

**Alternative report on the implementation of the
Optional Protocol on the sale of children, child
prostitution and pornography**

BURKINA FASO

**Report presented by ECPAT International
in collaboration with the Association Burkinabé pour la Survie de
l'Enfance (ABSE)**

KEY ISSUES AND RECOMMENDATIONS



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ECPAT International (End Child Prostitution, Child Pornography and Trafficking of Children for sexual purposes) is the leading global network working to end the commercial sexual exploitation of children (child prostitution, child pornography and child trafficking and child sex tourism). It represents 82 member organizations from 75 countries and holds Consultative Status with ECOSOC.

Website: www.ecpat.net

Association Burkinabé pour la Survie de l'Enfance (ABSE) was created in 1991. It focuses on the promotion and protection of children's rights through public awareness-raising and the capacity building of civil society organizations. ABSE also runs programmes aimed at ensuring the social reintegration of vulnerable children. ABSE has been the affiliate member of the ECPAT network in Burkina Faso since 2005.

Website : www.abse.bf

KEY ISSUES AND RECOMMENDATIONS FROM THE ALTERNATIVE REPORT ON THE IMPLEMENTATION OF THE OPSC IN BURKINA FASO

1. General measures of implementation

Even though Burkina Faso ratified the Optional Protocol on the sale of children, child prostitution and child pornography in 2006, its domestic legislation is still not compliant with the provisions of this international legal standard. While progress has been made in relation to the enactment of laws criminalizing trafficking in human beings, including children, the Burkinabe Penal Code does not criminalize the sale of children, and its provisions relating to child pornography, child prostitution and the sexual exploitation of children in travel and tourism are still weak.

Recommendation

A penal reform process is ongoing in Burkina Faso and it is expected that this process will adequately bridge the existing gaps between the Optional Protocol and national laws.

2. Prohibition and related matters

Key issues:

2.1 The Burkina Faso criminal legislation does not define nor criminalize the sale of children.

Recommendation :

Amend the Penal Code to define and criminalize the sale of children, in accordance with the provisions of the Optional Protocol.

- 2.2 The laws addressing prostitution are not in compliance with the provisions of the OPSC as they do not specifically protect children and they require that the person be engaged in prostitution on a “frequent” basis in order to be defined as prostitution. Such criteria are very broad and open to various interpretations.

In addition, Article 423 of the Penal Code defines prostitution as that use of a person in sexual activities for monetary remuneration. It does not include, as required by the OPSC, any other forms of remuneration that would be provided by an abuser to a child victim of prostitution instead of money; these may include high grades at school or goods (e.g. mobile phones).

Recommendation:

The laws addressing the prostitution of children must be brought into conformity with the provisions of the Optional Protocol. The frequency of relations between an adult and a minor in the context of prostitution should not, as is the case in current law, be a criterion of offenses of child prostitution. In addition, offenses must be categorised as such when a child receives any form of compensation or goods from the abuser in lieu of monetary remuneration.

- 2.3 The Penal Code does not expressly mention that child victims of prostitution cannot be prosecuted and convicted of engaging in prostitution, even though they are being exploited.

Recommendation:

Amend the Penal Code to incorporate a provision which expressly states that child victims of prostitution can never be prosecuted for acts of prostitution. They should be considered victims and be provided with adequate protection and psychosocial assistance and support.

- 2.4 The Penal Code is not compliant with the OPSC regarding the obligations of the Burkina Faso to fully protect children from child pornography. The Penal Code does not define nor criminalize child pornography in conformity with Article 3 of the OPSC. Furthermore it fails to criminalize mere possession or knowingly accessing child pornography, through the use of information and communications technologies. In addition, it does not prohibit child pornography consisting of simulated representations or realistic images of a non-existent child (cartoons, video games, comics, etc.).

Recommendation:

Reform the Penal Code to define and punish child pornography in conformity with the provisions of the Optional Protocol on the sale of children. The mere possession of child pornography as well as knowingly obtaining access through information and communication technologies to child pornography should be defined and prohibited. The Penal Code should also prohibit the production and possession of pornographic materials which consist of simulated images or realistic images of non-existent children (cartoons, video games, comics, etc.).

- 2.5 Under Article 4 of the Penal Code, Burkinabe criminal legislation applies to any national who has committed a crime abroad, provided that the act is also criminalised in the country where it has been committed. However, this double criminality principle hampers prosecution and convictions of travelling child sex offenders.

Recommendation:

Abolish the principle of double criminality in the field of extradition and extraterritoriality

- 2.6 Burkinabe legislation does not provide for the extradition of its nationals accused of crimes in foreign territories. Additionally, legislation does not specify that the individuals accused of crimes abroad must be prosecuted within Burkina Faso. Thus, the offenders, having returned to their country of origin, may escape prosecution. whose

Recommendation:

When Burkinabe authorities do not extradite an individual accused or convicted of sexual exploitation of children related crimes, they must commit to prosecute and convict the offender before national courts.

3. Prevention

Key issues:

- 3.1 Research relating to commercial sexual exploitation of children is very limited. It is critical that the government conduct nationwide research on CSEC. The results of such studies are essential for the development and implementation of adequate prevention strategies.

Recommendation:

Conduct nationwide studies and research on all forms of sexual exploitation of children.

3.2 Despite the on-going development of a data collection system focusing on child rights issues, no disaggregated data on commercial sexual exploitation of children related issues is currently available.

Recommendation:

Strengthen the system of organized data collection on children's rights to accurately produce data on forms of sexual exploitation of children for commercial purposes.

3.3 Even though civil society organizations, in collaboration with the private sector, have developed initiatives to prevent several forms of commercial sexual exploitation of children, especially child sex tourism and child trafficking, very few efforts have been made by the government to prevent CSEC.

Recommendation:

Develop and carry out prevention campaigns aimed at sensitizing the population, especially children, on child prostitution, child sex tourism and the risk of sexual exploitation of children through the use of information and communication technologies.

4. Protection, recovery and reintegration

Key issues:

4.1 Despite the establishment of a free nationwide hotline to report cases of violence against children, special hotlines to report cases of commercial sexual exploitation of children should be developed and adequately staffed. Online reporting mechanisms should also be put in place.

Recommendation:

Establish appropriate procedures to report acts of commercial sexual exploitation of children through hotlines or online forms.

4.2 Recovery and reintegration programmes for vulnerable children and victims of violence are predominantly provided by civil society organisations such as The Association Solidarité Jeunes ; Keogo ; Croix Rouge. The government, through the Ministry of Social Affairs and National Solidarity, also provides services for children. However, such services do not meet the specific needs of children victims of trafficking and commercial sexual exploitation.

Recommendation

Establish social services that specifically support child victims of CSEC, providing a suitable program and adequately trained personnel.