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## THE IMPACT OF REPORTING ON THE REALISATION OF CHILDREN'S RIGHTS IN WEST AFRICA: CASE STUDIES OF MALI, NIGERIA, SENEGAL AND TOGO

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### 1 Introduction

Several countries in West African States have gone through different human rights challenges in the last decade. These include brutal civil wars fought in Liberia and Sierra Leone, insurgencies in Nigeria, Mali and Chad and election instability in Cote d'Ivoire. Recently, the deadly Ebola Virus Disease (EVD) struck mainly in West Africa leaving in its wake more than 9 000 people dead and several thousand infected.<sup>2</sup> All countries in West Africa belong to the Economic Community of West African States (ECOWAS), which is a regional body aimed at ensuring the economic and political integration of the region. It also has the ECOWAS Court of Justice with jurisdiction over the activities of member states in the promotion and protection of human rights. The region has been plagued by several human rights issues which made the attainment of the United Nations Millennium Development Goals (MDGs) a tough task and the attainment of the Sustainable Development Goals an even more daunting one.

Children in several West African countries have borne the brunt of human rights abuses perpetrated by government agencies and non-state actors. For example, in Nigeria, the Boko Haram insurgency has led to several human rights atrocities committed against children. Many children have been killed, several schools closed, and others razed to the ground. In addition, more than 250 girls were kidnapped at Chibok Girls Secondary School in Borno State in April 2014. Despite the international uproar

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2 As at February 2015, there were 23 816 cases of Ebola outbreak worldwide, 14 275 laboratory-confirmed cases and 9 652 deaths. See Centre for Disease Control and Prevention '2014 Ebola outbreak in West Africa' August 2017 <http://www.cdc.gov/vhf/ebola/outbreaks/2014-west-africa> (accessed 27 August 2017); T Hemen 'The Ebola outbreak: Health systems and Health challenges in West Africa' *West Africa Insight* March 2015 <http://linkis.com/org/IV30i> (accessed 4 August 2017).

that greeted the kidnap of the girls, few of them managed to escape while others are still in captivity at the time of writing. In Mali, children have been on the receiving end as most of them are out of school and others have been killed or maimed due to violent confrontations between violent groups. Children in West Africa are faced with different challenges which impact on their rights including lack of access to quality education, female genital mutilation (FGM), inadequate health facilities, child labour, and abuse and sexual exploitation.

This study evaluates the impact of reporting on the realisation of children's rights in selected countries in West Africa. It seeks to investigate whether there are clear indicators of progress between reporting cycles of the treaty bodies vis-à-vis the implementation plans of the countries studied in the research. Reporting here refers to the country reports submitted to the treaty bodies in fulfilment of statutory obligations by states parties to report on activities undertaken to give meaning to the provision of the human rights instruments in question. In this regard, the instruments investigated in this research all relate to the promotion and protection of children's rights. Furthermore, the research covers the core instruments that protect the rights of children at both international and regional levels. Specifically, the scope of the research relates to reports submitted to the Committee on the Rights of the Child (UN Children's Committee) and to the African Committee of Experts on the Rights and Welfare of the Child (African Children's Committee).

This chapter is based on the reports of the country researchers who made use of both primary and secondary data relating to the realisation of children's rights in West Africa. In some instances, interviews were conducted to elicit information from child rights advocates, human rights practitioners and government staff. The research focuses on developments in Mali, Nigeria, Senegal and Togo.

## 2 Human rights overview

Most States in West Africa including the focal countries of this study have ratified international and regional instruments protecting the rights of children.<sup>3</sup> Notable among them are the Convention on the Rights of the Child (CRC),<sup>4</sup> the Optional Protocol to the CRC on the Involvement

3 For a complete status of ratification of several human rights instruments, including those on the rights of children, see United Nations Treaty Collection Chapter IV: Human Rights (27 February 2015) <https://treaties.un.org/pages/Treaties.aspx?id=4> (accessed 17 September 2017).

4 Adopted and opened for signature, ratification and accession by General Assembly Resolution 44/25 of 20 November 1989, entered into force 2 September 1990.

of Children in Armed Conflict (Optional Protocol I),<sup>5</sup> the Optional Protocol to the CRC on the Sale of Children, Child Prostitution and Child Pornography (Optional Protocol II)<sup>6</sup> and the Optional Protocol to the CRC on a Communications Procedure (Optional Protocol III).<sup>7</sup> The (UN Children's Committee) monitors the implementation of the CRC and the three Optional Protocols that have entered into force. On the African continent, there is the African Charter on the Rights and Welfare of the Child (African Children's Charter).<sup>8</sup> The African Children's Committee monitors the implementation of the African Children's Charter.<sup>9</sup>

Despite the existence of these human rights instruments, the status of children in Africa generally and in West Africa in particular leaves a lot to be desired and is in urgent need for change. In the four countries under consideration, there are several human rights issues that must be tackled as a matter of urgency. In most West African countries, children are uneducated due to extreme poverty. In addition, most children are exposed to child labour and harmful cultural practices like FGM and early child marriage. For example, in Mali and Nigeria, due to the debilitating activities of terrorist organisations, thousands of children have been forced out of school due to the activities of insurgents.<sup>10</sup> In Nigeria and

5 Adopted and opened for signature, ratification and accession by General Assembly Resolution A/RES/54/263 of 25 May 2000, entered into force 12 February 2002.

6 Adopted and opened for signature, ratification and accession by General Assembly Resolution A/RES/54/263 of 25 May 2000, entered into force 18 January 2002.

7 The United Nations (UN) General Assembly approved a third Optional Protocol on a Communications Procedure on 19 December 2011 which entered into force in 2014. This Optional Protocol allows individual children to submit complaints regarding specific violations of their rights under the CRC and its first two optional protocols. See 'Committee on the Rights of the Child' <http://www.ohchr.org/EN/HRBodies/CRC/Pages/CRCIndex.aspx> (accessed 17 September 2017).

8 African Charter on the Rights and Welfare of the Child OAU Doc CAB/LEG/24.9/49 (1990), entered into force on 29 November 1999. See, generally, T Kaime *The African Charter on the Rights and Welfare of the Child: A socio-legal perspective* (2009) 3.

9 The African Committee of Experts on the Rights and Welfare of the Child is a group of 11 individuals of high moral standing, integrity, impartiality and competence in matters of the rights and welfare of the child, which is mandated to monitor and report on the fulfilment of child rights in Africa. See African Committee of Experts on the Rights and Welfare of the Child 'About the Committee' <http://acerwc.org/about-the-committee/experts/> (accessed 15 January 2015).

10 Save the Children 'Attacks on education: The impact of conflict and grave violations on children's futures' (2013) 14; 'Africa's Islamic State' *The Economist* 24 January 2015 <http://www.economist.com/news/middle-east-and-africa/21640440-jihadist-insurgency-nigeria-turning-regional-conflict-africas> (accessed 3 August 2017); SA Harmon *Terror and insurgency in the Sahara-Sahel Region: Corruption, contraband, Jihad and the Mali War of 2012-2013* (2014) 143.

Mali, FGM is still rampant despite laws enacted to stem the tide of these harmful cultural practices.

In Senegal, it has been reported by Human Rights Watch that nearly 50 000 children attending Koranic Schools are prone to abuses that can be likened to slavery and other forms of exploitation by their teachers or *marabouts*, who are known as their guardians.<sup>11</sup> In Togo, despite the developments that have been recorded by the government, several issues remain including lack of access to education for many children and the issue of harmful cultural practices like FGM and child/early marriages. These and other issues are extensively discussed in the subsequent sections of the study.

### 3 Status of reporting

As already noted in the previous section, several West African countries have ratified different treaties relating to the promotion and protection of the rights of children. One feature of the ratification of international treaties is the need for reporting on the implementation of the international or regional instruments in question. For a state to be qualified to submit reports to a treaty body, it must have ratified the treaty and deposited the instrument of ratification with the United Nations Treaty Section or the African Union Commission. The status of ratification and accession of international and regional instruments is accessible online.<sup>12</sup> Regarding the countries under consideration, there are variations in the submission of the reports and a summary is attempted to show how they have fared in their reporting responsibilities.

#### 3.1 Mali

Mali ratified the CRC in 1990 and the African Children's Charter in 1998. Mali submitted its initial and combined report 1999-2006 to the African Children's Committee in 2007, its initial report to the UN Children's Committee in April 1991 and the second report in September 2005.

11 Human Rights Watch "'Off the backs of the children': Forced begging and other abuses against Talibés in Senegal' April 2010 <https://www.hrw.org/report/2010/04/15/back-children/forced-begging-and-other-abuses-against-talibes-senegal> (accessed 27 February 2015) at 26.

12 African Child Policy Forum 'Child Law Resources II' [http://www.africanchildinfo.net/clr/vol2/html/report-status-tables-crc-submission\\_en.html](http://www.africanchildinfo.net/clr/vol2/html/report-status-tables-crc-submission_en.html) (accessed 17 September 2017). See, also, African Commission on Human and Peoples' Rights 'Ratification table: African Charter on the Rights and Welfare of the Child' <http://www.achpr.org/instruments/child/ratification/> (accessed 17 September 2017).

However, regarding the African Children's Charter, Mali submitted its only initial report in September 2007.

In its Initial Report, Mali detailed a rich legal framework for the promotion and protection of children, it reported on a study on the harmonisation of national laws with the provisions of the CRC, the establishment of a Commission to draft a National Code on the Wellbeing and Protection of Children, a National Plan of Action and an inter-ministerial commission to implement it as well as sufficient resources, within its means, to attend to the needs of children in the country.<sup>13</sup>

In its Concluding Observations, the UN Children's Committee welcomed these positive steps taken by Mali to implement the provisions of the CRC. However, the UN Children's Committee expressed concern at the absence of an independent mechanism to register and address complaints from children concerning violations of their rights under the CRC. In addition, the UN Children's Committee was concerned that the data collection mechanism was insufficient to ensure the systematic and comprehensive collection of disaggregated quantitative and qualitative data for all areas covered by the CRC in relation to all groups of children. Furthermore, the UN Children's Committee expressed concern that the state party does not appear to have fully taken into account the provisions of the CRC, especially its general principles.<sup>14</sup>

In its second period Report, the Government of Mali outlined harmonisation of laws undertaken and an initial National Plan of Action for the period 1992-2000. To implement the Plan, it established by Decree 94-209/PM-RM of 7 June 1994 a high-level structure, the National Monitoring and Assessment Committee for the National Plan of Action on the Survival, Development, Protection and Participation of Children; the Ministry for the Advancement of Women, the Child and the Family was established on 16 September 1997 by Decree 97-282/P-RM; and all the Government's activities for the benefit of children were prepared, implemented and monitored in partnership with the full range of components of civil society.<sup>15</sup>

13 Consideration of reports submitted by states parties under article 44 of the Convention. Initial reports of state parties due in 1992. Addendum: Mali, UN Committee on the Rights of the Child (8 September 1997) UN Doc CRC/C/3/Add.53 (1997) paras 5-9.

14 Concluding Observations: Mali, UN Committee on the Rights of the Child (2 November 1999) UN Doc CRC/C/15/Add.113 (1999) paras 2-16.

15 See Consideration of reports submitted by states parties under article 44 of the Convention: Second periodic reports of state parties due in 1997: Mali, UN Committee on the Rights of the Child (11 April 2006) UN Doc CRC/C/MLI/2 (2006).

In its Concluding Observations, the UN Children's Committee acknowledged that some of its previous recommendations have been implemented. However, the UN Children's Committee noted that it regrets that many have not been sufficiently addressed, including those recommendations regarding birth registration, corporal punishment, ill-treatment, neglect and abuse of children, female genital mutilation, early and forced marriages, economic exploitation, discrimination against certain vulnerable groups of children and the reform of the juvenile justice system. These concerns and recommendations are reiterated in the present document.<sup>16</sup>

In its report to the African Children's Committee, the government submitted almost the same report it had submitted to the UN Children's Committee. The only additions were related to the unique features of the African Children's Charter.<sup>17</sup> In its Concluding Observations, the African Children's Committee raised similar concerns as those raised by the UN Children's Committee.<sup>18</sup>

### 3.2 Nigeria

Nigeria ratified the CRC in 1991 and the African Children's Charter in 2001. Nigeria submitted a combined initial and first periodic report to the African Children's Committee in 2006. The initial report to the UN Children's Committee, which was due in 1993, was submitted in 1996.

Nigeria has submitted a total of four reports to the UN Children's Committee. These are the initial, combined first and second, and a combined third and fourth reports. The first periodic report to the UN Children's Committee, due in 1998, was submitted in December 2002 with technical and formatting flaws as the UN guidelines were not followed. It must be noted that due to the poor quality of the report submitted, the UN Children's Committee returned the report to Nigeria in 2003. This necessitated a rewrite and resubmission in 2004 as the second periodic report, which was already due in 2003. According to the government, the delays were partly borne out of the desire to ensure a transparent

16 Concluding Observations: Mali, UN Committee on the Rights of the Child (3 May 2007) UN Doc CRC/C/MLI/CO/2 (2007) para 6.

17 See First Mali report on the implementation of the African Charter on the Rights and Welfare of the Child for the 1999-2006 period, Republic of Mali (September 2007).

18 See Comité Africain d'Experts sur les Droits et le Bien-être de l'Enfant Recommandations et Observations adressées au Gouvernement du Mali par le Comité Africain d'Experts sur les Droits et le Bien être de l'Enfant sur le Rapport initial de la mise en oeuvre de la Charte Africaine sur les Droits et le Bien être de l'Enfant (2009).

process and adequate contributions and participation by stakeholders.<sup>19</sup> In its Concluding Observations adopted in June 2010, the UN Children's Committee made provisions for Nigeria to submit her combined fifth, sixth, seventh and eighth periodic report by November 2016.

Like other countries in this study, most of the reports Nigeria submitted to both treaty bodies were submitted outside the time frame for submission. However, the combined third and fourth periodic report to the UN Children's Committee was submitted within the stipulated time frame. The late submission of periodic report is not peculiar to the child rights reporting process as the country has fallen short of reporting deadlines with respect to other treaty monitoring bodies such as the CEDAW Committee.<sup>20</sup> A critical factor from discussions above is that most states parties are behind schedule regarding the submission of reports to treaty bodies.

In its Initial Report, Nigeria outlined efforts undertaken to harmonise laws, national structures to promote child rights, and some challenges facing the government. In its Concluding Observations, the UN Children's Committee expressed 'its deep concern' that the CRC lacked effective legal status in Nigeria and absence of effective data collection and analysing mechanisms, among others.<sup>21</sup>

In its second periodic report, the government reported the adoption of a National Plan of Action meant to facilitate the establishment of mechanisms for the regular collection, analysis and publication of data required to monitor a draft Child Rights Bill and a draft Bill to domesticate the CRC.<sup>22</sup>

In its Concluding Observations to the second period report, the UN Children's Committee stated that it

19 Consideration of reports submitted by states parties under article 44 of the Convention: Second periodic reports of states parties due in 1998: Nigeria, UN Committee on the Rights of the Child (17 September 2004) UN Doc CRC/C/70/Add. 24 (2004) 13.

20 Committee on the Elimination of All Forms of Discrimination against Women 'Status of submission and consideration of reports submitted by states parties under article 18 of the Convention on the Elimination of All Forms of Discrimination against Women' as at 31 August 2006 at 34.

21 Concluding Observations: Nigeria, UN Committee on the Rights of the Child (30 October 1996) UN Doc CRC/C/15/Add.61 (1996) paras 7-25.

22 See Consideration of reports submitted by states parties under article 44 of the Convention: Second periodic reports of state parties due in 1998: Nigeria, UN Committee on the Rights of the Child (17 September 2004) UN Doc CRC/C/70/Add.24 (2004).

regrets that many of the concerns and recommendations (CRC/C/15/Add.61) it made upon consideration of the State party's initial report (CRC/C/8/Add.26) have been insufficiently addressed, especially those regarding the mainstreaming of customary law and regional and local legislation (para 27), allocation of resources (paras 28 and 33), training and awareness-raising on children's rights (para 30), data collection (para 31), non-discrimination (para 34), children with disabilities (para 35), harmful traditional practices (para 36), health-care services (para 37), education (para 38), juvenile justice (para 39), abuse and neglect (paras 40 and 43), economic exploitation (para 41) and sexual exploitation (para 42).<sup>23</sup>

Relating to legislation, the UN Children's Committee remains concerned that, as at the time of research, only four out of 36 states have enacted the Children's Rights Act (CRA). The UN Children's Committee is also concerned that many of the existing legislation at federal, state and local level in the state party, in particular the religious and customary laws, does not fully comply with the principles and provisions of the CRC. Relating to coordination, the UN Children's Committee was seriously concerned about the apparent lack of coordination among national and state level authorities on strategies, policies and programs affecting children, as well as by the serious lack of resources allocated to the Department of Child Development in the Ministry of Women's Affairs and Social Development and the National Child Rights Implementation Committee, as well as the lack of authority vested in these bodies. Related to the National Plan of Action, the Committee was concerned that it is limited and does not cover all areas of the CRC. On resource allocation, serious concerns arise from the severe lack of financial resources allocated to the protection and promotion of children's rights. On data collection, the UN Children's Committee remains concerned by the absence of comprehensive and up-to-date statistical data in the state party's report and the lack of an adequate national data collection system on all areas covered by the CRC that allows for disaggregated data analysis.<sup>24</sup>

In its combined third and fourth periodic report, the government reported passage of the CRA that domesticated the CRC, harmonisation of laws, a more comprehensive NPA and a Master Plan for Statistical System.<sup>25</sup> While acknowledging the process made, the UN Children's Committee in its Concluding Observations

23 Concluding Observations: Nigeria, UN Committee on the Rights of the Child (13 April 2005) UN Doc CRC/C/15/Add.257 (2005).

24 Concluding Observations: Nigeria (n 22) paras 11, 13, 14 & 23.

25 See Consideration of reports submitted by states parties under article 44 of the Convention: Third and fourth periodic reports of state parties due in 2008: Nigeria, UN Committee on the Rights of the Child (19 May 2008) UN Doc CRC/C/NGA/3-4 (2008).

urges the State party to take all measures to address those recommendations contained in the Concluding Observations on the second periodic report that have not yet been implemented and to provide adequate follow-up to the recommendations regarding, inter alia, data-collection systems, the harmonization of minimum ages and definitions, the death penalty, juvenile justice, corporal punishment, and children with disabilities, contained in the present Concluding Observations on its combined third and fourth periodic report.<sup>26</sup>

Relating to legislation, the UN Children's Committee noted challenges with Northern States adopting the CRA, regrets that a comprehensive review on the compatibility of the existing statutory, religious (Shari'a) and customary laws with the CRC and the Child Rights Act has not been carried out. Relating to coordination, it remains concerned about the absence of a mechanism that can ensure that child rights are considered across all line ministries and that policies and programmes are well-coordinated between national, state and local levels, and related to the NPA; it is concerned that a results-oriented, gender-sensitive and evidence-based cost plan for the operationalisation of the Action Plan remains a challenge. Relating to resources allocation, concerns about insufficient budget allocations to children remain, and corruption remains endemic in the state party (CRC/C/15/Add.257 para 21), which has its adverse effects on the protection and promotion of children's rights.<sup>27</sup>

### **3.3 Senegal**

Senegal ratified the CRC in 1990 and the African Children's Charter in 1998. Senegal's initial report to the UN Children's Committee was submitted in September 1994. Senegal also submitted its second report in May 2005. The consolidated third to fifth state party report, which was due in 2011, was submitted in April 2013. In 2015, Senegal submitted its third and fourth report to the UN Children's Committee.

In its initial report, the government outlined its legislative framework, structures in place to implement the laws; the place of family, traditional values and religion in the upbringing of children; as well as some of the challenges the government encounters in its efforts to implement the CRC.<sup>28</sup>

26 Concluding Observations: Nigeria, UN Committee on the Rights of the Child (21 June 2010) UN Doc CRC/C/NGA/CO/3-4 (2010) para 6.

27 Concluding Observations: Nigeria (n 25) paras 7, 9 & 12.

28 See Consideration of reports submitted by states parties under article 44 of the Convention: Initial reports of state parties due in 1992. Addendum: Senegal, UN

In its Concluding Observations to the initial report, the UN Children's Committee raised concerns about some traditional cultural attitudes towards children, which may hamper the full enjoyment of the rights embodied in the CRC by children in Senegal; the insufficient attention paid to the systematic training of professional groups working for children, including teachers, social workers, judges and law enforcement officials; the insufficient measures taken to ensure a system of data collection relevant for monitoring the implementation of the CRC; the insufficient steps taken to ensure the full conformity of national legislation with the provisions of the CRC; and insufficient measures to ensure the effective implementation of the principle of non-discrimination.<sup>29</sup>

In its second periodic report, the government outlined its achievements in terms of ratification of internal instruments, adoption of national laws and increased budgetary allocation from 6.5 per cent of the total national budget in 1995 to nearly 8.75 per cent in 1999 and 9.5 per cent in 2003.<sup>30</sup>

In its Concluding Observations, the UN Children's Committee notes with satisfaction the state party's efforts to address various concerns and recommendations (CRC/C/15/Add.44) made upon the consideration of the state party's initial report (CRC/C/3/Add.31) through legislative measures and policies. However, some of the concerns it had expressed and recommendations it had made regarding, *inter alia*, the problem of talibés, the continuous practice of FGM, the unequal age of marriage for girls and boys, and the administration of juvenile justice – particularly the deprivation of liberty not as a last resort – have not been sufficiently addressed.<sup>31</sup>

With respect to coordination, however, the UN Children's Committee remains concerned by insufficient precisions on the mission of the Directorate and by the lack of adequately trained staff. Relating to a National Plan of Action, the UN Children's Committee regrets the absence of a comprehensive National Plan of Action for children covering all areas of the CRC; and with respect to data collection, the UN Children's Committee is concerned that the current data collection mechanism is

Committee on the Rights of the Child (17 October 1994) UN Doc CRC/C/3/Add.31 (1994).

29 Concluding Observations: Senegal, UN Committee on the Rights of the Child (27 November 1995) UN Doc CRC/C/15/Add.44 (1995) paras 8-12.

30 Consideration of reports submitted by states parties under article 44 of the Convention: Second periodic reports of state parties due in 1999: Senegal, UN Committee on the Rights of the Child (20 February 2006) UN Doc CRC/C/SEN/2 (2006) paras 33-37.

31 Concluding observations: Senegal, UN Committee on the Rights of the Child (20 October 2006) UN Doc CRC/C/SEN/CO/2 (2006) para 5.

insufficient to ensure the systematic and comprehensive collection of disaggregated data for all areas covered by the CRC.

In its combined third to fifth periodic report, the government pointed out that it took

the opportunity offered by the submission of the combined third to fifth periodic reports to inform the UN Children's Committee of the various measures it has taken to address the specific concerns and recommendations made following the UN Children's Committee's forty-third session and its consideration of the second periodic report of Senegal, which are summarized in paragraph 21 of this report.<sup>32</sup>

The government reported strengthened coordination, a bill to establish Children's Ombudsman and increased budgetary allocation to sectors related to children's wellbeing.

In its Concluding Observation, the UN Children's Committee reminded the government to take all measures necessary to address its previous recommendations of 2006 (see CRC/C/SEN/CO/2) that have not been implemented or have not been sufficiently addressed, and those related to awareness-raising, training and dissemination. Related to policy and strategy, the UN Children's Committee expressed concerns at the low level of its implementation, mainly due to the lack of sufficient resources, overlapping and duplicative interventions, and inadequate coordination. Related to allocation of resources, the UN Children's Committee expresses its concerns with regards to the inadequate and significantly reduced financial resources allocated to the Ministry of Women, Family and Children under the 2015 budget law.<sup>33</sup>

In 2009 Senegal submitted to the African Children's Committee a combined report, which covers the initial, first and second reports. Senegal indicated that the submission of its initial report was delayed due to the lack of appropriate guidelines on the procedures for the submission

32 Consideration of reports submitted by states parties under article 44 of the Convention: Consolidated third to fifth periodic reports of states parties: Senegal, UN Committee on the Rights of the Child (29 April 2013) UN Doc CRC/C/SEN/3-5 (2013) para 19.

33 Concluding Observations on the combined third to fifth periodic reports of Senegal, UN Committee on the Rights of the Child (7 March 2016) UN Doc CRC/C/SEN/CO/3-5 (2016) paras 9, 11, 13 & 20.

of reports. It stated that the directive spelling out the guidelines for the preparation of state party report was only available in 2004.<sup>34</sup>

### 3.4 Togo

Togo ratified the CRC in 1990 and the African Children's Charter in 1998. Togo has submitted four reports to the UN Children's Committee. Its initial report on the UN Children's Committee was submitted in 1996, followed by the second report in January 2005, and the combined third and fourth reports in January 2012. Similarly, Togo submitted its initial report on Optional Protocol II in January 2012. Togo has also submitted five reports to the African Commission on Human and Peoples' Rights (ACHPR). While Togo's initial report to the ACHPR was submitted in 1993 and the second report was submitted in 2002, the combined third, fourth and fifth report was submitted in 2011.<sup>35</sup> Furthermore, Togo has submitted only an initial report, in January 2009 to the African Children's Committee. The reports were, however, not submitted within the timeframe provided by the treaties. This was due to administrative and financial constraints, the lack of human and material resources, poor data collection, lack of commitment or political will on the part of the government, and the absence of synergy between government ministries towards timely preparation of reports.

According to the government, the initial report submitted to the UN Children's Committee was a 'result of a joint effort by the Togolese Government and civil society'.<sup>36</sup> In this report, the government announced the creation

in December 1993, of the National Committee for the Protection and Promotion of Children (CNE), which is made up of nine ministerial departments, several non-governmental organizations (NGOs) and private associations working in the field of human rights and the rights of the child, and all the country's churches.<sup>37</sup>

34 Government of Senegal 'Initial, First and Second Report of Senegal on Implementation of the African Charter on the Rights and Welfare of the Child' (1998-2009) 7 [www.africanchildforum.org/cfr/pdf/senegal-initial-sr\\_en.pdf](http://www.africanchildforum.org/cfr/pdf/senegal-initial-sr_en.pdf) (accessed 3 March 2015).

35 Concluding Observation and Recommendations on the 3rd, 4th and 5th Periodic Reports of the Republic of Togo, African Commission on Human and Peoples' Rights (18 April - 2 May 2012) [www.achpr.org/.../3rd.../achpr51\\_conclobs\\_3\\_4\\_5\\_togo\\_2012\\_eng.pdf](http://www.achpr.org/.../3rd.../achpr51_conclobs_3_4_5_togo_2012_eng.pdf) (accessed 17 September 2017).

36 Consideration of reports submitted by states parties under article 44 of the Convention. Initial reports of state parties due in 1992. Addendum. Togo, UN Children's Committee (28 May 1996) UN Doc CRC/C/3/Add 42 (1996) para 2.

37 As above.

In addition, Togo reported its intention to lower its definition of a child from 21 to 18 years in compliance with the CRC. It reported the establishment of coordinating mechanisms, the presence of the best interests of the child, steps taken to minimise discrimination as well as the investment the government put into service provision.

In its Concluding Observations, the UN Children's Committee appreciated the adoption of a new Constitution in 1992, the establishment of the National Human Rights Commission, 1987, the Ministry for Human Rights and Rehabilitation, 1992, the establishment in 1993 of the National Committee for the Protection and Promotion of Children (NCPPr) and the translation into Kabyè and Ewé of the CRC.<sup>38</sup> The UN Children's Committee expressed concerns that the NCPPr lacked human and financial resources as well as capacity to effectively coordinate programmes among the different bodies and levels of government. In addition, the UN Children's Committee was worried by the lack of a National Plan of Action and a systematic mechanism to monitor progress in all areas covered by the CRC.<sup>39</sup>

The UN Children's Committee recommended that the state party: carries out a comprehensive study on the compatibility of national legislation with the principles and provisions of the CRC; strengthens coordination among the various governmental bodies and mechanisms involved in children's rights; reinforces the role and resources of NCPPr; and increases cooperation with non-governmental organisations. In addition, the UN Children's Committee recommended the development of a system of data collection and analysis, budget allocations to the realisation of the economic, social and cultural rights of children, with emphasis on health and education, and on the enjoyment of these rights by children, particularly the most disadvantaged. The UN Children's Committee further recommended a wider dissemination of the CRC.<sup>40</sup>

In its second periodic report, the government reported that it had prepared a preliminary draft Children's Code, taking the UN Children's Committee's observations into account; it reactivated the National Committee for the Protection and Promotion of Children's Rights, in 1998, and established a unit to coordinate information sharing and capacity building; the standardisation age of majority for all purposes

38 Concluding Observations: Togo, UN Committee on the Rights of the Child (21 October 1997) UN Doc CRC/C/15/Add.83 (1997) paras 3-5.

39 Concluding Observations: Togo (n 37) paras 9-10.

40 Concluding Observations: Togo (n 37) paras 31-34.

has been standardised at 18 years as well as many legislative measures to address some of the specific concerns of the UN Children's Committee.<sup>41</sup>

However, in its Concluding Observations to the second period report, the UN Children's Committee lamented that many of the concerns and recommendations it made upon consideration of the state party's initial report have been insufficiently addressed, especially those regarding coordination among governmental bodies, the development of a data collection system, the persistence of discriminatory practices, birth registration, corporal punishment, child abuse including ill treatment within the family, and harmful traditional practices.<sup>42</sup>

In its third and fourth periodic report, the government reported improvement in legislative framework, further strengthening of coordination mechanisms, increased resources allocation, and the development of national plan of action on child protection. Even though there was no centralised system of data collection yet, the government was using a national system of data collection and management on child victims of trafficking set up within CNARSEVT as well as an observatory for monitoring the situation of children, set up within the Statistics Department.<sup>43</sup>

In its Concluding Observations to the third and fourth report, while acknowledging efforts made by the state party to implement the Concluding Observations on the state party's second periodic report, the UN Children's Committee remained concerned that its previous recommendations had not yet been implemented or had been sufficiently implemented, particularly those related to coordination, data collection, birth registration and discriminatory practices against girls and children

41 Consideration of reports submitted by states parties under article 44 of the Convention. Second periodic reports of states parties due in 1997: Togo, UN Committee on the Rights of the Child (11 May 2004) UN Doc CRC/C/65/Add.27 (2004) paras 2, 8 & 9.

42 Concluding Observations: Togo, UN Committee on the Rights of the Child (31 March 2005) UN Doc CRC/C/15/Add.255 (2005) para 6.

43 See Consideration of reports submitted by states parties under article 44 of the Convention: Combined third and fourth periodic reports of state parties due in 2007: Togo, UN Committee on the Rights of the Child (17 January 2011) UN Doc CRC/C/TGO/3-4 (2011).

with disabilities, harmful traditional practices, economic exploitation and administration of juvenile justice.<sup>44</sup>

## **4 Preparation of the reports**

Although reports are prepared and submitted by states, several activities take place before the submission of these reports. In addition, several countries adopt different approaches in preparing the reports. While some countries hire consultants to prepare the report and seek the inputs of government agencies, others establish inter-ministerial committees that oversee the collation of information and the report that is produced. Although states parties have the primary obligation to report on developments, non-state actors advocating for children's rights are in some instances invited to contribute to the writing of state reports.

### **4.1 Mali**

In Mali, the writing of the state party report for the African Children's Committee included many stakeholders under the leadership of the Ministry for the Promotion of Women, Children and the Family.<sup>45</sup> There were wide consultations with other government ministries to make input into the eight thematic areas of the report.<sup>46</sup> The Ministry of Health was the key informant to the Basic Health and Welfare section. The Ministry of Education, Literacy and National Languages was a key informant on education, culture, leisure and responsibilities of the child section. Consultations were done through the National Department for the Promotion of the Child and the Family's regional and sub-regional structures in all the provinces of Mali.<sup>47</sup>

Their effort, however, used published materials by academia on the role that the state has been playing in fulfilling children's rights. Further, the state counted on some relevant individuals in academia to contribute to the report without necessarily establishing a systematic way of engaging with a wider spectrum of academia. The state party used media reports that demonstrated the competence of the government's institutions in delivering on its obligations of respecting and fulfilling children's rights.

44 Concluding Observations: Togo, UN Committee on the Rights of the Child (8 March 2012) U Doc CRC/C/TGO/CO/3-4 (2012) para 8.

45 Government of Mali 'First Mali Report on the Implementation of the African Charter on the Rights and Welfare of the Child (1999-2006)' (September 2007) [www.acerwc.org/wp.../English-ACERWC-Initial-State-Report-Mali.pdf](http://www.acerwc.org/wp.../English-ACERWC-Initial-State-Report-Mali.pdf) (accessed 17 September 2017).

46 As above.

47 As above.

Other human rights institutions did not contribute much because of their lack of capacity in collecting real time evidence on the state of children's rights in Mali. Children were consulted by the Ministry for the Promotion of Women, Children and the Family through the Youth Parliament.<sup>48</sup>

## 4.2 Nigeria

In relation to Nigeria, the Federal Ministry of Women Affairs and Social Development through the Department of Child Development coordinates all other government ministries at the state and federal level. State and federal government agencies are required to give information on measures they have put in place including judicial measures and involvement of law enforcement agencies as well as progress by networks of NGOs on child rights and child protection. Although the reporting process is spearheaded by the Ministry of Women Affairs, the Child Rights Implementation Committee bears the primary responsibility for the preparation and submission of periodic reports to the United Nations (UN) and the African Union (AU) by virtue of the Terms of Reference of the Committee.<sup>49</sup>

The average period for consultation before and during the process leading to the preparation of the report is usually about one year. The process and period of consultation for international treaties is more detailed than that of regional instruments. This is attributable to the fact that UNICEF drives the UN periodic report pursuant to the provisions of article 45 of the CRC.<sup>50</sup> Thus the Ministry of Women Affairs gets financial support from UNICEF when preparing the UN report.<sup>51</sup> Nigerian children participate in the reporting process through the Nigerian Children's Parliament, which was established on 27 May 2003<sup>52</sup> and has presence in both the state and federal levels. Members of the children's parliament at federal level are elected from the state parliaments. Children in the state parliaments are selected based on their academic records

48 As above.

49 The Committee is drawn from a cross-section of government and non-governmental institutions, higher institutions and child rights experts such as the Ministry of Women Affairs and Social Development, Information, Health, Education, Justice and government agencies including the Nigerian police, civil defence and non-governmental organisations; the judiciary, UNICEF, NGOs, the children's parliament and faith-based organisations. These stakeholders function as the working group in the preparation of the report.

50 Interview with S Olubiyi, Child Protection Officer, UNICEF, Nigeria 2014.

51 Interview with B Anunike, Child Development Department, Federal Ministry of Women Affairs and Social Development, Abuja, 2014.

52 The Nigerian Children's Parliament 'About' <http://www.nigeriachildrensparliament.8k.com/about.html> (accessed 17 September 2017).

and recommendations by the Local Government Education Board.<sup>53</sup> The parliament, which is mostly made up of children from the urban areas and mainly from affluent family, deliberates about issues affecting children and issues resolutions. Although children did not participate in the just concluded reporting process to the African Children's Committee, the views of children's parliament are usually considered in child related activities.<sup>54</sup> The UN report incorporates feedbacks from the children's parliament and children wrote the chapter on child participation in the UN reports.<sup>55</sup> The reports were prepared by consultants with information generated from different government Ministries, Departments and Agencies (MDAs) and CSOs. The consultant identifies the data gaps and requests the necessary information from the relevant government MDAs during the review meeting with the working group set up by the government. The draft also incorporates information from state ministries and directorates of child development.

### **4.3 Senegal**

In Senegal, there is no evidence to suggest the involvement of children, CSOs and NGOs in the drafting of Senegal's initial report. Thus, in the first Concluding Observation to Senegal the UN Children's Committee noted that the guidelines for the preparation of states parties reports were not followed.<sup>56</sup> The government, however, indicated in its second state party report that the Ministry of the Family, Social Development and National Solidarity gathered relevant information submitted to it by other governmental ministries, NGOs and CSOs, which included groups for the advancement of women and parents' associations, and international organisations such as the United Nations Children's Education Fund (UNICEF), which informed the drafting of the report.<sup>57</sup> The Ministry led the drafting of the report with the help of a hired consultant. The report was then circulated for comments, criticisms and suggestions from NGOs, CSOs as well as international non-governmental organisations.<sup>58</sup>

53 The Nigerian Children Parliament's website is available online at <http://www.the-nigeria.com/2011/10/nigerian-children-parliament.html#.VEvL6cnru-c> (accessed 17 September 2017).

54 Interview with L Agbor, National Association of Child Rights Advocates of Nigeria.

55 Government of Nigeria 'Convention on the Rights of the Child: Second Country Periodic Report' (2004) 13 <http://www2.ohchr.org/english/bodies/crc/docs/AdvanceVersions/CRC.C.70.Add.24.Rev.2.pdf> (accessed 3 August 2017).

56 See Concluding Observations: Senegal (n 28) para 2.

57 See Second periodic reports of states parties due in 1999: Senegal (n 29).

58 Second periodic reports of states parties due in 1999. Senegal (n 29) para 24.

In this regard, in interviews carried out with some international organisations in Senegal, they were sceptical with respect to the involvement of children in the drafting of the state report. One interviewee noted that while CSOs were constantly pushing for children's involvement in the preparation of the state report, these efforts were rarely successful. According to the source,

[w]hat the state normally does is to share the report with children and other groups after it has been drafted, but one cannot be sure if the comments and suggestions of the children will eventually be integrated into the report.<sup>59</sup>

Notwithstanding this, however, the state report suggests that there was a national consultative process during the drafting period whereby the state engaged with relevant stakeholder organisations. These organisations included: groups for the advancement of women's rights, national associations, religious groups and the media.<sup>60</sup> While these organisations may be considered to indirectly represent children, the extent to which they may reflect their views will arguably be limited.

Senegal's report to the African Children's Committee, on the other hand, similarly indicates the involvement of about 30 NGOs, CSOs and other stakeholder working on children's rights. At the initiative of the Ministry of Family, consultations were held at the Directorate for Protection of the Child. The report also suggests that the members of the children's parliament had an input into the drafting process.<sup>61</sup>

#### 4.4 Togo

In Togo, the preparation and drafting of its initial and periodic reports to the UN Children's Committee involved many stakeholders including the country's human rights institutions (NHRIs), Civil Society Organisations (CSOs) or Non-Governmental Organisations (NGOs), officials of government ministries and members of the civil society.<sup>62</sup>

59 Transcript of correspondence between the Ms Ouleye Deme, the Child Rights Governance Programme Manager of Save the Children, and Senegalese country researcher for this project.

60 Concluding Observations: Senegal (n 30) para 24.

61 Government of Senegal 'Initial, first and second report of Senegal on implementation of the African Charter on the Rights and Welfare of the Child (1998-2009)' 7 & 8.

62 Concluding Observations: Togo (n 43); Child Rights International Network, Universal Periodic Review (UPR) Report 'Togo: Child rights references in the Universal Periodic Review' (2012) <http://www.crin.org/en/library/publications/togo-child-rights-references-universal-periodic-review> (accessed 15 September 2017).

Togo's initial report on the Optional Protocol II and the combined third and fourth report on the CRC submitted in 2012 to the UN Children's Committee were drafted by a team comprising of the staff of the National Human Rights Commission (CNDH), officials of different government ministries and representative CSOs including the International Catholic Child Bureau (ICCB) and the Forum of Organisations for the Defence of Children's Rights in Togo (FODDET).<sup>63</sup> There was little or no role played by the media, the academia or children with disabilities.

The reports reflected the views of the stakeholders that participated in the drafting process, as they contained references to some of the concerns of the stakeholders, such as efforts to combat child trafficking and the issue of children with disabilities. Several government ministries and departments participated in the coordination of the drafting of the reports. But while the Ministry of Social Action, Advancement of Women and Protection of Children and the Elderly is statutorily responsible for coordinating and implementing the government's child protection policy, the Ministry of Human Rights, Strengthening of Democracy and Civic Education served as the secretariat for the drafting of the report.<sup>64</sup>

From the foregoing, the process of reporting by different state parties in West Africa is subject to different factors including the government's decision to prioritise the rights of children.

## **5 Access to the finalised state party report**

The hallmark of every democracy is transparency and accountability which generally affects the way government is run at every level of public administration. The same principle applies in the way reports produced by states parties in response to adherence to legal instruments protecting the rights of children are made open to the public.

In West Africa, transparency and accountability is a huge responsibility and something that is treated with levity. This is clearly seen in the ways the countries in this research made reports available to the general public. Availability relates not only to way the reports are made open to the public

63 As above.

64 As above.

but also ability of the members of the public to understand the contents of the report.

### **5.1 Mali**

In Mali, state party reports were mainly written in a legal language that spoke more to the legislative and policy frameworks of Mali's justice system. As such, this made the reports too technical for most of the children's rights stakeholders who did not have a legal background. In addition, there were no child-friendly versions of the state party report. Furthermore, there were no copies of the report in Braille for children living with disabilities.

### **5.2 Nigeria**

In Nigeria, it is the stakeholders involved in the reporting process that have access to the draft report. The general public do not have access to the state report. However, copies of the published report are available at the Federal Ministry of Women Affairs and Social Development. A major difference between Nigeria and other countries under study is that the government publishes a call for memoranda inviting the public to make contributions to the periodic report. The information collated during this process forms part of the data given to the consultant to prepare the draft periodic review which is then reviewed by stakeholders. It should further be noted that the language of the reports is usually simple and easy to read although there are no child friendly versions.

### **5.3 Senegal**

The government mentions that it prepared and made public its second periodic report as well as the third to fifth report. The line ministry gathered information from all relevant stakeholders, and with the support of a Strategic Thinking Group, the line ministry prepared the initial draft and shared the draft for comments. Following this, a National Consultative Process was convened to discuss and consolidate comments, which were then finalised by a small group made up of key stakeholders.

### **5.4 Togo**

In Togo, the Ministry of the Family, Social Development and National Solidarity undertook the drafting of the report which it then circulated for comments, criticisms and suggestions from NGOs, CSOs as well as international non-governmental organisations. With the help of CSOs, children had access to the draft state report. The language employed in drafting this report, like that of Mali, was too technical for children

to understand given that the majority of the children had little or no education. Thus, adults assisted with the translation of the state party report from French to other local languages such as Wolof and Pulaar.<sup>65</sup> However, the Togo report did not reflect the true state of child rights in Togo. For instance, the report made generalisations about the country as a whole without explaining the regional differences that existed in different parts of the country. The involvement of children from various parts of the country thus highlighted the regional differences in the implementation of the CRC by the government. In addition, Togo claimed that FGM had been effectively addressed whereas the practice remained widespread in the parts of the country including Golf, Kara and Central Regions.<sup>66</sup>

## **6 Issues covered by the reports**

The substance and form of a report is subject to two significant variables. These include the report guidelines adopted by the treaty body in question and the process through which the government report was produced. An inclusive and open process will no doubt lead to a richer and more acceptable report while a closed process with little or no input from relevant stakeholders will undoubtedly lead to a poor report devoid of relevant information to assess the progress made by the government in implementing the provisions of the particular treaty. For instance, the guidelines adopted by the African Children's Committee are meant to offer an insight into the understanding of the provisions of the African Children's Charter in question.<sup>67</sup> This directly relates to the domestic

65 Save the Children 'It's all about children: Seven good examples and ten steps to meaningful children's participation in reporting to the Committee on the Rights of the Child' (2011) 40.

66 B Ras -Work 'Legislation to address the issue of female genital mutilation (FGM)' Expert Group Meeting on good practices in legislation to address harmful practices against women, United Nations Conference Centre, Addis Ababa, Ethiopia, 25-28 May 2009 at 16 [https://www.un.org/womenwatch/daw/egm/vaw\\_legislation\\_2009/Expert%20Paper%20EGMGPLHP%20\\_Berhane%20Ras-Work%20revised\\_.pdf](https://www.un.org/womenwatch/daw/egm/vaw_legislation_2009/Expert%20Paper%20EGMGPLHP%20_Berhane%20Ras-Work%20revised_.pdf) (accessed 15 September 2017).

67 The African Children's Committee's guidelines on reporting are made up of the nine thematic areas, namely: (1) General measures of implementation; (2) Definition of the child; (3) General principles; (4) Civil rights and freedoms; (5) Family environment and alternative care; (6) Basic health and welfare; (7) Education, leisure and cultural activities; (8) Special protection measures; and (9) Responsibilities.

implementation of the African Children's Charter and subsequent realisation of the rights contained in the treaty.<sup>68</sup>

## 6.1 Mali

In Mali, the emphasis of the report is on the policy and legislative frameworks that are in place. There is no evidence of meaningful participation of CSOs in the preparation of the report. Stakeholders also complained that children did not participate in the preparation of the report. Insufficient participation by non-state actors was mentioned as one of the main factors that on the one hand results in the reports over-emphasis on laws and policies, and on the other, its failure to bridge the gap between legislative and policy framework and the lived experiences of the children on the ground.

The report did not take a result based approach when looking at the strategies which the country had come up with to facilitate the fulfilment of children's rights. It can be noted that the state party report provided detailed accounts on the activities that the government had been carrying out in the reporting period. This can be exemplified by the citation of the provisions of the Child Protection Code (CPC) on dealing with issues of children's right to privacy.<sup>69</sup> It should be noted that beyond the citation of this law, the state report does not provide a critique of the extent to which such a provision has been observed in the country. A good example to illustrate the gap between good laws and poor implementation of such laws on the ground is the Law on the prohibition of child labour in Mali. While Mali is cited as a country with good laws on the prohibition of child labour, it is nonetheless one of the countries in West Africa with the highest rates of child labour.<sup>70</sup> The state party report has not demonstrated the results of its efforts to the realities of the children in Mali. This is one of the main flaws of the project. The foregoing observations have

68 BD Mezmur & J Sloth-Nielsen 'An ice-breaker: State party reports and the 11th session of the African Committee of Experts on the Rights and Welfare of the Child' (2008) 8 *African Human Rights Law Journal* 599.

69 See art 120 of the Child Protection Code, which states that 'the publication of the minutes of a preliminary investigation, the record of proceedings, judgments for children in books, newspapers, radio, film, television or in any way whatsoever shall be prohibited. The publication through the same processes of any text or illustrations regarding the identity and personality of minors shall also be prohibited. Violations of these provisions shall be punishable by a fine of 30,000 to 300,000 Francs and, in case of repeat of imprisonment of two months to two years...'.

70 United States Department for Labor, Bureau of International Labor Affairs: 'Mali moderate advancement: 2013 Findings on the worst forms of child labor' <http://www.dol.gov/ilab/reports/child-labor/findings/2013TDA/mali.pdf>, (accessed 3 August 2017).

been corroborated by scholars who have argued about the dearth of materials submitted to the African Children's Committee in relation to the uniqueness of the Charter.<sup>71</sup>

## **6.2 Nigeria**

In Nigeria, the periodic reports for the most part complied with the reporting guidelines of the UN Children's Committee except for the first periodic report which was badly written and non-compliant with the guidelines. This necessitated a complete rewriting and representation. The reports demonstrated that baselines and child rights indicators were developed to monitor progress between reporting periods. The initial and first periodic report submitted to the African Children's Committee are essentially a duplication of earlier reports submitted to the UN Children's Committee.

However, the Federal Ministry of Women Affairs asserted that it had prepared and submitted the second periodic report to the African Children's Committee over five times, but the African Children's Committee claims not to have received the report. Contrary to the claim of the Ministry, CSO representatives said that the second periodic report was not accepted by the African Children's Committee and was returned to the Government of Nigeria due to complaints by CSOs that the report was not collaborative.<sup>72</sup> However, the second and third report, which was submitted to the African Children's Committee, is considered by many CSOs to have been prepared in a more collaborative manner.

## **6.3 Senegal**

Senegal's report to the UN Children's Committee covered a wide range of issues. Although the UN Children's Committee noted in its initial Concluding Observations that the guidelines for reporting were not complied with, the subsequent reports, however, seem to comply with the stipulated guidelines. The 2006 report of Senegal, for instance, addressed the themes of child survival, child development, protection as well as promotion of children's rights. The report specifically addressed the issues of family environment and alternative care, civil rights and freedoms,

71 J Sloth-Nielsen & BD Mezmur 'Like running on a treadmill? The 14th and 15th sessions of the African Committee of Experts on the Rights and Welfare of the Child' (2010) 10 *African Human Rights Law Journal* 534.

72 Interview with T Barry, Executive Director Child Protection Network, Abuja, 2014.

basic health and welfare, education, leisure and cultural activities, as well as special protection measures.<sup>73</sup>

After the introductory part, the report highlighted under the general measures of implementation the principal achievements that were recorded in the country during the period between the reporting cycles. The achievements reflect the steps that the country had taken at both international and national levels to ratify and domesticate relevant treaties that had a reach on children's rights. In line with the consideration of Senegal's report, the UN Children's Committee drew up a list of issues for which the country was expected to provide a written reply.<sup>74</sup> Amongst other things, the UN Children's Committee requested that Senegal should provide disaggregated statistical data that covered age groups, sex, urban and rural distribution on the number and percentage of children under the age of 18 living in the country from 2003 to 2005.<sup>75</sup>

The UN Children's Committee further requested that the Government of Senegal should provide data on budget allocations and trends, evaluating the priorities for budgetary expenditures given to certain themes which include: education, healthcare, programmes and services for children with disabilities, support programmes for families and for children living below the poverty line, programmes and services for abandoned children, including street children, especially the *talibes*.<sup>76</sup> Apart from these, the UN Children's Committee asked that the Government of Senegal should provide statistical data on rates of infant and child mortality, and rates of immunisation across the country from 2003 to 2005.<sup>77</sup> Other issues that the UN Children's Committee raised include the data on the abuse of children's rights,<sup>78</sup> statistical data on the rates of literacy for children under

73 See Second periodic reports of state parties due in 1999: Senegal (n 29).

74 See List of issues to be taken up in connection with the consideration of the second periodic report of Senegal (CRC/C/SEN/2), UN Committee on the Rights of the Child (21 June 2006) UN Doc CRC/C/SEN/Q/2 (2006).

75 List of issues to be taken up in connection with the consideration of the second periodic report of Senegal (n 73) para 1.

76 List of issues to be taken up in connection with the consideration of the second periodic report of Senegal (n 73) para 2

77 List of issues to be taken up in connection with the consideration of the second periodic report of Senegal (n 73) para 5.

78 List of issues to be taken up in connection with the consideration of the second periodic report of Senegal (n 73) para 6.

18 years,<sup>79</sup> as well as data on the number of children infected with HIV/AIDs.<sup>80</sup>

## **6.4 Togo**

On the other hand, many issues were covered by Togo's initial report on the Optional Protocol II and by the combined third and fourth report on the CRC. The issues in the reports were thematically presented. The combined third and fourth report on the CRC included statistical data and graphs. A careful perusal of the issues raised in the reports points to the fact that the situation of children in Togo was adequately captured, reflected and reported. This is because the reports contained both the record of the progress achieved and the challenges confronting the country in the implementation of the provisions of the CRC and OPSC. The reports also contained descriptions of the state of children's rights in the country.

Notwithstanding, many issues were raised by the UN Children's Committee on the initial report on the Optional Protocol II, and the third and fourth periodic reports on the CRC. Specifically, the list of issues raised by the UN Children's Committee on Togo's initial report on the Optional Protocol II emphasised the need for the Togolese government to, among other things, provide statistical data disaggregated by sex, age and ethnic group for 2008-2010, provide the legal definition of the child, and show the steps that have been taken to prevent and combat early and forced marriages.<sup>81</sup>

With respect to the combined third and fourth report on the CRC, the list of issues identified by the UN Children's Committee include the need for Togo to provide disaggregated data by sex, age, ethnic origin and type of disability for 2008, 2009 and 2010 of children with disabilities, show the measures that have been taken to set up and operationalise the National Committee on the Rights of the Child (CNE), and specify the steps taken or are under consideration to centralize data on children.<sup>82</sup>

79 List of issues to be taken up in connection with the consideration of the second periodic report of Senegal (n 73) para 7.

80 List of issues to be taken up in connection with the consideration of the second periodic report of Senegal (n 73) para 8.

81 See List of issues concerning additional and updated information related to the consideration of the initial report of Togo (CRC/C/OPSC/TGO/1), UN Committee on the Rights of the Child (21 July 2011) UN Doc CRC/C/OPSC/TGO/Q/1 (2011).

82 See List of issues concerning additional and updated information related to the consideration of the combined third to fourth periodic report of Togo, UN Committee on the Rights of the Child (18 July 2011) UN Doc CRC/C/TGO/Q/3-4 (2011).

## 7 Alternative reports

Every state party submitting a report to a treaty body attempts to paint a good picture even though this may not entirely be the true reflection of issues. However, members of treaty bodies monitoring the implementation of an instrument are under an obligation to consider reports submitted by states parties. At times, serious scrutiny of reports and oral questions posed to state representatives reveals that information presented by the state party might not provide a treaty body with sufficient information to make an informed determination on the status of the rights of children in the territory of such a member state. As a result, the treaty bodies could rely on the reports of non-state actors to supplement that of the state. These alternative reports vary in detail, sophistication and level of engagement from country to country. These alternative reports are not official government reports to the extent that they are not prepared by states parties. However, complementary or shadow reports are important ways to evaluate the reports presented by states parties.

### 7.1 Mali

The child rights sector in Mali is led by Coalition Malienne des Droits de l'Enfant.<sup>83</sup> During the preparation of the complementary report to the African Children's Committee, COMADE played the role of convener and child rights organisations participated in five thematic clusters according to the prescribed structure of the report. In these clusters, the organisations reviewed the state party report.<sup>84</sup> Each cluster submitted a report to CONAFE. A consultant was hired to consolidate all the reports into the complementary report. A validation meeting was held prior to the submission of the report.<sup>85</sup>

The complementary report provided more insight on the state of children's rights in Mali.<sup>86</sup> The report gave a statistical account on the state of children's rights in Mali. The report provided a different perspective from the state party report in that it provided a macro analysis of the state of children's rights while the state party report provided a structural analysis of the available legislative and policy frameworks in Mali. Some of the recommendations in the complementary report were strategic, identifying structural gaps in the child rights implementation strategies of

83 Interview with Sidikou Moussa, CONAFE President, 2014.

84 CONAFE 'Complementary report to the African Children's Committee' (2007).

85 As above.

86 Mezmur & Sloth-Nielsen (n 67).

the country. For example, the complementary report recommended the development of a strategic framework for the protection of children and mechanisms for its implementation. This recommendation acknowledged the fragmented approach to dealing with child protection hence the need for a wholesale framework which would provide guidance and direction on child rights programming. This observation by the child rights organisations also acknowledges the absence of real time rights monitoring of the state of children's rights in the country.

According to the alternative report, the lack of a central data collection mechanism is responsible for the fact that the country does not have up to date statistics on the state of children's rights. The lack of update data on children then impacts negatively on the ability of the country to engage in evidence-based programming. The complementary report also recommended the creation of a child rights ombudsman where child rights organisations will participate.<sup>87</sup> This recommendation acknowledged the fact that issues of child rights abuses did not receive adequate attention from competent personnel if they go through the mainstream justice delivery system. The complementary report also made a recommendation on increase in investment in children's rights through the national and local authorities' budgets.

## **7.2 Nigeria**

There was a complementary report prepared by civil society to Nigeria's initial report to the UN Children's Committee, which was received by the UN Children's Committee prior to submission of Nigeria's initial report. The report also contained information that contradicted Nigeria's report. This sparked off a lot of controversy between the government and child rights' organisations. Since the initial shadow report, CSOs do not prepare a complementary report but review and make comments to the draft prepared by the government. Therefore, the current practice is to engage civil society at all stages of the periodic report and incorporate their views. Furthermore, there is an active children's rights' coalition that meets regularly beyond the reporting cycle. The main coalition is the National Association of Child Rights Advocates of Nigeria. Others are the Child Protection Network and the Network of Civil Society Organisations Against Child Trafficking, Abuse and Labour. For the most part, child rights organisations do not meet specifically for consideration of periodic

87 CONAFE (n 83).

reports, although representatives from civil society are involved by the government in the preparation of the reports.

### 7.3 Senegal

The Senegalese child rights coalition CONAFE Senegal<sup>88</sup> coordinated the preparation of a complementary report which was submitted together with the second state party report.<sup>89</sup> One of the issues raised by CONAFE Senegal in the complementary report was the fact that girls were often excluded from school if they were pregnant.<sup>90</sup> The report further indicated that there was an administrative circular at the time which encouraged this form of discrimination against the girl child. It should be stated that during the session for the examination of the state report in Geneva, the Government of Senegal denied the existence of any such circular.<sup>91</sup> The representative of CONAFE Senegal who was present in the session as an observer, however, presented a copy of the circular to the African Children's Committee.<sup>92</sup>

In the Concluding Observations that followed, the African Children's Committee recommended that Senegal should 'cancel the administrative circular preventing pregnant girls to continue with their education on the basis of their individual ability, in accordance with article 11(6) of the African Children's Charter'.<sup>93</sup> The article specifically provides that

States Parties to the present Charter shall take all appropriate measures to ensure that children who become pregnant before completing their education shall have an opportunity to continue their education on the basis of their individual ability.<sup>94</sup>

In line with this provision, the Administrative Secretary of CONAFE Senegal, Justine Laison, explained that 'the Charter was more specific on

88 CONAFE is an acronym for Coalition Nationale des Associations et ONG en Faveur de l'Enfant. The coalition is a network of over 200 organisations working for the protection of children's rights in Senegal.

89 E Clarhall *Monitoring implementation of the UN Convention on the Rights of the Child* (2011) <https://resourcecentre.savethechildren.net/node/5193/pdf/5193.pdf> (accessed 14 September 2017) 19.

90 As above.

91 As above.

92 As above.

93 Concluding Observations: Senegal (n 30) para 55.

94 Art 11(6) of the African Children's Charter.

this point than the CRC and this was very helpful for us'.<sup>95</sup> An important part of this process, however, was the fact CONAFE engaged extensively with children to ensure that their views were reflected in the complementary report.<sup>96</sup> In every region across Senegal, CONAFE organised preliminary meetings to consult with children on specific issues facing them.<sup>97</sup> Children from a wide range of backgrounds were represented, which included children with disabilities, children in school and out of school. Particular themes that emerged as priorities for the children included birth registration, the situation of *talibes*, harmful traditional practices, early marriage, and access to education for girls in rural areas.<sup>98</sup>

Further, CONAFE ensured that child representatives from each region were elected by their peers to attend a weeklong national workshop.<sup>99</sup> During this period, the children carefully went through the state party report, discussing it and making recommendations.<sup>100</sup> A committee of adult writers then drafted the complementary report incorporating the children's views and recommendations.<sup>101</sup> Following this, one child was selected along with the coalition to present the report to the UN Children's Committee in Geneva.<sup>102</sup>

After the sessions in Geneva, CONAFE Senegal organised a series of regional workshops on the reporting process. Children, district government bodies as well as community leaders all participated in these workshops. The Concluding Observations were also considered during this period. These workshops were highly effective as they pushed the government to hold a national level workshop on the Concluding Observations.<sup>103</sup> Apart from this, Ms Deme of Save the Children Senegal stated that CSOs in the country have developed a five year monitoring strategy together with an annual plan of action in order to ensure effective implementation of

95 E Laftman *International and regional child rights mechanisms* (2011) 24.

96 F Sheahan 'Advancing children's rights: A guide for civil society organisations on how to engage with the African Committee of Experts on the Rights and Welfare of the Child' (2009) [https://www.right-to-education.org/sites/right-to-education.org/files/resource-attachments/Save\\_The\\_Children\\_Advancing\\_Children%27s\\_Rights\\_ACRWC\\_Guide\\_for\\_NGOs\\_2009\\_en.pdf](https://www.right-to-education.org/sites/right-to-education.org/files/resource-attachments/Save_The_Children_Advancing_Children%27s_Rights_ACRWC_Guide_for_NGOs_2009_en.pdf) (accessed 14 September 2017) 46 & 47.

97 As above.

98 As above.

99 Save the Children 'Child rights governance global initiative' (2014) [https://resourcecentre.savethechildren.net/node/8039/pdf/programmeguidence\\_screen1.pdf](https://resourcecentre.savethechildren.net/node/8039/pdf/programmeguidence_screen1.pdf) (accessed 14 September 2017).

100 Sheahan (n 95).

101 As above.

102 Save the Children, (n 98).

103 Sheahan (n 95) 47.

the RCRC as well as the Concluding Observations. Thus, the civil society coalition meets annually to discuss the progress that have been recorded in line with the five-year strategy.

## 7.4 Togo

On the other hand, the Togolese CSOs prepared complimentary or shadow reports to the government's initial report on the Optional Protocol II and the combined third and fourth report on the CRC.<sup>104</sup> The shadow reports were submitted to the UN Children's Committee. This was facilitated by the existence of officially recognised or registered active child rights networks such as the *ONG Coalition Nationale Droits De L'Enfant and Forum des organisations de Defence De Droits L'Enfant au Togo* (FODDET). The NGOs working on child rights in Togo focus more on issues of advocacy and human rights of children, without neglecting the issue of service provision by the government. Also, marginalised and vulnerable children were represented by CSOs, such as those under the umbrella of the International Disability Alliance (IDA).

While the shadow report by CSOs to the UN Children's Committee on Togo's initial report on OPSC was prepared and submitted by a coalition of NGOs, two of the three shadow reports on the combined third and fourth report on the CRC were prepared and submitted by two different coalitions of NGOs. The remaining shadow report was submitted by a single NGO, the Global Initiative to End all Corporal Punishment of Children. The process of preparation of the shadow reports, especially those prepared by coalitions of NGOs were participatory. However, there is no evidence to suggest that children were involved in the process of the preparation of the shadow reports.

Many issues were raised in the complementary reports. These include the rights of children with disabilities, corporal punishment at home, schools, vocational training centres and alternative care centres, traditional practices harmful to children such as FGM, and special measures to protect the rights of children including refugee children and children in conflict with the law. The issues raised in the shadow reports were to some extent different from those raised in the government's reports; though they corroborated those raised by the UN Children's Committee.

104 Global Initiative to End all Corporal Punishment of Children 'Briefing to the Pre-Sessional Working Group of the Committee on the Convention on the Rights of the Child' (2011) [www.endcorporalpunishment.org](http://www.endcorporalpunishment.org) (accessed 14 September 2017).

However, the shadow report by the Global Initiative to End all Corporal Punishment of Children showed that corporal punishment was rampant, and that the Government of Togo has been unable to determine or confirm whether the country's law is interpreted as prohibiting all forms of corporal punishment. The view expressed by the shadow report of the Global Initiative to End all Corporal Punishment of Children was in tandem with the issue raised on corporal punishment in Togo by the UN Children's Committee in its Concluding Observations on the country's combined third and fourth report. For instance, the UN Children's Committee while welcoming the prohibition of corporal punishment in all settings as provided for in the Children's Code expressed concern that corporal punishment remains socially accepted and widely practiced in schools and in the home.<sup>105</sup>

## **8 Presentation of the report**

### **8.1 Mali**

Mali's report to the African Children's Committee was considered at the 14th ordinary session held in November 2009.<sup>106</sup> There is no official report of this session. This could be attributed to a secretariat which was not fully functional.

### **8.2 Nigeria**

At the presentation of periodic reports, Nigeria usually sends a high level delegation comprising the Minister for Women Affairs and Social Development, representatives from numerous government institutions including the Ministry of Health, the Ministry of Women Affairs and Social Development, the Federal Ministry of Justice, the Federal Ministry of Education, the Ministry of Foreign Affairs, the Senate Committee on Women Affairs, the National Child Rights Implementation Committee, the Nigerian Immigration Service, the National Population Commission, the National Commission for Refugees and the Children's Parliament.

The diversity and richness of Nigeria's delegation has been well recognised and commended by both treaty bodies. The diversity of the delegation enriched the quality of exchange between the delegation and the treaty body. This enabled specific issues and questions to be treated by the respective government institution responsible for it. The exchange usually takes the form of a question and answer session some of which

105 Concluding Observations: Togo (n 43) para 43.

106 Sloth-Nielsen & Mezmur (n 70).

were answered on the spot particularly during the session with the African Children's Committee.<sup>107</sup> The Ministry of Women Affairs responded to most of the questions and called on the relevant ministry to respond to others. The nature of exchange at the AU and UN levels were cordial. A review of the discussions above reveals that both monitoring bodies and government representatives engage in productive discussions when both are prepared and understand the issues.

### 8.3 Senegal

In Senegal, the delegation which presented Senegal's second periodic report to the UN Children's Committee was led by a government official from the Cabinet Director of the Ministry of Women, Family and Social Development. Children were not included in the composition of this delegation. The UN Children's Committee engaged with the Senegalese delegation on a variety of issues. A CUN Children's Committee member for instance enquired about the measures that were being taken to guarantee access to education for vulnerable children.<sup>108</sup> Another member of the UN Children's Committee asked whether orphans were cared for by the extended family or a public institution.<sup>109</sup> The Chairperson of the UN Children's Committee similarly asked for the details of programmes intended to enhance children's enrolment rate in schools.<sup>110</sup>

### 8.4 Togo

The Togolese delegation to the examination of the country's initial report on Optional Protocol II and the combined third and fourth report on the CRC by the UN Children's Committee consisted of the Minister of Arts and Culture and representatives from the Ministry of Social Action and National Solidarity, the Ministry of Justice, the Ministry of Security and Civil Protection, the Ministry of Education, the Ministry for Protection of Women, the Ministry of Human Rights, the Ministry of Health, the Ministry of Finance and of the Permanent Mission of Togo to the United Nations Office in Geneva.<sup>111</sup> There was no indication that children were part of the delegation.

107 Interview with B Anunike, Child Development Department, Federal Ministry of Women Affairs and Social Development, Abuja, 2014.

108 Summary of record of the meeting of the Committee on the Rights of the Child (18 September 2006) UN Doc CRC/C/SR.1176 para 4.

109 Summary of record of meeting (n 107) para 7.

110 Summary of record of meeting (n 107) para 14.

111 NGO group for the CRC (2012) 'State party examination of Togo's fourth periodic report' 59th Session of the Committee on the Rights of the Child, 16 January-3

The composition of the government delegation contributed to the quality of exchange between the delegation and the UN Children's Committee, because the delegation consisted of government bureaucrats who had information about child's rights in the country and so could respond to questions. The nature of the interaction between the delegation and the UN Children's Committee was that of dialogue, involving questions and answers, and was essentially cordial, open and frank. As a result, the delegation expressed satisfaction with the nature of the exchange it had with the UN Children's Committee. The delegation commended the UN Children's Committee for reading the reports and for listening to the delegation's comments and responses to the questions that were raised.

## **9 Effects of Concluding Observations**

A Concluding Observation is a remark and recommendations made by a treaty body after the consideration of a report submitted by a state party in fulfilment of its responsibilities and obligations to the treaty.

### **9.1 Mali**

The African Children's Committee's Concluding Observations to Mali were a mixed bag.<sup>112</sup> The Concluding Observations gave specific actions for the state party to undertake. The general nature of some of the Concluding Observations might have made efforts by CSOs to follow up on the implementation of the African Children's Committee's Concluding Observations difficult. Prior to giving any recommendation, the African Children's Committee acknowledged the efforts of the Government of Mali in addressing issues relating to the promotion and protection of the rights of children. This showed that the African Children's Committee made recommendations in full appreciation Mali's efforts. These shortcomings of the Concluding Observations have been summarised by scholars who argue that some Concluding Observations do not address specific issues that require urgent intervention in Mali.<sup>113</sup>

### **9.2 Nigeria**

The Minister for Woman Affairs in Nigeria has the responsibility of receiving Concluding Observations. Nigeria has received three Concluding

February 2014.

112 Sloth-Nielsen & Mezmur (n 70).

113 Sloth-Nielsen & Mezmur (n 70) 547, argue that 'the Concluding Observations on Mali are silent on the need to address discrimination in the context of nationality as current provisions prevent children from deriving nationality from their mothers ... As such,

Observations for its periodic report to the CRC. However, the government claims not to have received any official Concluding Observations from the African Children's Committee and has had to rely on the copy published in the African Children's Committee's website.<sup>114</sup> An important point to note, however, is the fact that implementation of the Concluding Observations requires political will as child issues fall within the purview of the state government particularly those that have adopted a Child Rights Law. However, states depend on budgetary allocations from the federal government to implement the Concluding Observations. There is currently no ongoing process or specific plan for implementing Concluding Observations in Nigeria.<sup>115</sup> Although the National Plan of Action reflects the Concluding Observation, implementation has been stalled due to lack of funds.

### 9.3 Senegal

In its Concluding Observations to the second periodic report, the UN Children's Committee noted 'with satisfaction the State party's efforts to address various concerns and recommendations made upon the consideration of the State party's initial report through legislative measures and policies'. In addition, the UN Children's Committee welcomed 'the incorporation of the CRC into the Constitution of 2001 as well as the enactment' of a number of laws. Further, the UN Children's Committee noted 'with appreciation the ratifications' of various international human rights instruments such as the Optional Protocol to the CRC on the Rights of the Child on the Involvement of Children in Armed Conflicts, in 2004, and the Optional Protocol to the CRC on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography, in 2003. The UN Children's Committee welcomed 'the establishment of an inter-ministerial Directorate on the rights of the child, as recommended in its previous Concluding Observations'.<sup>116</sup>

a general key concern relates to the need to develop jurisprudential depth, similar to what the CRC Committee has achieved in the 21 years of the existence of CRC. To achieve such a level of analysis, an in-depth study related to the textual interpretation of the African Children's Charter is required'.

114 According to a Nigerian Government official in an interview by the author of the country report. The report of the interview is on file with the author.

115 Interview with B Anunike, Child Development Department, Federal Ministry of Women Affairs and Social Development, Abuja, 2014

116 Concluding Observations: Senegal (n 30) paras 3, 4 & 9.

## The UN Children's Committee appreciated

State party's efforts towards the creation of a national independent observatory on the rights of women and children. It also notes with appreciation the establishment of the *Haut Commissariat aux Droits de l'Homme et à la Promotion de la Paix* within the Office of the President, which has the mandate to receive complaints from children.

With respect to resource allocation, the UN Children's Committee noted 'with appreciation the increased budget allocation for education and health'. Related to data collection, the UN Children's Committee welcomed 'the progress made by the State party in developing the data collection system'.<sup>117</sup> However, the UN Children's Committee highlighted

some of the concerns it had expressed and recommendations it had made regarding, inter alia, the problem of *talibés*, the continuous practice of female genital mutilation, the unequal age of marriage for girls and boys and juvenile justice - particularly the deprivation of liberty not as a last resort - have not been sufficiently addressed. The UN Children's Committee notes that those concerns and recommendations are reiterated in the present document.<sup>118</sup>

Related to the progress made, the UN Children's Committee remained 'concerned by the continuous impact of traditional and customary attitudes and practices which hamper the implementation of the CRC'. In terms of improved coordination, the UN Children's Committee was still 'concerned by insufficient precisions on the mission of the Directorate and by the lack of adequately trained staff'. With respect to the progress related to independent monitoring, the UN Children's Committee remained 'concerned about the independence of this institution'. About resources allocation, the UN Children's Committee expressed concerns that the allocated resources are 'insufficient in order to effectively improve the promotion and protection of children's rights'. Regarding data collection, the UN Children's Committee stated

that the current data collection mechanism is insufficient to ensure the systematic and comprehensive collection of disaggregated data for all areas covered by the CRC in relation to all groups of children.<sup>119</sup>

In its Concluding Observations to the third to fifth combined periodic report, the UN Children's Committee noted progress in the legislative,

117 Concluding Observations: Senegal (n 30) paras 13, 15 & 17.

118 Concluding Observations: Senegal (n 30) para 5.

119 Concluding Observations: Senegal (n 30) paras 7, 9 & 15.

policy and institutional frameworks. However, the UN Children's Committee remained

concerned by the inadequate enforcement of legislation, especially in remote and rural areas, and by the continuous impact of traditional and customary attitudes and practices which hamper the implementation of the CRC.

The UN Children's Committee welcomed the adoption of the National Strategy on Child Protection and its National Action Plan (2013-2015), but remained concerned at 'the low level of its implementation, mainly due to the lack of sufficient resources, overlapping and duplicative interventions, and inadequate coordination'.<sup>120</sup>

Concerning resource allocation, the UN Children's Committee noted

as positive the increased budget allocation for education and health, as well as the State party's plans to revise its public expenses to ensure a more equitable distribution of resources among the different regions.

However, it remained concerned about 'the inadequate and significantly reduced financial resources allocated to the Ministry of Women, Family and Children under the 2015 budget law'. With respect to data collection, there is a need to 'improve the data collection system, including by developing a childhood database with established indicators and by adopting the National Strategy for the Development of Statistics 2014-2019'. However, the UN Children's Committee was still concerned that

the current data collection mechanism is insufficient to ensure the systematic and comprehensive collection of disaggregated data for all areas covered by the CRC in relation to all groups of children, particularly children in vulnerable situations.<sup>121</sup>

## 9.4 Togo

The Concluding Observations of the UN Children's Committee on Togo's initial report on the Optional Protocol II ranged from the acknowledgement of the positive achievements Togo has recorded to its shortcomings on the issue of children's rights. On the positive side,

120 Concluding Observations to the third to fifth periodic reports of Senegal (CRC/C/3/Add.42), UN Committee on the Rights of the Child (7 March 2016) UN Doc CRC/C/SEN/3-5 (2016) paras 7 & 9.

121 Concluding Observations to the third to fifth periodic reports of Senegal (n 119) paras 13 & 15.

the UN Children's Committee's Concluding Observations recognised and commended Togo for developing and putting in place some legal, institutional and policy frameworks to promote the rights of children.<sup>122</sup> On the institutional and policy measures, the UN Children's Committee's Concluding Observations commended Togo for establishing a helpline for children in 2009 and the National Plan of Action against trafficking in persons, especially women and children, in 2007.<sup>123</sup> However, the UN Children's Committee noted that child sex tourism increased in Togo and that the government was yet to adopt the necessary measures to prevent and combat it. It equally recommended that Togo should develop comprehensive data collection strategies and provide disaggregated data on children vulnerable to trafficking, among others.<sup>124</sup>

In the same vein, the Concluding Observations of the UN Children's Committee on Togo's initial, second and the combined third and fourth reports on the CRC identified the country's successes and failures. For example, the UN Children's Committee noted and commended the adoption of legislative measures and the ratification of child-related international human rights instruments to protect and promote child's rights in the country.<sup>125</sup> The UN Children's Committee, however, pointed out the need for Togo to fully implement the Concluding Observations to its second periodic report of 2005, especially on the need to focus on coordination, data collection and birth registration system and discriminatory practices against girls and children with disabilities, corporal punishment, harmful traditional practices, economic exploitation of children and administration of juvenile justice.<sup>126</sup>

Despite these persisting challenges, the UN Children's Committee in its Concluding Observations on the second period report 'welcome[d] the

122 These include, for the legal framework, the adoption in 2005 of Act 2005-009 that prohibited child trafficking, and Act 2007-017 of 6 July 2007 on the country's Children's Code. See Concluding Observations: Togo, UN Committee on the Rights of the Child (8 March 2012) UN Doc CRC/C/OPSC/TGO/CO/1 (2012).

123 The helpline 'Allo 111' was established on 14 January 2009 as a special helpline for children and anybody who wants to report child abuse to the Togolese government and enforcement agencies.

124 See Concluding Observations: Togo (n 121).

125 These include the enactment of the Children's Code through the instrumentality of Act 2007-017 of 6 July 2007; the ratification of the Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict (OPAC), on 28 November 2005; and the Convention on the Rights of Persons with Disabilities and its Optional Protocol, in March 2011. See Concluding Observations: Togo (n 43) paras 4-6.

126 Concluding Observations: Togo (n 43) para 8.

recent ratification by the State party of a number of important human rights instruments'. In addition, the UN Children's Committee was

encouraged by: the translation and relatively wide publication and distribution of the CRC and of the previous Concluding Observations of the UN Children's Committee; the creation of the *Comités régionaux* for the implementation of the CRC; the adoption of a strategy on education in 1998; and the adoption in 1998 of a law prohibiting female genital mutilation.<sup>127</sup>

Furthermore, in its Concluding Observations to the combined third to fourth periodic report, the UN Children's Committee welcomed the adoption of several legislative measures; while it 'also notes with appreciation the ratification of or accession' to a number of relevant treaties, and it 'also welcomes various institutional and policy measures taken by the state under consideration'.<sup>128</sup>

The brief overview above of the Concluding Observations, reveals some levels of progression, albeit insufficient, between reporting periods. It also reveals that while state parties are willing to implement recommendations related to legal, policy and institutional frameworks; the states are slow with respect to substantive recommendations around culture, traditions and resource allocation.

## 10 Progress between reporting periods

As already noted in the introductory section of this study, its main objective is to ascertain the extent to which there has been progress in the implementation of policies that promote the realisation of the rights of children between the reporting periods of different treaty bodies. This means that the study seeks to identify whether there is measurable progress between reporting periods and the implementation of the Concluding Observations of the monitoring committees of the CRC and the African Children's Charter. The result to say the least has been mixed. There is measurable progress in some countries in terms of adopting positive policies in promoting the rights of children. However, the general conclusion is that the positive developments have not translated into the full realisation of the rights of children. This means that there are fundamental issues beyond reporting progress militating against the realisation of the rights of children in West Africa. It is therefore argued that progress reported

127 Concluding observations: Togo (n 41) paras 3 & 4.

128 Concluding Observations: Togo (n 43) paras 4, 5 & 6.

only shows one side of the problem and cannot be said to have positively influenced children's rights in the sub-region.

### **10.1 Mali**

However, in Mali the realisation of children's rights is seriously undermined by the conflict and general insecurity in some parts of Mali especially in northern Mali. Following the failed military coup in March 2013, several jihadist groups and other Islamic extremists in northern Mali launched a campaign of intimidation to impose severe social restrictions with supposed grounding in religious law.<sup>129</sup> Although the Malian government has adopted several laws to complement its efforts in the realisation of the rights of children in the country, insecurity has been a major concern and has affected the generality of Malian nation. Therefore, it can be argued that at structural level, the country has been able to come up with good laws because the legal system is monist, this has created a good foundation for the justiciability of child rights in Mali. However, the translation of these laws into the promotion and protection of the rights of children is currently bedevilled by several debilitating factors as already discussed in the study.

### **10.2 Nigeria**

There has been a significant increase in the reporting of child rights violations particularly with respect to violence against children in Nigeria. This trend is attributable to the awareness raised through the reporting process. For example, as at the first initial periodic report, there was no national law on children. However, the enactment of the Child Rights Act by the National Assembly in 2003 and the adoption of state Child Rights Laws by 24 out of 36 states in Nigeria is a tangible output of the reporting process.<sup>130</sup> The fact that not all states in the country have adopted the Child Rights Law means that a lot of work needs to be done to ensure that children in Nigeria derive maximum benefit from legislations enacted at both national and state levels.

Other developments that are directly relevant to the considerations and recommendations made by the UN Children's Committee are the

129 Rapport de la Haut-Commissaire des Nations Unies aux Droits de l'Homme sur la situation des droits de l'homme au Mali (7 January 2013) UN Doc A/HRC/22/33 (2013) <https://www.refworld.org/docid/511cd16f2.html> (accessed 14 September 2017).

130 Nigeria Child Rights Act 2003; UNICEF 'Information sheet on the Child Rights Act' August 2007 [http://www.unicef.org/wcaro/wcaro/Nigeria\\_Factsheets\\_CRA.pdf](http://www.unicef.org/wcaro/wcaro/Nigeria_Factsheets_CRA.pdf) (accessed 29 September 2017).

establishment of the children's parliament and the revised national plan of action on children's rights. Some of progress made so far can be attributed to the Concluding Observations because it has helped the government to identify the gaps in the realisation of children's rights and address some of these areas. In addition, the multi-sectoral approach to child rights programming has improved the realisation of children's rights in Nigeria. However, there are some recurring issues in the Concluding Observations that have not been adequately addressed by the government. These include discrimination especially against children with disabilities, harmful traditional practices including early marriage and sexual violence, lack of effective administration of juvenile justice and poor education standards. It is therefore argued that there is an urgent need for improvement as the Nigeria government is not doing enough to protect and promote the rights of its children. It is further argued that like Mali, children in north-east Nigeria have borne the brunt of Boko Haram insurgency. This is because most of their schools have been closed due to insecurity and conflict. In addition, several children have been killed by terrorists while others have either been kidnapped or displaced with their parents and are living as internally displaced persons or refugees outside the borders of Nigeria.

### **10.3 Senegal**

In Senegal, an interlocutor interviewed during this study argued that there was positive impact on the reporting process despite budget constraints that made implementation difficult.<sup>131</sup> The interlocutor noted that the National Strategy for Child Protection which was adopted in 2013 was a major progress which will improve the living condition of children across the country. In addition, she also indicated that the government of Senegal is working towards the adoption of a Universal Health Insurance Coverage for the country. Under this programme, children newly born to five years of age will be granted free medical care. She also stated that there are plans to review relevant parts of the Penal Code in order to create an improved child protection regime which will improve the administration of child rights in Senegal.

Another positive impact of the reporting progress is that pregnant girls in Senegal now retain the rights to go back to school after delivery, as opposed to the earlier practice where pregnancy indicated the end of education for the girl-child. These developments are directly attributable to the reporting processes as well as the Concluding Observations of the UN Children's Committee. Considering the state of children's rights in

131 Interview with Ms Ouleye Deme, the Child Rights Governance Programme Manager of Save the Children and Senegalese Country Research, 2014.

Senegal today, it can be argued that the reporting process of the CRC has played a considerable role in protecting the rights of children. Although the Senegalese government has consistently grappled with the problem of resources, it has nonetheless taken positive steps towards improving the lives of children. While some lapses remain, it is however unlikely whether the question of children's rights would be of any relevance in the state without the obligation to report under the CCRC.

#### **10.4 Togo**

In Togo, measurable success has been witnessed between reporting periods in relation to the second report of 2005 and the combined third and fourth reports on the CRC submitted in 2012. For instance, Togo adopted the Children's Code of 2007 which can be said to be a direct recommendation from the Concluding Observations. Togo also abolished the death penalty in 2009 and adopted the Labour Code in 2007. Furthermore, the Togolese government adopted a law against child trafficking in 2009. This led to the establishment of a plan of action on child labour and trafficking. During the period under review, Togo ratified the International Labour Organisation Convention 182 and 138 respectively on the worst forms of child labour and on the minimum age for admission to employment and work, and The Hague Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption. Togo has also reorganised her ministerial departments in line with Decree 2008-090/PR of 29 July 2008, which provides for a department of assistance to children in difficulties within the Ministry responsible for child protection. The department is responsible for helping and counselling to children who are in difficulties or at risk. Furthermore, the country has strengthened the juvenile justice system since 2009. This is aimed at ensuring better protection of children in conflict with the law within the jurisdiction of the Lomé Appeal Court. Togo has also signed several multilateral cooperation agreements and designed thematic action plans for the realisation of children's rights.<sup>132</sup>

132 These include: The Multilateral Cooperation Agreement to Combat Trafficking in Persons, Especially Women and Children, in West and Central Africa (2006); the Regional Policy on Protection and Assistance to Victims of Human Trafficking in West Africa (June 2009); the establishment of a National Committee on the Rights of the Child (CNE) by art 452 of Act 2007-017 of 6 July 2007; the establishment of specialised child protection commissions in communities; the establishment of the National Steering Committee against Child Labour (CDN) in 2008; the introduction of the 'Allo 111' child protection hotline in January 2009; the preparation in 2009 of a guide on norms and standards for the care of vulnerable children in reception centres and orphanages; the preparation in 2007 of a procedural manual on the care of child trafficking victims or children at risk of trafficking; the revision in September 2007 of the national plan to combat child labour; the drafting and adoption in 2007 of the national plan to combat trafficking in persons in general and women and children

In addition, Togo has translated of Act 009 of 3 August 2005 on child trafficking into four local languages and has disseminated it throughout the national territory. Togo has also facilitated capacity-building training in child protection in general and against the trafficking and sale of children for legal experts, criminal investigation police officers, social workers, journalists and community leaders. Furthermore, the country has reintegrated child victims of trafficking in the society.<sup>133</sup>

## 11 Conclusion and recommendations

This study has looked at the impact of reporting on the realisation of children's rights in West Africa with particular focus on Mali, Nigeria, Senegal and Togo. It has found that that there is measurable positive impact in between reporting periods. However, these developments have not translated to significant improvement in the promotion and protection of the rights of children in the region. The reason for this conclusion is the simple fact that good laws and policies cannot easily translate into good governance without political will backed with commitment to improve the lives and welfare of children in the countries under focus. Although these countries have tried to improve the status and quality of the lives of children, other circumstances including poverty, insecurity, religious and entrenched traditional practices among others, tend to curtail the successes recorded between the reporting periods. These issues have been clearly discussed in this study.

For instance, in Togo, reporting to the treaty bodies has had positive impact on the extent to which children's rights have been realised. These can be seen in the strides and achievements recorded in the areas of the establishment of legislative, institutional and policy frameworks for the protection and promotion of children's rights. For instance, the Children's Code adopted in 2007 is a clear example. However, despite the progress that reporting has facilitated the state of children's rights in Togo remains unacceptable and unsatisfactory. Several harmful traditional practices such as FGM, forced and early marriage and infanticide of disabled children are still rampant while trafficking in minors is on the increase. Although

in particular; the drafting by the Ministries of Social Action, Security, Labour and Justice of a framework document of priority actions for combating child trafficking; the definition of a minimum package of services for vulnerable children, approved in June 2009; the establishment of a Togo National Adoption Committee in October 2008; the adoption of Act 2009-010 on the organisation of the civil registry system, which includes provisions on the registration of births; and the preparation of a guide to good practice for the protection of minors in conflict with the law, approved in 2010.

133 As above.

there are positive results in Togo, direct benefits to children are minimal as enforcement is seriously lacking.

In Mali, a lot of work needs to be done to ensure that children's rights are respected and protected. The study has shown that while having impeccable child rights laws is commendable, it however does not guarantee the observance of those laws if institutions that are supposed to deliver on children's rights are weak, unfunded and sometimes non-existent. The establishment of a separate ministry that deals with children's issues in Mali can be said to be exemplary for other countries in Africa because having such a ministry will help in coordination of children's issues. Furthermore, it will assist in monitoring budget allocation when interrogating the government's commitment to its children. The research has also shown that insecurity can jeopardise any gains that would have been made over the years within a short space of time. In the case of Mali, the research proved that conflict that occurred between 2012 and 2013 compromised the realisation of children's rights in almost all areas. As such, the realisation of children's rights in any context requires peace and stability.

There is no doubt that the reporting process is a welcome development in the monitoring and evaluation of the realisation children's rights by state parties. Through Concluding Observations and recommendations, the treaty bodies have been able to draw attention to specific areas that need to be addressed in realising children's rights in Nigeria. However, issuing recommendations without follow up procedures will not translate into effective implementation and realisation of children's rights. It is therefore expected that the UN Children's Committee adopt a more result oriented and pragmatic mechanism for enforcement. In Senegal, the adoption of the National Strategy for Child Protection in 2013 can be said to be a direct benefit of the impact of reporting on the realisation of children's rights. Furthermore, the right to go back to school after pregnancy for young girls and the proposed universal health insurance coverage are positive impacts of reporting on children's rights in Senegal.

From the foregoing, the study makes the following recommendations. First, there is urgent need for West African countries to have both legislative and policy frameworks that are consistent with international and regional instruments like the CRC and the African Children's Charter. This is a major first step. An effective legal framework backed by government will and determination for good governance will help in the advancement of the rights of children in the region. Second, providing adequate funding to institutions responsible for enforcing child rights retains competent staff, while being operational in all corners of the country including the hard to

reach and remote areas is a policy that has to be pursued and maintained. The provision of community health centres and policies that encourage access to healthcare in the rural areas will be helpful in this regard. In addition, children affected by conflicts should be given adequate support.

The conflicts in Nigeria and Mali have dislocated a lot of children thereby compounding an already dire situation. Efforts to bring essential health services to those areas should be welcomed and supported. Third, this study recommends that national government should develop a systematic engagement of child rights stakeholders to ensure synergy of activities. A situation where there are discordant tunes in issues of promotion and protection of children's rights and service delivery duplicates efforts and hampers growth and development. Finally, monitoring committees should have verifiable methods of ascertaining if Concluding Observations are implemented by the states parties concerned. Although the reporting guidelines may provide that states parties give updates on successes recorded during a reporting period, independent assessments by UN Children's Committee and the African Children's Committee will have more credibility and impact on the rights of children.