



Convention on the Rights of the Child

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Summary record of the 1680th meeting

Held at the Palais Wilson, Geneva, on Monday, 23 January 2012, at 3 p.m.

Chairperson: Mr. Zermatten

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The meeting was called to order at 3.05 p.m.

Consideration of reports of States parties (continued)

Combined third and fourth periodic reports of Togo (continued) (CRC/C/TGO/3-4; CRC/C/TGO/Q/3-4 and Add.1)

1. *At the invitation of the Chairperson, the delegation of Togo took places at the Committee table.*
2. **Ms. Wijemanne** said that the Committee had been informed that only about 30 to 40 per cent of pregnant women had access to skilled health-care personnel for childbirth assistance and emergency obstetric care, a fact that could be conducive to high maternal mortality and morbidity rates. The prevalence of female genital mutilation could lead to prolonged and obstructed labour, affecting the mother and unborn child and contributing to child disabilities. Adolescent pregnancies were particularly risky, especially where the mother had undergone female genital mutilation. She enquired about plans to increase resources for maternal health and to train health-care personnel, especially in rural areas.
3. Many diseases affecting infants and young children, such as respiratory diseases, diarrhoea and malaria, seemed to be preventable. Iodine deficiency, for example, which could affect early childhood development and contribute to disability, was preventable by means of the cheap and effective measure of iodization of common salt. She asked whether the problem stemmed from insufficient resources and trained personnel or inadequate outreach of services, and whether there were any plans to remedy the situation.
4. Noting that acute and chronic under-nutrition was prevalent in the State party, she commended the Government on its effective vitamin A supplementation programme.
5. Higher priority should be given to the fight against HIV/AIDS, especially during pregnancy in order to prevent mother-to-child transmission. Noting that some 25 per cent of parentless children were AIDS orphans, she asked whether pregnant women were screened and given access, if necessary, to antiretroviral therapy.
6. **Ms. Aidoo** commended the State party's efforts to promote education through the abolition of school fees and the adoption of special measures on behalf of girls. However, she understood that one third of teachers were untrained volunteers working in informal and community schools. The situation was particularly serious in the northern Savanes region, where up to 50 per cent of teachers were reportedly volunteers paid in cash or in kind by parents or parent-teacher associations. She asked whether action was being taken to train more teachers and to improve the quality of teacher training.
7. Referring to high dropout rates, she asked whether there were any programmes aimed at offering young people a second chance to enter the education system, resume their intellectual development and increase their skills.
8. With regard to vocational training, she noted that Togo had not yet ratified the United Nations Educational, Scientific and Cultural Organization (UNESCO) Convention on Technical and Vocational Education. Were there any plans to do so?
9. **The Chairperson** noted that the State party planned to take further action in support of the juvenile justice system. Emphasizing that deprivation of liberty should be a last resort in the case of children in conflict with the law, he asked whether alternatives to detention had been considered. He also enquired about measures to prevent the use of violence or torture against children during their arrest or detention in police custody, and to ensure that the perpetrators were brought to trial and punished.
10. The Committee had received reports concerning a prison in Lomé where conditions, such as food, accommodation, visiting rights and cell space, were particularly bad for

minors. Moreover, children were apparently left to their own devices while serving their sentence. What action was being taken by the Government to remedy the situation?

11. **Mr. Hamadou** (Togo) reassured the Committee that the Government was well aware of its obligations under the Convention. It should be borne in mind, however, that a democracy was required, in the interests of good governance, to respect and accommodate divergent views, which might in some cases impede the realization of ambitious plans. Responsibility for proposing legislative initiatives lay with both the Government and the National Assembly, but Government priorities did not always coincide with those of the Assembly. Respect for the separation of powers prevented the Government from compelling parliamentarians to enact certain bills. Moreover, elections were scheduled for 2012 and all political parties were refining their strategies to secure popular support. It was important to ensure that bills were not regarded as dictates imposed on the people. Unfortunately, that meant in some cases accommodating aspects of public opinion that were not in line with international standards.

12. According to the Committee, children with disabilities might be subject to discrimination if they were placed in specialized institutions. He wondered, however, whether it would be proper and feasible to place a child who was deaf in a regular school in order to avoid discrimination. He argued that enrolment in specialized institutions was a form of positive discrimination, along the lines of lower school fees for girls. Children with relatively severe disabilities should be protected, for instance against mockery by fellow pupils. The facilities provided in specialized institutions were designed to facilitate such children's access to education.

13. **Mr. Cardona Llorens** said that children with disabilities had the same human rights as other children. The only way of empowering them to forge an inclusive life in society was to promote such inclusion from their first day at school. A protective approach that separated them from other children would limit their capacity to participate in society on an equal footing. They would be confined to ghettos and would continue to be perceived by other children as irremediably different. He agreed, however, that they should not simply be admitted to regular schools that lacked the necessary infrastructure and skilled teaching staff. Positive discrimination called for the introduction of reasonable adjustments in that regard.

14. **Mr. Hamadou** (Togo) said that the authorities were moving in that direction step by step. If children with severe disabilities were placed all at once in regular schools, he feared that discrimination might be exacerbated. A deaf child could not be placed in a normal school without the requisite facilities and trained teachers. However, action to remedy the situation would require a substantial investment.

15. **Mr. Kotrane** noted that the priorities the State party had set for itself appeared to be attainable in the light of its current financial situation. He pointed out, however, that when the Committee highlighted fundamental choices, it was not referring to financial means but to a basic approach to human rights. The fact that the Children's Code had not been entitled "Code of Children's Rights" reflected, in his view, a certain concept of such rights in Togo. The rights of children with disabilities were not even mentioned in the Code, which brought together disparate texts that defined the child's status but failed to give sufficient attention to basic rights. A shift in mindsets was necessary to ensure that children's rights and, in particular, the rights of children with disabilities were given pride of place in the legal system.

16. **Mr. Hamadou** (Togo) reassured the Committee that the Togolese Government was strongly committed to improving the lot and enhancing the rights of all children.

17. Forced and early marriages were punishable under the Criminal Code. Although the relevant provisions were difficult to implement in practice, the judicial authorities were

determined to punish offenders and would not be discouraged. The legislative backing for their work would be reinforced. The children of forced marriages that were deemed to be void enjoyed the same rights as other Togolese children.

18. **Mr. Kotrane** drew attention to article 248 of the Children's Code, which stipulated that a child born out of wedlock who was recognized by one of the parents was entitled to demand maintenance from the parent concerned. Paragraph 2 of the same article stated that a child born of an adulterous mother could demand maintenance from his or her biological father provided that the child had already been disowned by the presumed father (i.e. the mother's husband). The third and last paragraph, which was a source of concern, stipulated that a child born of an adulterous father could not demand maintenance from him unless the latter had recognized the child. He emphasized that all children were entitled to a name, a family and maintenance from the father, even if they were born out of wedlock. The best interests of the child were not correctly defined in article 4 of the Children's Code, and the Code as a whole was more concerned with a child's legal status than with his or her rights.

19. **Mr. Hamadou** (Togo) said that experts from the United Nations Children's Fund (UNICEF) had been involved in the drafting process. However, the original version of the Code submitted to the National Assembly had been amended in order to secure a consensus. The text was not set in stone and could be improved with the Committee's assistance.

20. **Ms. Abbey-Kounte** (Togo) said that a specialized juvenile justice division was in operation in Lomé. In the rest of the country, juvenile justice formed part of judges' initial training and they were assigned by the judge of the appeal court to act as children's judges. The Children's Code provided for the observance of all procedural guarantees in cases involving children, including the right to a lawyer from the moment of arrest. It also indicated that children under 16 could not be deprived of their liberty; in such cases, judges were required to hand down alternative sanctions.

21. **The Chairperson** asked if all the persons involved in the juvenile justice system, not only judges, received specialist training. It would be useful to know what training was provided in juvenile justice for others, such as prison staff and social workers, and how they coordinated their work, both in the capital and nationwide. He would welcome clarification of how a 14-year-old who committed a murder would be treated by the justice system. Additional information should also be provided on any special measures taken with regard to child victims, particularly those who were required to give evidence in court.

22. **Ms. Abbey-Kounte** (Togo) said that, as the age of criminal responsibility in her country was 15 years, a case could not be brought in a court against a 14-year-old child who had committed a murder. In such cases, the children's judge was required to hand down educational measures, such as attending the State-run Cacavéli social reintegration centre in Lomé. Children could not be held in police custody for more than 30 hours. All staff of the judiciary were given regular on-the-job training in how to deal with child victims and children who came into conflict with the law.

23. **Mr. Kotrane** requested clarification of article 336 of the Children's Code; which provided that the court could, by virtue of a specially reasoned decision, impose a prison sentence of a maximum of 10 years on a child who was over 16 on the date of the adjudication. It was a universally accepted principle of criminal law that the date on which a crime was committed should be the determining factor in all cases. That was especially relevant in acts committed by juvenile delinquents. It would appear that a prison sentence could, in fact, be handed down to a child in the State party who had committed a murder at the age of 14 if the sentence was not handed down until the child was 16.

24. **The Chairperson** noted that Togo was not the only country to use the date of the adjudication of a crime rather than the date of commission, which was a violation of human rights. He therefore called on the State party to amend its legislation in that regard.
25. **Mr. Ahondo** (Togo) said that the delay in the revision of discriminatory provisions that were not in line with international practice had been caused by the lack of a systematic approach to updating domestic legislation. The Family and Persons Code was currently being re-examined in order to ensure it complied with all Togo's international obligations. Several provisions had already been revised; for example, they now included a spouse's right to remain in the marital home on the partner's death, regardless of the wishes of the offspring. Agreement had also been reached to include domestic violence in the revised Family and Persons Code, the Children's Code and the Criminal Code. A bill on violence against girls and women was also currently under examination. Nonetheless, many victims of domestic violence were reluctant to report those offences for fear of recrimination. The Government was trying to raise women's and children's awareness of their rights and to encourage them to report violations.
26. **Mr. Kotrane** asked what preventive measures were being taken in the State party to avoid violence against children. Mechanisms were required to ensure that the authorities were informed and could take action at an early stage in order to prevent such violence from escalating. In particular, he wished to know whether doctors and teachers were required by law to report any signs of ill-treatment of a child. Such reports enabled the civil authorities to intervene and advise parents and others responsible for children on the use of non-violent disciplinary methods.
27. **The Chairperson** asked whether the helpline that had been set up was used or could be used to support such preventive measures.
28. **Mr. Hamadou** (Togo) said that the draft revised Criminal Code contained specific provisions prohibiting violence against children.
29. **Mr. Ahondo** (Togo) said that the Health Code required doctors to report all cases in which children showed physical signs of violence and ill-treatment. Teachers were also obliged to report such signs. The staff who answered calls to the helpline were responsible for alerting the judicial authorities about cases that required investigation.
30. While corporal punishment was clearly prohibited by law, in order to be able to prosecute a perpetrator, the victim had to have suffered some sort of incapacity. Administrative measures had been applied to some teachers in response to complaints from parents whose children had been caned at school. The Government was taking steps to raise parents' and teachers' awareness of the need to use non-violent methods of discipline.
31. **The Chairperson** asked if corporal punishment was explicitly prohibited in rehabilitation centres for juvenile delinquents and other criminal justice establishments.
32. **Mr. Ahondo** (Togo) said that corporal punishment was explicitly prohibited in all such centres. Administrative penalties were handed down to any member of staff who used corporal punishment. In addition, they could be brought before the courts.
33. **Mr. Hamadou** (Togo) said that, while corporal punishment was prohibited in all environments, it was difficult to know exactly what took place in every home, school and rehabilitation centre in the country. The authorities penalized all perpetrators that came to their attention.
34. **Mr. Cardona Llorens** asked if the law specifically prohibited parents from slapping their children if the slap did not result in any incapacity. It would be useful to know whether criminal and civil as well as administrative penalties could be handed down for corporal punishment in the family setting.

35. **Mr. Hamadou** (Togo) said that all acts of corporal punishment were prohibited, regardless of the consequences. The Government was striving to raise public awareness of the need to report cases of corporal punishment. Perpetrators of such offences faced administrative or judicial penalties, or both in some cases.

36. **Mr. Kotrane** asked why children aged 15 and over were not protected from corporal punishment under the Children's Code, article 355 of which provided for punishment of acts of violence against children aged under 15 only.

37. **Mr. Ahondo** (Togo) said that the Children's Code and the Criminal Code between them covered children of all ages.

38. **The Chairperson** invited the delegation to answer questions posed earlier about adoption.

39. **Mr. Ahondo** (Togo) said that the Children's Code provided for both simple and full adoption. While for in-country adoptions the simple option might be more convenient, it currently cost as much as international adoption, as the processes were similar. It had been pointed out that keeping costs at the same high level as for international adoption might discourage in-country adoptions. A study was needed to ensure that there was no discrimination.

40. **Ms. Nores de García** noted that, with the majority of Togo's population living in poverty, adoption was unaffordable for most people in the country, which indeed amounted to discrimination. She added that having a ministry manage adoptions made the process very slow. She asked what the State party was doing to speed it up.

41. **Mr. Ahondo** (Togo) said that his country was overhauling many of its institutions. Regarding adoption, efforts to reduce the time frame and cost had had some success but there was room for further improvement.

The meeting was suspended at 4.25 p.m. and resumed at 4.50 p.m.

42. **Mr. Lantomey** (Togo) said that there had been cuts in the education budget but they should not negatively affect schools' functioning because considerable funding was available via the "Education for All" project, and additional funding had been provided by the French development agency.

43. Public primary schooling had been free since 2008. The Government provided funding to schools for salaries and operating costs.

44. The education plan for the period 2010/20 aimed to provide a solid education to all children, including those with disabilities. Since 2009 Handicap International had been conducting a project in the Savanes region to mainstream children with slight disabilities into regular classes. A survey had been conducted to identify eligible children, and the possibility of extending the approach to other regions was being examined.

45. **Mr. Cardona Llorens** said that, according to the available statistics, very few children with disabilities in Togo were attending regular schools or even schools for children with special needs. He did not believe that all cuts in the education budget could be offset by international assistance. Inclusive education required specially trained teachers, which in turn required extra funding. Therefore budget cuts would clearly affect inclusive education. Given the benefits of inclusive education for children, and the fact that it was less costly than special needs education, it was urgent to ensure that children with disabilities were mainstreamed to the extent possible.

46. **Mr. Lantomey** (Togo) said that his delegation took note of the comment and the recommendations and would follow up on them as soon as resources permitted.

47. Responding to questions on other issues, he said that HIV/AIDS awareness training had been part of school curricula at all levels of education since 2009. Cases of violence and sexual exploitation of children in schools were often hidden from the authorities for sociocultural reasons. When they were exposed, appropriate action was taken. For example, two teachers had been suspended in connection with sexual abuse of children and would be prosecuted.

48. Following a study in 2011, proposals had been made to improve the situation of the country's numerous volunteer teachers, for example by raising their salaries and establishing training programmes.

49. Some children dropped out of school because of academic difficulties, others for lack of money. Alternative education was available to help such children catch up, and efforts were made to provide them with apprenticeships. Secondary school curricula were being revised to better fit the country's socio-economic situation and teachers were being retrained, all with the goal of reducing the dropout rate.

50. **The Chairperson** said that there might be a link between the use of voluntary teachers and the dropout rate. Sexual abuse of students might similarly lead them to drop out. The State party should take steps to improve the teacher-student ratio by building more classrooms and providing more teachers. Also, teachers who abused children should be not merely suspended but imprisoned.

51. **Mr. Lantomey** (Togo) said that overcrowded classes were a problem, but that there were plans to build 1,800 primary classrooms in the near future, as well as 600 secondary classrooms by 2020.

52. **Mr. Ahondo** (Togo) said that suspension of teachers who committed abuses was a precautionary measure and did not preclude legal proceedings.

53. **Mr. Lantomey** (Togo) said, in response to a question from **the Chairperson**, that he believed that five teachers had been accused of sexual abuse, and that three court cases were pending.

54. **Mr. N'tapi** (Togo) provided statistics concerning the reduction in the rate of mother-to-child transmission of HIV/AIDS in his country. He gave an overview of the types of screening and treatment available and described awareness-raising efforts. While maternal mortality rates remained high, various efforts were being made to tackle the problem. There were regular vaccination campaigns to reduce the incidence of avoidable diseases, and community-based approaches were being used to combat endemic diseases such as malaria.

55. **The Chairperson** requested information about children's sexual and reproductive health. He asked what type of information on the subject was provided to girls in particular, and how easy it was for adolescents to get contraceptives.

56. **Mr. N'tapi** (Togo) said that a wide range of contraceptive products were available in Togo, and that around 70 per cent of health clinics offered them. Contraceptive and family planning services were available to all who requested them.

57. **Mr. Minekpor** (Togo) said that his country was working to achieve the Millennium Development Goal relating to access to safe drinking water and basic sanitation. Togo had adopted a Water Code and a national water policy, and as of 2010 some 40 per cent of the rural population, 29 per cent of the semi-urban population and 49 per cent of the urban population had had access to safe drinking water. The proportion of people with access to latrines had risen from 10 per cent in 2000 to nearly 12 per cent in 2010.

58. **Ms. Tebie** (Togo), speaking about her Government's efforts to eliminate gender stereotypes, said that Togo had a national policy on gender equity and equality, and the use

of gender stereotypes in educational materials, particularly at the primary level, had been discontinued. Togo was a State party to the Convention on the Elimination of All Forms of Discrimination against Women and to the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa. The texts of those instruments were being disseminated in simplified French versions and in the country's other written languages.

59. On the subject of female genital mutilation, she referred to statistics provided earlier by her delegation and said that those found guilty in court of performing the practice were punished. Psychosocial and medical support were available for victims. To avoid running afoul of the law, however, some people travelled to neighbouring countries to have the procedure performed. Togo was cooperating with Benin and Burkina Faso in the matter, had established a hotline to encourage reporting of cases, and was offering practitioners training in other professions.

60. **The Chairperson** asked whether cooperation with neighbouring countries extended to bringing the perpetrators of female genital mutilation to justice, and whether perpetrators tended to be nationals of Togo or of the countries in which they operated.

61. **Ms. Tebie** (Togo) said that prosecutions did take place and that the perpetrators of such offences, who were usually nationals of the neighbouring countries, were frequently extradited.

62. **Ms. Azambo** (Togo) said that the Labour Code of 2006 contained articles on combating child labour and that the Ministry of Labour had issued a ministerial order on the subject that had been widely circulated, particularly in markets and workshops. Labour inspectors made frequent raids on locations where it was known that child labour was employed. Through the national strategy for the elimination of child labour, which was funded by the Department of State of the United States of America, more than 11,500 children had been withdrawn from dangerous worksites.

63. The International Programme on the Elimination of Child Labour (IPEC) of the International Labour Organization (ILO) had drafted a national plan to combat child labour. A study was being conducted with the support of UNICEF and ILO on the commercial sexual exploitation of children, with a view to preparing a national plan to tackle the problem.

64. One of the main causes of child labour was poverty. The Government was therefore promoting labour-intensive projects, such as road-building, to boost employment. Canteens were being set up in schools to encourage children not to drop out and, under a plan supported by the World Bank, parents in especially straitened circumstances received financial help to start their own businesses.

65. **The Chairperson** said that he would like to know whether the State party did anything to regulate the widespread practice of sending children to other family members to work as domestic servants.

66. **Ms. Azambo** (Togo) said that NGOs like WAO Afrique, supported by Save the Children, worked to ensure that such children received a basic education and to monitor the families that employed them. The majority of such children were over 15 years of age and therefore too old for compulsory schooling. WAO Afrique provided them with supplementary education in an effort to prevent them from turning to crime.

67. **The Chairperson** said that, according to information before the Committee, many children employed in domestic service were as young as 9 years of age. Far from being potential criminals, they were victims.

68. **Mr. Hamadou** (Togo) said that the Government was acting to discourage the employment of child labour or, at the very least, to ensure that young workers were paid the minimum wage, currently set at 35,000 CFA francs, or about US\$ 70.

69. **Ms. Herczog** asked whether families that employed child labour were liable for prosecution under the Criminal Code. At issue was not whether child workers were paid but the fact that they should not be working at all.

70. **Mr. Kotrane** said that it was unclear from the Children's Code of 2007 to what extent the State party was committed to protecting and promoting the rights of the child. He asked whether children's right to access to culture and leisure, including sport, was guaranteed and what the prospects were for broadening that access in the future.

Initial report of Togo on the implementation of the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography (CRC/C/OPSC/TGO/1, CRC/C/OPSC/TGO/Q/1 and Add.1)

71. **Ms. Nores de García** (Country Rapporteur for the Optional Protocol on the sale of children, child prostitution and child pornography) asked whether the Government would accept the involvement of NGOs in the preparation of the State party's reports to the Committee and national policy.

72. While commending the introduction of the Labour Code, the Children's Code and the Child Trafficking Act, as well as free schooling, the Committee noted that an efficient, high-ranking and properly funded and staffed coordinating mechanism was needed to follow up activities related to the implementation of the Optional Protocol. She asked whether the State party was planning to include in its domestic legislation all the offences provided for in articles 2 and 3 of the Optional Protocol and to identify the sectors of the population most at risk of becoming victims of those offences. Had the State party considered including the full definition of the sale of children, as provided for under the Optional Protocol, in its legislation?

73. Given that, under the State party's law, there were no penalties for the prostitution of young people aged from 15 to 18 years, she would like to know whether the State did anything to protect them and whether it would amend legislation in order to protect all child victims of prostitution. She also asked whether the State party would toughen penalties, which were currently too low to dissuade offenders, for the production and distribution of child pornography. She would like the delegation to clarify the legal position of children of mothers who were in prison, migrants, refugees, asylum-seekers, or carriers or victims of HIV/AIDS, since they were not mentioned in the Children's Code.

74. She asked why a national plan on the sale of children, child prostitution and child pornography developed in 2009 with the support of UNICEF and Plan Togo had not been implemented and whether the State party planned to disseminate the content of the Optional Protocol in a systematic fashion to all sectors of society that worked with children. She also asked what measures the State party was taking to combat traditional practices and customs, including early marriage, female genital mutilation, infanticide, polygamy, discrimination against twins and disabled children, and the right of husbands to repudiate their wives, all of which hampered the full implementation of laws concerning the rights of the child.

75. Half of the population under 18 years of age had no birth certificate or identity card. They were especially vulnerable to sexual exploitation, given that prostitution was widely and openly practised, especially in hotels and brothels in the capital, Lomé. She asked whether the State party intended to provide all children with birth certificates free of charge. She also wished to know whether advertising for establishments that offered sexual services was prohibited, or whether there were provisions for the closure of such

establishments, the prosecution of their owners and the confiscation of their property. Had the owners of any hotel or brothel in Lomé been convicted for employing child prostitutes?

76. With regard to criminal proceedings involving child victims, she asked whether the best interests of the child were seen as paramount throughout, and whether such children and their families were provided with adequate legal assistance and protection. She also wished to know whether persons or institutions that helped child victims received protection from reprisals and whether children were entitled to sue for compensation.

77. **Mr. Kotrane** said that the 2005 Child Trafficking Act and the Children's Code failed to incorporate definitions of all the offences provided for under the Optional Protocol. The sale of children was not covered by the offence of child trafficking. Adoptions carried out in violation of established procedures should constitute a case of the sale of children. It was not clear whether the State party had jurisdiction to deal with cases involving nationals or residents of Togo who were victims or perpetrators of offences covered by article 3 of the Optional Protocol committed outside the State party's territory. Nor did it appear that the Optional Protocol was considered a sufficient legal basis for extradition in respect of such offences.

78. **Mr. Madi** asked whether the Government provided support services for victims. It appeared that NGOs were largely responsible for providing them and, moreover, were obliged to pay fees to the State in order to do so.

79. **The Chairperson** asked whether the Criminal Code allowed for the prosecution and punishment of legal entities accused of offences set out in the Optional Protocol. He also wished to know what status was accorded to child victims during criminal proceedings. Were child victims and witnesses protected? He wished to know whether judges, prosecutors or police officers responsible for questioning child victims had relevant training and what protection was afforded to victims and witnesses against potential reprisals. Was State compensation available to victims?

The meeting rose at 6 p.m.