



# Convention on the Rights of the Child

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## Committee on the Rights of the Child

### Consideration of reports submitted by States parties under article 12, paragraph 1, of the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography

#### Initial reports of States parties due in 2008

#### Burkina Faso\*, \*\*

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\* In accordance with the information transmitted to States parties regarding the processing of their reports, the present document was not formally edited before being sent to the United Nations translation services.

\*\* The annexes to this report are on file with the Secretariat and are available for consultation.

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## **I. Introduction**

### **A. Structure of the report**

1. In Burkina Faso many children suffer from the consequences of poverty and the economic crisis. They are also victims of trafficking and prostitution and exposed to pornography. Aware of these problems, the Government ratified by decree No. 2005-660/PRES/MAECR/MASSN of 30 December 2005 the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, which entered into force with respect to Burkina Faso on 31 March 2006.

2. In accordance with article 12, paragraph 1, of the Optional Protocol, Burkina Faso should submit, within two years following the entry into force of the Protocol, a report to the Committee on the Rights of the Child providing comprehensive information on the measures it has taken to implement the provisions of the Protocol, no later than 31 March 2008.

3. Notwithstanding the slight delay, Burkina Faso, mindful of its international commitments and aware, in particular, of the importance of children in society, submits this report on the implementation of the provisions of the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography.

4. The initial report of Burkina Faso on the implementation of the Protocol was prepared in accordance with the revised guidelines and the additional guidelines annexed thereto, adopted by the Committee on the Rights of the Child. It is structured as follows:

- (a) General guidelines;
- (b) Data;
- (c) General measures of implementation;
- (d) Prevention;
- (e) Prohibition and related matters;
- (f) Protection of the rights of victims;
- (g) International assistance and cooperation;
- (h) Other legal provisions.

### **B. General context**

5. Burkina Faso is a landlocked Sahelian country situated at the centre of West Africa. It is bordered to the north and west by Mali, to the south by the Republics of Côte d'Ivoire, Ghana, Togo and Benin, and to the east by the Republic of the Niger. It has an area of 274,122 km<sup>2</sup>.

6. At the political level, Burkina Faso has been independent since 1960. It has known constitutional regimes and emergency regimes. The current Fourth Republic of Burkina Faso was established by the Constitution adopted on 2 June 1991, which lays down the principle of the separation of the three legislative, judicial and executive powers and puts in place a semi-presidential political system. Since the establishment of the Fourth Republic, Burkina Faso has been relatively stable.

7. The territory is organized into territorial communities and local government districts. It is subdivided into 13 regions, 49 urban communes and 302 rural communes, 45 provinces and 351 departments.
8. The population of Burkina Faso is 14,017,262 inhabitants, with a density of 51.8 inhabitants to the square kilometre according to the general population and housing census (RGPH) carried out in 2006. The annual growth rate is estimated at 3.1 per cent, as against 2.4 per cent between 1985 and 1996 and 2.7 per cent between 1974 and 1985. The population consists of 51.7 per cent women and 48.3 per cent men and is extremely youthful; the age structure is pyramidal with a very wide base and a sharply tapered summit. Half the population is under 15.5 years old. The bulk of the population, or 77.3 per cent, live in rural areas and work mainly in the agricultural sector, largely in subsistence farming, which is highly labour-intensive and based essentially on the family.
9. In education, there has been a distinct improvement in the percentage of children aged between 3 and 6 in childcare facilities, up from 1.45 per cent in 2006 to 2.8 per cent in 2008. The national strategy for integrated early childhood development (SNDIPE) was adopted by decree No. 2008-152/PRES/PM of 2 April 2008, which provided also for a five-year early childhood care programme (PQEPE) currently being prepared.
10. The gross enrolment ratio for children aged between 6 and 12 was 52.7 per cent, with 56.8 per cent for boys and 48.4 per cent for girls (RGPH 2006). This ratio was higher in urban areas (96.1 per cent), irrespective of gender, than in rural areas (42.9 per cent). There has been a strong improvement in the gross enrolment ratio, estimated at 72 per cent at the beginning of the 2007/08 school year. However, there are still disparities between girls and boys. Repetition rates in fifth grade in 2007/08 show greater pupil wastage among girls at 31.4 per cent than among boys, at 26.8 per cent, out of a total of 28.8 per cent. This is perhaps because girls are often subject to household chores, early marriage, etc.
11. At secondary level, the gross enrolment ratio in 2007/08 was 20.7 per cent (24.2 per cent for boys and 17.2 per cent for girls). It was six times higher in urban areas (57.8 per cent) than in rural areas (8.7 per cent) in 2006.
12. In matters of health, Burkina Faso is contending with numerous endemic diseases. The health of children may be affected, in particular, by chronic nutritional deficiencies, sometimes aggravated by diarrhoeal infections which are especially rampant among the most vulnerable groups. These diseases and many others, linked to a shortage of health-care personnel and inadequate health coverage, are responsible for high infant mortality.
13. The maternal mortality rate, which was estimated at 484 deaths for 100,000 live births in 2003 has slightly dropped and was 307.3 deaths to 400,000 live births in 2008 (official statistics).
14. The infant mortality rate shows a downward trend, from 105.3 per thousand in 1998 to 81 per thousand in 2007 (official statistics). Despite these gains, the infant mortality rate is still high in Burkina Faso. The main causes of children's deaths are: malaria, diarrhoeal diseases, acute respiratory infections and other transmissible diseases targeted by the expanded vaccination programme.
15. Malnutrition is still a major problem and a factor in the worsening health situation of children. The food situation in Burkina Faso is characterized by a predominance of protein-energy malnutrition and micronutrient deficiencies. In the poorest households, the proportion of children suffering from retarded growth and low weight is twice as high as in the richest households.
16. In 2006, the latrine rate in Burkina Faso was estimated at 39.9 per cent overall, 94 per cent in urban areas and 18.5 per cent in rural areas (Multiple Indicator Cluster Survey).

Some 62.6 per cent of households were without suitable toilets, putting Burkina Faso at risk of a cholera epidemic.

17. Significant progress has been made in access to drinking water. The access rate rose from 69 per cent in 2003 to 77.3 per cent in 2006. A drinking water and latrine-building programme exists for schools.

18. HIV infection is also a major concern for the country. Although decreasing, it was still prevalent among 1.6 per cent of the population in 2008 according to a UNAIDS report.

19. Because of the ways it is transmitted, children are also victims of this disease. Mother-child transmission is at the origin of a significant number of cases of HIV infection among children. Parent deaths due to the disease leave large numbers of orphaned children. A United Nations Development Programme (UNDP) study established in 2005 that orphans and other vulnerable children in Burkina Faso numbered some 2.1 million, half of whom were orphans. AIDS is said to have left 66 per cent of these children orphans.

20. At the sociocultural level, the persistence of harmful beliefs and practices is to be noted, such as excision, forced marriages and the social exclusion of women accused of witchcraft, etc.

21. The economy of Burkina Faso is based primarily on agriculture and stockbreeding, which account for 32 per cent of gross domestic product and employ about 80 per cent of the economically active population. Per capita income was reported to be barely \$460 per year in 2006.

22. The human development index of the country was estimated in 2006 at 0.372 (UNDP report 2007/08). Furthermore, a survey on household living conditions conducted in 2003 shows that a substantial percentage of the population lives in poverty (46.4 per cent in 2003) and that women are the most affected owing to their limited access to resources and other factors of production.

23. This precarious state of affairs is compounded by migration movements due to significant internal and external population displacements in Burkina Faso. Child migration is primarily internal and mainly affects girls who work as domestic workers and street sellers in the big cities. Boys tend more to serve as agricultural workers in neighbouring countries (International Labour Organization report 2006). Children are therefore exposed to all kinds of danger, in particular exploitation and violence.

## **II. General guidelines**

### **Process of preparation of the report**

24. The Permanent Secretariat of the National Council for the Survival, Protection and Development of Children (CNSPDE) is responsible, *inter alia*, for the preparation of reports on the implementation of legal instruments concerning children ratified by Burkina Faso. Within this framework, Burkina Faso has already prepared and transmitted its third/fourth report on implementation of the Convention on the Rights of the Child and its initial report on implementation of the African Charter on the Rights and Welfare of the Child (ACRWC). The preparation of this initial report on implementation of the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography forms part of this dynamic.

25. Two consultants were hired to obtain the necessary information from government services, technical and financial partners, NGOs and civil society associations active in the field of human rights, and to prepare the report. In view of the delicate and specific nature

of the Protocol, questionnaires were drawn up in accordance with the guidelines of the Committee on the Rights of the Child. Interviews were conducted with resource persons to gather information, which was analysed and approved.

26. A steering committee was set up to guide and review the work of the consultants. A workshop bringing together all the actors involved in the implementation of the Protocol was organized to approve the report of Burkina Faso. Comments made during the workshop were incorporated into the report. The draft report was first submitted to the interministerial committee on human rights and international humanitarian law and then to the Council of Ministers for adoption.

### **1. How the fundamental principles of the Convention on the Rights of the Child and the Protocol have been taken into account**

27. Since Burkina Faso ratified the Convention on the Rights of the Child, enormous changes have been introduced into its laws and regulations to take into account the principles set forth in that text.

28. At the legislative level, the principles laid down in the Convention on the Rights of the Child are reflected in the Code of the Individual and the Family, Act No. 28-2004/AN of 8 September 2004 on judiciary reorganization, establishing juvenile courts, Act No. 029-2008/AN of 15 May 2008 on combating trafficking in persons and similar practices, Burkina Faso Labour Code Act No. 028-2008/AN of 13 May 2008, Act No. 017-2009/AN of 5 May 2009 on the suppression of organized crime, and Act No. 013-2007/AN of 30 July 2007 on educational guidance.

29. At the regulatory level, there are several plans and programmes concerning children which incorporate the principles of the Convention on the Rights of the Child. Several measures have been taken under these plans and programmes, including the following:

(a) Adoption of the national policy on social action by decree No. 2007-480/PRES/PM/MASSN of 23 July 2007, which takes into account the promotion of children's rights;

(b) Adoption by the Council of Ministers of 23 October 2008 on the Framework of Strategic Guidelines for Children's Promotion (COSPE) for the period 2008–2017, along with the operational tool for its implementation in the form of a national action plan for the survival, protection and development of children covering the period 2008–2012;

(c) Designation by the Council of Ministers of the year 2009 as free birth registration year;

(d) Adoption of decree No. 2009-365/PRES/PM/MTSS/MS/MASSN of 28 May 2009 on the listing of dangerous work prohibited to children in Burkina Faso;

(e) Elaboration of the national plan of action to combat trafficking and sexual violence against children in Burkina Faso;

(f) Mainstreaming of children's rights in ministerial policy papers;

(g) National study on violence against children in the 45 provinces of the country commissioned by the Ministry of Social Action and National Solidarity (MASSN) and the United Nations Children's Fund (UNICEF);

(h) Project for the prevention and rehabilitation of child victims of sexual violence implemented by the Youth Solidarity Association with the technical and financial support of MASSN and UNICEF.

30. The Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography was ratified only in 2006 and very few

measures reflect the content of that instrument. Burkina Faso will take appropriate measures to incorporate all the provisions of the Protocol.

## **2. Legal status and applicability of the Optional Protocol in the law of Burkina Faso**

31. Article 151 of the Constitution provides that “duly ratified or approved treaties and agreements shall have primacy, once promulgated, over laws, provided that the agreement or treaty concerned is implemented by the other party”. Since, however, all the provisions of the Protocol are not directly applicable by the law of Burkina Faso, additional laws and regulations will be adopted with a view to the full implementation of the Protocol.

32. The State has not entered reservations to the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography.

## **3. Information on the measures taken to implement the Optional Protocol**

Since the ratification of the Optional Protocol, several steps have been taken to give effect to it. These include the punishment of the sale of children under Act No. 029-2008/AN of 15 May 2008 on combating trafficking in persons and similar practices, Act No. 013-2007/AN of 30 July 2007 on educational guidance, and accession to the multilateral cooperation agreement to combat trafficking in persons, particularly women and children, concluded with 23 West and Central African countries on 6 July 2006, and participation in its action plan for 2007–2009.

33. At the administrative level, the following measures are designed to combat violations under the Optional Protocol:

(a) Adoption of the national social action policy by decree No. 2007-480/PRES/PM/MASSN of 23 July 2007;

(b) Adoption by the Council of Ministers of 23 October 2008 of the Framework of Strategic Guidelines for Children’s Promotion (COSPE) for the period 2008–2017;

(c) Elaboration of the national plan of action to combat trafficking and sexual violence against children in Burkina Faso;

(d) Mainstreaming of children’s rights in ministerial policy papers.

34. In addition, numerous actions have been carried out as part of the campaign against trafficking in children:

(a) The national study commissioned by MASSN and UNICEF on violence against children in the 45 provinces of the country;

(b) The project on the prevention and rehabilitation of child victims of sexual violence carried out by the Youth Solidarity Association with the technical and financial support of MASSN and UNICEF;

(c) Participation of Burkina Faso in major international meetings on trafficking in children;

(d) Establishment of child trafficking watch committees;

(e) Media campaigns and preventive activities against trafficking.

## **4. Analysis of factors and difficulties affecting the degree of fulfilment of the State party’s obligations under the Optional Protocol**

35. Burkina Faso has been prevented from fully meeting its obligations under the Protocol by the fact that, since ratifying the Protocol, no study has yet been carried out to

measure the scale of the sale of children, child prostitution and child pornography in order to determine what action should be taken.

#### 5. Implementation of the Optional Protocol in respect of all territories and persons under the jurisdiction of the State of Burkina Faso

36. Under the terms of article 4 of the Constitution, “all citizens of Burkina Faso and all persons living in Burkina Faso enjoy equal protection before the law”. The Optional Protocol on the sale of children, child prostitution and child pornography therefore applies to all persons living in the territory of Burkina Faso.

### III. Data

#### A. Data disaggregated by sex, region, age and by nationality and ethnicity

37. There are no data available on the sale of children, child prostitution and child pornography in Burkina Faso in the absence of a study on the issue (see paragraph 35).

#### B. Number of child victims of trafficking, including information as to the type of exploitation for which such children are trafficked

38. Specific data on trafficking in children, including the sexual exploitation of children, are incomplete. However, the scale of this phenomenon in Burkina Faso can be gauged from the number of children intercepted by the social services and from certain data on sexual violence in general, as the sexual exploitation of children is among the most frequent forms of sexual abuse in Burkina Faso. It accounts for 80 per cent of cases of sexual abuse, 60 per cent of rape cases and 20 per cent of cases of sexual molestation and harassment, according to the proceedings of the African preparatory technical meeting for the Third World Congress against the Sexual Exploitation of Children and Adolescents, held in Dakar on 24 and 25 September 2008.

Table 1  
Situation of child victims of trafficking intercepted from 2006 to 2008

Target group	2006			2007			2008			Overall total		
	M	F	T	M	F	T	M	F	T	M	F	T
Internal trafficking	207	1 068	1 275	262	106	368	62	27	89	531	1 201	1 732
Cross-border trafficking	6	44	50	27	7	34	99	15	114	132	66	198
<b>Overall total</b>	<b>213</b>	<b>1 112</b>	<b>1 325</b>	<b>289</b>	<b>113</b>	<b>402</b>	<b>161</b>	<b>42</b>	<b>203</b>	<b>663</b>	<b>1 267</b>	<b>1 930</b>

Source: DPLVE statistics (2008).

39. As is shown in Table 1, there was a decrease in the number of child victims of trafficking intercepted between 2006 and 2008, down from 1,325 in 2006 to 203 in 2008.

Table 2  
**Summary of child victims of sexual violence in the cities of Ouagadougou and Bobo Dioulasso between 2006 and 2008**

<i>Year</i>	<i>2006</i>		<i>2007</i>		<i>2008</i>		<i>Total</i>	
	<i>M</i>	<i>F</i>	<i>M</i>	<i>F</i>	<i>M</i>	<i>F</i>	<i>M</i>	<i>F</i>
Ouagadougou	45	200	78	367	82	429	<b>205</b>	<b>996</b>
Bobo Dioulasso	0	4	6	242	18	260	<b>24</b>	<b>506</b>
<b>Total</b>	<b>45</b>	<b>204</b>	<b>84</b>	<b>609</b>	<b>100</b>	<b>689</b>	<b>229</b>	<b>1 502</b>

*Source:* Statistics from the Youth Solidarity Association under the supporting project to combat sexual violence against children.

40. Table 2 provides a summary of child victims of sexual violence in the two largest cities of Burkina Faso, to which it should be added that female child victims of sexual exploitation for commercial purposes account for 20 per cent of recorded cases of sexual violence.

Table 3  
**Cases of child trafficking and child abductions recorded in 2006 and 2007**

<i>Offence</i>	<i>2006</i>	<i>2007</i>	<i>Total</i>
Child trafficking	21	22	<b>43</b>
Child abduction	48	65	<b>113</b>
<b>Total</b>	<b>69</b>	<b>87</b>	<b>156</b>

*Source:* Statistical Yearbook of the Ministry of Justice, November 2008.

41. Table 3 shows the number of cases of child trafficking and child abductions recorded by the prosecution services attached to courts of major jurisdiction in Burkina Faso in 2006 and 2007.

42. Child trafficking and the sexual exploitation of children occur on a larger scale and have complex ramifications particularly in poor areas where mechanisms to protect and socialize children are defective.

### C. Available data on child prostitution

43. There are no specific data on child prostitution. However, children have been arrested on a presumption of soliciting during operations by the municipal police force, which gives the following figures: four children in 2006; three children in 2007; seven children in 2008.

44. While there may be a link between child prostitution and sex tourism, the latter is expressly prohibited in Burkina Faso.

#### **D. Available information on pornography featuring persons actually or apparently under the age of 18**

45. No specific charges of child pornography have been brought and, in the absence of data, it is not possible to form a precise picture of the scale of the phenomenon. However, decree No. 2379 of 3 August 1942 on the suppression of the manufacture, dissemination and trafficking of obscene publications and certain indecent acts punishes works that may be described as obscene.

46. Owing to the proliferation of video clubs and cybercafes to which children are freely admitted and the development of communication technologies, children have access to pornographic films. The frequentation of bars by minors is also a practice that exposes them to all kinds of danger, in particular pornography and prostitution, despite the existence of decree No. 347/PRES/LAN of 14 August 1964 on the movement of minors and their presence in bars, dance halls and cinemas and at shows.

#### **E. Available data concerning the number of prosecutions and convictions for such offences**

47. The statistical yearbook of the Ministry of Justice shows that the number of cases of child trafficking recorded by all the prosecution services attached to courts of major jurisdiction in Burkina Faso was 21 in 2006 and 22 in 2007.

48. These data do not reveal, however, whether all the presumed traffickers were prosecuted.

### **IV. General measures of implementation**

#### **A. Information on laws, decrees and regulations adopted by the national legislature to give effect to the provisions of the Optional Protocol**

49. Since ratifying the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, Burkina Faso has not passed any specific legislation to give effect to the Protocol. There are, however, a number of laws enacted since ratification that take into account the goals sought by the Protocol. These include Act No. 029-2008/AN of 15 May 2008 on combating trafficking in persons and similar practices, Burkina Faso Labour Code Act No. 028-2008/AN of 13 May 2008 and Act No. 013-2007/AN of 30 July 2007 on educational guidance.

50. Act No. 029-2008/AN of 15 May 2008 on combating trafficking in persons and similar practices defines and punishes trafficking and similar practices. Its article 1 stipulates that:

“Trafficking in persons designates the recruitment, transportation, harbouring or reception of persons, by use of threat, force or other forms of duress, by abduction, fraud, deception, abuse of authority or of a situation of vulnerability, or by the offer or acceptance of payment or benefits to obtain the consent of a person having authority over another for the purposes of exploitation.

“Exploitation includes exploitation of the prostitution of another person or other forms of sexual exploitation, forced labour or services, slavery or slavery-like practices, servitude or the removal of organs.”

51. Burkina Faso Labour Code Act No. 028-2008/AN of 13 May 2008 prohibits both forced labour and the worst forms of child labour. Article 5 of that Code states that forced labour is prohibited and goes on to define forced labour as:

“Any labour or service demanded of an individual under threat of penalty or punishment and which has not been offered under the individual’s own free will.

“No one may have recourse thereto in any form, in particular as:

“(a) a measure of coercion, political education or punishment with regard to persons who have expressed their political opinions;

“(b) a means of mobilizing and utilizing labour for political ends;

“(c) a disciplinary measure at work;

“(d) a means of social, racial, national or religious discrimination;

“(e) punishment for participating in a strike.”

52. Article 153 defines the worst forms of labour as:

“(a) all forms of slavery or slavery-like practices, such as the sale of children, child trafficking, debt bondage and servitude, and forced or compulsory labour, including the forced or compulsory recruitment of children for use in armed conflict;

“(b) the use, recruitment or offering of a child for prostitution, for the production of pornography or for pornographic performances;

“(c) the use, recruitment or offering of a child for illicit activities, in particular for the production and trafficking of narcotic drugs, as defined in international conventions;

“(d) work which, by its nature or the conditions in which it is performed, may be harmful to the child’s health, safety or morality.”

53. Act No. 013-2007/AN of 30 July 2007 on educational guidance, which stipulates in its article 3 that education is a national priority, recognizes the right to education of all persons living in Burkina Faso. It states that this right shall be exercised on the basis of fair and equal opportunity among all citizens. Basic education is compulsory for all children between the ages of 6 and 16.

## **B. Significant jurisprudence adopted by the courts with regard to the sale of children, child prostitution and child pornography**

54. Burkina Faso is unable for the time being to cite judicial decisions relating to the sale of children, child prostitution or child pornography.

## **C. Governmental departments or bodies responsible for the implementation of the Optional Protocol**

55. The importance of the issue of children’s rights is such that all ministerial departments, even those responsible for production or production-support sectors, are endeavouring to mainstream them in their development policies.

56. This issue is, however, of primary importance to a number of ministries that have been given the task of promoting and protecting children’s rights, which includes 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. The following ministries are concerned:

(a) The Ministry of Social Action and National Solidarity (MASSN) whose main responsibilities include “the social protection of families, children and adolescents, etc.” and “monitoring the implementation of regional and international conventions relating to the rights of the child”. At the devolved level, MASSN is represented in 13 regions, 45 provinces and certain departments and districts of Burkina Faso. Regional directorates coordinate activities for children in their respective regions;

(b) The Ministry for the Promotion of Human Rights whose main responsibilities include “implementing and following up international agreements for the promotion and protection of human rights”; and “the implementation of specific measures to promote, consolidate and protect the rights of particular groups”;

(c) The Ministry of Justice, which is responsible, inter alia, for the administration of justice in civil, commercial, criminal, administrative and social matters;

(d) The Ministry of Labour and Social Security (MTSS), which includes a directorate tasked with combating child labour and the worst forms of child labour, set up in 2006;

(e) The Ministry of Security, with vice squads and the establishment of juvenile units.

57. The Ministries of Basic Education and Literacy, Secondary, Higher and Scientific Research and Defence contribute effectively to the promotion and protection of children’s rights.

58. No specific mechanism exists to ensure coordination between the various ministries that have primary responsibility for implementing the Optional Protocol. However, such coordination may be provided by the national committee set up to monitor and evaluate the national plan of action for children, which since 28 October 2008 has become the National Council for the Survival, Protection and Development of Children (CNSPDE).

59. CNSPDE is the high authority responsible for deciding, steering and coordinating at national level policies, plans and programmes relating to children’s rights and welfare. The Council is composed of several ministerial departments, international organizations, associations and NGOs working for children. It has a permanent secretariat attached to the Ministry of Social Action and National Solidarity.

60. One of its functions is to prepare periodic reports on the implementation of legal instruments ratified by Burkina Faso, including the Convention on the Rights of the Child, and to organize periodic meetings with all partners working for children.

#### **D. The dissemination of the Optional Protocol and information concerning its provisions**

61. No specific arrangements have been made to disseminate the Optional Protocol. The ministries responsible for children’s issues, in collaboration with their partners, have continued their informational, awareness-raising and promotional activities in the field of children’s rights.

62. At the level of the Ministry of Social Action and National Solidarity, numerous awareness-raising and training sessions have been organized for various target groups by the Permanent Secretariat of the National Plan of Action for Children (SP/PAN Enfance). In 2008, it organized five conferences for mayors, prefects and civil registry officers on

children's rights. These conferences were attended by 317 officials (270 men and 47 women) particularly concerned with questions of civil registration. Five other conferences were held in national public health schools for trainee assistant midwives, licensed nurses, State nurses and mobile health workers. They were attended by 1,105 trainees (689 men and 416 women). Training sessions were also provided by the Secretariat for social welfare officers, religious leaders, traditional leaders and directors of associations and NGOs active in the area of children's rights.

Table 4

**Breakdown of training received by target group and year**

Target group	2006			2007			2008			Overall total		
	M	F	T	M	F	T	M	F	T	M	F	T
MASSN regional trainers	10	4	14	-	-	-	-	-	-	10	4	14
Religious leaders	34	26	60	23	8	31	34	30	64	91	64	155
Traditional leaders	-	-	-	-	-	-	58	-	58	58	-	58
Leaders of children's rights associations	-	-	-	-	-	-	40	29	69	40	29	69
<b>Overall total</b>	<b>44</b>	<b>30</b>	<b>74</b>	<b>23</b>	<b>8</b>	<b>31</b>	<b>132</b>	<b>59</b>	<b>191</b>	<b>199</b>	<b>97</b>	<b>296</b>

Source: SP/PAN Enfance statistics.

63. From 2006 to 2008, a total of 296 persons (199 men and 97 women) received training in children's rights. Religious leaders were the main beneficiaries, representing 52.3 per cent of the total.

Table 5

**Breakdown of documents by period**

Year	CRC* protocols	ACRWC+	CRC guide	Exercise book	Module	Total
2006	70	85	760	107	63	1 085
2007	62	412	3 247	30	40	3 791
2008	118	638	2 532	34	1	3 323
<b>Total</b>	<b>250</b>	<b>1 135</b>	<b>6 539</b>	<b>171</b>	<b>104</b>	<b>8 199</b>

Source: SP/PAN Enfance statistics.

\* Convention on the Rights of the Child.

+ African Charter on the Rights and Welfare of the Child.

64. Table 5 shows that 8,199 documents relating to the rights of the child and to the Optional Protocol were distributed from 2006 to July 2008, with a predominance of guides, which represented 77.75 per cent of the total.

65. At the level of the Ministry for the Promotion of Human Rights, training sessions on international human rights standards were organized for magistrates and prison security staff in 2008.

66. As regards the Optional Protocol, the main measure consists in informing people about the entry into force of the Protocol and the fact that it now forms part of the positive

law of Burkina Faso during activities to promote children's rights and raise public awareness of legal instruments for their protection.

#### **E. Mechanisms and procedures used to collect and evaluate data and other information concerning implementation of the Optional Protocol**

67. Burkina Faso has no mechanism or procedure to collect and evaluate on a periodic basis data and information concerning implementation of the Optional Protocol.

#### **F. Budget allocated to activities related to implementation of the Optional Protocol**

68. In the budget appropriation system there is no specific item related to the protection of children's rights. This is also true of activities related to implementation of the Optional Protocol.

69. Nevertheless, a large number of projects and programmes under way in the various ministerial sectors (education, health, social action, justice, advancement of women, human rights) contribute directly to implementation of the Optional Protocol. These sectors are given priority in the Strategic Framework for Combating Poverty.

70. Over the period 2007–2008, budget appropriations to the main actors in child protection were increased. For example, appropriations to the Ministry of Basic Education and Literacy (MEBA) went up from 4.2 per cent to 6.5 per cent of the national budget, an average hike of 2.3 per cent. Appropriations to the Ministry of Social Action and National Solidarity and to the Ministry for the Promotion of Human Rights rose respectively by 14.23 per cent and 0.6 per cent between 2006 and 2008.

71. Under bilateral and international cooperation arrangements, many development partners support the State's efforts to implement child-oriented policies and programmes.

#### **G. Overall strategy of Burkina Faso for the elimination of the sale of children, child prostitution and child pornography and the protection of victims**

72. The strategy of Burkina Faso for the elimination of the sale of children, child prostitution and child pornography forms part of the overall framework for the promotion of children's rights.

73. A clear political will to take children's rights into account is seen in nearly all ministerial sectors. More specifically, this strategy is reflected both in the Strategic Framework for Combating Poverty (CSLP) and in the policy papers adopted by ministries responsible for children's issues.

74. The CSLP programme of priority implementation measures for the period 2006–2008 includes among its priority actions outreach to street children, child victims of the worst forms of labour, children in conflict with the law, orphans and other vulnerable children.

75. The policy papers of ministries include the following:

(a) The national social action policy (PNAS) adopted by decree No. 2007-480/PRES/PM/MASSN of 23 July 2007. The first prong of this policy consists of a programme entitled "legal protection of family members, particularly women and

children”, which focuses mainly on the popularization of texts relating to the rights of children (Convention on the Rights of the Child and its Optional Protocols), women and families;

(b) The Framework of Strategic Guidelines for Children’s Promotion (COSPE) for the period 2008–2017 adopted on 23 October 2008. A national plan for the survival, protection and development of children for the period 2008–2012 serves as the operational tool for implementing these Guidelines. It offers a national response to children’s issues based on a multisectoral, decentralized approach. The aim of COSPE is that the various developmental stakeholders should take into account the higher interests of children in national development strategy;

(c) Strategic plan 2008–2010 of the Ministry for the Promotion of Human Rights, adopted by decree No. 2008-834/PRES/PM/MPDH/MEF of 23 December 2008;

(d) National policy for the advancement of women, adopted in 2004;

(e) National gender policy, adopted on 8 July 2009.

76. National action plans are being prepared, including the national plan of action to combat trafficking and sexual violence against children in Burkina Faso, which lays down clear strategies for combating child trafficking and the sexual exploitation of children.

77. Furthermore, several actions have been undertaken since ratification of the Optional Protocol to understand better the phenomenon of child abuse and sexual exploitation. Thus, MASSN and UNICEF have commissioned a national study on violence against children (including sexual violence) in the 45 provinces of the country. On the basis of the findings, endorsed in May 2008, suitable strategies have been proposed.

78. Mention may also be made of the activities carried out to combat sexual harassment in schools by the PUGSADA association for support and enlightenment and the outsourcing project on the prevention and rehabilitation of child victims of sexual violence undertaken by the Youth Solidarity Association with the technical and financial support of MASSN and UNICEF.

In addition, efforts have been made in order to make better known and effectively combat trafficking in children. Burkina Faso has accordingly organized major meetings, such as the thematic meeting on child trafficking and exploitation in West and Central Africa in November 2006. It has also taken part in several meetings on the subject:

(a) African preparatory technical meeting for the Third World Congress against the Sexual Exploitation of Children and Adolescents, held in Dakar on 24 and 25 September 2008;

(b) Third World Congress against the Sexual Exploitation of Children and Adolescents, from 25 to 28 November 2008, in Rio de Janeiro, Brazil;

(c) Meeting on the theme “Combating trafficking in human beings, particularly women and children, in West and Central Africa and helping victims: exchanges of experience and case study”, held in Dakar from 9 to 11 May 2007.

79. To provide better protection for children, particularly in combating child trafficking and violence against children, 12 regional committees, 42 provincial committees, 87 departmental committees, 2 local district committees and 111 village watch committees have been set up under the Indicative Cooperation Programme (PIC). All these bodies have carried out a large number of information, awareness-raising, care and reintegration activities for child victims of trafficking but also of other forms of violence such as sexual violence.

80. Prevention campaigns and activities against trafficking have also been conducted in the field through mass media, advocacy and awareness-raising campaigns. In 2008, for example, 300 educational talks, 15 theatre forums, 15 radio broadcasts, 150 police and gendarmerie patrols took place. The educational talks and theatre sessions were attended by 37,600 persons (13,400 men, 12,600 women, 11,600 children). The radio broadcasts reached 287,722 persons. As regards sex tourism, preventive measures are being put in place in partnership with tourism professionals, and a code of conduct for the protection of children against sexual exploitation in tourism has been developed.

81. These efforts have led to better knowledge of child trafficking and the sexual exploitation of children, the establishment of better organizational frameworks for combating these phenomena and, lastly, the strong involvement of technical and financial partners, civil society and local communities. But efforts to combat child trafficking and sexual exploitation of children are fraught with material, financial and even legal difficulties. These difficulties include the ignorance of the population, who are not keen to report cases of trafficking, the practice of *confiage* (fostering), seen by the population as part of the culture or even as a means of enrichment, the poverty of parents and the inadequacy of the education system, and the absence of specific texts criminalizing acts prohibited by the Optional Protocol.

## **H. Contribution of civil society to efforts to eliminate the sale of children, child prostitution and child pornography**

82. Civil society in Burkina Faso is very active in the promotion of the Convention on the Rights of the Child and its Optional Protocols. Associations such as the Youth Solidarity Association (ASJ), the Association of Children and Young Workers of Burkina (AEJTB), Action for the Promotion of Children's Rights in Burkina (APRODEB), the Red Cross, the Coalition for Children's Rights in Burkina Faso (COBUFADE), Action for Children and Health (AES), the TINTUA Association, the Keeogo Association, Women in Law and Development in Africa (WILDAF), the Forum for African Women Educationalist/Burkina (FAWE/Burkina), etc. are active in various areas, for instance in combating the worst forms of labour and child trafficking. These numerous activities undertaken for the protection of children are supported by bilateral and multilateral development partners.

83. Burkina Faso does not have an ombudsperson for children, but steps are being taken in that direction.

## **V. Prevention**

### **A. Social policies and programmes adopted or strengthened to protect vulnerable children**

84. The Ministry of Social Action and National Solidarity is developing numerous actions for vulnerable children and monitors and supervises care structures for such children.

85. According to the 2005–2015 strategic framework for providing care for orphans and other vulnerable children adopted by the Government, vulnerable children are classified as follows:

- Orphans

- Street children
- Children of HIV/AIDS-affected parents
- Children suffering from chronic diseases
- Unprotected children, without assistance or appropriate parental security
- Children in conflict with the law
- Child victims of all forms of exploitation (worst forms of labour, sexual violence, trafficking, ill-treatment, etc.).

86. Strategic approaches have been defined and all the community, institutional and civil society actors concerned are seeking in their respective areas to prevent situations of vulnerability through the implementation of numerous projects and programmes and to identify, look after and reintegrate/rehabilitate victims.

87. Preventive measures are aimed mainly at street children, orphans, children of HIV/AIDS-affected parents and unprotected children, without assistance or appropriate parental security.

88. Socio-educational care is provided for street children through three kinds of public and private structure: open, semi-open and closed. Public structures, in particular the André Dupont d'Orodara Children's Home (MEADO) and the Gampela Specialized Education and Training Centre (CESF) look after children and seek to integrate them socially and even economically through scholastic and occupational educational activities, including games, literacy work, primary education courses, masonry, carpentry, stockbreeding, sewing, welding, etc.

89. As regards HIV/AIDS-affected children, the Government is making huge efforts to step up prevention and promote changes in behaviour. Thus, programmes for the prevention of mother-child transmission and paediatric care are developed and implemented by the Ministry of Health, such as project BKF 6129, "Nutritional support for vulnerable groups and persons living with HIV" and the programme for the prevention of mother-child transmission (PTME). There are also as many as 1,000 NGOs and associations combating AIDS, with the strong involvement of technical and financial partners, and a large number are actively involved in promoting care for orphans and other vulnerable children through an annual forum.

90. Since the adoption of Act No. 049-2005/AN of 22 December 2005 on reproductive health and Act No. 030-2008 on action to combat HIV/AIDS and protect the rights of persons living with HIV/AIDS, any discrimination on grounds of HIV/AIDS infection is prohibited. This measure is designed to promote the social integration of HIV/AIDS-affected children.

91. Notwithstanding these efforts, which are having a marked impact on the ground, the protection of vulnerable children is running into difficulties. These are due mainly to ineffective texts and persistent sociocultural constraints which seriously limit the exercise of children's rights. Likewise, factors such as ignorance, poverty, illiteracy and poor knowledge of the texts are not to be overlooked.

**B. Measures taken to make people, and specifically children, aware of the harmful consequences of the sale of children, child prostitution and child pornography**

92. Cf. paragraphs 82 and 86 to 93.

93. Prison and armed forces personnel across all categories have received human rights training. Members of transport workers' unions (50) have been given training in matters relating to child trafficking.

94. Cf. paragraphs 82 and 84.

95. The effectiveness of the above-mentioned efforts and the results obtained are generally evaluated during field surveys. There is no specific evaluation mechanism for the purpose.

## **VI. Prohibition and related matters (arts. 3; 4, paras. 2 and 3; 5; 6 and 7)**

### **A. Information on all criminal laws in force covering and defining the acts and activities enumerated in article 3, paragraph 1, of the Optional Protocol**

96. The general obligation set out in article 1 of the Optional Protocol consists in the prohibition of "the sale of children, child prostitution and child pornography". Apart from Act No. 029-2008/AN of 15 May 2008 on combating trafficking in persons and similar practices, which takes into account certain acts covered by the Optional Protocol, Burkina Faso does not have a specific text to give effect to the Protocol. Nevertheless, the acts enumerated in article 1 of the Optional Protocol are covered by the country's criminal law.

97. The transfer of children for sexual exploitation, the transfer of children's organs for profit, forced labour and child trafficking are subject to prosecution and punishment in accordance with articles 1, 2, 4 and 5 of Act No. 029-2008/AN of 15 May 2008 on combating trafficking in persons and similar practices.

98. According to article 1, "Trafficking in persons designates the recruitment, transportation, harbouring or reception of persons, by use of threat, force or other forms of duress, by abduction, fraud, deception, abuse of authority or of a situation of vulnerability, or by the offer or acceptance of payment or benefits to obtain the consent of a person having authority over another for the purposes of exploitation."

99. Article 2 of the same law stipulates that "the offence of trafficking in persons includes the recruitment, transportation, transfer, harbouring or reception of a minor for the purposes of exploitation, even when none of the means enumerated in article 1 is used". Unlike trafficking in adults, the offence of child trafficking has two constituent elements, which are the act of trafficking and the purpose of trafficking.

100. Under the terms of paragraph 2 of article 1, the purpose of trafficking, which is exploitation, includes exploitation of the prostitution of another person or other forms of sexual exploitation, forced labour or services, servitude or the removal of organs. This text thus characterizes as a criminal offence child trafficking for sexual exploitation (sex tourism, child prostitution, child pornography) or commercial exploitation (removal of organs) and trafficking for purposes of work (forced labour or services, servitude).

101. Trafficking in persons, including trafficking in children, is a crime punishable by:

(a) 5 to 10 years' imprisonment (art. 4);

(b) 10 to 20 years' rigorous imprisonment when the offence has been committed in one of the circumstances listed in article 5, in particular when the victim is a minor under the age of 15.

102. As a crime, it is subject to a 10-year statute of limitations, in accordance with article 7 of the Code of Criminal Procedure. Attempted trafficking is likewise punishable and is liable for the same punishment as actual trafficking.

103. In accordance with articles 153 and 44 of Burkina Faso Labour Code Act No. 028-2008/AN of 13 May 2008, the worst forms of child labour (art. 153) constitute offences punishable in accordance with the Act on the definition and punishment of child trafficking, which has been rescinded and replaced by the Act of 15 May 2008 on the combating of trafficking in persons and similar practices. The worst forms of child labour include all forms of sale of children, child prostitution and child pornography. Article 153 of the Act of 13 May 2008 provides as follows:

“Under the terms of this law, the worst forms of child labour are understood to mean, in particular:

(a) All forms of slavery or slavery-like practices, such as the sale of children and child trafficking, debt bondage and serfdom and forced or compulsory labour, including the forced or compulsory recruitment of children for use in armed conflict;

(b) The use, recruitment or offering of a child for prostitution, for the production of pornography or for pornographic performances;

(c) The use, recruitment or offering of the child for illicit activities, in particular for production and trafficking of narcotics, as defined in international conventions;

(d) Work which, by its nature or the conditions in which it is carried out, is likely to harm the health, security or morals of children.

The list of such work is established by ministerial council decree of Thursday, 23 April 2009 upon consultation of the most representative workers’ and employers’ organizations by professional branch and the opinion of the national advisory technical committee on labour security and health.”

104. Pursuant to article 424, persons infringing the provisions of article 153 of the Burkina Faso Labour Code are liable for the penalties laid down in the Act on the definition and punishment of child trafficking.

105. Those found guilty of the worst forms of child labour have consequently committed a crime and are liable for punishments incurred by trafficking in persons.

106. Similarly, article 313 of the 1996 Criminal Code punishes:

“Those who, in pursuance of a concerted plan to destroy, wholly or in part, a national, ethnic, racial or religious group or a particular group on the basis of any other arbitrary criterion, commit or cause to be committed against members of that group one of the following acts:

[...]

- measures to impede births;
- forced transfers of children.”

This offence constitutes a crime against humanity, punished by the death penalty.

107. Article 317 of that Code stipulates that this crime is not subject to any statute of limitations.

108. The abduction or kidnapping of a minor by means of violence, threats or fraud (arts. 398 to 401). Under the terms of article 398,

“Whosoever by means of violence, threats or fraud abducts a minor or causes a minor to be abducted, or whosoever leads, diverts or removes a minor or causes a minor to be led, diverted or removed from wherever he or she had been placed by those to whose authority or supervision he or she had been submitted or entrusted shall be punished by a prison sentence of between 5 and 10 years.”

109. The kidnapping or abduction of a minor using violence, threats or fraud is punished by a prison sentence of between 10 and 20 years if the minor concerned is under the age of 13.

110. As a crime, the attempted kidnapping or abduction of a minor using violence, threats or fraud is punishable, subject to a 10-year statute of limitations.

111. The kidnapping or abduction of a minor without the use of violence, threats or fraud is covered by article 402 of the Criminal Code which provides that “whosoever, without the use of violence, threats or fraud kidnaps or abducts or attempts to kidnap or abduct a minor is punishable by a prison sentence of between one and five years and a fine of between 300,000 and 1,500,000 francs”. As is stipulated in article 402, an attempt to commit this offence is punishable. Under article 8 of the Code of Criminal Procedure, the attempted kidnapping or abduction of a minor is a criminal offence subject to a three-year statute of limitations.

112. Incitement to debauchery: article 422 of the Criminal Code stipulates that whosoever habitually incites to debauchery or abets the corruption of a minor of either sex between the ages of 13 and 18, or even occasionally in the case of minors under the age of 13, shall be punishable by a prison sentence of between 2 and 5 years and a fine of between 600,000 and 1,500,000 francs.

113. Procuring: article 424 of the Criminal Code defines a procurer as anyone who knowingly hires, prepares or maintains a person for prostitution, even with the consent of that person, or provides a person for prostitution or debauchery by acting in any way as an intermediary between persons engaged in prostitution or debauchery and individuals who exploit or pay for the prostitution or debauchery of another person. Procuring is punished by a prison sentence of between 1 and 3 years and a fine of between 300,000 and 900,000 francs.

114. Soliciting, as defined in article 428 of the Criminal Code, occurs when a person “publicly solicits persons of either sex, by gesture, word or any other means, with a view to inciting them to debauchery”. Soliciting is punished by a prison sentence of between 2 months and 2 years and a fine of between 50,000 and 300,000 francs.

115. Incitement to debauchery, procuring and soliciting are criminal offences subject to a three-year statute of limitations (article 8 of the Code of Criminal Procedure). In the absence of special provisions, the attempt to commit such offences is not punishable.

116. By virtue of these provisions and those of Act No. 17-2005 of 17 May 2005 introducing the framework law on tourism in Burkina Faso, which stipulates in its article 6 that “sex tourism is prohibited in Burkina Faso”, proceedings may be instituted when acts of child prostitution have been committed.

117. Lastly, acts of child pornography are punishable under the decree of 3 August 1942 on the suppression of the manufacture, dissemination and trafficking of obscene publications and certain indecent acts. Article 1 of this decree provides that the following are offences punishable by a prison sentence of between 1 month and 2 years and a fine of between 18,000 and 1,800,000 francs:

(a) Manufacturing or holding for the purposes of trade, distribution, rental, display or exhibition;

- (b) Importing or causing to be imported, exporting or causing to be exported, transporting or causing to be transported knowingly for the same purposes;
- (c) Selling, renting, making available for sale or rental, even not publicly;
- (d) Offering, even without payment, even not publicly, in any form whatsoever, directly or indirectly;
- (e) Distributing or conveying for distribution by any means: all pornographic printed materials, writings, drawings, posters, engravings, paintings, photographs, films or negatives, matrices or reproductions, emblems, and any indecent objects or images.

118. Under the terms of article 4, “the penalty shall be increased twofold if the offence has been committed against a minor”. Furthermore, writings, printed materials, drawings, posters, engravings, photographs, films or negatives, rolls of film or discs, etc., may before any legal proceedings be seized at borders by officers of the judicial police. The time limit for prosecution is again three years.

## **B. Other forms of child pornography covered by criminal law**

119. The law of Burkina Faso (Act No. 029-2008/AN of 15 May 2008 on combating trafficking in persons and similar practices) considers the exploitation of the begging of others to be a practice similar to trafficking. Article 7 of that Act provides that:

“The exploitation of the begging of others occurs when anyone organizes or exploits the begging of a person, leads or induces a person to engage in begging, exercises pressure on the person to beg or to continue to beg, or arranges to be accompanied by one or more children in order directly or indirectly to obtain thereby a financial or material benefit or any other benefit.”

120. The offence of exploitation of the begging of others is punished by:

- A prison sentence of between 2 and 5 years and a fine of between 500,000 and 2 million francs or either one of these two penalties
- The maximum penalty when the offence is committed against a minor

121. Similarly, the Criminal Code of Burkina Faso (art. 245) makes it a criminal offence for anyone with authority over a minor to hand him or her over to individuals who encourage or use him or her to engage in begging. This offence is punishable by a prison term of between 6 months and 2 years.

122. Taken as a whole, the laws in force in Burkina Faso, even if they do not specifically define as crimes the offences covered by the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography do not contain provisions that are obstacles to implementation of the Optional Protocol.

123. However, certain texts, in particular the decree of 3 August 1942 on the suppression of the manufacture, dissemination and trafficking of obscene publications and certain indecent acts, are out of date and need to be reviewed.

124. The Criminal Code of 1996 states in article 64, paragraph 2, “Any legal entity, whether or not having a civil, commercial, industrial or financial purpose, in whose interest the act of commission or omission that constitutes an offence has been wilfully perpetrated by its organs shall also be considered to have committed that offence or to be a party thereto.”

125. There is no specific text in Burkina Faso covering all the acts and activities enumerated in article 3, paragraph 1, of the Optional Protocol. Act No. 029-2008/AN of 15

May 2008 on combating trafficking in persons and similar practices, including trafficking in children, does not contain specific provisions concerning the liability of legal persons for acts of trafficking. Consequently, the liability of legal persons for acts of child trafficking is governed by the provisions of article 64, paragraph 2, of the Criminal Code.

126. Burkina Faso has ratified certain international conventions applicable to the adoption of children:

- The Convention on Protection of Children and Cooperation in respect of Intercountry Adoption (the Hague, 29 May 1993), ratified on 11 January 1996
- The Convention on the Civil Aspects of International Child Abduction (the Hague, 25 October 1980), ratified on 25 May 1992

127. At the domestic level, the Code of the Individual and the Family (CPF) regulates adoption in its articles 470 to 507, which set out the conditions and procedures for adoption and its effects. To prevent illegal adoptions of children, article 479 of the Code specifies the children who may be adopted: children of unknown father and mother, children declared abandoned, children whose father and mother are deceased and children whose father and mother or family council have validly consented to adoption.

128. Consent to adoption must, in order to be valid, be given by official deed (art. 483 CPF) and may be withdrawn in the same way within three months; the voluntary surrender of the child to its parents on their request, including their verbal request, is considered evidence of withdrawal of consent to adoption.

129. Moreover, it follows from the foregoing provisions that only children of unknown father and mother and children declared abandoned may be adopted without a parent's consent. In such cases, a safeguard is in place, in the form of a procedure whereby the civil courts are requested to declare the child abandoned. The child is declared abandoned only after an investigation into the situation of the mother and father and the reasons for abandonment. Parental rights are delegated by the same court decision to the private or public social welfare organization or individual responsible for the child's care (art. 479 CPF). In all cases, the agreement of the social welfare organization or individual responsible for the child's care is necessary for the adoption of the child declared abandoned.

130. The theft of children and the fraudulent registration of children may be punishable under article 397 of the Criminal Code, which provides that "those who, under conditions such that it is impossible to identify the child, transport or harbour a child, cause a child to disappear or substitute another in its place or present a child physically as being born of a woman who has not given birth to the child shall be liable for a prison sentence of between two and three years". This is a criminal offence subject to a three-year statute of limitations.

131. Agencies and individuals acting as intermediaries in matters of adoption must be approved by the Ministry of Social Action. In addition, a memorandum of understanding is signed.

132. However, the fees they charge are not regulated and no sanction is applicable for non-compliance except for withdrawal of approval.

133. Cf. paragraph 128.

134. Although no specific charge can be brought for all the offences described in the Optional Protocol, they are all criminally punishable in Burkina Faso (cf. paragraphs 98 to 121 above). Thus, the production and dissemination of materials that advertise such acts may be considered to be an instigation to commit such offences. They are therefore punishable under article 69 of the Criminal Code which provides that: "Whoever incites another to commit a crime or an offence shall be punished in accordance with the penalties

laid down for the offence, even in the event of the offence not having been committed because the person who was to commit it voluntarily refrained from doing so.”

135. Furthermore, decree No. 2379 of 3 August 1942 on the suppression of the manufacture, dissemination and trafficking of obscene publications and certain indecent acts provides in its article 3 that when the offences stipulated (manufacturing or holding, distributing, renting, displaying or exhibiting, importing or exporting, transporting, selling or offering any indecent pornographic printed materials, posters, engravings, paintings, photographs, films or negatives or reproductions) are committed through the medium of the press, the manager or publisher concerned shall be, solely by virtue of publication, subject as the principal offender to the penalties laid down for such offences.

### **C. The number of prosecutions and convictions for such offences and the effectiveness of the law in preventing advertising**

136. There have been no convictions for such acts because the decree of 3 August 1942 concerning the suppression of the manufacture, dissemination and trafficking of obscene publications and certain indecent acts has never been implemented.

137. Similarly, article 69 of the Criminal Code has not yet been applied to punish the reproduction and dissemination of material advertising offences under the Optional Protocol. Because of its general scope, this text is not very effective in combating the reproduction and dissemination of such material. It falls to the courts to decide whether or not such acts are an instigation to the commission of an offence. Such acts can be effectively combated only if they are specifically characterized as criminal offences.

138. Jurisdiction with respect to such offences is conferred in accordance with the provisions of the Code of Criminal Procedure (arts. 381, 521 to 523), Act No. 51-93/ADP of 16 December 1993 concerning the procedure applicable before the criminal chamber and Act No. 2-93/ADP of 17 May 1993 on judiciary organization, amended by Act No. 28-2004/AN of 8 September 2008. Pursuant to these provisions:

(a) The criminal chamber of the Court of Appeal has jurisdiction with respect to crimes;

(b) The juvenile court has jurisdiction with respect to crimes committed by minors under the age of 18;

(c) The correctional chamber of the court of major jurisdiction has jurisdiction with respect to ordinary offences;

(d) The court of first instance has jurisdiction with respect to minor offences;

(e) The juvenile magistrate has jurisdiction with respect to offences committed by minors under the age of 18.

139. As child trafficking is a crime, it comes within the jurisdiction of the criminal chamber of the Court of Appeal.

140. The court having territorial jurisdiction is in principle that of the place where the offence was committed, that of the place of residence of the defendant or that of the place of arrest of the defendant.

141. Act No. 029-2008/AN of 15 May 2008 on combating trafficking in persons and similar practices provides that any alien who, in the territory of Burkina Faso, commits or is an accessory to a crime of trafficking in persons perpetrated in whole or in part in Burkina Faso shall be prosecuted and tried in accordance with the laws of Burkina Faso if he is arrested in Burkina Faso or if the Government obtains his extradition (art. 14).

142. Moreover, the State has extended its jurisdiction to cover trafficking in persons committed by an alien outside the territory of Burkina Faso, if the trafficked person is a citizen of Burkina Faso and if the trafficker is arrested in Burkina Faso or if the Government obtains his extradition (art. 15).

143. Since the accession of Burkina Faso to the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, no extradition treaty has been concluded or negotiated.

144. Child trafficking, a form of sale of children, is expressly identified as a crime in Burkina Faso. So far as extradition is concerned, it may be recalled that Burkina Faso has not entered any reservations to the Optional Protocol. Accordingly, the authorities of the country recognize article 5, paragraph 2, as sufficient basis for granting an extradition request made by another State party, including in cases in which the extradition request concerns a national of the State receiving the request.

145. However, since the entry into force of the Protocol no extradition request for a person subject to its jurisdiction and accused by another State of any of the offences referred to in the Optional Protocol has been registered by Burkina Faso. Likewise, it has not requested another State to extradite a person accused of trafficking.

#### **D. International agreements for cooperation with other States parties with regard to investigations and criminal and extradition proceedings**

146. Cooperation agreements exist between Burkina Faso and other States parties to the Protocol with regard to child trafficking, namely:

(a) Bilateral agreement between Burkina Faso and the Republic of Mali to combat cross-border trafficking in children, signed on 25 June 2004 in Ouagadougou;

(b) Multilateral agreement to combat trafficking in children concluded with eight other countries (Benin, Côte d'Ivoire, Mali, Niger, Nigeria, Guinea, Togo, Liberia), signed in Abidjan on 27 July 2005;

(c) Multilateral agreement against trafficking in persons, in particular women and children, concluded with 23 other West African and Central African countries, signed in Abuja on 6 July 2006.

147. In cases of child trafficking, article 18 of the Act of 15 May 2008 provides that the court to which the matter has been referred orders, in addition, in the judgement or sentence:

(a) Confiscation of the means used to commit the offence and the proceeds derived from the commission of the offence;

(b) The destruction of deeds, travel documents and identification papers that have facilitated the commission of the offence;

(c) The permanent withdrawal of permit, approval or any other authorization or administrative document from any entity regardless of its legal status or from any person whose activity has facilitated the commission of the offence.

## **VII. Protection of the rights of victims (arts. 8 and 9, paras. 3 and 4)**

### **A. Safeguarding of the rights and best interests of children who have been victims of practices prohibited under the Optional Protocol**

148. The protection of children who have been victims of offences is generally ensured as follows:

- (a) Act No. 19-61/AN of 9 May 1961 on juvenile delinquents and children at risk;
- (b) The 1996 Criminal Code;
- (c) Act No. 10/93/ADP of 17 May 1993 concerning judiciary organization in Burkina Faso, amended by Act No. 028-AN of 8 September 2004.

149. In the particular case of trafficking, article 21 of the Act of 15 May 2008 provides for measures, such as the possibility of ordering proceedings to continue in camera, aimed at protecting the identity and privacy of victims and witnesses. Trial courts may excuse victims or witnesses from appearing in court or take steps to protect their identity and privacy. Furthermore, the victims of trafficking may request to remain temporarily or permanently in the national territory (art. 22).

150. Victims of trafficking who are particularly vulnerable or minors are assisted before examining magistrates and trial courts by a lawyer of their choice or by assigned counsel.

151. Act No. 029-2008/AN of 15 May 2008 on combating trafficking in persons and similar practices has no special provisions for investigations in the event of doubt as to the age of the minor who has been a victim of trafficking, nor in cases where the victim's age is unknown.

152. Cf. paragraphs 150 to 152.

### **B. Measures taken to ensure legal, psychological or other training for those who work with victims of the offences prohibited in the Optional Protocol**

153. Officials of the Ministry of Social Action and National Solidarity collaborate with civil society organizations working to protect children's rights in taking care of child victims of trafficking. Before the entry into force of the Optional Protocol, 283 officials in the water and forestry, customs, border police and gendarmerie services received training in the prevention of child trafficking and in respecting the dignity of children. In addition, 50 delegates of transport workers' unions received training on the subject.

154. Persons accused of child trafficking are guaranteed the right to a fair and impartial hearing by the Constitution of Burkina Faso, which provides in its article 4 that:

“All citizens of Burkina Faso and all persons living in Burkina Faso enjoy equal protection before the law. Everyone is entitled to have his or her case heard by an independent and impartial tribunal. Anyone charged with a criminal offence is presumed innocent until proved guilty. The right to a defence, including the right to counsel of one's own choosing, is guaranteed before the courts.”

155. Measures to protect child victims of trafficking are not an obstacle to implementation of these provisions of the Constitution.

**C. Public and private programmes designed to provide child victims of sale, prostitution and pornography with assistance in social reintegration**

156. Child victims of trafficking benefit from measures aimed at facilitating their social reintegration. These measures are of various kinds and include: family reunification, psychological care, health care, legal assistance, occupational training and reintegration activities. These consist essentially in providing shelter in transit centres, taking children to their families or repatriating them to their country of origin, schooling, and apprenticeship placement. In addition, financial support is given to their families for income-generating activities in order to fight the causes of trafficking. With the support of UNICEF, funds are made available to the village watch committees to facilitate family reunification.

**D. Measures taken to help the child to recover his or her identity**

157. In Burkina Faso no measures are yet in place to help child victims recover their identity. This might be because of the lack of reporting of cases of child victims.

158. It should be noted, however, that there is a system of birth registration. This system enables anyone without a birth certificate to register his or her birth. By this means, child victims without birth certificates are able to be registered and to have an identity.

**E. Information concerning assistance in social reintegration, physical and psychological recovery and the recovery of identity**

159. In the matter of caring for child victims of trafficking, the law of Burkina Faso makes no distinction between children. All children are treated on an equal footing and are cared for in accordance with the country's international obligations and domestic provisions. A procedural guide exists for the care, rehabilitation and reintegration of child victims of trafficking. The care provided consists in receiving, sheltering, feeding and looking after the children in transit centres, before taking them to their families or repatriating them to their country. The rehabilitation and social reintegration of these children take the form of school enrolment, apprenticeship placement in training centres or with craftspeople and establishment of civil status documents (birth certificate, national identity card) for the recovery of their identity.

**F. Information on existing remedies and procedures that may be used by child victims of sale, prostitution and pornography to seek compensation for damages from those legally responsible**

160. The existing remedy is that offered by ordinary law. The legal representatives of child victims may bring criminal indemnification proceedings before the competent criminal court in order to seek compensation for damages in accordance with the provisions of articles 2, 4, 18 et seq. of the Code of Criminal Procedure.

## VIII. International assistance and cooperation (art. 10)

**Any multilateral, regional and bilateral arrangements signed by the State party and steps taken to put in place procedures and mechanisms to coordinate the implementation of such arrangements, and the results obtained, the significant difficulties encountered and any efforts made or considered necessary to improve the implementation of such arrangements**

**International cooperation and coordination of the State party with competent regional or international organizations and with national and international non-governmental organizations**

161. Burkina Faso has signed various conventions, agreements or treaties relating to the purpose of the Protocol, in particular the following:

- (a) Bilateral agreement between Burkina Faso and the Republic of Mali to combat cross-border trafficking in children, signed on 25 June 2004 in Ouagadougou;
- (b) Multilateral agreement to combat trafficking in children concluded with eight other countries (Benin, Côte d'Ivoire, Guinea, Liberia, Mali, Niger, Nigeria, Togo), signed on 27 July 2005;
- (c) Multilateral agreement against trafficking in persons, in particular women and children, concluded with 23 other West African and Central African countries, signed on 6 July 2006.

162. Each agreement provides for a committee to follow up and evaluate its implementation. Thus, article 9 of the cooperation agreement between Burkina Faso and the Republic of Mali to combat cross-border trafficking in children establishes "a standing committee to follow up this agreement and to give opinions and make recommendations thereon". This standing committee, composed of 16 members, half from each country, meets once a year alternately in one of the two States in accordance with the provisions of article 10 of the agreement. In fact, the committee has held two meetings, the first in Bamako in 2006 and the second in Ouagadougou in 2009.

163. The main recommendations emanating from the second follow-up meeting on the cooperation agreement between the Republic of Mali and Burkina Faso to combat cross-border trafficking in children were as follows:

- (a) Ensure that child trafficking is included in the agenda of periodic meetings of ministers responsible for security in the two countries;
- (b) Establish a framework for periodic consultation between services responsible for child-related issues in the border areas of the two countries;
- (c) Strengthen systems for gathering, processing, analysing and disseminating data in each country;
- (d) Under bilateral cooperation arrangements, widen the scope of the agreement to include other aspects of child protection;
- (e) Develop and implement programmes to reintegrate child victims of trafficking and support their families, in particular mothers, in each country;
- (f) Establish a warning system using a toll-free number to strengthen victim prevention and protection actions;

- (g) Encourage children, local elected officials, magistrates, teachers, communicators and transport workers to become more involved in these efforts;
- (h) Harmonize repatriation procedures for child victims of trafficking;
- (i) Organize joint police border operations.

164. As for the multilateral cooperation agreement to combat trafficking in children in West Africa, its article 12 provides for the establishment of a regional follow-up committee. This committee has a secretariat based in Abidjan; it is composed of three representatives for each country and meets once a year in rotation. Under the terms of article 14, one of its tasks is to monitor and evaluate action taken by the contracting parties to implement the agreement, on the basis of annual reports, and to formulate opinions and recommendations. In actual fact, it has so far held three meetings, the first in Grand-Bassam in Côte d'Ivoire from 23 to 27 July 2006, the second in Conakry in Guinea from 17 to 19 July 2007, and the third in the Niger from 29 to 31 July 2008.

165. In the case of the multilateral agreement on regional cooperation in combating trafficking in persons, particularly women and children, in West and Central Africa, the follow-up mechanism is established by article 21 of the agreement in the form of a regional joint standing committee with a joint secretariat set up within the Economic Community of Central African States (ECCAS) and the Economic Community of West African States (ECOWAS). The committee, which is composed of eight members, four from ECCAS and four from ECOWAS, meets once a year by rotation between the two regions and is tasked in particular with monitoring and evaluating activities undertaken by the contracting parties pursuant to the agreement through annual reports, and with proposing opinions and recommendations. In actual fact, the final document has not yet been transmitted to member countries; Burkina Faso has never been invited to a meeting of this committee and has never received a follow-up report.

166. These conventions, agreements and treaties have had the effect, in particular, of harmonizing and coordinating action to combat child trafficking among the States parties and facilitating the repatriation of child victims. The main difficulties encountered in the implementation of these agreements include the following:

- (a) Failure to hold annual meetings of the follow-up and evaluation committees for each of the agreements. For example, apart from the follow-up committee for the multilateral agreement on cooperation in combating child trafficking, which regularly holds its meetings, the others do not manage to do so;
- (b) Non-compliance with certain obligations under the agreements. For example, apart from Nigeria which has set up a prevention and rehabilitation fund for child victims, no country has established such a mechanism;
- (c) Lack of financial resources for implementation of the committees' recommendations and the operation of the permanent secretariats.

167. The main step taken to promote cooperation and coordination between State authorities and relevant regional and international organizations concerning the prevention of child trafficking and the detection, investigation, prosecution and punishment of child traffickers was the adoption, in July 2006 in Abuja, at the ECCAS/ECOWAS ministerial meeting, of a joint plan of action to combat trafficking in persons, particularly women and children, in West and Central Africa (2006–2009). This plan follows on from the multilateral agreement on regional cooperation in combating trafficking in persons, signed at that conference by the 26 member States. It breaks down into seven parallel strategies, which include victim protection, prevention and legislation.

168. Mention should also be made of cooperation between border security services in the prevention of trafficking.

169. Burkina Faso collaborates with countries in the West African subregion in matters relating to the repatriation and social reintegration of child victims of trafficking. Many such victims have thus been repatriated to Mali and Nigeria and reintegrated into their societies.

170. A number of international and non-governmental organizations are involved in efforts to combat trafficking:

(a) UNICEF, the International Labour Organization, the German cooperation agency and Save the Children Canada are involved in the branches of the national watch committee that have been set up to steer and coordinate activities to combat trafficking in persons. They also contribute to the care and reintegration of child victims;

(b) The International Organization for Migration helps to monitor victim repatriation and reintegration;

(c) Exchanges of experience have taken place through participation in international conferences, international training programmes and activities undertaken to combat child trafficking. For example, Burkina Faso participated in the African preparatory technical meeting for the Third World Congress against the Sexual Exploitation of Children and Adolescents (Dakar, 24 and 25 September 2008), the Third World Congress against the Sexual Exploitation of Children and Adolescents (Rio de Janeiro, 25 to 28 November 2008), and the meeting on the theme "Combating trafficking in human beings, in particular women and children, in West and Central Africa and helping victims: exchanges of experience and case studies" (Dakar, 9 to 11 May 2007), organized by the French cooperation agency and the International Labour Organization.

171. Burkina Faso, besides participating in meetings organized by ECOWAS, cooperates with other member States to put in place measures to provide occupational training opportunities for young people, implement economic growth policies for job creation, reduce poverty and ensure fair distribution with a view to enabling vulnerable groups to gain access to the factors of production.

172. These policies are implemented under partnership arrangements between the Government of Burkina Faso, the private sector, citizens and the international community. The Strategic Framework for Combating Poverty serves as a unifying framework for the action of the country's partners. Strategic priority 2 consists in "ensuring the poor of access to basic social services and social protection" and strategic priority 3 in "expanding opportunities for employment and income-generating activities for the poor in fair conditions".

173. In addition, Burkina Faso organized the summit meeting of the African Union on employment and poverty in Ouagadougou, which resulted in the adoption of the Ouagadougou Declaration on Employment and Poverty. It also took part in the first Conference of African Ministers for Social Development, from 27 to 31 October 2008 in Windhoek in Namibia, which adopted the Social Policy Framework for Africa.

## IX. Other legal provisions (art. 11)

### **Status of ratification by the State party of the main international instruments concerning sale of children, child prostitution, child pornography, trafficking of children and sex tourism**

174. Burkina Faso has ratified nearly all the main international instruments concerning the sale of children, child prostitution and child pornography, in particular:

(a) Convention No. 182 concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour, adopted by the General Conference of the International Labour Organization (ILO) on 17 June 1999, ratified on 25 July 2001;

(b) The Convention on the Civil Aspects of International Child Abduction, concluded at the Hague on 25 October 1980, ratified on 25 May 1992;

(c) The Convention on the Protection of Children and Cooperation in International Adoption, concluded at the Hague on 29 May 1993, ratified on 11 January 1996;

(d) The Convention for the Suppression of Trafficking in Persons and of the Exploitation of the Prostitution of Others, of 21 March 1950, ratified on 27 August 1962;

(e) The ILO Forced Labour Convention, of 28 June 1930, ratified on 21 November 1960;

(f) The ILO Abolition of Forced Labour Convention, of June 1957, ratified on 25 August 1997;

(g) The United Nations Convention against Organized Transnational Crime, concluded on 15 November 2000, ratified on 15 May 2002, and its two Protocols, adopted on the same date and ratified on 15 May 2002:

(i) The Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Organized Transnational Crime;

(ii) The Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Organized Transnational Crime.

175. Implementation of these various legal instruments has resulted in the prohibition of acts entering into the constituent elements of the offences of the sale of children, child prostitution and child pornography. In addition, some of these instruments have served to develop public awareness of the gravity of the phenomenon of child trafficking in particular and have provided a basis for identifying ways of effectively addressing it.

## X. Conclusion

176. The preparation of the country report of Burkina Faso has offered an opportunity to take stock of 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.

177. Since 2006, considerable efforts have been made by the State with the support of partners and the various stakeholders to combat child trafficking and sexual violence against children. The active involvement of the stakeholders in these efforts says a great deal about the positive impact that they have had.

178. They have led first of all to improved knowledge of child trafficking and the sexual exploitation of children. They have also been reflected in the development of better organizational frameworks for combating these phenomena, and in the strong involvement of technical and financial partners, civil society and local communities.

179. However, these efforts come up against material, financial and even legal and cultural difficulties, foremost among which are the ignorance, illiteracy and poverty of the population and sociocultural constraints.

180. With regard to 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, it is to be noted that most of the acts prohibited under that instrument are punishable under the domestic law of Burkina Faso. Nevertheless, the express criminalization by a specific text of the sale of children, child prostitution and child pornography is an essential step towards ensuring effective punishment for those who perpetrate such acts.

181. In preparing this report, Burkina Faso has been able to highlight the progress achieved in implementing the Optional Protocol and at the same time to measure the considerable efforts still required to optimize the implementation of its provisions. In this context, the need for synergy of action to put an end to all forms of behaviour that violate the rights of children is more pressing than ever.

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