



Convention on the Rights of the Child

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Committee on the Rights of the Child

Concluding observations on the report submitted by the Niger under article 12 (1) of the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography*

I. Introduction

1. The Committee considered the report of the Niger (CRC/C/OPSC/NER/1) at its 2322nd and 2323rd meetings (see CRC/C/SR.2322 and 2323), held on 24 and 25 September 2018, and adopted the present concluding observations at its 2340th meeting, held on 5 October 2018.
2. The Committee welcomes the submission of the report of the State party and the written replies to the list of issues (CRC/C/OPSC/NER/Q/1/Add.1). The Committee expresses appreciation for the constructive dialogue held with the high-level and multisectoral delegation of the State party.
3. The Committee reminds the State party that the present concluding observations should be read in conjunction with the concluding observations on the combined third to fifth periodic reports submitted by the State party under the Convention (CRC/C/NER/CO/3-5), adopted on 5 October 2018.

II. General observations

Positive aspects

4. The Committee notes with appreciation the ratification by the State party of:
 - (a) The Optional Protocol to the International Covenant on Economic, Social and Cultural Rights, in 2014;
 - (b) The Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, in 2014;
 - (c) The 1954 Convention relating to the Status of Stateless Persons, in 2014;
 - (d) The African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa, in 2012;
5. The Committee welcomes the various measures taken by the State party to implement the Optional Protocol, including the adoption in 2010 of Ordinance No. 2010-86

* Adopted by the Committee at its seventy-ninth session (17 September–5 October 2018).



to combat trafficking in persons, which was updated by Act No. 2015-36 of 26 May 2015 to combat trafficking in migrants.

6. The Committee notes with appreciation the progress achieved in the creation of institutions and the adoption of national plans and programmes that facilitate the implementation of the Optional Protocol, including:

(a) The national action plan to combat trafficking in persons 2014–2018;

(b) The National Coordinating Commission against Trafficking in Persons and the National Agency to Combat Trafficking in Persons, established in 2012 by Decree No. 2012-082/PRN/MJ and Decree No. 2012-083/PRN/MJ, respectively;

(c) The National Agency for Legal and Judicial Assistance, established by Act No. 2011-42 of 14 December 2011, which provides legal assistance in specific cases of persons in vulnerable situations, including women.

III. Data

Data collection

7. The Committee is seriously concerned that the State party does not have a system to collect data on child victims of offences under the Optional Protocol, and is therefore unable to assess the scope of the problem. The Committee is also concerned that the lack of data affects the State party's ability to prevent the offences under the Optional Protocol and to protect and rehabilitate child victims of these offences through the appropriate policies and necessary services.

8. **The Committee recommends that the State party develop and implement a comprehensive, coordinated and effective system for data collection, analysis, monitoring and impact assessment on all areas covered by the Optional Protocol, including on the sale of children, child prostitution and child pornography. The data should be disaggregated, inter alia, by sex, age, nationality and ethnic origin, region and socioeconomic status, paying particular attention to children who are at risk of becoming victims of crimes under the Optional Protocol.**

IV. General measures of implementation

Legislation

9. While welcoming the efforts made by the State party to integrate various aspects of the Optional Protocol into its legislation, the Committee is concerned that those efforts have focused almost exclusively on trafficking, and other aspects of the Optional Protocol have not been addressed.

10. **The Committee recommends that the State party ensure that all acts and offences listed in the Optional Protocol are fully covered under its criminal law, including all forms of sale of children, child prostitution and child pornography, in order to adequately implement all the provisions of the Optional Protocol.**

Dissemination, awareness-raising and training

11. While noting the information provided by the State party in its report (para. 134) and in its written replies to the list of issues (paras. 9–11), the Committee regrets the lack of training provided for professionals working with and for children on the provisions of the Optional Protocol.

12. **The Committee recommends that the State party systematically organize training activities and ensure that they cover all areas under the Optional Protocol**

and that they are offered to all relevant professionals working with and for children, including judges, law enforcement officers, prosecutors, social workers, investigators and immigration officials, and to children themselves.

Allocation of resources

13. The Committee is concerned about the lack of information on the funds allocated to combating the sale of children, child prostitution and child pornography, with particular regard to the measures aimed at the prevention of offences under the Optional Protocol and the care, rehabilitation and reintegration of child victims.

14. **The Committee recommends that the State party ensure that adequate funds are allocated to combating the sale of children, child prostitution and child pornography, in particular to preventing these offences and to providing appropriate care for child victims. The Committee urges the State party to present relevant follow-up information to the Committee in its next periodic report.**

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

Measures adopted to prevent offences prohibited under the Optional Protocol

15. The Committee notes the development of the social centres for prevention, promotion and protection, which are in their pilot stage, and the adoption of the 2010 national guidelines for the care of children in vulnerable situations. However, the Committee remains concerned at the lack of identification mechanisms and other targeted measures taken by the State party to prevent children in vulnerable and marginalized situations from becoming victims of offences under the Optional Protocol, with particular regard to children in slavery, including *talibe* children and *wahayu* (fifth wives); children in street situations; migrant, refugee and asylum-seeking children; children in situations of forced labour; orphaned children; children born outside of marriage; and children who are separated from their families or unaccompanied.

16. **The Committee urges the State party to establish mechanisms to identify and detect children at risk of falling victim to offences under the Optional Protocol, especially children in slavery, including *talibe* children and *wahayu* (fifth wives); children in street situations; migrant, refugee and asylum-seeking children; children in situations of forced labour, orphaned children; children born outside of marriage; and children who are separated from their families or unaccompanied. The Committee recommends that the State party take targeted measures to prevent these offences, provide law enforcement officers with relevant training, and adopt standard operating procedures to ensure that victims or children at risk of becoming victims of offences under the Optional Protocol are always regarded as victims or potential victims, and not offenders.**

Child marriage

17. The Committee is seriously concerned about the widespread practice of child marriage, especially in remote and rural areas of the State party, which may amount to the sale of children. The Committee is also concerned about the practice of selling girls as *wahayu* or fifth wives, in which they are treated as property, forced to work for their “master” and his family, and sexually exploited.

18. **The Committee urges the State party to end the practice of child marriage throughout the country, including by setting the legal minimum age for marriage at 18 years for both girls and boys. It also urges the State party to eradicate the practice**

of the sale of girls as *wahayu*, including by prosecuting and imposing harsh sentences on those involved in their sale and purchase.

Sexual exploitation of children in travel and tourism

19. The Committee urges the State party to: conduct advocacy with the tourism industry on the harmful effects of the sexual exploitation of children in travel and tourism; widely disseminate the Global Code of Ethics for Tourism of the United Nations World Tourism Organization among travel agents and tourism agencies; and encourage operators in the travel and tourism industry to become signatories to the Code of Conduct for the Protection of Children from Sexual Exploitation in Travel and Tourism.

Measures to prevent and address online child sexual exploitation and abuse

20. The Committee is concerned about the absence of information on online child sexual exploitation and abuse due to the lack of effort on the part of the State party to study the scope of the issue and collect data in this area. It is also concerned about the reported cases of child “grooming”.

21. With reference to Human Rights Council resolution 31/7, entitled “Rights of the child: information and communications technologies and child sexual exploitation”, and to the outcomes of the “We Protect” summits held in London in 2014 and in Abu Dhabi in 2015, the Committee recommends that the State party, in close collaboration with relevant industries and organizations, adopt a national response for preventing and addressing online child sexual exploitation and abuse, consisting at a minimum of:

(a) A national policy to prevent and respond to online child sexual exploitation and abuse through an appropriate legal framework, a dedicated coordination and oversight entity, and specific measures for analysis, research and monitoring;

(b) A strategy for preventing online child sexual exploitation and abuse, including a public education programme to raise awareness and mandatory school education on online behaviour and safety, and for increasing knowledge and reporting of online child sexual exploitation and abuse; the participation of children in the development of policies and practices; industry engagement to block and remove online content involving child sexual exploitation and abuse, report incidents to law enforcement authorities and develop innovative solutions; close cooperation with organizations working to end child sexual exploitation online; and ethical and informed media reporting;

(c) Appropriate support services for children, including integrated services during investigation, prosecution and aftercare; trained professionals working with and for children; and accessible procedures for complaints, compensation and remedies;

(d) A dedicated, proactive, responsive and victim-focused criminal justice system with a trained police force, prosecution and judiciary; management of offenders to prevent reoffending, nationally or internationally; and a national database linked to the International Child Sexual Exploitation image database of the International Criminal Police Organization (INTERPOL).

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

Criminal or penal laws and regulations in force

22. The Committee notes that Ordinance No. 2010-86 to combat trafficking in persons and the Criminal Code only prohibit the sale of children and child prostitution to a certain extent, and significant gaps remain in the State party's legislation to define and criminalize all offences under articles 2 and 3 of the Optional Protocol. In particular, the Committee is concerned that engaging a child in forced labour and improperly inducing consent for the adoption of a child are not prosecuted as cases of sale of children, and that the State party's legislation does not prohibit child pornography or other acts that amount to sale of children and child prostitution.

23. **The Committee recommends that the State party revise its Criminal Code in order to define and explicitly prohibit and criminalize all offences, in particular all forms of the sale of children and child prostitution and all elements of child pornography, in line with articles 2 and 3 of the Optional Protocol.**

Impunity

24. The Committee is concerned that the laws prohibiting the offences under the Optional Protocol have not yet been implemented, due to the low number of complaints from child victims and the lack of a child-friendly justice system. The Committee also regrets the lack of data on investigations, prosecutions and convictions of perpetrators of offences under the Optional Protocol.

25. **The Committee recommends that the State party take all measures necessary to encourage the general public, including children, to report offences under the Optional Protocol, and ensure that these reports are investigated effectively and that perpetrators are prosecuted and punished with appropriate sanctions commensurate with the gravity of their crimes. It also recommends that the State party collect data on investigations, prosecutions and convictions of perpetrators of these offences.**

Extraterritorial jurisdiction and extradition

26. The Committee regrets that extraterritorial jurisdiction over, and extradition for, offences prohibited under the Optional Protocol are subject to the requirement of double criminality.

27. **The Committee recommends that the State party take all the steps necessary to ensure that, through its domestic legislation, it is able to establish and exercise extraterritorial jurisdiction over all offences under the Optional Protocol. The Committee urges the State party to remove the requirement of double criminality for extradition for offences covered by the Optional Protocol, and to consider using the Optional Protocol as a legal basis for extradition for those offences in cases where there is no bilateral extradition treaty with the country concerned.**

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

Measures adopted to protect the rights and interests of child victims of offences prohibited under the Optional Protocol

28. The Committee is concerned that child victims of offences under the Optional Protocol have little access to justice and therefore to reparation, due to the associated costs and a lack of awareness of their rights. The Committee is also concerned about the lack of rehabilitation and reintegration services available to child victims, and overreliance on temporary emergency placements.

29. **In the light of article 9 (3) of the Optional Protocol, the Committee recommends that the State party take measures to remove barriers for all child victims of offences under the Optional Protocol to access justice and reparation, including by removing associated costs, ensuring they have access to child- and gender-sensitive complaint mechanisms and appropriate procedures for seeking, without discrimination, compensation and redress, and providing them with free or subsidized legal aid. The Committee also recommends that the State party provide child victims with appropriate rehabilitation and reintegration services.**

VIII. International assistance and cooperation (art. 10)

30. **In the light of article 10 (1) of the Optional Protocol, the Committee encourages the State party to continue to strengthen international cooperation through multilateral, regional and bilateral arrangements, especially with neighbouring countries, including by strengthening procedures and mechanisms for coordinating the implementation of such arrangements, with a view to making progress in respect of the prevention of offences covered by the Optional Protocol and the detection, investigation, prosecution and punishment of those responsible for any such offences.**

IX. Implementation and reporting

A. Follow-up and dissemination

31. **The Committee recommends that the State party take all appropriate measures to ensure that the recommendations contained in the present concluding observations are fully implemented, including by transmitting them to the President, the parliament, relevant ministries and the judiciary for appropriate consideration and further action.**

32. **The Committee recommends that the report and the written replies to the list of issues submitted by the State party and the present concluding observations be made widely available, including through the Internet, to the public at large, civil society organizations, youth groups, professional groups and children, in order to generate debate on and awareness of the Optional Protocol and its implementation and monitoring.**

B. Next periodic report

33. **In accordance with article 12 (2) of the Optional Protocol, the Committee requests the State party to include further information on the implementation of the Optional Protocol and the present concluding observations in its next periodic report to be submitted in accordance with article 44 of the Convention.**