

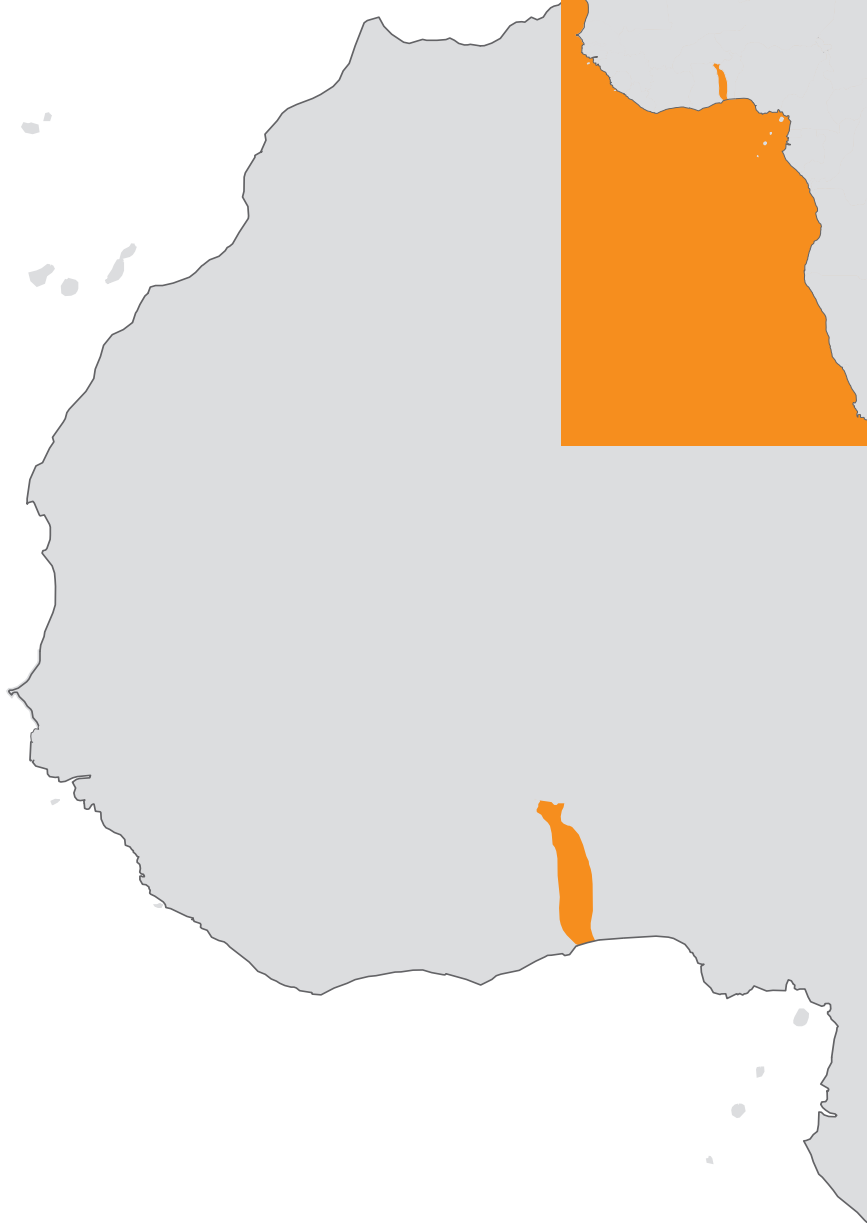


Global Monitoring



Report on the
status of action against commercial
sexual exploitation of children

TOGO



This publication has been produced with the financial assistance of the Swedish International Development Cooperation Agency (SIDA) and the Ministry of Foreign Affairs of the Grand Duchy of Luxembourg, the Ministry of Foreign Affairs of France, Groupe Développement and ECPAT Luxembourg. The views expressed herein are solely those of ECPAT International. The support received from SIDA, the Ministry of Foreign Affairs of the Grand Duchy of Luxembourg and the Ministry of Foreign Affairs of France does not constitute endorsement of the opinions expressed.



LE GOUVERNEMENT
DU GRAND-DUCHÉ DE LUXEMBOURG
Ministère des Affaires étrangères



Extracts from this publication may be freely reproduced provided that due acknowledgement is given to the source and to ECPAT International.

Copyright © 2007, ECPAT International

Compiled by: Renata Cocarro

Design by: Manida Naebklang

Printed by: Saladaeng Printing Co.Ltd.

(End Child Prostitution, Child Pornography and Trafficking of Children for Sexual Purposes)
328 Phayathai Road, Bangkok 10400, Thailand
www.ecpat.net
info@ecpat.net

Contents

Glossary	4
Foreword	6
Methodology	8
Togo: Introduction	11
National Plan of Action	14
Coordination and Cooperation	14
Prevention	17
Protection	18
Priority Actions Required	24
Endnotes	26

Glossary of terms and acronyms

AIDS: Acquired Immune Deficiency Syndrome

ANPPCAN: African Network for the Prevention and Protection against Child Abuse and Neglect

CATW: Coalition against Trafficking in Women

Code of Conduct: A code for travel and tourism companies, providing guidance on the protection of children from sexual exploitation

CRC: Convention on the Rights of the Child

CSE: Commercial sexual exploitation

CSEC: The commercial sexual exploitation of children consists of criminal practices that demean, degrade and threaten the physical and psychosocial integrity of children. There are three primary and interrelated forms of commercial sexual exploitation of children: prostitution, pornography and trafficking for sexual purposes. Commercial sexual exploitation of children comprises sexual abuse by the adult and remuneration in cash or in kind to the child or a third person or persons.

CST: Child sex tourism, or the commercial sexual exploitation of children by men or women who travel from one place to another, usually from a richer country to one that is less developed, and there engage in sexual acts with children, defined as anyone under the age of 18.

ECPAT: End Child Prostitution, Child Pornography and the Trafficking of Children for Sexual Purposes

Grooming: Preparing a child for sexual abuse and exploitation

HIV: Human immunodeficiency virus

ILO: International Labour Organization

ILO/IPEC: International Labour Organization/International Programme on the

Elimination of Child Labour

INGO: International non-governmental organization

ISPs: Internet service providers

JAD: Jeunesse en Action pour le Développement

MoU: Memorandum of Understanding

NGO: Non-governmental organization

NPA: National Plan of Action

STIs: Sexually transmitted infections

UN: United Nations

UNICEF: United Nations Children's Fund

WAO Afrique: World Association of Orphans Africa's Section

Foreword

Ten years have passed since the First World Congress against Commercial Sexual Exploitation of Children (CSEC) was held in 1996 in Stockholm, Sweden. The Stockholm Congress was a landmark event, providing testimony that convinced the world that sexual violations against children exist in all nations, irrespective of cultural differences or geographic location. It marked the first public recognition by governments of the existence of CSEC and resulted in a commitment to a global Declaration and Agenda for Action, which was formally adopted by 122 governments, as a guide to the specific measures that must be taken for counteraction.

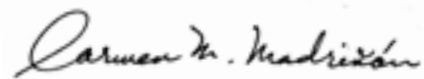
Since 1996, many actors around the world have focused their efforts around this common Agenda for Action and more government and non-government entities have linked, to ensure positive change for children and to protect their right to live free from sexual exploitation. This broad societal alliance (bolstered by a Second World Congress held in Yokohama in 2001, during which the number of countries adopting the Agenda rose to 159 - a figure which has since risen to 161) has made progress in improving protection for children from commercial sexual exploitation. However, the increasing sophistication of resources available to those who seek to exploit children have grown in equal measure. Responding to these challenges requires far more coordinated and targeted work to be undertaken to avoid retrogression.

Experience demonstrates that the level of responsibility and role that a government takes to set and uphold standards of protection, like the lead taken for protecting children's rights, determines the nature, quantity and quality of what the country achieves for its children. Governments can and have accelerated progress for implementation of the Agenda for Action, often opening new and important channels for such work. Nevertheless, their actions have not been uniform and, as these country profiles attest, far more urgent work must be done to protect children from such heinous violations, as these are still perpetrated with impunity in many countries.

This report aims to provide a baseline of information on actions taken and remaining gaps for addressing CSEC in each country, based on the framework of the Agenda for Action, to enable more systematic assessment of progress on implementation of this commitment. It also seeks to contribute to other international mechanisms that exist to protect children's rights; the *Convention on the Rights of the Child (CRC)* and the *Optional Protocol on the sale of children, child prostitution and child pornography* so as to strengthen the implementation and action against commercial sexual exploitation of children at all levels.

Another important objective of these reports is to stimulate the exchange of experience and knowledge among countries and different actors to create a dialogue that can further work against CSEC. While much has been achieved over the last 10 years, many gaps still remain. The implementation of the Agenda for Action is urgently required, for as the reports clearly illustrate, there is a compelling need for global action to protect children from these inhuman violations.

This project is the result of a broad and global collaboration. ECPAT International (EI) would like to thank all those who participated in the work and contributed their inputs, in particular the ECPAT member groups in the countries examined, local experts who provided valuable information and insights, other organisations that shared their experience and information, the dedicated staff and volunteers in the Secretariat of EI and the generous donors who backed the project (more extensive acknowledgements can be found in the Regional Report). This work would not have been realised without their support and solidarity.



Carmen Madriñán
Executive Director, ECPAT International

Methodology

The Agenda for Action against Commercial Sexual Exploitation of Children provides a detailed framework and categories of actions to be taken by governments in partnership with civil society organizations and other relevant actors for combating commercial sexual crimes against children. Broadly, these actions are focused on: 1) Coordination and Cooperation; 2) Prevention; 3) Protection; 4) Recovery, Rehabilitation and Reintegration; and 5) Child Participation. The Agenda for Action is thus the formal and guiding structure used by governments that have adopted it and committed to work against CSEC. As such, the Agenda for Action is also the main organising framework for reporting on the status of implementation of the Agenda as seen in the World Congress of 2001 and in the Mid-Term Review meetings held between 2004 and 2005. It has been used in the same way to structure and guide the research, analysis and preparation of information presented in these reports on the status of implementation of the Agenda in the individual countries.

Preparatory work for this report involved a review of the literature available on sexual exploitation for each of the countries where ECPAT works. A number of tools were prepared, such as a detailed glossary of CSEC terms, explanatory literature on more difficult themes and concepts and a guide to relevant CSEC-related research tools, to assist researchers in their work and to ensure consistency in the gathering, interpreting and analysing of information from different sources and parts of the world.

Early desktop research revealed a lack of information in the areas of Recovery, Rehabilitation and Reintegration; and Child Participation. After extensive efforts to collect information relevant to these areas for each of the countries covered, it was decided that as this information was not consistently available, the reports would focus only on those areas of

the Agenda for Action where verifiable information could be obtained. Thus, the report covers: Coordination and Cooperation; Prevention; and Protection, and where information on the other two areas was available, it has been included under the specific country or in the regional overview.

Research of secondary sources, including CRC country reports, alternative CRC reports, the reports of the Special Rapporteurs, submissions for the recent UN Study on Violence against Children, as well as research and field studies of ECPAT, governmental and non-governmental organizations, and UN agencies, provided the initial information for each report. This information was compiled, reviewed and used to produce first draft reports. In-house and consultant specialists undertook a similar process of review to generate information on specialised areas of the reports, such as the legal sections. Nevertheless, researchers often encountered a lack of information. While sources also included unpublished reports and field and case reports of ECPAT and other partners, many countries lacked up-to-date data and information on areas relevant to this report.

Despite these limitations, sufficient information was gathered to provide a broad overview of the situation in each country. Subsequently, first drafts were prepared and shared with ECPAT groups, which then supplemented the information with other local sources and analysis (taking care to identify them and source appropriately). Upon receipt of these inputs, a series of questions were generated by the ECPAT International team for deeper discussion through teleconferences, which involved ECPAT groups and specialists invited by them. The information from these discussions was used to finalise inputs to each of the reports. These consultations proved to be invaluable for analysis of the country situation.

They also served as a measure for triangulating and validating information as different actors offered their perspective and analysis based on their direct work.

As previously noted, the information of each country report is organised to correspond to the structure of the Agenda for Action. Thus all reports feature: (i) an overview of the main CSEC manifestations affecting the country; (ii) analysis of the country's National Plan of Action (NPA) against CSEC and its implementation (or the absence of an NPA); (iii) overview and analysis of coordination and cooperation efforts during the period under review; (iv) overview and analysis of prevention efforts; (v) overview and analysis of protection efforts, which includes detailed information on national legislation related to CSEC (see www.ecpat.net for further details); and (vi) priority actions required.



TOGO

There is a general perception among social workers and professionals working in child protection that the commercial sexual exploitation of children (CSEC) in Togo has increased considerably in recent years.¹ It is noticeable in the streets and in several cities and villages² and is reportedly controlled mainly by criminal organisations.³ However, no comprehensive studies have been conducted on the extent of the problem and no reliable statistics exist in this regard.⁴

Child prostitution goes unchecked

In downtown Lomé, Togo's capital, there is an area known as 'the child market', where hundreds of children aged between nine and fifteen are openly exploited in prostitution. Many ended up there after fleeing from violent families, while others were simply abandoned by their relatives.⁵ In July 2005, the Minister for Protection of Children and the Elderly visited the area to assess the situation and, subsequently, 25 children were rescued and placed in shelters. However, the children were released after about a week: there were no follow up plans nor adequate facilities or support services for their rehabilitation and reintegration into society. It can only be assumed that they returned to the same conditions as before. A number of criminals were also arrested during that time, but no information is available as to whether or not they were prosecuted.⁶

The case highlights the absence of a structured system for the rescue, rehabilitation and reintegration of children exploited in commercial sex and the lack of knowledge on the part of relevant authorities on how to handle child victims. It also demonstrates the Government's inability to enforce the law and crack down on venues notorious for allowing the sexual exploitation of children to take place.

The Government has stated that it has difficulty identifying child victims of prostitution as there are no 'official brothels'.⁷ This kind of statement can only be interpreted as a lack of governmental commitment to properly tackle this gross violation of children's rights, particularly in view of the open manner in which commercial sexual exploitation of children is perpetrated in the country.

Although illegal according to national legislation, child marriages still occur in Togo under customary law (that is, law pertaining to particular areas of the country), though they can be annulled if the couple is brought before a judge.⁸ Some children are given away for marriage in exchange for a bride price or in lieu of debts that a family owes. The child thus becomes a commodity. In some cases, if the marriage is not annulled, the children run away to other cities or communities and end up becoming victims of commercial sexual exploitation in order to earn a living. It is important to note that child marriage is correlated to the low level of girls' education in society: the higher the education a girl receives, the less likely she is to marry as a child.⁹ Unfortunately, many parents either stop sending their daughters to school or do not send them at all, as they assume that an educated girl is more likely to refuse to marry.¹⁰

According to WAO-Afrique, the ECPAT group in Togo, child sex tourism exists but not on a large scale, as tourism is not yet very well developed in the country. However, it is reportedly very easy for tourists to gain access to children for sex, generally through the facilitation of taxi drivers and hotel staff. Reports of child sex tourism point to both local and foreign exploiters: in one media report, a victim of child sex tourism underlined the role of intermediaries from Ghana, Nigeria and Senegal in purchasing sex with children in Togo.¹¹ The situation is likely to deteriorate rapidly if such facilitators and perpetrators are not sensitised and policed and if there are no greater efforts to involve the tourism industry in preventative initiatives, such as promoting the adoption and implementation of a code of conduct for the tourism industry. In 2004, a number of meetings were held for this purpose, but no follow up ensued.

Sexual exploitation of Togolese children by foreign residents is also a concern and there is evidence of the existence of rings of foreign abusers who target children for sexual exploitation, sometimes with the assistance of local procurers.¹² Furthermore, the increase in Internet use is facilitating the illicit activities of child sex offenders in Lomé,¹³ as they can now exchange information in chatrooms on how to access children for sex; identify characteristics of the children; swap names and addresses of hotels, nightclubs and beaches, etc., where they can be targeted; and arrange payments for sex with children.

Not much information is available on child pornography in Togo, apart from a number of reports indicating that certain individuals are using children to perform sexual acts for photographs and videos. This may even take place without the child's knowledge as, due to cultural sensitivities, the children are very reluctant to pose naked or to participate in

the production of pornography, thus exploiters may drug them or use new technologies to secretly capture their images.

Trafficking in children is a major phenomenon in the country: children are mainly trafficked to and from nearby countries, such as Gabon, Benin, Nigeria, Niger and Côte d'Ivoire, as well as within Togo.¹⁴ The vast majority of children are trafficked for labour but sometimes end up exploited in commercial sex, especially as a result of escaping from their captors or running away from their employers. Many children are sexually harassed or exploited by their employers and end up abandoning their jobs and resorting to prostitution to survive.¹⁵

The interface between CSEC and HIV/AIDS

There are many linkages between commercial sexual exploitation of children and HIV/AIDS, especially as the epidemic has continuously left many children orphaned or impoverished and thus highly susceptible to sexual exploitation. Children affected by HIV/AIDS who resort to prostitution to survive represent a distinctly vulnerable group in terms of contracting HIV. Research recently conducted by ECPAT International in Togo (and a further five African countries) indicated that these children are usually coerced into having unprotected sex. Moreover, they are often in high demand by perpetrators in view of the several myths across Africa that foster sex with children on the basis that it protects oneself from AIDS, rejuvenates the body and cures malaria. Unfortunately, the risks and challenges that children in commercial sex face are yet to be adequately addressed in HIV/AIDS interventions.¹⁶

Orphans who end up living on the streets sometimes resort to prostitution as a means of survival. Most are illiterate and highly vulnerable to sexual exploitation by procurers of children and brothel keepers. However, there are no CSEC prevention programmes targeting orphans, as it is commonly believed that the extended family system will take care of them even though in most cases the extended families do not have the means to properly care for orphaned children. Similarly, the limited availability of programmes to support families and children affected by HIV/AIDS places many children at high risk of resorting to prostitution in order to provide for themselves and their siblings.

Togo adopted the *Stockholm Declaration and Agenda for Action* and participated at both World Congresses against CSEC in 1996 and in 2001.

NATIONAL PLAN OF ACTION (NPA)

The commercial sexual exploitation of children has not been appropriately acknowledged by the Government as a problem affecting the country and, as such, Togo has not developed a national plan of action to combat the various forms of CSEC.¹⁷ This could be partly attributed to the fact that trafficking in children for labour purposes is viewed as the main child rights issue in the country. However, given that many children trafficked for labour subsequently leave their employers and end up in prostitution, it is of serious concern that CSEC is not properly addressed even in existing anti-trafficking policies and programmes.

In April 1999, the Togolese Ministry for the Promotion and Protection of the Family and Child, together with UNICEF Togo, Terre des Hommes, PLAN International and WAO-Afrique, adopted the *Action Plan to Combat Trafficking in Children and Child Labour*, which has now expired.¹⁸ The Plan contained rather vague measures to combat trafficking in children for sexual purposes and commercial sexual exploitation of children, possibly because there was a lack of adequate information on these phenomena when the Plan was being drafted. The Plan nevertheless led to improved legislation to protect children, the development of awareness raising campaigns and enhanced rehabilitation and reintegration of child victims of trafficking. It also encouraged the exchange of information on trafficking with relevant stakeholders in Benin, Ghana and Burkina Faso as well as cooperation among police and immigration officers.¹⁹

COORDINATION AND COOPERATION

Local and National Level

A series of meetings, organised chiefly by UNICEF, between Togolese legislators and other stakeholders resulted in the draft *Children's Code* of 2005, a significant achievement in improving the country's child protection policy framework.²⁰ The *Children's Code* has yet to be formally adopted. The interactions within the process also led to the formation of a National Commission for the Care and Social Integration of Child Victims of Trafficking.²¹ While this Commission has proved effective in preventing trafficking and abuse of children in general, training is recommended to enhance understanding and ability to combat child trafficking for sexual purposes and commercial sexual exploitation of children. Furthermore,

not many NGOs work specifically on CSEC issues in Togo²² and there is no national focal point on CSEC. It would thus be beneficial to appoint a national focal point on CSEC to work alongside the National Commission and to use local-level structures created by the Commission to monitor and combat the commercial sexual exploitation of children.

The National Commission for the Care and Social Integration of Child Victims of Trafficking, composed of several ministers (Health, Education, Justice, Internal Affairs, Security and Child Labour) as well as NGOs, aims to monitor and prevent child trafficking, overseas illegal adoptions and kidnapping of children.²³ The Commission has representatives in several villages across the country (especially villages near the borders), who work with the local community to monitor suspicious movements of children and report these to the relevant authorities.

In 2005, the Secretary of State for the Protection of Children and the Elderly announced plans to implement several measures to combat child prostitution, focusing on regions where it is most severe. To ascertain how best to combat the problem, the Government planned to initiate a dialogue with key national and international organisations engaged in the issue, as well as with relevant professional bodies.²⁴ However, none of these plans have been pursued to date.

The National Committee for the Protection and Promotion of the Rights of the Child also deals with child protection issues.

Togo does not have a database on CSEC and other crimes against children, but attempts are being made to create one within the regional research and information centre, which was recently set up by the African Network for the Prevention and Protection against Child Abuse and Neglect (ANPPCAN) and WAO-Afrique.

A seminar focusing on the trafficking and sexual exploitation of women and children was held in Lomé in the spring of 2004, organised by the Coalition against Trafficking in Women (CATW) and the African branch of the World Association of Orphans (WAO Afrique). The seminar brought together journalists, hoteliers, traditional chiefs and religious leaders in a bid to openly discuss the issue of sexual abuse of children, which is still a taboo subject in Togolese society.

Regional and International Level

Togo has signed several cooperation agreements with mutually-affected countries to combat child trafficking specifically. While these constitute important initial steps, the participating countries are still in the process of setting up or adapting existing national commissions to undertake the activities envisaged, a process that has been very slow and must be expedited, given the urgency of the matter. At the same time, regional and international cooperation has clearly focused on child trafficking, while the need for joint action against other CSEC manifestations has been underestimated. Togo, as well as other relevant governments, must engage in similar agreements to tackle all forms of commercial sexual exploitation of children prevailing in the region to prevent the problem from escalating further. Unfortunately, international organisations working in the region have shown reluctance to acknowledge such a need and advocate for enhanced cooperation beyond the sphere of child trafficking.

In July 2005, Togo signed a multilateral cooperation agreement to combat child trafficking with Benin, Burkina Faso, Côte d'Ivoire, Ghana, Liberia, Mali, Niger and Nigeria.²⁵ Togo also has agreements with Nigeria, Ghana, Benin and Burkina Faso for the repatriation of child victims of trafficking.²⁶ In addition, Togo, Benin, Nigeria and Gabon have a quadripartite agreement regarding the protection of children from trafficking and sex tourism.²⁷

To address the difficulties in finding and disseminating information on child trafficking, child labour and sexual exploitation, ANPPCAN, in collaboration with WAO-Afrique, created a regional research and information centre based in Togo in 2003.²⁸

WAO-Afrique has also promoted the establishment of a regional network against child trafficking and child domestic labour. Since 2002, ECPAT International has provided financial support for the position of a Sub-Regional Coordinator based at WAO-Afrique to enhance efforts and increase visibility of CSEC issues in the West Africa francophone sub-region.

PREVENTION

Initiatives to prevent the commercial sexual exploitation of children remain worryingly insufficient.²⁹ Preventive efforts tend to focus only on trafficking in children, while other forms of CSEC are disregarded. With regard to child trafficking, commendable preventive efforts have been carried out by the National Commission for the Care and Social Integration of Child Victims of Trafficking, in particular, the enhanced monitoring of suspicious movements of children through the involvement of local communities in villages across the country. Trafficking in children has also been made more difficult with the requirement that children carry travel authorisations issued by local authorities.³⁰ Several awareness raising campaigns have also been conducted on the issue.³¹

A few years ago, the Government mentioned its intention to develop initiatives with Internet service providers (ISPs), banks and other private organisations to formulate codes of conduct to combat commercial sexual exploitation of children.³² However, there has been no follow up on this regard.

The Ministry of Social Affairs has been actively involved in annual awareness raising campaigns against trafficking. Their work has also included arranging for repatriation of trafficked children and coordinating with NGOs to receive them in transit houses; organising children's reintegration into their families and enrolment in schools and apprenticeships; and withdrawing children from exploitative situations (trafficking in particular).

In addition, the Ministry of Labour works with the International Labour Organization -International Programme on the Elimination of Child Labour (ILO-IPEC) to combat child labour through awareness raising, action programmes to ensure that child victims of trafficking return to schools and legislative reform of the *Togolese Labour Code*.³³

The Ministry of Education works in collaboration with NGOs such as Aide et Action, PLAN International, La Colombe and CARE, to expand educational access and vocational training to all children, especially girls. Support is provided to government schools as well as to community-based schools ('Ecoles d'Initiative Locale').

In 2006, the Government, UNICEF Togo and PLAN Togo published a comprehensive sociological study on sexual violence, abuse and exploitation of children.³⁴

PROTECTION

Togo ratified the *Convention on the Rights of the Child (CRC)* in 1990 and its *Optional Protocol on the sale of children, child prostitution and child pornography (Optional Protocol)* in 2001.³⁵ The *Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (Trafficking Protocol)* was signed in 2000 but has not been ratified. *ILO Convention No. 182* was ratified in 2000.³⁶ At regional level, the *African Charter on the Rights and Welfare of the Child* was ratified in 1998.

Legislation

Togo is yet to harmonise its domestic laws with the CRC and other child rights international legal instruments. Some progress has been made with the draft *Children's Code 2005*, which merged provisions in the *Family Code* with provisions from international conventions ratified by Togo, as well as other relevant pieces of domestic legislation.³⁷ However, the *Children's Code* has not yet been adopted by Parliament and should be enacted as a matter of urgency.

Prostitution of Children

Overall, Togo lacks strong legislation against the prostitution of children and, as such, it is virtually impossible to charge and convict child exploiters.³⁸ The current provisions applicable to child prostitution do not sufficiently protect children and fail to punish perpetrators of child sexual exploitation.³⁹ In addition, law enforcers do not usually comply with their obligations in terms of protecting children, and there have been quite a few reports of police officers demanding sexual services from minors (often for free). The draft *Children's Code* fills some of the gaps of the *Penal Code* with respect to child prostitution offences and should be enacted as soon as possible.

The *Penal Code* prohibits the sexual touching of a person without their consent.⁴⁰ It also distinguishes between victims who are younger or older than 14 years old, but the sentence for the above offence is the same regardless of the age of the victim: imprisonment for 5 to 10 years. It is only when force is used against a child under 14 that the *Penal Code* considers the offence aggravated and liable to stricter punishment (reclusion for five to 10 years).

The offence of rape carries a stricter penalty when the victim is younger than 14 years old: a prison term of 5 to 20 years. Otherwise the punishment for rape is a maximum 10-year prison term.⁴¹ The draft *Children's Code* provides for 5 to 10 years' imprisonment for the rape of a child; penalties are doubled if the victim is younger than 15. The current Code also contains numerous provisions dealing with "offences against good morals", such as homosexual activity, which may also result in boy victims being criminalised.

Regarding child prostitution, the *Penal Code* currently punishes the "exploitation of debauchery" in Article 91 *et seq.* A number of prostitution acts are prohibited under that section. Anyone who incites another person to enter into prostitution through promises, threats, fraud or violence is liable to imprisonment for a maximum of 10 years and the payment of a fine from FCFA 100,000 to FCFA 1,000,000⁴² (approx. US\$ 150 to US\$ 1,500). It is also possible for the Court to impose additional measures on the offender, such as closure of the establishment where the crime took place, confiscation of beds or other furniture or revocation of the offender's driver's license for a maximum of five years.⁴³ While this offence is not labelled 'procuring', when an offender has "incited to prostitution or delivered a minor for prostitution", imprisonment may be imposed for a maximum of 10 years.⁴⁴ Furthermore, public soliciting for prostitution is punishable with a fine from FCFA 2,000 to FCFA 30,000 (approximately US\$ 3 to US\$ 45).⁴⁵ However, this law does not distinguish between adults and children and, as such, child victims of prostitution are liable to be fined.⁴⁶

Draft Children's Code should be urgently enacted

Weaknesses in the current legislation on child prostitution are partially addressed in the draft *Children's Code*, which contains a section on child protection from sexual exploitation that defines child prostitution in accordance with the *Optional Protocol*: the use of a child for sexual activity in exchange for remuneration.⁴⁷ Such an offence is to be punished with one to five years imprisonment and a fine from FCFA 100,000 to FCFA 1,000,000 (approximately US\$150 to US\$1,500). If the victim is younger than 15 years old, the maximum penalty is 15 years reclusion. The same penalties apply to procurers: persons who either live with prostitutes or maintain ongoing relations with one or more persons engaging in prostitution without being able to justify his/her resources; provide facilities for persons engaging in prostitution; or tolerate the presence of persons engaging in prostitution on the premises of a hotel. The law also punishes the perpetrator of a child exploited in prostitution with the same penalties.⁴⁸

The Code also integrates *ILO Convention No. 182* by prohibiting all forms of slavery or practices similar to slavery, such as the sale and trafficking of children; or using, procuring

or offering of a child for prostitution, the production of pornography or for pornographic performances.⁴⁹

In addition, the draft *Children's Code* considers paedophilia as any act of sexual penetration (reclusion for 10 to 20 years) or sexual touching of any kind (reclusion for five to 10 years) on a child younger than 15 years old. Such acts are not considered an offence when the age difference between the two individuals is less than five years.⁵⁰ The Code also establishes offences of sexual harassment, sexual abuse and rape of children.

Trafficking in Children for Sexual Purposes

The 2005 *Act on Trafficking in Children* (Law No. 2005-009 of 3 August 2005) is one of the rare examples of Togo adopting legal provisions that conform to an international agreement.⁵¹

The *Act on Trafficking in Children* defines trafficking as: “The process through which a child is recruited, kidnapped, transported, transferred, harboured or received within or outside national boundaries, by one or more person(s) for the purpose of exploitation.”⁵² The offence is subject to imprisonment for two to five years and/or a fine from FCFA 1,000,000 to FCFA 5,000,000 (approximately US\$ 1,500 to US\$ 7,500).⁵³ When the victim is younger than 15 years old, the penalties are increased to reclusion for 5 to 10 years and a fine from FCFA 5,000,000 to FCFA 10,000,000 (approximately US\$7,500 to US\$15,000), with possible confiscation of property used in perpetrating the crime. Exploitation is widely defined as any activity imposed on the child that does not generate any advantage for the child whether it be from an economic, moral, mental or psychological standpoint, but which provides the offender with such interests. The Act does not specifically mention sexual exploitation.

Article 402 of the draft *Children's Code* incorporates the definition of child trafficking found in the *Trafficking Protocol* by enumerating the recruitment, transportation, transfer, harbouring or receipt within or outside national borders of a child for the purposes of exploitation. A stronger feature of this draft Code is its specific inclusion of sexual exploitation in its definition of exploitation. Trafficking in children is punishable with a 5 to 10-year prison sentence and a fine from FCFA 1,000,000 and FCFA 5,000,000 (approximately US\$ 1,500 to US\$ 7,500). Attempted trafficking is also punishable.⁵⁴ When the victim is younger than 15 years old, the sentence is increased to imprisonment for 5 to 10 years and a fine from FCFA 5,000,000 to FCFA 10,000,000 (approximately US\$

7,500 to US\$15,000) and is doubled when the trafficking acts result in the disappearance or death of the victim or if such acts cause permanent physical or moral incapacity.⁵⁵ Parents or guardians who facilitate the trafficking of their child or the child under their care are subject to imprisonment for six months to one year.⁵⁶

Child Pornography

The draft *Children's Code* carries the same definition of child pornography as the *Optional Protocol*.⁵⁷ However, while it punishes child pornography with imprisonment for five to 10 years, it fails to list the specific acts and activities that are subject to such penalties. Given the absence of adequate child pornography provisions in the *Penal Code*, it is imperative that the draft *Children's Code* be enacted as soon as possible and include the prohibition of all acts of producing, distributing, disseminating, importing, exporting, offering, selling or possessing child pornography, in accordance with the *Optional Protocol*.

The current Togolese *Penal Code* does not have any specific provisions regarding child pornography.⁵⁸ Instead, it features provisions regarding “offences against good morals”. Anyone who publicly exposes, creates or sells, for the purpose of public exposure, objects, images, films, audiovisual or audio recordings that offend decency; distributes by post or from door-to-door any such books, brochures, catalogues, images, films, audio recordings, audio-visual recordings without the previous consent of the recipients; or publicly diffuses by spoken or written word or other means of communication, incitements against good morals shall be punished with six months to two years imprisonment and a fine from FCFA 20,000 to FCFA 200,000 (approximately US\$ 30 to US\$ 300).⁵⁹ Those guilty of such offences could also be prohibited from editing, selling or reproducing films, images, prints or recordings for a maximum of five years.⁶⁰

Extraterritorial Legislation

As a general rule, Togolese courts have jurisdiction on acts qualified as crimes that are committed outside of Togo by a Togolese citizen. The draft *Children's Code* provides that when sexual offences are committed outside Togo against a minor by a Togolese citizen or resident, the Togolese law shall apply. It is therefore important that the draft Code be enacted as soon as possible.⁶¹

Child Protection Units

A serious gap in child protection in Togo is the absence of child protection units. Children in conflict with the law are usually referred to the 'Brigades pour Mineurs', whose mandate is limited to running shelters where the children can stay while awaiting trial. As such, the Brigades do not necessarily constitute a special police force that deals with crimes against children, nor have they received adequate training on child rights issues. On the other hand, according to information provided by WAO-Afrique, child-friendly procedures in court and during investigations are usually followed.

Support Services for Children

There are no programmes or centres that provide specific assistance to children victimised in commercial sexual exploitation. On the other hand, a number of shelters have been set up to receive trafficked children, who often have also been subjected to sexual exploitation, though they seldom disclose such information. As part of the establishment of a much-needed comprehensive programme for the rehabilitation and reintegration of CSEC victims, it would be very cost-effective and strategic to utilise some of the shelters available for trafficked children as rehabilitation homes for child victims of CSE, and accordingly build the capacity of their staff on how to properly rehabilitate and reintegrate such children.

Child victims of trafficking are provided with assistance upon being rescued and attempts are made to reunite them with their families. Each of Togo's five regions has a transit shelter for such children, where children stay for about two or three weeks (sometimes up to six months if their parents are not found) before their families are located and they are returned to their country of origin.⁶² Under the leadership of the Ministry of the Protection of Children and the Elderly, regulations regarding the functioning of these shelters are currently being drafted by a special commission. This would be an excellent opportunity to address a serious gap in the reintegration of trafficked children: the absence of a follow-up mechanism after the child is returned

to her/his family, which often causes such children to be re-trafficked and perpetuates their vulnerability and exploitation.

Togo also lacks standards of care for institutions that support vulnerable children, orphans and children rescued from prostitution, a serious gap that may allow for practices contrary to the best interests of the child to take place.⁶³

Jeunesse en Action pour le Développement (JAD) is one of a few organisations that has programmes to rescue girl victims of prostitution from the streets, place them in temporary shelters and teach them skills for financial self-sufficiency.⁶⁴

Training Law Enforcement

A number of awareness raising programmes on child rights have been held for members of the police.⁶⁵ The Government also oversaw an awareness raising programme targeting the Judiciary and the police to help them better prevent trafficking, abuse and sexual exploitation of children.⁶⁶ However, there has been no national programming on how to combat the various forms of commercial sexual exploitation of children, and related training tends to focus only on child trafficking. The national police academy does not address CSEC issues either. The provision of such specialised training would be a key first step to improving the poor rates of prosecution of perpetrators of sexual exploitation of children, due partly to the corruption pervading law enforcement.⁶⁷ Much stronger action is required on the part of the Government against corrupt law enforcers, and in building the capacities of judges, prosecutors, police officers, immigration and border personnel et cetera, on how to effectively tackle CSEC crimes. The Committee on the Rights of the Child has recommended that Togo undertake greater efforts to train law enforcement officials, social workers and prosecutors on how to receive, monitor, investigate and prosecute cases of sexual exploitation of children in a child-sensitive manner that protects the child victims and respects their privacy.⁶⁸



PRIORITY ACTIONS REQUIRED

- The Government, as well as international organisations, needs to acknowledge that the commercial sexual exploitation of children is a serious child rights issue in the country and must devote the necessary resources to develop and implement a *National Plan of Action to Eliminate CSEC*.
- A key step to ensuring recognition of the problem and providing a basis for strategic action is the development of a comprehensive situational analysis research on the commercial sexual exploitation of children specifically. This should preferably be undertaken at regional level and include Benin and Burkina Faso (for better understanding of the processes whereby children exploited in commercial sex circulate within such countries due to trafficking).
- A national focal point on CSEC should be nominated to work closely with the National Commission for the Care and Social Integration of Child Victims of Trafficking. The structures created under the National Commission, namely the community vigilance committees now present in several towns and villages across the country, should have trained staff who can tackle not only trafficking cases but also incidences of CSEC and other forms of child abuse.
- Togo and other countries that have signed cooperation agreements to tackle child trafficking in the region must urgently expedite the establishment of national structures and mechanisms necessary to implement such agreements. The National Commission for the Care and Social Integration of Child Victims of Trafficking constitutes an effective and good model for replication in this regard, and it is recommended that arrangements are made to allow the transfer of such expertise to the other countries participating in such agreements.
- Current systems for the repatriation and reintegration of trafficked children need to be reviewed so that there are provisions for long-term follow up and holistic support for the children after they are returned to their communities. It is essential that systems are put in place to accompany the child for a number of years after this takes place, to effectively reduce the many incidences of re-trafficking and the recurrent exploitation of such children.
- Programmes targeting orphaned children must be established to reduce their vulnerability to sexual and other forms of exploitation. Another urgent measure to better protect orphaned children would be a reform of the law on inheritance: currently, when a man dies, it is usually his brother who inherits his property, while his children and wife are left with nothing. It is thus necessary to review the inheritance law to ensure more protection for children and their families.
- The Government must ratify the *Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (Trafficking Protocol)* as a matter of priority.

- ✎ The enactment of the draft *Children's Code* must be expedited. Additionally, the prohibition of all acts of producing, distributing, disseminating, importing, exporting, offering, selling or possessing child pornography must be included in this draft Code to comply with the standards set forth in the *Optional Protocol*.
- ✎ There are no programmes for the rehabilitation and reintegration of children victimised by commercial sexual exploitation in Togo: it is urgent that the Government engages in partnerships with organisations that have such expertise with a view to designing a comprehensive programme to support, rehabilitate and effectively reintegrate CSEC victims into society. In this regard, it would be highly cost-effective and strategic to utilise some of the shelters and other structures already set up for trafficked victims as rehabilitation homes for CSEC victims, following the necessary staff training.
- ✎ Training law enforcers on children's rights, international cooperation and how to effectively combat various forms of commercial sexual exploitation of children is a high priority. A special module on such subjects should be incorporated into the police academy curriculum.
- ✎ There is an urgent need to set up child protection desks within the country's police stations. These could be staffed by the existing Brigades pour Mineurs, which should have their currently limited mandate expanded, and receive appropriate training and resources.
- ✎ The Togolese Government is called on to undertake stricter action against the corruption affecting law enforcement institutions as a prerequisite to reduce the prevailing impunity of criminal gangs and individuals who sexually exploit children. Law enforcers must also start taking stern action against the sexual exploitation of children that takes place openly in certain areas of Lomé.
- ✎ Local NGOs, international organisations and the Ministry of Tourism must engage in the development of a Code of Conduct for the tourism industry to prevent and combat child sex tourism. Key facilitators, such as taxi drivers and hotel staff, must be especially targeted within preventative initiatives.
- ✎ Partnerships between the Government, NGOs and the private sector must be fostered with a view to developing a code of conduct for ISPs and Internet cafés: these key stakeholders need to be sensitised and regulations set up to prevent access to websites that promote and organise the commercial sexual exploitation of children as well as to prevent children from accessing harmful content in Internet cafés.
- ✎ Improving access to education for both girls and boys and eliminating gender gaps in education are important strategies in ending the practice of child marriage,⁶⁹ which often leads to the commercial sexual exploitation of children.
- ✎ Sensitisation campaigns against sexual abuse and commercial sexual exploitation of children must not only stress that sexually exploiting a child is a crime but should also engage the public in questioning a number of African myths and beliefs that foster sex with children. In particular, the fact that children involved in prostitution may actually offer a greater risk of HIV contraction must be stressed, especially in interventions targeting the perpetrators: more partnerships and coordination between child rights organisations and those dealing with HIV/AIDS issues are thus required in this connection.

Endnotes

- ¹ Infos Mail. *Lutte contre la prostitution des mineures*. Nos. 241-244. July and August 2005.
- ² Ibid.
- ³ Committee on the Rights of the Child. *Summary Record of the 1018th Meeting: Consideration of Reports of States Parties*. 24 January 2005.
- ⁴ The Government of Togo. *Réponses écrites du gouvernement du Togo à la liste de points à traiter (CRC/C/Q/TGO/2), reçues par le comité des droits de l'enfant à l'occasion de l'examen du deuxième rapport périodique du Togo (CRC/C/65/Add.27)*. 20 December 2004.
- ⁵ IRINnews Africa. 26 Child prostitution goes unchecked in Togo . 23 April 2004. Accessed on 12 February 2007 from: <http://archive.wn.com/2004/04/24/1400/p/e9/7a09c562f9d480.html>
- ⁶ Information provided by local NGO WAO Afrique, the ECPAT group in Togo.
- ⁷ Committee on the Rights of the Child. *Summary Record of the 1018th Meeting: Consideration of Reports of States Parties*. 24 January 2005.
- ⁸ Ibid.
- ⁹ Nour, Nawal M. *Health Consequences of Child Marriage in Africa*. November 2006. Accessed on 12 February 2007 from: <http://www.cdc.gov/ncidod/eid/vol12no11/06-0510.htm>
- ¹⁰ Ministère Délégué auprès du Ministère de la population, des affaires sociales et de la promotion féminine, chargé de la protection de l'enfant et des personnes âgées, UNICEF Togo, Plan Togo. *Sociological Study: Sexual Violence, Abuse and Exploitation of Children - Togo. Lomé*. December 2006. p.26.
- ¹¹ Medilinks. 26 Child prostitution goes unchecked in Togo . 16 April 2004. Accessed from: <http://medilinkz.org/news/news2.asp?NewsID=6308>
- ¹² Carrefour de Développement. *Prostitution des Mineures à Lomé*. Lomé, Togo. 2005. p. 15.
- ¹³ Ibid.
- ¹⁴ Human Rights Watch. *Borderline Slavery: Child Trafficking in Togo*. Vol. 15, No 8 (A). April 2003. p.1.
- ¹⁵ Ibid. p.3.
- ¹⁶ ECPAT International. *Linkages Between HIV/AIDS and the Commercial Sexual Exploitation of Children in Africa (Draft Interim Report)*. March 2007.
- ¹⁷ United Nations. *CRC 38th session: Second periodic report of Togo*. 24 January 2005. Accessed on 22 November 2005 from: <http://www.hrea.org/lists/child-rights/markup/msg00357.html>.
- ¹⁸ Ibid.
- ¹⁹ ECPAT International. *Country Report on Togo*. Accessed from www.ecpat.net
- ²⁰ United Nations. *CRC 38th session: Second periodic report of Togo*. 24 January 2005. Accessed on 22 November 2005 from: <http://www.hrea.org/lists/child-rights/markup/msg00357.html>
- ²¹ Committee of Experts on the Application of Conventions and Recommendations. Accessed on 3 February 2006 from: <http://webfusion.ilo.org/public/db/standards/normes/appl/appl-displaycomment.cfm?hdroff=1&ctry=1100&year=2004&type=R&conv=C182&lang=EN>
- ²² JAD. *Togo*. Accessed on 18 November 2004 from: <http://www.getm.fgc.ch/togo.htm>
- ²³ United Nations. *CRC 38th session: Second periodic report of Togo*. 24 January 2005. Accessed on 22 November 2005 from: <http://www.hrea.org/lists/child-rights/markup/msg00357.html>

- ²⁴ Infos Mail. *Lutte contre la prostitution des mineures*. Nos. 241-244. July and August 2005.
- ²⁵ Anti-Slavery International. *Trafficking News Monthly*. November 2005. Accessed on 10 March 2006 from: <http://www.antislavery.org/homepage/traffic%20news/november2005.htm#2>
- ²⁶ Committee on the Rights of the Child. *Summary Record of the 1018th Meeting: Consideration of Reports of States Parties*. 24 January 2005.
- ²⁷ The Government of Togo. *Réponses écrites du gouvernement du Togo à la liste de points à traiter (CRC/C/Q/TGO/2), reçues par le comité des droits de l'enfant à l'occasion de l'examen du deuxième rapport périodique du Togo (CRC/C/65/Add.27)*. 20 December 2004.
- ²⁸ <http://www.anppcan.org/new/chapter%20profiles/togo.doc>
- ²⁹ Committee on the Rights of the Child. *CRC 38th session: Second periodic report of Togo*. 24 January 2005. Accessed on 22 November 2005 from: <http://www.hrea.org/lists/child-rights/markup/msg00357.html>.
- ³⁰ UNICEF. *Child Trafficking in West Africa: Policy Responses*. April 2002. p.16.
- ³¹ Committee on the Rights of the Child. *Summary Record of the 1018th Meeting: Consideration of Reports of States Parties*. 24 January 2005.
- ³² The Togolese Republic, The Embassy of Togo. *Response to the Special Rapporteur on the sale of children, child prostitution and child pornography on child pornography on the Internet*. November 2004.
- ³³ US Department of Labor. *Appendix E: Background Information on Education and Anti-trafficking Programs in Togo*. Accessed on 18 March 2006 from: <http://www.dol.gov/ilab/grants/sga0203/appendix-e.pdf>
- ³⁴ Ministère Délégué auprès du Ministère de la population, des affaires sociales et de la promotion féminine, chargé de la protection de l'enfant et des personnes âgées, UNICEF Togo, Plan Togo. *Sociological Study: Sexual Violence, Abuse and Exploitation of Children - Togo*. Lomé. December 2006.
- ³⁵ Office of the United Nations High Commissioner for Human Rights. *Status of Ratifications of the Principal International Human Rights Treaties*. Accessed on 31 January 2007 from: <http://www.unhcr.ch/pdf/report.pdf>
- ³⁶ *Ratification status of the ILO Convention 182 as of 18 November 2002*. Accessed on 31 January 2007 from: <http://www.ideas.coop/MG/descarga/MG-Ratificaci%F3n%20Convenio%20182,%20por%20pa%EDses-status%202002.doc>
- ³⁷ Human Rights Watch. *Legal Protection against Child Trafficking*. Accessed on 3 February 2006 from: <http://hrw.org/reports/2003/togo0403/togo0303-11.htm>
- ³⁸ IRIN.news. *Child prostitution goes unchecked in Togo*. Accessed on 18 November 2004 from: [http://www.irinnews.org/report.asp?ReportID=40715&SelectRegion=West Africa&SelectCountry=TOGO](http://www.irinnews.org/report.asp?ReportID=40715&SelectRegion=West%20Africa&SelectCountry=TOGO).
- ³⁹ Ministère Délégué auprès du Ministère de la population, des affaires sociales et de la promotion féminine, chargé de la protection de l'enfant et des personnes âgées, UNICEF Togo, Plan Togo. *Sociological Study: Sexual Violence, Abuse and Exploitation of Children - Togo*. Lomé. December 2006. p.124.
- ⁴⁰ *Togolese Penal Code*. Articles 84 et seq.
- ⁴¹ Ibid. Article 87.
- ⁴² Ibid. Articles 92 & 94.
- ⁴³ Ibid. Article 95.
- ⁴⁴ Ibid. Article 94.
- ⁴⁵ Ibid. Article 91.
- ⁴⁶ The Government of Togo. *United Nations Secretary-General's Study on Violence against Children: Response to the Questionnaire received from the Government of Togo*. Office of the United Nations High Commissioner of Human Rights. August 2004.
- ⁴⁷ *Draft Children's Code*. Article 379.
- ⁴⁸ Ibid. Article 380.
- ⁴⁹ Ibid. Article 255.
- ⁵⁰ Ibid. Article 383.
- ⁵¹ Ministère Délégué auprès du Ministère de la population, des affaires sociales et de la promotion

- féminine, chargé de la protection de l'enfant et des personnes âgées, UNICEF Togo, Plan Togo. *Sociological Study: Sexual Violence, Abuse and Exploitation of Children – Togo*. Lomé. December 2006. p. 128.
- ⁵² *Loi no 2005-009 du 3 août 2005*. Article 3.
- ⁵³ Ibid. Article 10.
- ⁵⁴ *Draft Children's Code*. Article 403.
- ⁵⁵ Ibid. Article 407.
- ⁵⁶ Ibid. Article 404.
- ⁵⁷ Ibid. Article 382.
- ⁵⁸ The Togolese Republic, The Embassy of Togo. *Response to the Special Rapporteur on the sale of children, child prostitution and child pornography on child pornography on the Internet*. November 2004.
- ⁵⁹ *Togolese Penal Code*. Article 89.
- ⁶⁰ Ibid. Article 90.
- ⁶¹ Ministère Délégué auprès du Ministère de la population, des affaires sociales et de la promotion féminine, chargé de la protection de l'enfant et des personnes âgées, UNICEF Togo, Plan Togo. *Sociological Study: Sexual Violence, Abuse and Exploitation of Children – Togo*. Lomé. December 2006. p. 130.
- ⁶² Committee on the Rights of the Child. *Summary Record of the 1018th Meeting: Consideration of Reports of States Parties*. 24 January 2005.
- ⁶³ Ministère Délégué auprès du Ministère de la population, des affaires sociales et de la promotion féminine, chargé de la protection de l'enfant et des personnes âgées, UNICEF Togo, Plan Togo. *Sociological Study: Sexual Violence, Abuse and Exploitation of Children – Togo*. Lomé. December 2006. p.101.
- ⁶⁴ JAD. *Togo*. Accessed on 18 November 2004 from: <http://www.getm.fgc.ch/togo.htm>.
- ⁶⁵ United Nations. CRC 38th session: *Second periodic report of Togo*. 24 January 2005. Accessed on 22 November 2005 from: <http://www.hrea.org/lists/child-rights/markup/msg00357.html>.
- ⁶⁶ Focal Point on Sexual Exploitation, Violence and Abuse of Children. CRC 38: *Togo reporting to the Committee on the Rights of the Child*. 28 June 2005. Accessed on 18 November 2005 from: http://www.againstsexualexploitation.org/news/?sec=wcafrica&lang=en_US&nav=0&cid=2005/06/28/31.
- ⁶⁷ Human Rights Watch. *Borderline Slavery: Child Trafficking in Togo*. Vol. 15, No 8 (A). April 2003. p.38.
- ⁶⁸ Committee on the Rights of the Child. *Summary Record of the 1018th Meeting: Consideration of Reports of States Parties*. 24 January 2005. Accessed on 10 March 2006 from: <http://sim.law.uu.nl/sim/caselaw/uncom.nsf/fe005fcb50d8277cc12569d5003e4aaa/93b544a6b8d5c9bcc1256fa5004b941d?OpenDocument>
- ⁶⁹ World Fit for Children. *Child Marriage*. March 2006. Accessed on 10 March 2006 from: <http://www.childinfo.org/areas/childmarriage/>



ECPAT International

328 Phayathai Road
Ratchathewi, Bangkok
10400 THAILAND
Tel: +662 215 3388, 662 611 0972
Fax: +662 215 8272
Email: info@ecpat.net | media@ecpat.net
Website: www.ecpat.net