took place exclusively in French from the primary stage onwards, she would like to know how non-French-speaking pupils managed.

18. **Mr. Citarella** asked whether the Convention had been invoked in the courts; what measures were being taken to counter the seemingly widespread practice of abandonment of newborns; and what was being done to change attitudes and bring parents to accept that their children had rights.

19. **Mr. Liwski** asked whether measures had been taken to remedy the discrimination against children and adolescents from ethnic groups in the north of the country, in contexts including activities designed for young people, to which the Committee on Economic, Social and Cultural Rights had recently drawn attention, and whether the situation had improved.

20. The report indicated that minors could not set up associations of their own but were able to join those for adults, but it would be useful to know what their status was in such associations (observers only or active participants) and whether those arrangements would be altered in the forthcoming Children's Code.

21. The report did not mention any measures against torture and other cruel, inhuman or degrading punishments, though the Committee on Economic, Social and Cultural Rights had drawn attention, in its concluding observations, to extremely grave violations, and in particular to extrajudicial executions. Even if such violations were a thing of the past, it would be useful to know that measures were in place to compel agents of the State to respect fundamental rights.

22. **Mr. Krappmann** asked what place children occupied within Togolese society; who was responsible for campaigns to raise parents' awareness of the need to respect the opinion of children when decisions affecting them were made; how many parents those campaigns had reached and whether they had brought about a change of behaviour on the part of the parents concerned. The Committee also needed to know whether pupils were consulted on all decisions affecting them at schools and from what age children were heard in the context of legal and administrative proceedings.

23. He asked whether the Children's Parliament held regular sessions; how it influenced decision-makers when children's policies were formulated; whether children were involved in decisions at the local level (for example by giving their opinion on the siting of play areas or the provision of recreational activities); and how judges, teachers and local elected officials were familiarized with the concept of giving children more clout in relation to decision-making.

24. **Mr. Filali** wanted to know why the State party had not sought the assistance of specialized agencies such as the United Nations Children's Fund (UNICEF) in preparing its report, and regretted that the written replies failed to give enough specific information to provide a precise picture of the child-rights situation in Togo. It would be useful to know whether the State party intended to put in place a mechanism for following-up the Committee's concluding observations, tasked with regularly collecting data on the various questions about which it was concerned.

25. It would also be useful to know whether those responsible for law enforcement (police, judges and others involved in administering justice) had the benefit of training in human rights in general and in the rights of the child in particular.

26. He asked for information on the measures taken in the interests of persons with disabilities to ensure that they were not ostracized, as apparently happened even within their own families, and to combat the crimes of infanticide and female genital mutilation, on which exact statistical information would be welcome.

The meeting was suspended at 11.10 a.m. and resumed at 11.30 a.m.

27. **Ms. Akiteyi Azanbo** (Togo) said that the General Directorate for the Protection of the Child, which reported to the Ministry of Social Affairs, was responsible at present for formulating and implementing policies for children, and then following them up at the national level. It was also the General Directorate which received complaints from children who considered that their rights had been infringed, and from family members or third parties wishing to bring a complaint on their behalf. The National Committee for the Protection and Promotion of Children's Rights was responsible for drawing up periodic reports for submission under the Convention, as well as other reports on children's issues at national level; the intention was to confer greater autonomy on it to allow it to exercise its mandate with complete independence.

28. The age of criminal responsibility was currently 13 years, but the draft Children's Code provided for it to be raised and for a single, uniform age of majority to be set for civil, criminal and civic purposes and for consent to marriage.

29. The low rate of registration of births was ascribable to the fact that access to registration services was too difficult for the majority of the population, and that was why the Government, NGOs and development partners had set up kiosks to act as registration services within the health service's structures.

30. The Government had undertaken to combat the violence suffered by children by running awareness-raising campaigns in schools and market-places so as to reach the greatest number of people. The three-year plan of action for child protection provided for measures in schools and market-places, as well as door-to-door activities for spreading the message as widely as possible.

31. The Board of Censors had resumed its activities at the end of 2004 and was holding weekly meetings. Unfortunately, video clubs largely escaped supervision by the authorities, for reasons including their opening times, which were chaotic and usually extremely late. The Ministry of Social Affairs and the Ministry of the Interior were therefore currently looking into ways of taking more effective action to regularize the activities of such clubs.

32. The mandate of the Children's Parliament had expired and not been renewed for the present. Taking current changes into account, however, there were grounds for hope that a new Children's Parliament could be set up soon. Children's associations did indeed exist, and children were thus not refused the right of association.

33. **Ms. Boyoti N'Dadiya** (Togo) said that, under article 32 of the Constitution, mothers could transfer their nationality to their children on the same basis as fathers, and that all other legislation relevant to the issue would in the long term be aligned with that provision.

34. The three-year plan of action for child protection, prepared by the Ministry of Social Affairs and about to be finalized, provided for campaigns to raise awareness about the rights of the child and discrimination, aimed not only at schoolchildren, but at the whole population and every social class.

35. Kiosks for the registration of births had been set up in health centres in the most remote areas of the country. In addition, meetings were regularly arranged in health centres at which young mothers were invited to fill in a questionnaire giving the name, sex and date of birth of their child. That reflected the fact that a certain number of births took place in the home, with the help of traditional midwives, and might not therefore be registered. The directors of the health centres then passed the information to the kiosks providing registration services.

36. The Government of Togo had not yet given effect to the recommendation of the regional birth registration conference, held in Dakar in February 2004, inviting States to allow parents, for a period of one year, to register children without paying a fee, but it intended to do so. In addition, special out-of-court hearings were held to deliver judgements

in lieu of birth certificates to children who needed them, allowing them to enjoy the same rights as children registered immediately after birth.

37. Togolese law provided penalties for the abandonment of children. When cases came to light, all abandoned children were taken charge of by the services of the General Directorate for the Protection of the Child and then entrusted to the care of an orphanage before being adopted. In such cases, priority was given to national adoption, and the procedure for an intercountry adoption was set in train only when no Togolese family volunteered to take the child.

38. Working with the General Directorate for the Protection of the Child and several NGOs, the Department responsible for the protection of the rights of persons with disabilities had run awareness campaigns and campaigns of individual support for families with children with disabilities, with the aim of combating discrimination against such children and fostering recognition of their rights. Awareness-raising measures had also been taken to try to put an end to the elimination at birth of children with congenital defects, working with religious leaders and traditional healers on the ground. All those who committed crimes against children born with congenital defects were prosecuted and were liable to the same penalties as other criminals.

39. The authorities had never received any complaint about acts or practices which were discriminatory towards child victims of HIV/AIDS, but the National AIDS Control Committee and several NGOs dealing with HIV/AIDS were carrying out activities in schools to prevent such behaviour.

40. Information suggesting that there was discrimination towards children and young people from the north of the country had scarcely any foundation. If such discrimination had occurred in the context of the wider social and political disturbances which had rocked the country several years back, all children were now treated in the same fashion and lived together in conditions of equality.

41. The Convention on the Rights of the Child was enforced by the Togolese courts; judges who were required to pass judgement on those guilty of crimes against children most often founded their decisions on the provisions of the Convention, in the absence of specific national legislation on the subject. Several had, moreover, received in-depth training on the implementation of the Convention.

42. There was no suggestion of corruption in the use of the resources allocated for children's services. The various stakeholders were sufficiently conscious of the vulnerability of child victims of crime to ensure that they did not have to suffer as a result of such activity.

43. The various ministries dealing with questions relevant to the rights of the child cooperated without great difficulty. However, it was more difficult to coordinate the activities of the NGOs working for children. The three-year plan of action for child protection, which was due to be adopted shortly and would see the NGOs involved in its implementation, ought to provide a partial solution to the problem.

44. **The Chairperson** asked for clarification of how children were perceived, in particular whether they were considered as persons entitled to rights; and if they so, how that was reflected in daily life. Were children able to express their views freely, including at school, and, if so, by what means? He asked for details of the form of the activities undertaken to raise awareness of the rights of the child in schools, and more generally among the general public, and asked whether the radio, for example, was used for that purpose.

45. **Ms. Vuckovic-Sahovic**, observing that instances of violence by adults against children were more numerous at school than within the family, asked for details of the

measures taken to raise the awareness of decision-makers about the problems of corporal punishment.

46. **Ms. Smith** wanted clarification of the meaning of paragraph 33 of the report. She also noted that, according to the information provided in paragraph 34, the exercise by children of the right of association remained limited because minors were not allowed to set up associations, only to join them.

47. **Ms. Khattab** asked for details of the process by which the Children's Code was drawn up, including whether the existing legislative provisions on children had already been scrutinized, and what approach the Government proposed to take to correct any lack of consistency between them.

48. **Ms. Boyoti N'Dadiya** (Togo) said that children's radio stations had been set up in every region of the country with support from the NGO Plan Togo. It was the children themselves who devised and presented the programmes broadcast by those stations.

49. **Ms. Akiteyi Azanbo** (Togo) said that an awareness-raising session for parliamentarians on the promotion and protection of the rights of the child had been organized in collaboration with UNICEF-Togo. The aim of session, facilitated by experts, had been to demonstrate the need to adopt a Children's Code. Awareness-raising activities had also been undertaken with judges and the police with the aim of reinforcing protection for child victims of trafficking, sexual exploitation and abuse. Those measures had raised awareness at all levels. Nowadays, every suspicious act prompted an immediate reaction on the part of the authorities, and every complaint was followed-up. The Ministry of Education had adopted a decree prohibiting corporal punishment at school.

50. Although the child was traditionally king within Togolese families and society, it was true that children's opinions had begun to be taken into account in decision-taking only very recently. Behaviour towards children had begun to change, and while progress was slow, it was inexorable.

51. **Mr. Filali** asked what supervisory arrangements had been put in place in schools to see that the ban on corporal punishment was respected, and to whom pupils could turn to report abuse.

52. **Ms. Ouedraogo** asked whether the Government had appealed for help from traditional and religious chiefs in its awareness-raising programmes, bearing in mind the considerable influence that they had over populations the majority of whom were illiterate.

53. **Mr. Krappmann**, noting that school inspectors had the power to have teachers who used corporal punishment disciplined, asked how many teachers had in practice been disciplined for that reason in 2003 and 2004.

54. **Ms. Akiteyi Azanbo** (Togo) said that traditional chiefs had been involved very early on in the implementation of the Convention, as an information campaign aimed at them had been organized as soon as it was ratified.

55. As for supervisory arrangements in schools, pupil committees had been set up in most, and their responsibilities included reporting violence or sexual abuse committed by the teaching staff. That meant that children were able to turn to other children, with whom they normally felt more confident. The members of the committees then relayed the complaints to pupils' parents and the competent authorities. In 2004, six complaints reporting violations of the rights of the child had been recorded at Lomé and all had given rise to legal proceedings.

56. The Government had begun discussions with various development partners with a view to the creation of a free telephone helpline to receive calls about ill-treatment of children, backed by comprehensive arrangements for taking care of victims. At present,

there were two numbers which had been circulated widely, by the media among others, and which could be called at any time of day or night; calls were not free, but callers using the lines could ask to be called back if necessary. Calls were taken by professionals from the General Directorate for the Protection of the Child. When they involved mistreatment by close relations, the response of the authorities was immediate: children were removed from their families and placed in a residential institution. Complaints might come from individuals, but also from government bodies or NGOs.

57. **Ms. Khattab** asked for details of the role of the National Human Rights Commission, and more particularly of its links with the Ministry of Social Affairs, to which the General Directorate for the Protection of the Child was answerable.

58. **Ms. Akiteyi-Azanbo** (Togo) said that the Commission, just like the National Committee for the Protection and Promotion of Children's Rights, was able to pass complaints to the General Directorate for the Protection of the Child and track cases at the procedural level. The General Directorate, on the other hand, had sole responsibility for the care of child victims.

59. **Ms. Ouedraogo** cited statistics suggesting that more than 50 per cent of the population of Togo lived in extreme poverty. Even if the country as yet had no national strategy to combat poverty, it would be good for it to have at least to have a comprehensive programme on the subject. Having a global strategy to combat poverty would allow the various causal factors to be attacked simultaneously, and thus allow optimal use of limited human and financial resources.

60. Measures were urgently needed to discourage premature marriages and to get across the idea that girls ought to pursue their school careers to the end. Child labour was a fact, as in other countries in the subregion, but the particular feature in Togo was that it was highly developed in the informal sector, which was conducive to child exploitation and trafficking. To avoid child exploitation or trafficking in cases of informal adoption, parents should be encouraged to register or formalize adoptions.

61. Finally, it appeared that a growing number of very young girls (from the age of 9) were working as prostitutes and that the authorities were turning a blind eye. The establishments concerned were known and it was imperative that they should be closed down.

62. **Ms. Aluoch** asked why the State party had still not ratified the Hague Convention on Protection of Children and Cooperation in respect of Intercountry Adoption despite the serious problem of child trafficking with which it was faced. Allowing intercountry adoptions would offer the protection of a family to the most vulnerable children. She also wished to know whether the problem of street children occurred other than in the capital.

63. Most countries were moving towards legislation to protect persons infected by HIV/AIDS so that they could continue to work and to bring up their children normally; it would therefore be interesting to know whether the State party had begun to consider that.

64. Togo had adopted a law on female genital mutilation with positive results, but it was not currently clear whether other means of subsistence had been offered to people who had formally practised excision as a means of earning their livelihood.

65. It was cause for concern that the administration of justice for minors did not operate properly because of a lack of human, material and financial resources. While the financial constraints were understandable, the lack of human resources was less so, given that the country had been independent since 1960: supplementary information on the point was therefore essential. It was unacceptable that the courts in the interior of the country should be without children's judges and that everything should be centralized in Lomé, where only a minority of Togolese children lived.

66. **Mr. Citarella** sought the view of the delegation on information received from certain sources, according to which minors were imprisoned with adults in establishments where they suffered physical and psychological torture. It would also be useful to know whether steps were being taken to address the absence of children's judges in the interior of the country.

67. **Ms. Chutikul** said it was her understanding that children who had been the victims of trafficking and had been rescued from the hands of the traffickers received little assistance and that, after being housed in a shelter run by a NGO, they could be interrogated by police under dubious conditions. The fact that trafficking continued was explained by the absence of coordination in counter-measures, combined with the impunity enjoyed by traffickers, who were often freed for lack of proof, and by an approach to the enforcement of migration laws which left much to be desired and made it easy to cross borders. Efforts were therefore needed on various fronts, and free education had to be guaranteed as a means of prevention, since some child victims of trafficking had been expelled from school for not having been able to pay their fees. It was also essential to create a national commission to combat that phenomenon.

68. **Ms. Anderson** asked whether the arrangements for providing care and social rehabilitation mentioned in paragraph 76 of the report catered for minors in conflict with the law, and noted that access to education and social services seemed problematic both for children placed in an alternative care establishment and those imprisoned with their mothers.

69. She wanted to know whether there were plans to adopt a plan of action for orphaned and vulnerable children, a question which was closely related to trafficking and child labour.

70. **Ms. Ortiz** stressed that life in an orphanage should be no more than a transitional stage and asked whether a system of foster families existed in Togo, provided with all the necessary preparatory and information work. She wished to know how many national and intercountry adoptions had been recorded. Ratification of the Hague Convention had already featured in the recommendations made by the Committee following its consideration of the State party's initial report. That would be all the more useful as Togo maintained privileged relations with countries such as France, Switzerland and Italy, which had ratified the Convention.

71. The point of departure for trafficking was often an offer to a child of domestic employment, sometimes abroad. She would therefore like to know what was being done at national level to make the position of children in that type of employment less vulnerable; who was responsible for monitoring the way in which they were treated; whether they were registered and had identity documents; whether they were of legal age to work; and whether they remained in contact with their families.

72. **Ms. Khattab** was pleased to note that school fees were lower for girls, but commented that education was supposed to be free, at least at primary level. Additional problems were the inadequate training of teachers, excessively large classes and the absence of cultural and leisure activities.

73. The condition of women and girls posed concerns and called for determined action, as girls were less frequently entered in the register of births, were less often enrolled in school and in addition were victims of premature marriages, domestic violence and genital mutilation. The right measures had been taken against female genital mutilation, but the Committee needed to know why, if they were still in operation, their results had not been evaluated, and how the media dealt with the issue.

74. She drew attention to the seriousness and the extensive scale of child trafficking in Togo, which was sometimes said to be failing to respect its international obligations on the subject, as the penalties that it imposed were not severe enough and it did not take the protective measures needed.

75. **Ms. Al-Thani** noted that very few children with disabilities were integrated into the ordinary school system and that the health budget and the number of health professionals were in decline. Mosquito nets were expensive, while malaria was a recognized public health problem. There were major regional inequalities in the health-care system, the rates of maternal mortality, vaccination and malnutrition were worrying, as were access to sanitation and potable water, while HIV/AIDS was continuing to spread, especially among adolescents. Young girls had to undergo initiation rites which were abusive and subjected them to deplorable conditions of hygiene.

76. **Mr. Krappmann** commented that the education budget of Togo was lower than those of comparable countries and had been declining for several years, which called for an explanation. He asked whether plans existed for the development of preschool education and what proportion of 15-year-olds obtained their diploma for completing the first cycle of secondary education: he feared that it was hardly more than 20 per cent, taking into account the numbers repeating years and abandoning their studies.

77. **Mr. Kotrane** observed that many of the problems noted by the Committee at the conclusion of its consideration of the initial report remained current and that new ones had come to light. He was astonished to read at paragraph 26 that children took the name of their mother, if the putative father disowned the child, and wished to know how such disavowals were made. On a related issue, he asked what means were open to children born outside marriage to establish their filiation and, with reference to the concerns expressed on that subject by the Special Rapporteur on violence against women, to what extent the principle of the best interests of the child was taken into account in decisions about divorce. Did all children have the right to maintenance payments and was the child of a divorced couple able to travel with the mother, bearing in mind that a woman was not normally able to acquire a passport except with her husband's consent?

78. Despite having acceded to the International Programme on the Elimination of Child Labour, the State party continued to experience grave problems of child exploitation, including by teachers in some schools, according to NGOs who had written to the Ministry of Education to draw its attention to the problem. That unusual problem called for a response from the State, particularly as it gave parents an incentive to withdraw their children from school.

The meeting rose at 1.10 p.m.