

**TOGO**

**BORDERLINE SLAVERY**

**CHILD TRAFFICKING IN TOGO**

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## I. SUMMARY

*I made an appointment with the man to meet at Balanka, at night. It was January 2001. There were many other kids there—more than 300 of us in one truck, packed like dead bodies.*

—Dovène A.,<sup>1</sup> trafficked from Togo to Nigeria when he was seventeen

The above testimony from a Togolese child depicts a brief moment in the long and terrifying ordeal of child trafficking. Child trafficking is the recruitment, transportation, transfer, harboring or receipt of a child for the purposes of sexual or labor exploitation, forced labor, or slavery. It is a human rights tragedy estimated to involve thousands of children in West Africa and over a million children worldwide. This report documents the trafficking of children in Togo, in particular the trafficking of girls into domestic and market work and the trafficking of boys into agricultural work. Hundreds of children are trafficked annually in Togo, either sent from, received in or transited through the country. They are recruited on false promises of education, professional training and paid employment; transported within and across national borders under sometimes life-threatening conditions; ordered into hazardous, exploitative labor; subjected to physical and mental abuse by their employers; and, if they escape or are released, denied the protections necessary to reintegrate them into society. Their stories disclose an appalling chain of events that the Togolese government has thus far failed to break.

### West Africa's Trade in Children

Togo's trade in children is illustrative of a larger, regional phenomenon involving at least thirteen West African countries. Based on the testimony of children and local experts, Human Rights Watch documented four routes of child trafficking into, out of, or within Togo: (1) the trafficking of Togolese girls into domestic and market labor in Gabon, Benin, Nigeria, and Niger; (2) the trafficking of girls from within Togo to other parts of the country, especially the capital, Lomé; (3) the trafficking of girls from Benin, Nigeria, and Ghana to Lomé; and (4) the trafficking of boys into labor exploitation, usually agricultural work, in Nigeria, Benin, and Côte d'Ivoire.

Children interviewed by Human Rights Watch came predominantly from poor, agricultural backgrounds and had generally little schooling before being trafficked. Most were promised that by going abroad they would gain some formal or vocational education, which they could then use to earn money for themselves or their families. In numerous cases, children were recruited by traffickers after running out of money to pay for school; despite a statutory guarantee of free primary education in Togo, school fees range from 4,000 to 13,000 CFA francs<sup>2</sup> (U.S.\$6-\$20) per year. Many of the children interviewed were trafficked following the death of at least one parent. Others had parents who were divorced, or at least one parent living and working away from home. A growing cause of orphanhood in Togo, human immunodeficiency virus/acquired immune deficiency syndrome (HIV/AIDS) was identified by some experts as a possible factor in susceptibility to child trafficking.

### Togo's Trafficked Girls

Girls interviewed by Human Rights Watch were typically recruited into domestic or market labor either directly by an employer or by a third-party intermediary. Most recalled some degree of family involvement in the transaction, such as parents accepting money from traffickers, distant relatives paying intermediaries to find work abroad, or parents handing over their children based on the promise of education, professional training or paid work. Following their recruitment, girls' journey away from home in many cases involved an intermediate stop where they could be left to fend for themselves for weeks or months at a time, before being transported to a country or city of destination by car or by boat. Human Rights Watch documented numerous cases of girls taking boats from Nigeria to Gabon, a perilous and sometimes fatal journey. In one case, a boat capsized off the coast of Cameroon and nine girls died.

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<sup>1</sup> To protect the identities of trafficked children, their real names are not used in this report.

<sup>2</sup> The CFA franc (CFA), or franc of the African Financial Community, is the common currency of fourteen African countries: Benin, Burkina Faso, Cameroon, Central African Republic, Chad, Congo, Equatorial Guinea, Gabon, Guinea Bissau, Côte d'Ivoire, Mali, Niger, Senegal and Togo. As of this writing, one U.S. dollar was worth approximately 675 CFA.

On arrival, girls were deposited in the homes of employers where they performed long hours of domestic and market work. From as early as 3:00 or 4:00 a.m., children tended gardens, transported and sold market goods and baked bread. At night, they worked as housemaids, prepared food and cared for small children. Human Rights Watch documented astonishing cases of girls as young as three or four years old being forced to carry infants or sell merchandise. Almost no girl received any remuneration for her services. Many recounted incidents of physical and emotional abuse, often leading them to escape and live in the street. Officials from the nongovernmental organization (NGO) Terre des Hommes told Human Rights Watch they had interviewed numerous trafficked girls who experienced sexual abuse in the home, and that some had tested positive for HIV. One child told Human Rights Watch she was forced to sleep in the same bedroom as a male boarder and was “afraid he would rape me.”

### **Togo’s Trafficked Boys**

Boys interviewed by Human Rights Watch were for the most part recruited into agricultural labor in southwestern Nigeria. A small number worked on cotton fields in Benin, and one child was recruited into factory work in Côte d’Ivoire. Traffickers tended less to make arrangements with boys’ parents than to make direct overtures to the boys themselves—tempting them with the promise of a bicycle, a radio, or vocational training abroad. Contrary to expectation, they were taken on long, sometimes perilous journeys to rural Nigeria and ruthlessly exploited. Most were given short-term assignments on farms where they worked long hours in the fields, seven days a week. “When we were finished with one job, they would find us another one,” one child told Human Rights Watch.

Boys worked from as early as 5:00 a.m. until late at night, sometimes with hazardous equipment such as saws or machetes. Some described conditions of bonded labor, whereby their trafficker would pay for their journey to Nigeria and order them to work off the debt. Many recalled that taking time off for sickness or injury would lead to longer working hours or corporal punishment.

### **The Prohibition of Child Trafficking in International Law**

The abuses documented by Human Rights Watch fall squarely within the definition of child trafficking in the United Nations (U.N.) Protocol to Prevent, Suppress and Punish the Trafficking of Persons, Especially Women and Children, Supplementing the U.N. Convention Against Transnational Organized Crime (2000; known as the Trafficking Protocol). Togo has signed but not ratified both the Trafficking Protocol and the Optional Protocol to the U.N. Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography (2000). It has ratified both the Convention on the Rights of the Child (1989) and International Labour Organization (ILO) Convention No. 182 on the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour (1999), the latter of which obliges states parties to take “immediate and effective measures” to eliminate child trafficking “as a matter of urgency.” At the regional level, Togo has participated in multilateral negotiations towards a regional anti-trafficking protocol for West Africa and has signed numerous declarations of commitment to eradicate the practice.

### **The Failures in the Togolese Government Response**

Despite these obligations, Togo has made insufficient progress in reducing the number or severity of its child trafficking cases, and Human Rights Watch’s interviews revealed the inadequacy of Togo’s system of protecting and rehabilitating trafficked children. Togo’s effort to develop a tougher response to child trafficking in domestic law is on the wrong track.

Togo has repatriated and reintegrated some trafficked children (with the assistance of other countries with which it has bilateral agreements) and/or placed them in the care of NGOs. However, other trafficked children have received no targeted state help in repatriation and have found their own way home with the help of civilians or police officers. This was particularly the case for boys interviewed by Human Rights Watch who, at the end of

their work term—usually about nine months—were usually given a bicycle and told to find their way home: they described riding bicycles from Nigeria back to their villages in Togo, a journey that lasted up to nine days. Some boys were stopped by soldiers and forced to bribe them in order to be let go. According to Togo’s director of child protection, some boys have died on the way home and have been buried on the side of the road. One girl was improperly detained in a penal facility on arrival back in Togo.

Numerous government and NGO representatives attested to a lack of resources for rehabilitating trafficked children, and children’s testimony corroborated these accounts. Interviews with several child sex workers in Lomé’s so-called *marché du petit vagin* (literally, “market of the small vagina”) revealed that some girls had come to Lomé under conditions of child trafficking and been forced into sex work after escaping or being abandoned. A survey in 1992 showed that HIV prevalence among sex workers in Lomé was already 80 percent.<sup>3</sup>

Aside from bilateral repatriation agreements, the Togolese government’s most concrete responses to child trafficking have been the creation of local “vigilance committees” to identify vulnerable children and track potential traffickers; and the drafting of a law, currently before the national assembly, that imposes a five-to-ten-year prison term on traffickers and/or a fine of up to 10 million CFA (U.S.\$15,000). The draft law imposes the same penalty on parents of trafficked children who in some way or another might be regarded as complicit in the sale or handing over of their children to traffickers; this includes not only parents who are deceived by false promises of education and professional training, but also those who fail to report known trafficking cases to the police. No allowance is made for parents who resign themselves to sending their children abroad in the good faith belief that they have no alternative or that working abroad is in their child’s best interests.

In taking steps to eradicate child trafficking Togo must, with appropriate assistance from donor countries, the United Nations and African multilateral organizations, address the pressures that induce parents and other caretakers to authorize the movement and exploitation of children. Child traffickers capitalize not only on entrenched poverty, but also on inadequate access to education, poor vocational opportunities, and orphanhood. They exploit a widespread practice of employing girls as domestic workers, a tradition that predates the advent of child trafficking. Their methods are facilitated by lax border patrols, haphazard reintegration of trafficked children, weak prosecutorial efforts, and in some cases corruption. In addition to holding traffickers criminally responsible for their actions, and rather than incarcerating parents who succumb to traffickers’ false promises, Togo and its neighbors must confront the social and political factors that allow such inhumanity to be inflicted upon children.

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<sup>3</sup> WHO/UNAIDS, “Togo,” Epidemiological Fact Sheets on HIV/AIDS and sexually transmitted infections, 2000 (Geneva: UNAIDS, 2000), p. 3.

## II. MAIN RECOMMENDATIONS

**To all West African governments implicated in the trafficking of children, including Togo, Benin, Nigeria, Niger, Côte d'Ivoire, Ghana and Gabon<sup>4</sup>**

- Take immediate and effective steps to prosecute child trafficking under domestic law, including the ratification of the United Nations (U.N.) Protocol to the Convention Against Transnational Organized Crime to Prevent, Suppress and Punish the Trafficking of Persons especially Women and Children (2000—the Trafficking Protocol) and the Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography (2000). Enact legislation creating the offense of child trafficking, consistent with the above protocols as well as with the U.N. Convention on the Rights of the Child (1989) and International Labour Organization (ILO) Convention No. 182 and Recommendation No. 190 concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour (1999). Promptly investigate, prosecute and punish perpetrators of trafficking in children, using existing penal laws until targeted anti-trafficking legislation is enacted.
- Consistent with the consensus decision of the 2002 consultation meeting in Libreville, Gabon, of twenty-one African states, establish a regional anti-trafficking convention, ensuring that any convention incorporates full protection of the human rights of trafficked children. Include in the convention a consistent regional protocol for the return, repatriation and rehabilitation of trafficked children, through collaboration between “sending,” “receiving” and “transit” countries, local NGOs, multilateral organizations such as the United Nations Children’s Fund (UNICEF) and ILO, children and parents. Consistent with the above treaties, establish protocols for police officers, gendarmes,<sup>5</sup> other state officials and outreach workers to follow when children who claim to have been trafficked seek their help, including the safe delivery home or to a place of safety, and monitor the application of those protocols. Specify that children may not be placed in detention for legal transgressions arising from their having been trafficked, and release any trafficked child who has been placed in a punitive institution. Include protocols to monitor the progress of child trafficking survivors and ensure they are not re-trafficked. Guarantee basic human rights protections such as witness protection and alternative care for children who cannot be returned to their parents.
- Take immediate and effective steps to prevent the recruitment of children for the purposes of child trafficking by, among other things, developing a protocol for identifying and pre-empting potential child traffickers; disseminating information about child trafficking to students, community and religious leaders and all personnel working for and with children; giving priority attention to the expansion of educational and vocational opportunities for children, especially girls; and targeting orphans and children affected by HIV/AIDS as a vulnerable group in the context of child trafficking.
- Intervene in the transport of trafficked children by reinforcing border controls and establishing protocols to identify and apprehend child traffickers. Monitor the application of these protocols by, among other things, investigating any border guard alleged to have accepted bribes from or charged “fees” to child traffickers. Station officers not only at national borders but at transit points where trafficked children are known to congregate before or after arriving at their country of destination.
- Take immediate and effective steps to address the commercial exploitation of trafficked children. Enact and enforce specific regulations governing minimum age of employment, hours of work, hazards unique to child labor such as use of dangerous equipment, forms of labor likely to be injurious to children, corporal punishment, entitlement to rest and leisure, and compensation. Take all appropriate law enforcement

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<sup>4</sup> These countries are implicated by testimony in this report; however, within the West Africa region the ILO has also documented child trafficking in Burkina Faso, Cameroon and Mali.

<sup>5</sup> A gendarme is a member of the armed security forces with responsibility for general law enforcement.

measures against perpetrators of physical and/or sexual violence against child domestic workers, and ensure care and support to children who have suffered physical or sexual violence.

In addition to the above, additional recommendations directed at all West African countries implicated in the trafficking of children, to the government of Togo specifically, to donors supporting West African governments, to the United Nations, and to multilateral organizations in Africa can be found in Section IX: Detailed Recommendations.

### III. METHODS

This report is based on a field mission to Togo by Human Rights Watch researchers in April and May 2002. Human Rights Watch interviewed trafficked children in the capital city, Lomé, as well as in twelve cities, villages and/or prefectures within 500 kilometers of the capital: Vogan, Afanyagan, Tohoun, Sotouboua, Tchamba, Sokodé, Bafilo, La Binah, Bassar, Tsévie, Hahatoe, and Est-Mono/Élavag non. In Lomé we conducted interviews at an emergency shelter where several trafficked children were staying, and in the offices of a women's rights NGO. We spoke with a total of ninety children, of whom seventy-two would qualify as having been trafficked under the legal definition in the U.N. Trafficking Protocol. We also talked to prefects, village and canton chiefs, social workers, police officers, gendarmes, teachers, parents, children, and other citizens concerned and/or affected by child trafficking.<sup>6</sup>

Interviewees were identified either through local authorities who were familiar with specific cases of child trafficking, or through NGOs in Lomé and Tsévie that were providing services to abused and neglected children. All of the children interviewed had been released by their traffickers or had fled; this may have excluded certain types of cases, such as those where escape was impossible. Most children had already returned to their families by the time of the interview, although many were still awaiting reintegration by NGOs or local authorities. Some of the girls interviewed had recently escaped domestic labor and were engaged in sex work in Lomé.

In general, interviews were open-ended and covered a range of topics related to the causes, elements and consequences of child trafficking. Either one or two Human Rights Watch researchers conducted each interview, usually with the assistance of an interpreter. Most interviews took place in Ewé, Kabyé or Mina, local languages, with interpretation into either French or English. Children were interviewed individually and assured of complete anonymity. Child sex workers were, at their request, interviewed in the presence of a peer counselor or outreach worker.

In addition to interviews with children and local community members, Human Rights Watch spoke with thirty-two governmental and nongovernmental experts in Togo, including officials from Togo's Ministry of Social Affairs and National AIDS Program, judges, foreign embassy representatives, directors and staff members of child rights and AIDS service organizations, and U.N. officials. We also reviewed numerous documents before and after the mission, including published and unpublished studies, journalistic accounts and legal instruments.

For the purposes of analysis, Human Rights Watch used the definition of child trafficking found in the U.N. Trafficking Protocol: the recruitment, transportation, transfer, harboring or receipt of any person under the age of eighteen for the purposes of sexual or labor exploitation, forced labor, or slavery.<sup>7</sup> We interpreted the key elements of this definition to be the involvement of a trafficker, the movement of a child to a new location, and the intent to exploit the child at some point in the process.<sup>8</sup> Although the concept of "exploitation" is not defined

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<sup>6</sup> For administrative purposes, Togo is divided into thirty-two prefectures, each with a prefect appointed by the president on the recommendation of the minister of the interior. Prefectures are further subdivided by canton, village, neighborhood, tribe, clan and family.

<sup>7</sup> United Nations Protocol to Prevent, Suppress and Punish the Trafficking of Persons, especially Women and Children, supplementing the United Nations Convention Against Transnational Organized Crime (2000), art. 3 (not yet in force). The Protocol defines a child as any person under eighteen years of age (art. 3(d)) and defines "exploitation" as including "at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs" (art. 3(a)). The Convention on the Rights of the Child defines children as "Every human being under the age of eighteen years unless, under law applicable to the child, majority is obtained earlier." Convention on the Rights of the Child, art. 1, G.A. Res. 44/25, annex, 44 U.N. GAOR Supp. (No. 49) at 167, U.N. Doc. A/44/49 (1989). Human Rights Watch considers anyone under the age of eighteen to be a child.

<sup>8</sup> A narrower definition of child trafficking, agreed upon at the 2002 First Specialized Meeting on Child Trafficking and Exploitation in West and Central Africa, is "a phenomenon where an individual (called an intermediary), for a fee and through violence or ruse, displaces within or outside a national territory an individual less than eighteen years old for sexual or commercial exploitation, generally with the complicity of the parents." First Specialized Meeting on the trafficking and exploitation of children in west and central Africa, "Rapport de Synthèse" (Yamoussoukro: January 8-10, 2002), p. 6.



under international law, we considered as exploitation any non-consensual use of the child's labor for financial or other benefit, including forced labor, slavery, practices similar to slavery, servitude, and the worst forms of child labor as defined by the ILO.<sup>9</sup> A number of Human Rights Watch's witnesses would not qualify as having been trafficked under the above definition, but their stories provided insight into the context within which child trafficking occurs.

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<sup>9</sup> See Trafficking Protocol, article 3. The term "forced labor" is defined in article 2.1 of ILO Convention No. 29 Concerning Forced Labour as "all work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily." The term "slavery" is defined in article 1.1 of the U.N. Slavery Convention as "the status or condition of a person over whom any or all of the powers attaching to the right of ownership are exercised." Practices similar to slavery are defined in article 1 of the U.N. Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery to include, among other things, debt bondage and serfdom. Servitude is not defined in international law, but it is understood that the above practices are forms of servitude.

## IV. BACKGROUND ON CHILD TRAFFICKING IN TOGO

*There is trafficking because there are candidate children to be trafficked.*  
—A jurist in Bafilo, May 2, 2002

A coastal country of about 5.2 million people, Togo occupies a 54,390 square kilometer strip of land between Ghana and Benin, with a small northern border also with Burkina Faso. Independence from France was achieved in 1960. Togo's current president, Gnassingbé Eyadéma, assumed power in a bloodless coup d'état in 1967 and has ruled uninterrupted ever since. A lack of free and fair elections in Togo has led to an almost complete withdrawal of development assistance by both the United States and the European Union.<sup>10</sup> Unable to finance even basic services like health and education,<sup>11</sup> Togo has been likened by one government official to "a patient on an intravenous drip."<sup>12</sup>

### Scale of Child Trafficking

There are no precise statistics on the number of children trafficked annually in West Africa. A figure of 200,000 is often cited as a UNICEF estimate for West and Central Africa, although a UNICEF official told Human Rights Watch that the organization could not determine who initially provided the figure.<sup>13</sup> In 1999, UNICEF identified approximately twelve routes along which children are trafficked in the region, and designated thirteen countries of the region as "receiver," "provider," "receiver and provider" and/or "transit/stop-over" states.<sup>14</sup> Two years later, in 2001, the International Labour Organization's International Programme for the Elimination of Child Labour (ILO-IPEC) published a synthesis of nine country studies of child trafficking in West Africa, concluding that trafficking routes flowed from countries and regions with widespread poverty, low education levels and high birth rates to those that are less populated and more developed.<sup>15</sup>

Togo, which met the ILO's profile of a so-called sending state and was designated principally as such, was also identified in the ILO-IPEC report as a "receiving" and "transit" point as well as having a substantial internal trade (i.e., within its own borders).<sup>16</sup> Official estimates of the number of Togolese children directly affected by trafficking are derived from both the number of children intercepted at Togo's borders and the number of children "rescued" and repatriated from abroad. At a regional meeting on child trafficking in January 2002, the Togolese government representative, Suzanne Aho, reported that 297 children had been trafficked from Togo in 2001.<sup>17</sup> Aho later told Human Rights Watch, however, that the number of cases of child trafficking recorded in 2001 was 261, as compared to 337 in 1999; in her view, the diminution may have resulted from more traffickers escaping notice rather than from fewer actual cases.<sup>18</sup> These figures may be underestimates, as many of Togo's trafficked children never come into contact with the authorities, and the government lacks the resources to intercept children

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<sup>10</sup> Development assistance from the European Union has been frozen since 1993, while overall aid from the United States amounts to about eighty Peace Corps volunteers, and health and nutrition programs valued at about U.S.\$8,000,000. See U.S. State Department's 2002 Background Note for Togo at [www.state.gov/r/pa/ei/bgn/5430.htm](http://www.state.gov/r/pa/ei/bgn/5430.htm) (accessed July 28, 2002).

<sup>11</sup> See M. Tovo, "Togo: Overcoming the Crisis, Overcoming Poverty: A World Bank Poverty Assessment" (Washington, D.C.: World Bank, 1996), p. xiii.

<sup>12</sup> Human Rights Watch interview with Koffi Badjow Tcham, Director of Cabinet, Department for the Protection and Promotion of the Family and Children, Lomé, May 7, 2002.

<sup>13</sup> E-mail communication to Human Rights Watch from Jean-Claude Legrand, regional child protection adviser, UNICEF West and Central Africa Regional Office, July 7, 2002.

<sup>14</sup> L. Bazzi-Veil, "Sub-regional Study on Child Trafficking in West and Central Africa" (Abidjan: UNICEF West and Central Africa Regional Office, 1999), map.

<sup>15</sup> International Programme on the Elimination of Child Labour (IPEC) and ILO, "Combating trafficking in children for labour exploitation in West and Central Africa: synthesis report based on studies of Benin, Burkina Faso, Cameroon, Côte d'Ivoire, Gabon, Ghana, Mali, Nigeria and Togo (Geneva: ILO, 2001), p. 6

<sup>16</sup> *Ibid.*, pp. 22-24.

<sup>17</sup> "West and Central Africa: United Nations Integrated Regional Information Network (IRIN) focus on regional efforts against child trafficking," IRIN, March 27, 2002, at [www.irinnews.org/print/asp?ReportID=19693](http://www.irinnews.org/print/asp?ReportID=19693) (accessed March 27, 2002), p. 2. At the time of the meeting and her subsequent interviews with Human Rights Watch, Aho was Togo's director of the Department for the Protection and Promotion of the Family and Children, which is part of the Ministry of Social Affairs. In 2002, she was appointed Minister of Public Health, Promotion of Women and Child Protection.

<sup>18</sup> Human Rights Watch interview with Suzanne Aho, Lomé, May 6, 2002.

systematically. Official estimates tend to be much lower than those put forth by ILO-IPEC, as in 1999 when the government recorded 337 cases of child trafficking and ILO-IPEC recorded over 800.<sup>19</sup>

Although the UNICEF and ILO-IPEC reports did not trace the beginnings of child trafficking, the Togo study concluded that the practice as currently defined had existed “for at least ten years” in that country and had been growing rapidly since the government and NGOs first began recording cases in the mid-1990s.<sup>20</sup> The study went on to associate child trafficking with modern phenomena such as improved transport, increased demand for cheap migrant labor, and increased poverty occasioned by such things as structural adjustment programs and economic crisis in the mid-1990s.<sup>21</sup> At the same time, both the UNICEF and ILO-IPEC reports clearly viewed child trafficking as an outgrowth of longstanding practices such as labor migration and child labor. Noting, for example, that “the people of central and western Africa have always migrated for economic reasons,” the ILO-IPEC report suggested that in some communities the trafficking of children into neighboring countries followed the migratory patterns of their parents.<sup>22</sup> Of ninety-six children interviewed for ILO-IPEC’s Togo study, most reported being trafficked into agricultural, domestic, restaurant, or market work in Nigeria, Gabon or Côte d’Ivoire; in other countries, children reported working in these sectors as well as in plantation labor, diamond mining and sex work.<sup>23</sup>

The Togolese trade first garnered international attention in 1999, when the British Broadcasting Corporation (BBC) reported that two women had been stopped at the Togo-Ghana border with seven children who had allegedly been handed to them by their parents.<sup>24</sup> Two years later, the Nigerian-registered ship *Etireno* left the city of Cotonou, Benin allegedly with 250 children from Benin, Mali and Togo on board, bound for domestic service and other jobs in Gabon. Though accounts of child slaves on board the *Etireno* were exaggerated—authorities later confirmed that approximately twenty-three children aged three to fourteen were onboard, only eight of them Togolese and not all destined for child labor<sup>25</sup>—the incident marked a watershed in regional and international efforts to combat child trafficking. Since the *Etireno* incident, international media have documented the trafficking of Togolese girls into domestic labor in Côte d’Ivoire, Nigeria, Gabon, and Congo.<sup>26</sup>

## Causes of Child Trafficking

### *Poverty and Lack of Opportunity*

Child trafficking typically begins with a private arrangement between a trafficker and a family member, one driven by the family’s economic struggle and the trafficker’s desire for profit and cheap labor.<sup>27</sup> “Someone comes

<sup>19</sup> Compare Human Rights Watch interview with Suzanne Aho with E.M. Abalo, “Problématique du trafic des enfants au Togo: Rapport d’enquête” (Lomé: ILO-IPEC, 2000), p. viii. According to the U.S. State Department, the government estimate was 750 children trafficked in 1999. U.S. State Department’s 2001 *Country Reports on Human Rights Practices*, p. 17.

<sup>20</sup> Abalo, “Trafic des enfants au Togo,” p. viii. The first case recorded by a Togolese NGO was in 1995, when a five-year-old child who was about to be sold in Benin for 15,000 CFA (U.S.\$22) was intercepted and brought to the NGO Terre des Hommes. Abalo, “Trafic des enfants au Togo,” note 3. The earliest case documented by Human Rights Watch as part of the research reported here is from 1993, when a three-year-old girl was trafficked to Nigeria from the village of Hahatoo. Human Rights Watch interview, Hahatoo, May 11, 2002.

<sup>21</sup> Abalo, “Trafic des enfants au Togo,” pp. xx-xxi; P. Boonpala and J. Kane, “Trafficking of Children: The problem and responses worldwide” (Geneva: ILO, 2001), p. 19.

<sup>22</sup> ILO-IPEC, “Synthesis report,” p. 4; see also, Abalo, “Trafic des enfants au Togo,” p. xviii.

<sup>23</sup> ILO-IPEC, “Synthesis report,” p. xxiii.

<sup>24</sup> “Child traffickers arrested in Togo,” BBC News, July 27, 1999, at [news.bbc.co.uk/1/hi/english/world/africa/newsid\\_404000/404342.stm](http://news.bbc.co.uk/1/hi/english/world/africa/newsid_404000/404342.stm) (accessed May 20, 2002).

<sup>25</sup> “Eight Togolese Children on board Etireno,” *Panafrican News Agency (PANA) Daily Newswire*, May 17, 2001, at [http://global.factiva.com/en/arch/print\\_results.asp](http://global.factiva.com/en/arch/print_results.asp) (accessed April 8, 2002).

<sup>26</sup> See, e.g., “West Africa’s Little Maids,” BBC News, April 16, 2001, at [http://news.bbc.co.uk/1/hi/english/world/africa/newsid\\_1279000/1279776.stm](http://news.bbc.co.uk/1/hi/english/world/africa/newsid_1279000/1279776.stm) (accessed May 29, 2002); H. Mayell, untitled, *National Geographic News*, April 24, 2001; “Togo hands suspected child traffickers to Benin,” Reuters, May 7, 2001, at [http://global.factiva.com/en/arch/print\\_results.asp](http://global.factiva.com/en/arch/print_results.asp) (accessed April 8, 2002); R. Mulholland, “Legal Inquiry Underway in Benin,” U.S. Fund for UNICEF, May 10, 2002; “UN plans active part in eradicating child trafficking,” *PANA Daily Newswire*, May 31, 2001, at [http://global.factiva.com/en/arch/print\\_results.asp](http://global.factiva.com/en/arch/print_results.asp) (accessed April 8, 2002); “West African domestic servants face slavery,” *PANA Daily Newswire*, June 11, 2001, at [http://global.factiva.com/en/arch/print\\_results.asp](http://global.factiva.com/en/arch/print_results.asp) (accessed April 8, 2002); “Immigrant Ship Leaves Togo, Heads For Nigeria,” Dow Jones International News, June 23, 2001, at <http://global.factiva.com/en/arch/display.asp> (accessed April 8, 2002).

<sup>27</sup> See, e.g., First Specialized Meeting on the trafficking and exploitation of children in west and central Africa, “Rapport de synthèse,” p. 6. Human Rights Watch

along and says he or she has professions or jobs for the children, and the parents believe it,” a village chief in Vogan told Human Rights Watch. “But then the person puts them in servitude or gives the child to someone else.”<sup>28</sup> Human Rights Watch heard numerous accounts from Togolese villagers of deceitful negotiations between parents and child traffickers. “Parents think that in letting [children] go they’re doing something good for [them],” said one woman in Afanyagan, “but someone takes them and makes them domestic workers, and someone else takes all the money instead of giving them a salary.”<sup>29</sup> A woman in Élavagnon added that traffickers “tell the parents their child is doing well and getting paid, but they don’t give money to the kids and don’t buy them anything.”<sup>30</sup>

Asked how many children had to be exploited before parents would catch on, villagers were not optimistic. “When people are in poverty, they are desperate,” said one village chief in Vogan. He explained that when a child returns home penniless, traffickers tell parents it was because the child was lazy. “Other parents say, ‘but my child is not lazy,’ and they’re ready to give another child away.”<sup>31</sup> In a 2002 study of 650 households by the NGO Plan-Togo, parents of trafficked children were questioned about their family background and the events leading up to their children being sent abroad. Parents cited a variety of promises made by child traffickers, including formal education or apprenticeships for their children, as well as employment in the home or the commercial sector. A majority of households affected by child trafficking were engaged in subsistence agriculture and could not afford to send their children to school.<sup>32</sup>

According to the director of UNICEF for West and Central Africa, poverty is a “major and ubiquitous” causal factor behind child trafficking.<sup>33</sup> In those West African countries classified as “sending” states—Togo, Benin, Mali, Nigeria and Burkina Faso—anywhere from 33 to 73 percent of the general population lives on less than U.S.\$1 a day.<sup>34</sup> The ILO-IPEC study in 2001 of ninety-six trafficked children also found that a large majority (87 percent) of trafficked children came from families engaged in subsistence agriculture.<sup>35</sup> Of forty-five parents interviewed, 70 percent of mothers and 60 percent of fathers had never attended school.<sup>36</sup> Some 74 percent of households studied were polygamous. In addition, 82 percent of households surveyed had more than five children.<sup>37</sup>

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<sup>28</sup> Human Rights Watch meeting with villagers, Vogan, April 29, 2002.

<sup>29</sup> Human Rights Watch meeting with villagers, Afanyagan, April 29, 2002.

<sup>30</sup> Human Rights Watch meeting with villagers, Élavagnon, May 10, 2002.

<sup>31</sup> Human Rights Watch meeting with villagers, Vogan, April 29, 2002.

<sup>32</sup> Abalo, “Trafic des enfants au Togo,” pp. xv-xvii; E. Amouzou, A. Amenyedzi, D. Sambiani, and K. Segnon, “Pour une nouvelle dynamique au service des enfants du Togo: Recherche sur le trafic d’enfants au Togo: rapport définitif” (Lomé: Plan-Togo, 2002), pp. 37-38. The ILO-IPEC synthesis report concluded that “[i]n general, . . . trafficked children come from poor families living in rural areas.” It should be noted that, according to ILO-IPEC’s country study for Togo, 50 percent of the Togolese population works in commercial or subsistence farming. ILO-IPEC, “Synthesis report,” p. 13; Abalo, “Trafic des enfants au Togo,” p. iii.

<sup>33</sup> R. Salah, “Child Trafficking in West and Central Africa: An Overview” (paper presented at the first Pan-African conference on human trafficking organized by the Women Trafficking and Child Labour Eradication Foundation (WOTCLEF), February 19-23, 2001), p. 4.

<sup>34</sup> L. Bazzi-Veil, “Étude sous-régionale sur le trafic des enfants à des fins d’exploitation économique en Afrique de l’Ouest et du Centre” (Abidjan: UNICEF West and Central Africa Regional Office (WCARO), 2000), p. 9; United Nations Development Program’s 2002 *Human Development Report*, retrieved from [www.undp.org/hdr2002/complete.pdf](http://www.undp.org/hdr2002/complete.pdf) on August 6, 2002. Poverty rates tend to be much higher in rural areas, as in Togo where the general poverty rate is 35 percent but the rate in rural areas is 78 percent. Abalo, “Trafic des enfants au Togo,” p. iii. The links between poverty and child trafficking have been the subject of numerous studies and journalistic accounts. Poverty has been said to force families to find ways to reduce childcare costs; tempt children into seeking a better life abroad; and draw rural families to higher wages in urban areas. It has also been said to compel farmers to employ their children in the fields, leading to high rates of school drop-out and heightened vulnerability to recruitment by trafficking intermediaries. Poverty is also thought to contribute to the employment of girls as domestic workers, itself a potential forerunner to child trafficking. See R. Salah, “Child Trafficking,” p. 4; UNICEF-WCARO, “Workshop on Trafficking in Child Domestic Workers,” p. 30; Bazzi-Veil, “Trafic des enfants en Afrique de l’Ouest et du Centre,” p. 8; Boonpala and Kane, “Trafficking of Children,” pp. 20-21; ILO-IPEC, “Synthesis report,” pp. 13-14, 31; Abalo, “Trafic des enfants au Togo,” p. xix; U.N. Office for Drug Control and Crime Prevention, “Trafficking for forced labour,” public service announcement, retrieved from [www.odccp.org/multimedia.html](http://www.odccp.org/multimedia.html) on June 27, 2002; journalistic accounts listed above.

<sup>35</sup> Abalo, “Trafic des enfants au Togo,” p. xvii.

<sup>36</sup> *Ibid.*, p. xvi.

<sup>37</sup> *Ibid.*, p. xvii. 71 percent of parents had between five and eight children, and 11 percent had more than eight children.

In Togo, annual school fees range from 4,000 to 13,000 CFA (between U.S.\$6 and \$20) despite a statutory guarantee of free primary education.<sup>38</sup> “Parents always say they can’t afford school fees,” a judge in Bafilo familiar with numerous cases of child trafficking told Human Rights Watch. “They prefer that the child be with an uncle in Abidjan. The complicity of parents in these cases is a shame.”<sup>39</sup> In its 2001 global overview of child trafficking, ILO-IPEC remarked that “[c]hildren with no access to education often have little alternative but to look for work at a very early age.”<sup>40</sup>

For girls, trafficking is thought by some experts to build on a long tradition of parents using their daughters as domestic workers rather than sending them to school.<sup>41</sup> In 2002, girls in Togo were estimated to be 20 percent less likely than boys to be enrolled in primary school, 25 percent less likely to reach high school and more than 50 percent less likely to enter university.<sup>42</sup> In 1994, the NGO Anti-Slavery International (ASI) and the Africa branch of the World Association of Orphans (WAO-Afrique) observed that “[i]n Togo it has been found that parents prefer to send girls rather than boys into domestic service, not only because household chores are traditionally seen as ‘women’s work’, but also because the girl’s income helps to support the schooling of her brothers.”<sup>43</sup> Eight years later, in 2002, ASI suggested an evolution from this tradition of child domestic labor to the modern practice of child trafficking: “the process of recruitment is becoming more organised, as agents and traffickers trawl rural areas offering incentives to parents,” the NGO noted. “The result is that more children and young people [in West Africa] today are working in households in no way related to their own, often at considerable distance.”<sup>44</sup>

### ***The Link to HIV/AIDS***

Studies have linked child trafficking to the breakdown of the family unit caused by divorce or the death of a parent.<sup>45</sup> The ILO-IPEC 2001 study of child trafficking in Togo found that of ninety-six trafficked children interviewed, almost 30 percent had experienced the death of a mother, father or both parents.<sup>46</sup> A similar pattern was found in Cameroon, where 60 percent of 329 trafficked children belonged to single-parent families.<sup>47</sup> These

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<sup>38</sup> Human Rights Watch interview with Kodjo Djissenou, executive director, La Conscience, May 18, 2002. In 1996, the World Bank noted that “cost is one of the main reasons why the poor do not send their children to school. While school fees are low, school supplies are expensive.” The World Bank also noted that government education expenditures have not kept up with school-age population growth—both because of lack of resources and budgetary choices—and that in 1995, the Togolese government allocated almost fifty times as much money for each tertiary-level student as for each elementary-level student. In its country study of child trafficking in Togo, ILO-IPEC asked ninety-six trafficked children whether they had ever attended school and, if so, whether and when they had dropped out. Of eighty-four trafficked children who ever had attended school, 81 percent had already dropped out prior to being recruited by traffickers. M. Tovo, “World Bank poverty assessment,” p. xi; Abalo, “Trafic des enfants au Togo,” p. xix. See also UNICEF-WCARO, “Workshop on Trafficking in Child Domestic Workers,” p. 22; Bazzi-Veil, “Trafic des enfants en Afrique de l’Ouest et du Centre,” p. 9; R. Salah, “Child Trafficking,” p. 4; Boonpala and Kane, “Trafficking of Children,” p. 21.

<sup>39</sup> Human Rights Watch meeting with villagers, Bafilo, May 2, 2002.

<sup>40</sup> Boonpala and Kane, “Trafficking of Children,” p. 21.

<sup>41</sup> See generally M. Tovo, “World Bank poverty assessment,” p. xi; M. Black, “Child Domestic Workers: A Handbook for Research and Action” (London: Anti-Slavery International, 1997), p. 15; Anti-Slavery International and WAO-Afrique, “Children Working in Domestic Service in Togo” (London: Anti-Slavery International, 1994); UNICEF-WCARO, “Workshop on Trafficking in Child Domestic Workers,” pp. 15-19; UNICEF, “Child Domestic Work,” Innocenti Digest no. 5 (Florence: Innocenti Research Centre, 1999), p. 2; Boonpala and Kane, “Trafficking of Children,” p. 23; Abalo, “Trafic des enfants au Togo,” p. xviii. In its 2000 study of child trafficking, UNICEF stated that girls are more likely to be trafficked where “cultural factors” hamper their education, but did not elaborate on this point. See Bazzi-Veil, “Trafic des enfants en Afrique de l’Ouest et du Centre,” p. 8.

<sup>42</sup> See U.N. Economic and Social Council, “Youth at the United Nations: Country Profiles of the Situation of Youth,” at [esa.un.org/socdev/unyin/countrya.asp?countrycode=tg](http://esa.un.org/socdev/unyin/countrya.asp?countrycode=tg) (accessed June 5, 2002); U.N. Statistics Division, “Togo: Millenium Indicators,” at [unstats.un.org/unsd/mi/mi\\_results.asp?crID=768](http://unstats.un.org/unsd/mi/mi_results.asp?crID=768) (accessed July 6, 2002). In 1997, the U.N. Committee on the Rights of the Child noted that while the principle of “free, universal and compulsory basic education for all children” is recognized by Togo, it was “concerned at the low level of school enrolment and the high drop-out rate, especially among girls, resulting in high illiteracy rates, the lack of learning and teaching facilities and the shortage of trained teachers, particularly in rural areas.” See United Nations, “Concluding Observations of the Committee on the Rights of the Child: Togo,” U.N. Document CRC/C/15/Add.83 (New York: U.N. Publications, 1997), para. 25.

<sup>43</sup> The study also noted that 95 percent of child domestic workers in Togo were girls. M. Black, “Child Domestic Workers” (London: ASI, 1997), p. 15, citing ASI and WAO-Afrique, “Children in Domestic Service in Togo” (London: ASI, 1994).

<sup>44</sup> M. Black, “A Handbook on Advocacy: Child Domestic Workers: Finding a Voice” (London: ASI, 2002), p. 9.

<sup>45</sup> ILO-IPEC, “Synthesis report,” p. 15.

<sup>46</sup> Abalo, “Trafic des enfants au Togo,” p. lxvi. In the Plan-Togo study, 8 percent of parents interviewed were widows or widowers; however, it is not clear that this same 8 percent had trafficked children. Amouzou et al, “Trafic d’enfants au Togo,” p. 35.

<sup>47</sup> ILO-IPEC, “Synthesis report,” p. 15.

data have led some researchers to posit a link between child trafficking and HIV/AIDS, a rapidly growing cause of orphanhood in sub-Saharan Africa.<sup>48</sup>

At least 95,000 children under age fifteen have lost a mother or both parents to AIDS in Togo; two thirds of those orphans were alive as of 1999.<sup>49</sup> A recent study of AIDS-affected families in Togo's Maritime region, funded by the World Bank and implemented by the NGO CARE-Togo, observed that children orphaned by AIDS spend less time in school because of an inability to pay school fees, face prohibitions from attending public school and, in some cases, withdraw from school entirely.<sup>50</sup> "NGOs report that some of these orphans have become easy prey for child traffickers," the study noted.<sup>51</sup> Also noted was the potential for AIDS-affected children to contract HIV and other sexually transmitted infections as a result of child trafficking: "[a]ll in all, a vicious circle is created because these children, left to their own resources without moral, financial or emotional support, are vulnerable and susceptible of sinking into delinquency (theft, drugs) and prostitution only to meet the same fate as their parents, that is to die of AIDS."<sup>52</sup> Efforts to protect AIDS-affected children from exploitation and abuse are often compromised by the deep stigma with which these children live.<sup>53</sup>

Kodjo Djissenou, executive director of the Togolese NGO La Conscience, told Human Rights Watch there were three instances in which a child affected by AIDS could be vulnerable to child trafficking in Togo: if abandoned following the death of one or both parents; if forced to earn money to care for a sick or dying parent; or if pressured to leave his or her village as a result of the stigma associated with having AIDS in the family.<sup>54</sup> Other government, U.N. and NGO experts in Togo elaborated on this point. Arsène Mensah, program coordinator of the NGO Aide Médicale et de Charité, told Human Rights Watch that "[w]hen a parent has HIV, the children automatically look to be able to do something to make money. Someone offers them work in Abidjan, and they agree to go."<sup>55</sup> Gouna Yawo, a medical assistant and AIDS counselor and president of the NGO Espoir-Vie Togo said that "[w]ith AIDS, there is often an increase in poverty of the household. . . . [This] may mean that AIDS-affected families will give up their children more easily."<sup>56</sup> Togo's leading government expert on child trafficking, and Minister of Public Health, Promotion of Women and Child Protection, Suzanne Aho, said, "[i]t could happen that there would be more trafficking with an increase in AIDS and children orphaned by AIDS. Those children are rejected and marginalized. Someone would only have to come and propose to such a child

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<sup>48</sup> According to 2002 joint estimates developed by UNAIDS, UNICEF, USAID and the U.S. Bureau of Census, the total number of living children under age fifteen whose mother, father or both parents have died of AIDS in sub-Saharan Africa is 11 million. The Synergy Project, "Children on the Brink 2002: A Joint Report on Orphan Estimates and Program Strategies" (Washington, D.C.: USAID, July 2002).

<sup>49</sup> WHO/UNAIDS, "Togo," Epidemiological fact sheets on HIV/AIDS and sexually transmitted infections, p. 3; Human Rights Watch interview with Apelète Devotsou, National AIDS Program, Lomé, May 6, 2002.

<sup>50</sup> In one of several primary schools surveyed in the CARE/World Bank study, 100 of 214 students were orphans, of whom more than half had lost at least one parent to AIDS. A.Y. Akolatse and K.T. Djonoukou, "Analyse de la situation des orphelins, veuves et familles affectées du SIDA dans la Région maritime en vue de la réalisation d'un programme de prise en charge," IDF/RIPPET project (Lomé: CARE/World Bank, 2001), p. 37. In a different study, the World Bank found that orphans in Togo, defined as children who have lost either a mother or both parents, were about 20 percent less likely to attend school than children with two parents.

<sup>51</sup> *Ibid.*, p. 37. The vulnerability of AIDS-affected children to hazardous and exploitative labor has been documented in other parts of Africa. See for example Human Rights Watch, "In the Shadow of Death: HIV/AIDS and Children's Rights in Kenya," *A Human Rights Watch report*, vol. 13, no. 4(A), June 2001; UNICEF East and Southern Africa Regional Office (ESARO), "Child Labor in the Shadow of HIV/AIDS" (Nairobi: UNICEF-ESARO, April 2002); Synergy Project, "Children on the Brink 2002."

<sup>52</sup> Akolatse and Djonoukou, "Analyse de la situation des orphelins," p. 36. Girls may be more likely to contract HIV as a result of labor exploitation, as occupations such as prostitution or domestic work expose them to sexual violence and coercion as well as unprotected sex generally. See, e.g., UNICEF, "Child Domestic Work"; Human Rights Watch, "In the Shadow of Death," p. 16.

<sup>53</sup> In the 2001 CARE/World Bank study, one Togolese therapist is quoted as saying that "AIDS is a new sickness that causes fear. It is a sickness of gypsies and prostitutes." Fidèle Avajon, director of an NGO that used to work with AIDS orphans, told Human Rights Watch that "families don't accept easily that someone among their relatives died of AIDS. We had families where we knew someone died of AIDS, and we tried to help. But the family refused our help because they didn't want to admit the death was from AIDS." Arsène Mensah, program coordinator of the NGO Aide Médicale et de Charité, attributed the stigma to early information campaigns saying "AIDS is death." "If a family knows that someone in the family has AIDS, they withdraw from that person," he said. "People are still afraid of being contaminated." See Akolatse and Djonoukou, "Analyse de la situation des orphelins," p. 30; Human Rights Watch interview with Fidèle Avajon, director, Association pour une Meilleure Intégration Sociale, Lomé, May 7, 2002; Human Rights Watch interview with Arsène Mensah, Aide Médicale et de Charité, Lomé, May 7, 2002.

<sup>54</sup> E-mail communication to Human Rights Watch from Kodjo Djissenou, April 15, 2002.

<sup>55</sup> Human Rights Watch interview with Arsène Mensah, Aide Médicale et de Charité, Lomé, May 7, 2002.

<sup>56</sup> Human Rights Watch interview with Gouna Yawo, president, Espoir-Vie Togo, Lomé, May 6, 2002.

something for him to do, and he'll follow."<sup>57</sup> AIDS orphans have been identified by ILO-IPEC's representative in Togo, Essodina Abalo, as one of four groups most vulnerable to child trafficking in Togo, the others being rural children, street kids and young girls.<sup>58</sup>

### **Other Factors**

In addition to poverty, family breakdown and HIV/AIDS, experts have also identified factors facilitating child trafficking—among them, porous borders and lax regulatory environments, traditional migration patterns, ethnic affinities, and inadequate information about trafficking and its risks.<sup>59</sup> These factors help to explain why economic pressures do not lead to child trafficking in all cases of extreme poverty,<sup>60</sup> as Koffi Badjow Tcham, cabinet director of Togo's Department for the Protection and Promotion of the Family and Children, told Human Rights Watch, "there are places where people are very poor, but you don't see this trafficking. There are regions where there is a very strong tendency to migration, and those where there are traditions of sending children to stay with uncles or aunts."<sup>61</sup>

Especially conducive to child trafficking is the active or passive encouragement by border patrols and other law enforcement agents. ILO-IPEC has noted that "customs officials turn a blind eye" to trafficking in parts of West Africa, particularly in routes through Cameroon and Nigeria.<sup>62</sup> A 2000 ASI study of child trafficking between Benin and Gabon made the same point, documenting cases of traffickers giving money to police to overcome the difficulty of crossing Gabon's borders.<sup>63</sup>

The many forces at the root of child trafficking help to explain why Togo's efforts to combat the practice have thus far been unsuccessful. Following the first World Congress against Commercial Sexual Exploitation of Children in Stockholm, Sweden in 1996, Togo developed a National Plan to Fight against Child Labor and Child Trafficking, calling for the creation of a database on traffickers; improved legislation to protect children; exchanges of information on trafficking with Benin, Ghana, and Burkina Faso; improved cooperation among police, customs and immigration officers; improved educational opportunities for girls and street children; awareness raising campaigns; and the rehabilitation and reintegration of trafficked children.<sup>64</sup> While some of these measures have begun to be implemented, the Togolese government has thus far been unable to infiltrate the private arrangements between parents, children and child traffickers, much less to address the social and economic circumstances at their root.

### **Trafficked Children Interviewed in this Report**

Human Rights Watch interviewed forty-one girls and thirty-one boys who were trafficked when they were between the ages of three and seventeen.<sup>65</sup> Of the girls, thirteen were trafficked internally—that is, from one part

<sup>57</sup> Human Rights Watch interview with Suzanne Aho, Lomé, May 6, 2002.

<sup>58</sup> Human Rights Watch interview with Essodina Abalo, administrator, IPEC-Togo, Lomé, May 17, 2002.

<sup>59</sup> Abalo, "Trafic des enfants au Togo," pp. vii, xxi, xviii; ILO-IPEC, "Synthesis report," p. 32; R. Salah, "Child Trafficking," pp. 4, 5; UNICEF-WCARO, "Workshop on Trafficking in Child Domestic Workers," p. 34; Bazzi-Veil, "Trafic des enfants en Afrique de l'Ouest et du Centre," p. 11. In the ILO-IPEC country study of child trafficking in Togo, 46 percent of trafficked children interviewed were ethnic Kotokoli, a community that has linguistic, ethnic and cultural commonalities with groups in Ghana, Benin and Nigeria.

<sup>60</sup> According to the Bazzi-Veil study, parts of Togo experience high poverty but low rates of child trafficking. The study also notes that the migration of Malian girls into domestic service is motivated less by poverty than by the acquisition of a trousseau and the desire to experience city life. A recent World Bank study of child trafficking in Benin concluded that child trafficking was less a response to poverty than a "strategic fostering out of children" reserved for families with a certain level of savings and the ability to plan for the future. See Bazzi-Veil, "Trafic des enfants en Afrique de l'Ouest et du Centre," p. 9; e-mail communication to Human Rights Watch from Anne Kielland, May 30, 2002.

<sup>61</sup> Human Rights Watch interview with Koffi Badjow Tcham, May 7, 2002.

<sup>62</sup> ILO-IPEC, "Synthesis report," p. 18.

<sup>63</sup> A.F. Adihou, "Summary of the final report on trafficking of children between Benin and Gabon" (London: ASI, 2000), p. 9.

<sup>64</sup> A description of the plan is available through End Child Prostitution and Trafficking (ECPAT), at [www.ecpat.net/eng/Ecpat\\_inter/projects/monitoring/online\\_database/countries.asp?arrCountryID=174&CountryProfile=&CSEC=&Implementation=&Nationalplans=National\\_plans\\_of\\_action&orgWorkCSEC=&DisplayBy=optDisplayCountry](http://www.ecpat.net/eng/Ecpat_inter/projects/monitoring/online_database/countries.asp?arrCountryID=174&CountryProfile=&CSEC=&Implementation=&Nationalplans=National_plans_of_action&orgWorkCSEC=&DisplayBy=optDisplayCountry) (accessed July 10, 2002).

<sup>65</sup> The boys interviewed ranged in age from nine to seventeen when trafficked, and the girls ranged from three to seventeen. An additional eighteen children were interviewed, some of whose stories would not qualify as child trafficking, and others whose testimony did not disclose sufficient evidence to make a determination. All statistical data in this section are intended to describe Human Rights Watch's witnesses, not to generalize about the larger population of trafficked children.

of Togo to another—and twenty-four were trafficked externally to Gabon, Benin, Nigeria or Niger. The remaining four girls were trafficked to Togo from Benin, Nigeria or Ghana. All of the boys were trafficked from the interior of Togo to parts of Nigeria, Benin or Côte d’Ivoire. Ten of the seventy-two trafficked children were recruited and transported from home but were intercepted before arriving at their destination.

In interviews with trafficked children, Human Rights Watch found a link between lack of schooling and vulnerability to child trafficking. Though almost half of the children interviewed were sixteen or older at the time of the interview, few had attended secondary school, which is normally commenced at age fifteen.<sup>66</sup> (Among the general population, it was estimated in 1993 that 34 percent of boys and 12 percent of girls in Togo enrolled in secondary school.)<sup>67</sup> In numerous cases, children said they were recruited by traffickers after running out of money to pay for school. As one boy put it, “I was in school and paying my own fees, but when I got to grade seven I couldn’t pay the fees anymore. It was 4,000 CFA [U.S.\$6] per year. The headmaster kept asking me to leave.”<sup>68</sup> A father interviewed by Human Rights Watch said that he had too little money to pay fees for his school-age children, so he had to send one of them to Côte d’Ivoire:

I have four wives and sixteen children. I am a farmer, and sometimes I distill *sodabi*.<sup>69</sup> Some of my children are older and married, but now I have ten children living with me. Four are ready for school, and the others are too young. I don’t have enough money to look after my children. The main reason my son had to go to Côte d’Ivoire was that I had no money to send him to school.<sup>70</sup>

Despite a statutory guarantee of free primary education in Togo, at least twelve trafficked children, both boys and girls, told some version of this story—some of them forced to withdraw from school during difficult economic times, others after the death of a parent. “We had to leave school when our father died,” said one child, whose half-brother was reportedly trafficked at age seventeen. “Our mothers couldn’t pay the school fees.”<sup>71</sup> Another, also orphaned at a young age, told Human Rights Watch he “wanted to go to school but had nothing.”<sup>72</sup>

Human Rights Watch interviewed ten boys and eleven girls who said they were trafficked following the death of one parent or both parents. One boy, now seventeen, said he lost both of his parents by the time he was seven years old; another, fourteen, lost both his parents and was subsequently trafficked to Nigeria three times. “I had no choice but to go,” he told Human Rights Watch. “I was not doing any work here, and things were getting harder. I didn’t tell my grandmother, because she would not have accepted it. I had no other relatives to turn to—I have some uncles in Kara, but they don’t care about me.”<sup>73</sup> A sixteen-year-old girl said she was introduced to a trafficker by a friend after her father reportedly died of a snake bite. Her mother ran away to Burkina Faso, leaving behind nine children. “I didn’t tell my brothers,” she said. “I knew they would say that I was just reacting to a bad situation and that they could take care of me if I stayed. I wanted to surprise them by coming back with money and skills.”<sup>74</sup> Asked about the principal causes of orphanhood in Togo, N’Bighe N’Faba, the prefect of La Binah, told Human Rights Watch “[t]here are some orphans from HIV/AIDS, but also from malaria, snake bites, mothers who die in childbirth, and just the tradition of not going to the hospital in time or the shortage of medicines.”<sup>75</sup>

In Tchamba, Human Rights Watch documented one case of a child being trafficked after her father had died of AIDS. Hodalo S., who was in primary school when her father became ill, told Human Rights Watch she was

<sup>66</sup> The school system in Togo is divided into six years of primary school, four years of *collège* or middle school and three years of *lycée* or secondary school. For this report, the designations grades one through twelve will be used.

<sup>67</sup> U.N. Economic and Social Council, “Youth at the United Nations.”

<sup>68</sup> Human Rights Watch interview, Est-Mono, May 10, 2002.

<sup>69</sup> A local gin.

<sup>70</sup> Human Rights Watch Interview, Vo, May 16, 2002.

<sup>71</sup> Human Rights Watch interview, Bassar, May 3, 2002.

<sup>72</sup> Human Rights Watch interview, Sotouboua, May 4, 2002.

<sup>73</sup> Human Rights Watch interview, Est-Mono, May 10, 2002.

<sup>74</sup> Human Rights Watch interview, Bassar, May 3, 2002.

<sup>75</sup> Human Rights Watch interview with N’Bighe N’Faba, prefect of La Binah, May 3, 2002.



sent by her grandmother to live with an aunt,<sup>76</sup> who then took her to Gabon to work. For a month she sold milk in the market without pay, and by the time she returned home her father had died.<sup>77</sup> Human Rights Watch interviewed a social worker familiar with this case, and he said the health worker who cared for Hodalo's father confirmed the diagnosis of HIV/AIDS. In other instances, orphans who were recruited by child traffickers were unable to identify their parents' cause of death.

As in the ILO-IPEC study, Human Rights Watch found significant differences in the experiences of trafficked girls as compared to trafficked boys. While most girls interviewed reported working in domestic or market labor, boys reported working in agriculture and, in one case, in a furniture factory. In addition, whereas a number of girls said they were trafficked within Togo, all of the boys reported having been trafficked from Togo to other countries. Finally, while most girls interviewed by Human Rights Watch fled their traffickers following prolonged periods of physical and mental abuse, most boys were released after a period of time and told to find their way home to Togo. The experiences of Human Rights Watch's witnesses are described in greater detail in the two following chapters: girls trafficked both internally and externally into domestic and market labor, followed by boys trafficked externally into agricultural or factory labor.

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<sup>76</sup> According to a 1998-1999 ASI study on the trafficking of girls between Benin and Gabon, the women responsible for trafficked girls are often called "auntie" to give an illusion of a familial bond. A.F. Adihou, "Trafficking of children between Benin and Gabon," p. 10. Human Rights Watch was not able to confirm in most cases whether the "aunt" or "auntie" referred to by a trafficked child was indeed a relative by blood or marriage.

<sup>77</sup> Human Rights Watch interview, Tchamba, May 2, 2002.

## CASE STUDY: DÉLA N., AGE FOURTEEN

Déla N. is from a small village in Togo not far from the border of Benin. Her mother is a farmer, and she has not seen her father since her parents divorced many years ago. She has never been to school.

When she was eight years old, Déla was invited by an aunt to go live in Nigeria. Her aunt told her she would be staying with her and helping around the house. Her mother said she should go.

Déla stayed with her aunt for six years, doing housework and helping her aunt in the market. She prepared food for her aunt's children, cleaned the house and helped her aunt sell merchandise in the market. She was not allowed to play with the children.

After a short time, Déla's aunt returned to Togo and then came back to Nigeria with some other girls. The other girls were all older than Déla and could do work that she couldn't. Her aunt became impatient with her and started beating her. She shouted at her that she was lazy, and sometimes she beat her with a stick. When the other girls got money for their work, Déla didn't get anything.

One day, after coming home from the market, Déla was caught playing with her aunt's children. Her aunt became furious and started beating her badly. That day Déla decided to steal 800 naira (U.S.\$7) from her aunt and run away.

On the street, an older man asked Déla where she was going and whether he could help. He gave her 2,000 CFA (U.S.\$3), which she used to take a lorry to the border of Benin and Togo. At the border, Déla met another man making tea on the roadside. The man invited her to stay with him for a day and said he would take her back to her village. She stayed with him for two days, but he still didn't take her back. After being pressured by others, the man eventually brought her to the police.

Déla is now staying at the Oasis Center, a shelter for abused, neglected and abandoned children in Lomé. The staff of the Oasis Center are providing her with psychological counseling and trying to locate her mother.

## V. GIRLS TRAFFICKED INTO DOMESTIC AND MARKET LABOR

Human Rights Watch interviewed forty-one girls who said they were trafficked to, from or within Togo to work as housemaids or market vendors. Girls' descriptions of being recruited, transported, received and exploited revealed a pattern of abuse resembling child slavery.<sup>78</sup> They reported being handed over by their parents to known or unknown intermediaries, sometimes for a price, and told they would be receiving formal education, professional training or paid work abroad. When they arrived, sometimes after life-threatening sea journeys, they were housed with employers who ordered them to perform housework and to assist with commercial enterprises. Girls worked long hours without breaks or holidays, in some cases staying up all night to work after having already worked a full day. Few received any remuneration for their services. Numerous girls recounted incidents of intimidation and physical abuse, sometimes leading to permanent injury. Those who fled their employers sought shelter on the street, at police stations or with local NGOs; in some cases, they resorted to sex work at the suggestion of friends. While most were in the custody of their parents at the time of their interview, it is estimated that thousands of Togolese girls are still working abroad in the houses and markets of various West African countries.<sup>79</sup>

### Recruitment

In cases documented by Human Rights Watch, the trafficking of girls began with the recruitment of a child by either an eventual employer or a third-party intermediary. Most girls recalled being approached by a stranger, usually a woman, who came to their villages for the purpose of recruiting domestic workers. One child described her trafficker simply as "a woman who came to the village looking for children."<sup>80</sup> Others described their trafficker as "a woman who had been living in Nigeria and knew some of my friends,"<sup>81</sup> or "someone I knew but not very well."<sup>82</sup> A fourteen-year-old girl from Bassar, who never made it abroad because her boat to Gabon capsized, told Human Rights Watch that "someone came and offered me money to work in Gabon, and I accepted. . . . I didn't know the person; it was a woman, and my parents didn't know her either."<sup>83</sup>

Although the actual recruitment was usually carried out by a stranger, most girls recalled some degree of parental involvement in the transaction—ranging from parents accepting money from traffickers to parents authorizing traffickers to take their children on the understanding the children would be educated abroad. Kéméyao A., age ten, told Human Rights Watch her mother accepted money from a woman looking for domestic servants:

There was a woman who came to the market to buy charcoal. She found me and told my mother about a woman in Lomé who was looking for a girl like me to stay with her and do domestic work. She came to my mother, and my mother gave me away. The woman gave my mother some money, but I don't know how much.<sup>84</sup>

According to the girls interviewed, details such as how long they would be staying abroad, how much they would get paid or where they would be staying were rarely worked out before their departure. One mother told Human Rights Watch she sent her four-year-old daughter abroad without any clear idea of what she would be doing. "I was told she would be helping to sell candy," she said. "I wasn't sure how a four-year-old could help, but the woman said she needed help."<sup>85</sup>

<sup>78</sup> International conventions define child trafficking as a "practice similar to slavery" whether or not the child is unpaid or kept under physical constraints. This is discussed in greater detail under "Legal Protection against Child Trafficking," below.

<sup>79</sup> C. Mally, "L'Evaluation de la situation du trafic d'enfants au Bénin, au Burkina Faso, au Mali et au Togo" (2001), p. 26, cited in Amouzou et al., "Trafic d'enfants au Togo," pp. 23-24.

<sup>80</sup> Human Rights Watch interview, Vogan, April 29, 2002.

<sup>81</sup> Human Rights Watch interview, Bassar, May 3, 2002.

<sup>82</sup> Human Rights Watch interview, Lomé, May 14, 2002.

<sup>83</sup> Human Rights Watch interview, Bassar, May 3, 2002.

<sup>84</sup> Human Rights Watch interview, Lomé, May 14, 2002.

<sup>85</sup> Human Rights Watch interview, Hahatoe, May 11, 2002.

In cases where traffickers did not offer money, they reportedly promised to provide what parents could not themselves afford for their daughters: an education, some vocational training, or the basic necessities of life. “My aunt arrived at my father’s funeral,” said one child, employed as a housemaid in Lomé from age three to sixteen, “and afterward she told my mother she would bring me to Lomé and put me in school.”<sup>86</sup> Another child, in training to become a hairdresser, told Human Rights Watch she was offered the chance to finish her studies in Gabon. “[A woman] told me that she knew of opportunities outside of Togo and she could take me somewhere to finish my course, and then I could set up a shop,” she said.<sup>87</sup> In other cases, the trafficker reportedly promised only a job. “She never asked for any money,” one girl recalled. “She just said that if I went with her I would make money to send to my parents.”<sup>88</sup>

In some cases, parents or relatives reportedly paid an intermediary to find work for a child. “I have a sister in Gabon who said I should go work there,” said one girl, who said she could not afford to go to school. “She gave some money to a woman to come and bring me to Gabon.”<sup>89</sup> The girl ended up being one of several girls who boarded a boat in Nigeria which capsized in open seas. Another girl said she was told by a stranger that her sister was expecting her: “a man arrived and said he had been given money by my sister,” she said. “I wanted to go with him. He came back a week later and took me to Nigeria in a car.”<sup>90</sup>

Though their expectations differed, many girls spoke of having been scared at the thought of being sent abroad to work. Kafui A., age thirteen, was only eleven when her mother told her she would be going to Lomé to work as a housemaid. “I didn’t want to go,” she told Human Rights Watch. “I knew that when people brought children there, they mistreated them. My mother told me I would be going to stay with a relative and she would not mistreat me.”<sup>91</sup> The issue of whether parents colluded with child traffickers appeared to be sensitive for some girls. One girl broke down and cried, exclaiming that she “could not believe how my parents neglected me.”<sup>92</sup> Akosiwa H., reportedly trafficked into domestic labor when she was only three years old, told Human Rights Watch she confronted her mother after eleven years of working abroad. Now in the care of an NGO in Lomé, Akosiwa said that “I didn’t see my mother for eleven years, until she came here last Tuesday. I asked her how she could send me to Lomé when I was three years old. I asked how she could completely forget about me for eleven years, how she could just abandon me like that. She didn’t say anything.”<sup>93</sup>

Government and NGO representatives in Togo had varying views about parents’ degree of culpability in such situations. The director of cabinet of Togo’s Department for the Protection and Promotion of the Family and Children, Koffi Badjow Tcham, suggested that some parents knowingly authorize the trafficking of their children. “It does happen that parents in all knowledge of what’s happening will accept ridiculously small amounts of money to give up their children,” Tcham told Human Rights Watch. “They unload their children in that way. The government has taken measures to ensure that this kind of action will be severely punished.”<sup>94</sup> A villager in Afanyagan qualified this statement. “Some [parents] are badly intentioned, and they actually want to commercialize their children,” he said, “and some think that in letting them go they’re doing something good for their children.”<sup>95</sup>

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<sup>86</sup> Human Rights Watch interview, Lomé, May 15, 2002.

<sup>87</sup> Human Rights Watch interview, Bassar, May 3, 2002.

<sup>88</sup> Human Rights Watch interview, Bassar, May 3, 2002.

<sup>89</sup> Human Rights Watch interview, Bassar, May 3, 2002.

<sup>90</sup> Human Rights Watch interview, Bassar, May 3, 2002.

<sup>91</sup> Human Rights Watch interview, Lomé, May 15, 2002.

<sup>92</sup> Human Rights Watch interview, Lomé, May 17, 2002.

<sup>93</sup> Human Rights Watch interview, Lomé, May 15, 2002.

<sup>94</sup> Human Rights Watch interview with Koffi Badjow Tcham, Lomé, May 7, 2002.

<sup>95</sup> Human Rights Watch interview with villagers, Afanyagan, April 29, 2002.

## Transport

Girls who were trafficked outside of Togo had particularly harrowing stories to tell, especially those who had faced a sea journey to Gabon. Dansi D., age sixteen, told Human Rights Watch she spent three days on a boat to Gabon, before working as a housemaid there for eighteen months. She said her journey began in the village of Nungbani in Togo, where she and seven other girls boarded a minibus with a woman who said they would be looking after small children in Gabon. The bus drove as far as Lomé, stopped there for five days and then made a one-day journey to Nigeria. Although Dansi was not able to recall where in Nigeria she was, known transit points for children trafficked from Togo to Gabon include Port Harcourt, Oron and Calabar, cities and towns in southeastern Nigeria close to the coast.<sup>96</sup>

When she arrived in Nigeria, Dansi was abandoned by the woman who brought her and told to wait to be collected by a boat. “I stayed in Nigeria for five months,” Dansi told Human Rights Watch. “It was a big house with not many people in it, and [the woman] told me just to wait. I ate *gari*<sup>97</sup> from the stock [she] had left. After five months, a man came and took me to a boat.”<sup>98</sup> Dansi went on to describe the journey from Nigeria to Gabon. “On the boat, there were over a hundred children, Togolese and Nigerian, and there were some adults, but more children than adults,” she said. “I talked to some of them, and all the girls were going to Gabon to work. It took three days on the boat to get to Gabon. They gave us *gari* and cassava and sometimes bread to eat.”<sup>99</sup>

Other stories were similar. Girls told Human Rights Watch that, after being recruited in their villages, they were driven to meeting places in Nigeria where they were told to wait for a boat to arrive. The journey to Nigeria lasted about a day, with some traffickers stopping along the way to pick up other recruits. “We went from Kabou to Sokodé and changed vehicles there,” one girl said. “Some other girls joined us in Sokodé, I don’t remember how many.”<sup>100</sup> When they arrived in Nigeria, girls were brought to small towns and left to their own devices. They reported waiting up to two months with nothing to eat and nowhere to stay. Some slept outside; others slept in abandoned buildings. All had to scrounge for food or steal from the local market. “We waited for two months with nothing to do,” one girl said. “We would fight and hit each other. We did not have enough food to eat, so we would steal manioc from the market and get beaten by the shopkeeper.”<sup>101</sup>

Birgit Schwarz, a German journalist who interviewed several trafficked children in Togo, told Human Rights Watch she interviewed girls who, while waiting for their boat to arrive, were raped, prostituted themselves, and sold their belongings to survive.<sup>102</sup> All were reportedly abandoned by their intermediaries, the women who promised not only to accompany them to Gabon but to find them work or send them to school.

Girls recalled that after a period in Nigeria, boats arrived and helmsmen directed them onboard. They described the boats as wooden barks lacking any navigational equipment or sanitation facilities.<sup>103</sup> “There were no toilets,” one said. “There were girls defecating on each other and vomiting in the boat. It was impossible to vomit into the sea without falling in.”<sup>104</sup> One girl told Human Rights Watch she felt sick and had no medicine; another said she had nothing to eat and no clean water for four days. Journalist Birgit Schwarz corroborated these accounts from her own research among trafficked girls, describing the conditions as “awful.” “Helmsmen lose

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<sup>96</sup> Port Harcourt and surrounding areas were identified as transit points in a 1998 UNICEF-Gabon study cited in ILO-IPEC’s 2001 country study. Birgit Schwarz, a German journalist who has documented child trafficking in West Africa, told Human Rights Watch that girls were harbored in the coastal areas of the Niger Delta in such towns as Oron and Ibuno. Calabar was identified as a transit point in ILO-IPEC’s country study of child trafficking in Nigeria, cited in the 2001 synthesis report. The Niger Delta, where many Togolese girls are left to wait for boats to Gabon, is a coastal wetland formed by the River Niger. Abalo, “Trafic des enfants au Togo,” note 8. Human Rights Watch telephone interview with Birgit Schwarz, *Der Spiegel*, New York, June 4, 2002. ILO-IPEC, “Synthesis report,” p. 25.

<sup>97</sup> A dough made of cassava (manioc); the staple starch in much of West Africa.

<sup>98</sup> Human Rights Watch interview, Bassar, May 3, 2002.

<sup>99</sup> *Ibid.*

<sup>100</sup> Human Rights Watch interview, Bassar, May 3, 2002.

<sup>101</sup> Human Rights Watch interview, Bassar, May 3, 2002.

<sup>102</sup> Human Rights Watch telephone interview with Birgit Schwarz, New York, June 4, 2002.

<sup>103</sup> Some girls traveled in *pirogues*, which are long, narrow canoes made from a single tree trunk.

<sup>104</sup> Human Rights Watch interview, Bassar, May 3, 2002.

their course in the middle of the night and get lost, and there is not even clean water to drink,” Schwarz told Human Rights Watch. “The girls are all sick by the time they get to Gabon.”<sup>105</sup>

According to Nigeria’s *This Day* newspaper, trafficked girls disembark at such points in Gabon as Cocobeach, Cap Esterias, Pont Nomba, Owendo, and Ouloumi.<sup>106</sup> “They wind up sputtering to shore,” Suzanne Aho told Human Rights Watch. “Boats can’t go up to the coast so they leave the children off the coast in the water. Many can’t swim.”<sup>107</sup>

Many girls interviewed by Human Rights Watch said they did not make it as far as Gabon. “We got close to Cameroon, but the waves were too strong,” one girl recalled. “The boat tipped and nine girls died.”<sup>108</sup> Human Rights Watch corroborated this account with nine other survivors of the same incident; the tragedy was also reported by the BBC, which stated that sixty-eight “child slaves” had been rescued from a sinking ship.<sup>109</sup> When asked about this incident, Aho said that at least eight children had died.<sup>110</sup> A recent story in Nigeria’s *This Day* newspaper reported that about 20 percent of children bound for Gabon from Nigeria die in open seas due to boat mishaps, about 150 children in 2001 alone.<sup>111</sup> This is probably an understatement: according to the U.S. State Department, the Togolese government reported 700 drownings of trafficked children, half of them Togolese, in two separate incidents in March 2001.<sup>112</sup> “These mishaps are caused by the fact that the boats that freight the children are tiny old rickety wooden boats with two old outboard and forty horsepower engines,” *This Day* said. “[T]he boats are overloaded with goods and people without any life jacket or navigational facility.”<sup>113</sup>

While the sea journey to Gabon is clearly the most dangerous journey faced by trafficked children interviewed by Human Rights Watch, others who left Togo also had unpleasant experiences. Human Rights Watch interviewed girls who traveled overland from the interior of Togo to Lomé, Nigeria or Niger. Massoglé G., introduced to a trafficker at age sixteen by her friends, said she was trafficked from Bassar, a city in Togo’s northern region of Kara, to Niger. “A woman said she would pay for my trip abroad and then I could work it off and pay her back,” she said. “So we went to Niger. I went in a car as far as Kara, and then we met a bus with about twenty girls in it, most older than me but some younger. It took two and a half days to get to Niger. The trip was terrible—we had no food the whole time.”<sup>114</sup> While Kara was a popular transit point for girls with northern destinations, most girls interviewed by Human Rights Watch said they passed through Lomé before going to Benin, Nigeria or Gabon. Bébé M. said her would-be trafficker promised to pick her up at a bus station in Lomé but abandoned her there. “The bus [to Lomé] took one hour, and I bought my ticket with money I made from selling oranges and kerosene,” she recalled.<sup>115</sup> “I waited one and a half hours, but she never came. I went home and never tried going again.”<sup>116</sup>

Girls trafficked from one point in Togo to another reported taking public transportation or being driven by their traffickers in a car or van. According to the ILO-IPEC country report, the bus stations of Kara, Bassar and Sokodé are known to be assembly points for children coming from Togo’s Central region, while those of Anié and Bagou are assembly points for children from the Plateau region. The ILO-IPEC report also noted that in

<sup>105</sup> Human Rights Watch telephone interview with Birgit Schwarz, New York, June 4, 2002.

<sup>106</sup> “Child Trafficking—Another Shock from Libreville,” *This Day*, April 2, 2002, at <http://global.factiva.com/en/arch/display.asp> (accessed April 8, 2002).

<sup>107</sup> Human Rights Watch interview with Suzanne Aho, Lomé, May 6, 2002.

<sup>108</sup> Human Rights Watch interview, Bassar, May 3, 2002.

<sup>109</sup> “Child Slaves Returned to Togo,” BBC News, September 24, 2001, at [http://news.bbc.co.uk/1/hi/english/world/africa/newsid\\_1560000/1560392.stm](http://news.bbc.co.uk/1/hi/english/world/africa/newsid_1560000/1560392.stm) (accessed May 29, 2002).

<sup>110</sup> Human Rights Watch interview with Suzanne Aho, Lomé, May 6, 2002.

<sup>111</sup> “Child Trafficking—Another Shock from Libreville,” *This Day*, April 2, 2002.

<sup>112</sup> U.S. State Department, *Country Reports on Human Rights Practices for 2001*.

<sup>113</sup> “Child Trafficking—Another Shock from Libreville,” *This Day*, April 2, 2002.

<sup>114</sup> Human Rights Watch interview, Bassar, May 3, 2002.

<sup>115</sup> Human Rights Watch interview, Hahatoe, May 11, 2002.

<sup>116</sup> *Ibid.*

addition to Lomé, destination cities in Togo for trafficked children include Kara, Atakpamé and Sokodé, respectively the capitals of the Kara, Central and Plateau regions.<sup>117</sup>

### Receipt and Exploitation

At the end of their journey, girls interviewed by Human Rights Watch performed long periods of domestic and market labor during which they received little to no remuneration and often experienced beatings and mental abuse. The trade in Togolese girls was particularly extensive in Gabon, a relatively wealthy country with a small population and consequently a labor shortage, and where compulsory schooling and strict child labor laws fuel a growing demand for foreign child labor. Although Gabonese law prohibits trafficking in foreign child labor, implementation of this law is limited to periodic round-ups of trafficked children and their repatriation to the embassy concerned.<sup>118</sup> A 1998-1999 survey of 600 working children in Gabon found that only seventeen of them were Gabonese.<sup>119</sup> Two years later, in 2001, the NGO WAO-Afrique estimated that there were between 10,000 and 15,000 trafficked Togolese children working in Gabon.<sup>120</sup> Commenting on the number of trafficked girls working as housemaids in Gabon, ASI noted in 2000 that Gabon “inevitably has become a great consumer of them and has created a need to use them.”<sup>121</sup>

In terms of work performed, the ASI study noted that girls trafficked to Gabon are employed either by Beninese or Togolese nationals who trade in various merchandise, or by Gabonese families who need a cheap domestic workforce for housework. In the latter case, any salary paid by the girl’s host family, on average 50,000 CFA (U.S.\$76) per month, is reportedly paid to the child’s trafficker.<sup>122</sup> ASI cited the case of one trafficker who collected the salary of twelve different girls every month.<sup>123</sup> According to ILO-IPEC, some host families include foreign nationals who have obtained Gabonese citizenship but continue to use their former compatriots as intermediaries for recruiting child labor.<sup>124</sup>

Girls interviewed by Human Rights Watch recalled that upon arriving at their destinations (either within Togo, or in Benin, Niger, Nigeria or Gabon) they either began working for the intermediaries who had transported them or were deposited with a family they had never met before. In either case, they were ordered to perform domestic or market work. Most recalled waking up very early to do housework and spending the day assisting their bosses with small commercial enterprises—selling bread, fruit or milk in the market, grilling skewers of meat on the roadside, or working in a small boutique. At the end of the day, they returned to their bosses’ homes and did more housework before bed. One described a typical day as follows:

In the morning I went to the market with my aunt. She sold cloth and I sold rags. I walked around and sold them for 100 CFA [about U.S.15¢]—I would make 900 to 1,000 CFA per day [about U.S.\$1.50] and give the money to her. I came home at 6:00 p.m. and made the fire, cleaned the house and put water on the fire. My aunt always told me to be a good girl, not to steal anything from her. She said if I stole anything she would beat me.<sup>125</sup>

A girl trafficked to Gabon when she was seven said that in addition to working as a housemaid she tended a tomato and pepper garden for five years.<sup>126</sup> Another said she carried yams and pineapples on her head at the age of nine. She said she worked in the market all day and then “slept in the store room, with the yams and

<sup>117</sup> Abalo, “Trafic des enfants au Togo,” pp. vi, xii.

<sup>118</sup> Adihou, “Trafficking of children between Benin and Gabon,” p. 13.

<sup>119</sup> *Ibid.*, p. 10. Of the remaining 583 children, 10.8 percent were found to have been trafficked, and 40 percent said they wanted to return to their countries of origin.

<sup>120</sup> C. Mally, “Trafic d’enfants au Bénin, au Burkina Faso, au Mali et au Togo” (2001), p. 26, cited in Amouzou et al, “Trafic d’enfants au Togo,” pp. 23-24.

<sup>121</sup> Adihou, “Trafficking of children between Benin and Gabon,” p. 10.

<sup>122</sup> *Ibid.*, p. 11.

<sup>123</sup> *Ibid.*, p. 12.

<sup>124</sup> ILO-IPEC, “Synthesis report,” p. 16.

<sup>125</sup> Human Rights Watch interview, Lomé, May 15, 2002.

<sup>126</sup> Human Rights Watch interview, Afanyagan, April 29, 2002.

pineapples.”<sup>127</sup> Two other girls, Afi A. and Ama D., said they were brought to Anié, Togo by an aunt and deposited at the home of the aunt’s daughter; they described their duties:

We sold bread in the market, going around from 6:00 or 7:00 in the morning until night. . . . When we got home, our aunt’s daughter gave us the flour for the next day’s bread. She showed us how to make the bread, and we did it with her and two other girls. She was not nice to us. If we didn’t sell all the bread in one day, she would beat us with a stick.<sup>128</sup>

Afi and Ama said they baked bread every night until the early hours of the morning. Asked whether they had to work near the oven, Ama said that “the oven would burn our feet. Once I thought the grill was out so I walked on it and got burned.” One day, she and Afi ran into the aunt who had brought them to Anié in the first place. “We told her her daughter was treating us badly,” Ama said, “and all she said was, ‘What do you mean? You didn’t come to Anié to play but to work.’”<sup>129</sup>

Some girls described their day job as “pounding *fufu*”—an onerous chore in which a large mortar and pestle is used to mash yams or cassava vigorously into a doughy paste to be served with fish, meat or vegetables. “I had to pound *fufu* from 3:00 in the morning until 7:00 at night,” one girl told Human Rights Watch. “I hated it—it was hard and painful work. If I lost any of the yam in the pounding, the woman beat me—slapped me with her hand.”<sup>130</sup> Another girl said she was unable to continue pounding after a while. “[W]hen I got there, I had to pound *fufu* from 4:00 in the morning until 8:00 at night,” she said. “After a while, I told the woman I couldn’t stand it. She never gave me any money, and I said that if she didn’t pay me, I would just go back. So she let me sell rice in the market.”<sup>131</sup>

The domestic work described by trafficked children also varied. Girls as young as eight years old said they were told to wash the dishes, sweep floors and prepare food. “My aunt told me I didn’t wash the dishes well, so she beat me and insulted me,” said one child, trafficked to Lomé when she was less than eight years old.<sup>132</sup> Assoupi H., sixteen, trafficked when she was only three, said she was told to carry her aunt’s infant. “She told my mother she would put me in school,” Assoupi said, “but she gave birth to twins and told me I had to help her look after the children until they were old enough for school. I was only three years old, but I carried her babies and held them for her.”<sup>133</sup> By the time her children reached school age, Assoupi’s aunt was pregnant with twins again. “She asked me to take care of them, too,” Assoupi recalled. “I had to fetch water for the house, sweep, wash the dishes and wash clothes. I would bathe the children, cook for them and wash their clothes. When they were young, they cried a lot.”<sup>134</sup>

Of forty-one girls interviewed, hardly any recalled receiving any remuneration for their services: one recalled earning 12,000 CFA (U.S.\$18) for three months’ work in a boutique in Benin, and another earned 48,000 CFA (U.S.\$70) for six months’ work in a market in Nigeria.<sup>135</sup> In other cases, traffickers apparently found ways to avoid payment. One child said her trafficker promised to send her 25,000 CFA (U.S.\$37) after she got home, but said she never received the money.<sup>136</sup> Another said she was included by her trafficker in a *tontine*—a pool of funds into which people contribute small amounts and from which they can periodically withdraw—but never allowed to withdraw.<sup>137</sup> Several children said their traffickers paid for their travel abroad, only to order them to

<sup>127</sup> Human Rights Watch interview, Lomé, May 14, 2002.

<sup>128</sup> Human Rights Watch interview, La Binah, May 3, 2002.

<sup>129</sup> *Ibid.*

<sup>130</sup> Human Rights Watch interview, Bassar, May 3, 2002.

<sup>131</sup> Human Rights Watch interview, Bassar, May 3, 2002.

<sup>132</sup> Human Rights Watch interview, Lomé, May 15, 2002.

<sup>133</sup> Human Rights Watch interview, Lomé, May 15, 2002.

<sup>134</sup> Human Rights Watch interview, Lomé, May 15, 2002.

<sup>135</sup> Human Rights Watch interviews, Vogon, April 29, 2002, and Bassar, May 3, 2002.

<sup>136</sup> Human Rights Watch interview, Bassar, May 3, 2002.

<sup>137</sup> Human Rights Watch interview, Lomé, May 17, 2002.



work off the debt.<sup>138</sup> For the most part, however, girls said they were expected to give all of their earnings to their bosses and to be grateful for having a place to stay. “People like my aunt bring girls to work them like slaves or to sell them,” said one girl, now nineteen. “They bring girls there to treat badly but they always take good care of their own children.”<sup>139</sup>

### Exposure to Abuse

“In the beginning my auntie was nice to me, but then she changed,” Assoupi H., told Human Rights Watch. “Any time I did something wrong, she would shout at me and insult me. Sometimes she would tell her friends what I had done, and they would come over and beat me. . . . She would curse me and say I had no future.”<sup>140</sup> After eleven years of domestic labor, Assoupi said she was attacked by her aunt’s husband:

One night my auntie’s husband came home from work and asked me if I had prepared food for him and the children. I said no. He said, “Your aunt gave you money, why didn’t you make the food?” I tried to explain, but he jumped on me and started beating me. He dragged me out of the house and told me to go away. That night I came back and went to sleep, and the next day my aunt came home. Her children told her that their father had beaten me. Nobody would speak to me after that, so I felt I had to leave.<sup>141</sup>

Assoupi’s story is far from unique. A majority of trafficked girls interviewed by Human Rights Watch recounted incidents of physical abuse, often repeated abuse. Girls told of being struck with blunt objects and electric wire, and threatened with punishment and sometimes death; beatings were carried out not just by bosses but by others such as neighbors. Human Rights Watch interviews at the Oasis Center of the NGO Terre des Hommes, which houses abused, abandoned and neglected children in Lomé, produced several accounts of girls enduring repeated abuse and then escaping after an incident of abuse beyond endurance:

- Kéméyao A., age ten, said she went to do domestic and market work in Lomé in 2001. She said her mother accepted money from a woman in the market whose sister was looking for a domestic. The sister treated Kéméyao “very badly.” “It was a long distance from the market to her house,” Kéméyao recalled, “so at the end of the day she took a motorcycle home and made me walk. Often I got home late, and she beat me for not walking quickly enough. She had a special stick for slapping my palms. Sometimes she used her hands, or grabbed a stick and beat me all over my body. I would cry and call for my mother, and she would say, ‘What will your mother do? You will never go to your mother.’” One morning, Kéméyao’s employer woke up after coming home drunk and asked her to heat some soup. “The soup had to be kept warm so it wouldn’t spoil,” she said, “but it hadn’t been properly warmed. My auntie realized it had lost its taste, so she started beating me for not heating it up properly. That day I decided to leave.”<sup>142</sup>
- When Kafui A. was eleven, she was taken to Lomé by a woman she said she had never met before. She said the woman had her sell second-hand clothes in the market and woke her up at 4:00 every morning to do housework. “When she called me and I didn’t hear her, she would send her son to get me, and when I came he would kick me and beat me on the head and ask me if I was deaf,” Kafui said. One day, she recalled, some other children were going to the well to fetch water so she brought along two pails to fill up. “I couldn’t carry both pails,” she said, “so I carried one and came back for the other one. When I got to the house the second time, my auntie asked me what had taken so long. I tried to explain, but she didn’t understand. She said that if I didn’t tell her where I had been, she would beat me to death. She threatened me and said that I was lying, that I had really gone to visit one of my relatives. She started beating me and told me to go outside and clean her daughter’s toilet.” Kafui A. continued: “When I came back she had locked the door. I knocked and no

<sup>138</sup> Human Rights Watch interviews, Bassar, May 3, 2002.

<sup>139</sup> Human Rights Watch interview, Tsévie, May 11, 2002.

<sup>140</sup> Human Rights Watch interview, Lomé, May 15, 2002.

<sup>141</sup> Ibid.

<sup>142</sup> Human Rights Watch interview, Lomé, May 14, 2002.

one answered, so I went to stay at the miller's house. When I came back to her house in the morning, she had already gone to the market, so I decided to run away."<sup>143</sup>

### ***Sexual Exploitation and Exposure to HIV/AIDS and Other Sexually Transmitted Diseases***

Trafficked girls interviewed by Human Rights Watch described a number of situations in which they faced a potentially high risk of sexual exploitation: in transit if they were abandoned (as in Nigeria) and left without care; in domestic labor if they were physically abused and forced to sleep in the same rooms as men or boys; and during return or repatriation if they were forced to live in the street and risk abuse, including sexual abuse, from civilians or police officers.

A few of the girls interviewed by Human Rights Watch recounted a chain of events that began with trafficking and ended with sex work. Human Rights Watch interviewed ten child sex workers in Dekon, a neighborhood in central Lomé known locally as the *marché du petit vagin* (literally, "market of the small vagina").<sup>144</sup> Of them, at least three had been recruited, transported or received in Lomé for the purpose of labor exploitation, consistent with the legal definition of child trafficking: Each of these girls recounted arriving in Lomé to work as a housemaid or in the market, having been offered a job or an education by a relative, family friend or stranger. Their entry into sex work apparently began when, after enduring conditions of exploitation or abuse, they took to the streets and found themselves needing money.<sup>145</sup>

- Seventeen-year-old Vodou K., from Tsévie, Togo, said her father left for Ghana when she was very young, and her mother died when she was fifteen. She told Human Rights Watch that an elderly woman approached her at her mother's funeral and said she should come to Lomé and work as a housemaid. She agreed, but after four months of work her boss abandoned her and told her to go back home. She then went to stay with a friend who was a sex worker, and her friend convinced her to try sex work. At the time of her interview, Vodou K. said she had been in sex work for a year. Though she said she made about 3,000-5,000 CFA (U.S.\$4.50-\$7.50) per night at first, she now makes only about 1,000 CFA (U.S.\$1.50) per night. She said that on the advice of outreach workers, she always asks her clients to use condoms; however, interviews with other child sex workers cast doubt on girls' actual condom use.<sup>146</sup>
- Alaba M., age nineteen, is from Nigeria. She told Human Rights Watch she was seven when both of her parents died and her aunt brought her to Togo. When she arrived, she said, she stayed with her aunt in a suburb of Lomé and helped her in the market. She recalled selling bread while her aunt sold cigarettes and soda. She never went to school. She said her aunt's children were very cruel to her, making her carry their bags home from the market, ordering her to do their work, beating her, and teasing her for being an orphan and a servant. After eight years, she finally left and went to stay with one of her aunt's daughters. She said she then met a girl who had beautiful clothes and asked her where she got them. The girl suggested she try sex work. Alaba had been working as a sex worker in Dekon for a month at the time of her interview with Human Rights Watch. She said she insists on condom use, but sometimes clients offer her 10,000 CFA (U.S.\$15) for unprotected sex.<sup>147</sup>
- Seventeen-year-old Sefako K., from Aneho, told Human Rights Watch that her mother died about a year previously. She said her mother had been growing very thin, and that she was told by her grandmother that her mother was bewitched. She recalled a woman approaching her and asking her if she wanted to make

<sup>143</sup> Human Rights Watch interview, Lomé, May 15, 2002.

<sup>144</sup> PSI-Togo, "Visite de reconnaissance auprès des travailleuses du sexe de Lomé" (April 11, 2002).

<sup>145</sup> Anne Kielland, a consultant for the World Bank, told Human Rights Watch she found a similar pattern in several unofficial interviews with child sex workers in Benin in the late 1990s. Kielland interviewed seventy-one child sex workers, of whom twenty-four were Togolese, in two cities in Benin. In her view, at least 80 percent of the girls had initially been employed as domestic workers in Benin, "many of them probably trafficked." E-mail communication to Human Rights Watch from Anne Kielland, May 30, 2002.

<sup>146</sup> Human Rights Watch interview, Lomé, May 17, 2002. On girls' incentives not to use condoms or inability to negotiate condom use, see Human Rights Watch interviews with Alaba M., Sefako K. and Efua S., this section.

<sup>147</sup> Human Rights Watch interview, Lomé, May 17, 2002.

some money in Lomé. The woman brought her to another woman who sold rice in Dekon, and she was offered a room and 200 CFA (U.S.30¢) per day to wash dishes. Although the money was reportedly deposited into a *tontine* on her behalf, she said she was never allowed to withdraw. She decided to go live with a boyfriend, whom she then left to live with a girlfriend. She said her girlfriend was doing sex work and suggested she start going out with her. She now makes about 1,000-1,500 CFA (U.S.\$1.50-\$2.25) per night as a sex worker. Once, she said, a man offered her 6,000 CFA (U.S.\$9) to have sex without a condom and she said yes.<sup>148</sup>

Girls who engage in sex work face heightened risk of HIV infection. A 1992 study of sex workers in Lomé reported that nearly 80 percent of the women tested were HIV-positive.<sup>149</sup> While there are no official estimates of condom use or condom availability among this population, informal interviews with twenty-seven child sex workers in Dekon by the NGO Population Services International (PSI) revealed that condom use was “virtually nil.”<sup>150</sup> In interviews with Human Rights Watch, most child sex workers said they did not make their clients use condoms at first, but they did now because of the efforts of outreach workers.<sup>151</sup> In addition, some girls said clients continued to offer them extra money to forgo condom use, and that sometimes they welcomed the extra income. Nineteen-year-old Efua S., who came to Lomé from Ghana, added that fears of violence made it difficult to insist on condom use. “If I don’t pay my rent, they beat me up,” she told Human Rights Watch. “I try to use condoms, but sometimes the clients get rough. Three days ago, some guy invited me to his house, and when I got there there was a group of men wanting to sleep with me, one after another. I had to run away.”<sup>152</sup>

According to one villager in Afanyagan, the risk of contracting HIV/AIDS is particularly high for children trafficked to Abidjan, the economic capital of Côte d’Ivoire. “Ask children where AIDS comes from, and they’ll tell you ‘Abidjan,’” the villager told Human Rights Watch. “They call the people who have come back from Abidjan ‘not yet symptomatic.’ That’s why now no one wants his or her child to go to Côte d’Ivoire.”<sup>153</sup>

In addition to girls who find themselves driven into sex work once they leave their homes, girls trafficked into other forms of labor may also find themselves at risk of (noncommercial) sexual abuse. Trafficked girls who work as housemaids, in particular, may be exposed to sexual abuse in the household. Some of Human Rights Watch’s witnesses reported staying in the same bedrooms as older boys or men from their employer’s family or family acquaintances; others recalled boarders renting rooms from their employers. “There were a man and a boy there,” said one girl, trafficked at age seven. “I was afraid the boy would rape me.”<sup>154</sup>

Girls also faced situations of vulnerability to sexual abuse when, after leaving places to which they were trafficked, they were offered assistance by male strangers. Some such assistance was clearly well intentioned (see below, under “return”), but the risk to girls is obvious. Amina Kodjovi-Numado, director of Terre des Hommes’ Oasis Center, told Human Rights Watch that between January and May 2002, approximately twelve children arrived at the Oasis Center saying they had been sexually abused. “The sexual abuse cases are quite numerous,” agreed Professor Djassoa Gnansa, a psychologist who counsels children at the Oasis Center. “Girls can be cornered in a bedroom. Sometimes someone abuses their kindness—they say, ‘bring me a cigarette, bring me water’ and then they corner them.”<sup>155</sup> Suzanne Aho recalled thirty-seven cases of sexual abuse against trafficked girls in the past year; she told Human Rights Watch that “some of the girls who come back are [HIV] positive.”<sup>156</sup>

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<sup>148</sup> Human Rights Watch interview, Lomé, May 17, 2002.

<sup>149</sup> WHO/UNAIDS, “Togo,” Epidemiological fact sheets on HIV/AIDS and sexually transmitted infections, p. 3.

<sup>150</sup> The sex workers interviewed by PSI came not only from Togo, but from Ghana, Nigeria, and Benin. Many said they had entered sex work because, having been mistreated by their host families, they were forced to escape and live in the street. PSI-Togo, “Visite de reconnaissance.”

<sup>151</sup> The girls interviewed by Human Rights Watch were identified through Forces en Action pour le Mieux Être de la Mère et de l’Enfant (FAMME), an outreach organization that specializes in women’s health and condom distribution.

<sup>152</sup> Human Rights Watch interview, Lomé, May 17, 2002.

<sup>153</sup> Human Rights Watch meeting with villagers, Afanyagan, April 29, 2002.

<sup>154</sup> Human Rights Watch interview, Afanyagan, April 29, 2002.

<sup>155</sup> Human Rights Watch interview with Prof. Gnansa C. Djassoa, Lomé, May 8, 2002.

<sup>156</sup> Human Rights Watch interview with Suzanne Aho, Lomé, May 6, 2002.

Kodjovi-Numado told Human Rights Watch that Terre des Hommes administers an HIV test to every girl who says she has been sexually abused and whose parents cannot be located.<sup>157</sup>

## Return

Girls interviewed by Human Rights Watch recounted spending anywhere from three months to nine years in their city or country of destination, after which they either fled or left with their employer's permission. As described above, many recounted fleeing after an incident of physical abuse.

When asked to describe their return home, girls reported coming under the protection of Togo's repatriation and reintegration procedures (these are detailed in Section VII: State Response), and of spending time in local police stations, in the offices of the Department of Social Affairs, and/or in NGO-operated shelters such as Terre des Hommes' Oasis Center in Lomé. Some who had been trafficked to a foreign country said they spent time in the Togolese embassy before being flown back to Togo. One child recalled her trafficker having to pay for her airfare back to Togo, a requirement that journalist Birgit Schwarz found to be common in her interviews with trafficked girls.<sup>158</sup> According to Schwarz, who accompanied several girls on a flight from Gabon to Togo after they were found in Libreville, Gabon, and brought to the Togolese embassy repatriated children were typically met at the airport and photographed by a representative from the Ministry of Social Affairs.<sup>159</sup>

Other, less fortunate girls described falling through the cracks of the reintegration process. They recounted spending nights in the street, knocking on the doors of churches and accepting the kindness of strangers. One child told Human Rights Watch she accepted a ride from a Nigerian driver who dropped her on the side of the road long before reaching her village.<sup>160</sup> Another said that, at the age of fifteen, she agreed to marry someone in exchange for being taken back to Togo. "I was desperate," she said, "so I said yes just to get out. Now my brothers are working hard in the fields to pay off that boy so I don't have to marry him."<sup>161</sup>

Déla N. described for Human Rights Watch how she made it all the way from Nigeria to Togo before the police intervened:

I met a man I knew and he asked me why I was leaving. I didn't say anything, only that I was going back to my mother. He gave me 2,000 CFA [U.S.\$3] and gave me directions telling me how to get home. I spent 300 naira [U.S.\$2.50] on a truck to the Benin border. There I took a car to the border of Togo and Benin. When I arrived it was nighttime, so I had to sleep there. It cost fifty CFA [U.S.7¢] to sleep [at an inn], and the next day I discovered my money was stolen.<sup>162</sup>

After arriving in Togo, Déla said she was invited into the home of an older, male stranger:

I met a man making tea on the roadside—he called me, I went over, and he asked me what happened. I told him everything. He asked me to stay with him for the following day and said he would take me to my house. I went to his house on Saturday and stayed there Saturday and Sunday. He promised he would take me to my village. He asked some people if he should do this, and they said it wasn't the right thing to do, that it would be better to bring me to the police. He brought me there, and they brought me home.<sup>163</sup>

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<sup>157</sup> Although Kodjovi-Numado was not able to provide figures on the percentage of girls who test HIV-positive, she said there were two children currently living in the Oasis Center who had tested positive. She was not, however, able to confirm whether these two children had been trafficked. Human Rights Watch interview with Amina Kodjovi-Numado, director, Oasis Project, Terre des Hommes, Lomé, May 7, 2002.

<sup>158</sup> Human Rights Watch telephone interview with Birgit Schwarz, New York, June 4, 2002.

<sup>159</sup> Ibid.

<sup>160</sup> Human Rights Watch interview, Hahatoo, May 11, 2002.

<sup>161</sup> Human Rights Watch interview, Bassar, May 3, 2002.

<sup>162</sup> Human Rights Watch interview, Lomé, May 14, 2002.

<sup>163</sup> Ibid.

A similar experience was recounted by Afi A. and Ama D., the two girls trafficked to Anié to bake and sell bread. After selling 1,500 CFA (about U.S.\$2.25) worth of bread one day, they took that money and escaped by paying a bus driver to take them back to Sirka, their home village. Midway through the journey, however, the driver reportedly told them that 1,500 CFA was not enough and dropped them on the side of the road. They said a stranger found them and took them to officials from Social Affairs in Sotouboua, and from there they were taken to Sokodé. Social Affairs found temporary housing for them in Sokodé for two nights, after which they said they were brought to Kara to await their parents.

In one case documented by Human Rights Watch, a girl said she was intercepted by police at the border and placed in juvenile detention for five days, a practice that Judge Emanuel Etorh, chief magistrate of Togo's children's court, insisted he did not authorize.<sup>164</sup> "The police stopped us at the border and asked where we were going," the girl said. "First they took me to the lock-up, and I was there for one night with three other girls and two women. After one night, they took me to the detention center where I was questioned. I was there for five nights, and then Terre des Hommes came and took me back to the village."<sup>165</sup>

### **Girls Trafficked to Togo from Other Countries**

Although Togo is principally a "sending" state with respect to child trafficking, Human Rights Watch interviewed some girls who were trafficked to Togo from Ghana or Nigeria. The precise extent of child trafficking to Togo is not known, although ILO-IPEC notes that most children who are trafficked to Togo come from the Mono region in Benin and the Volta region in Ghana. The ILO-IPEC report does not specify whether children trafficked to Togo tend to be boys, girls or both. However, the fact that a significant number of girls are trafficked into domestic and market labor from the interior of Togo to Lomé suggests that there is a substantial demand for female child labor in that city, which may be filled in part by girls from neighboring countries.

One girl from Nigeria, trafficked to Lomé when she was fourteen, told Human Rights Watch she expected to be attending school in Lomé but ended up working as a housemaid and in the market for five months. "I couldn't even stay with [my boss]," she said. "I slept outside, and the woman slept at home."<sup>166</sup> Another, trafficked from Accra, Ghana when she was fifteen, said she was brought to the home of her grandmother's sister and was told to look after the woman's baby. She said she was beaten whenever the baby cried and that eventually she escaped and ended up at Terre des Hommes' Oasis Center.

When Human Rights Watch met ten-year-old Abena R., she had recently arrived at the Oasis Center with a badly fractured hand. She said that when she was seven years old, her sister urged her to accompany a stranger from her home in Accra to Lomé. "I never knew the woman before," Abena said. "She took me in a car from Accra to Lomé. I was alone, and it took two to three hours."<sup>167</sup> When Abena arrived in Lomé, her trafficker brought her to another woman, who made her prepare food, wash her children's clothes and wash dishes. "She often beat me," Abena said. "She would ask me to do some work and would say, 'Do it quickly or I'll beat you!'"<sup>168</sup> One day, Abena went to fetch ice water for somebody instead of bringing her boss a chair as she was asked. "When I came back, my boss yelled at me and beat me with a stick," she said. "She broke my hand. She didn't take me to the hospital."<sup>169</sup> According to Terre des Hommes, Abena's hand is paralyzed and may never heal.

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<sup>164</sup> Although the girl did not identify the border she attempted to cross, she did say she was bound for Nigeria and that she and her aunt "only got as far as Lomé" before "the police caught up with us at the border." The border was probably the one between Togo and Benin, approximately 70 kilometers from Lomé. Human Rights Watch interview, Bassar, May 3, 2002.

<sup>165</sup> Ibid.

<sup>166</sup> Human Rights Watch interview, Lomé, May 17, 2002.

<sup>167</sup> Human Rights Watch interview, Lomé, May 17, 2002.

<sup>168</sup> Ibid.

<sup>169</sup> Ibid.

## CASE STUDY: SÉLOM S., AGE THIRTEEN

Séлом S.'s mother died in 1988, and his father died in 1994. Three years before his father died, Séлом stopped going to school. He continued living with his two younger brothers and his older brother, a mechanic.

One day, an older man asked Séлом if he wanted to go to Nigeria. The man said if he went with him, he would teach him a trade and give him a bicycle, a radio and batteries. He said that if Séлом wanted, he could sell the bicycle and radio and pay for school. Séлом decided to go, but he didn't say anything to his older brother. He knew that if he had asked for permission, his brother would have refused.

The man told Séлом to meet him at Balanka, a village near the Benin border, at night. When he got there, Séлом saw that there were many other boys there as well. The man told all the boys to get into a truck, and they drove to the border of Togo and Benin. At the border, the man ordered the boys to get out of the truck and pass through the bushes, one by one, on foot. Once across the border, the boys got back into the truck and drove for three days. The truck was packed full, and there was not enough food to go around.

When he arrived in Nigeria, Séлом was driven to the village of awo, near the city of ibadan. Two hours later, he was brought to a farm and told to go work in the fields. The man who brought him said that if he didn't work hard, he would not be able to eat. He added that he would find sélom work on many different farms, and that any wages would pay for Séлом's trip to Nigeria.

Séлом worked in Nigeria for eleven months, clearing fields and planting yam shoots into small hillocks. He worked from 5:00 a.m.-6:00 p.m. every day, and slept outside in makeshift huts. Sometimes he was forced to use machetes to cut tree branches. Once he nearly cut his finger off, and his hand was completely swollen after 2 days. When he showed his boss the injury, his boss said, "That's nothing—you are too lazy to work."

After eleven months, Séлом's boss gave him a bicycle and told him to ride it home to Togo. The boss gave him three bowls of gari and 6,000 CFA (U.S.\$9) and told him to share it with five other boys. On the route from Nigeria to Benin, Séлом and the other boys had to bribe soldiers with 100-200 CFA (U.S.0.15¢-0.30¢) to let them pass. Sometimes they were stopped by bandits, who demanded 500 CFA (U.S. 0.75¢) or forced them to sell their radios for a low price. They slept in fields or bushes, and when they got hungry they uprooted raw cassava from the fields.

After four days, Séлом made it back to Togo. Now his brother is looking after him, and sometimes he helps his brother fix cars. He can't afford to go to school. If he finds work in a field somewhere, he takes it.

## VI. EXTERNAL TRAFFICKING OF TOGOLESE BOYS

Unlike girls, boys interviewed by Human Rights Watch were not trafficked into domestic and market labor, nor were any of them trafficked within Togo. Rather, with the exception of one child trafficked into factory work in Côte d'Ivoire,<sup>170</sup> boys were trafficked to Benin or Nigeria where they performed long hours of difficult, unpaid agricultural labor—amounting, as in the case of girls, to a practice similar to slavery.<sup>171</sup> Boys interviewed by Human Rights Watch typically said they could not afford to attend school and had few opportunities for apprenticeships or paid work in Togo. Promised highly coveted goods such as bicycles, radios and sheet-metal roofing, they readily succumbed to the offers of child traffickers and in some cases encouraged their friends to accompany them abroad. Only after months or sometimes years of difficult labor, characterized by beatings, insufficient food and compulsory use of hazardous equipment, did these boys realize they had been duped. Human Rights Watch found scant evidence of the state intervening to protect trafficked boys at any stage of the trafficking process. On the contrary, interviews revealed that border patrols sometimes accepted bribes from traffickers taking large numbers of boys into Benin, and that armed soldiers sometimes stopped boys on their journeys home from Nigeria and demanded bribes for permission to let them go.

### Recruitment

Most boys interviewed by Human Rights Watch were not recruited through an arrangement between their parents and an intermediary, but instead were approached directly by a trafficker and enticed by the prospect of paid work, vocational training or material rewards. “I thought if I could go to Nigeria and get rich, I could come back and learn a trade,” explained Etse N., trafficked to Nigeria in 2001 at age seventeen. “We were poor and had no money . . . and I wasn’t doing anything.”<sup>172</sup> Even more tantalizing to Etse was the thought of coming home with a radio, a bicycle, or some other luxury he had admired in his friends. “Some even brought second-hand motorcycles,” he said. “They told me they went to Nigeria, worked in the fields and made a lot of money.”<sup>173</sup>

Human Rights Watch documented numerous strategies used to recruit boys into working abroad. “[The boys] start hanging around the [bus] stations, and traffickers look for them there,” one local education official said.<sup>174</sup> Tchaa N., trafficked to Nigeria for nine months, recalled that “[s]omeone from my village approached me in the street and told me if I went with him, I would be able to buy everything I needed.”<sup>175</sup> Tchaa said he brought his cousin along, a boy of nine who had just started grade four. Almost every trafficked boy interviewed by Human Rights Watch said something about being offered a bicycle, a radio or some other commodity by his trafficker. One child, trafficked with his half brother four years ago, recalled:

A man came around to both our houses. He was someone our families knew. He talked to us about work we could get in Nigeria. In the end, suffering is suffering. We had to do something. I tried hiring myself out with a *pousse-pousse*<sup>176</sup> and that didn’t work. But this man, Mr. M. . . —who is now dead—said we could work and we would get radios and a bike. I needed both.<sup>177</sup>

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<sup>170</sup> By comparison, the ILO-IPEC country study on child trafficking in Togo concluded that boys were “principally sent to Nigeria and Côte d'Ivoire.” Abalo, “Trafic des enfants au Togo,” p. xv. The fact that only one child interviewed by Human Rights Watch was trafficked into factory work in Côte d'Ivoire does not mean the phenomenon is rare. Human Rights Watch only conducted interviews of formerly trafficked children currently residing in Togo. This may have excluded entire groups of children still living and working abroad in Côte d'Ivoire or any number of “receiving” countries. The fact that so many boys reported doing agricultural work in Nigeria may reflect the fact that these boys were instructed by their traffickers to return home to Togo after a period of work.

<sup>171</sup> A more detailed discussion is provided in Section VIII: “Legal Protection against Child Trafficking,” below.

<sup>172</sup> Human Rights Watch interview, Élavagnon, May 10, 2002.

<sup>173</sup> Ibid.

<sup>174</sup> Human Rights Watch meeting with villagers, Bafilo, May 2, 2002.

<sup>175</sup> Human Rights Watch interview, La Binah, May 3, 2002.

<sup>176</sup> A pushcart.

<sup>177</sup> Human Rights Watch interview, Bassar, May 3, 2002.

Of thirty-one trafficked boys interviewed by Human Rights Watch, sixteen said they left without their parents' knowledge and, further, that their parents would not have approved of their leaving. In other cases, the degree to which parents anticipated personal benefit from their children's work away from home appeared ambiguous. One parent, furious that her child left for Nigeria without her permission, reportedly also expressed disappointment that the child did not return with sheet-metal roofing for the house. Another reportedly forbade his son from going but said that he could go when he was older.

"A father who sends his child to Gabon or Côte d'Ivoire with the intention of having the child work and bring money home does not intend the death of his child," Justice Emanuel Etorh, chief magistrate of Togo's children's court, told Human Rights Watch. "He only wants to promote the child's upbringing because he's in a very difficult situation and thinks he can ameliorate it."<sup>178</sup> Victoire Lawson, project coordinator for the Togo branch of the Bureau International Catholique de l'Enfance (International Catholic Children's Bureau, or BICE), speculated that parents were more willing to send away girls than boys, as parents place a higher value on the education of the latter. "When a boy is a victim of trafficking, the parents are more likely to speak up," Lawson said.<sup>179</sup> Some local authorities were more cynical. "Parents want the sheet metal for their roofs, and they seem to think if their child continues and succeeds at school, the roofing will be delayed," said Zakar T. Nambiema, prefect of Bafilo. "I have never had a parent complain that his/her child has disappeared—never one time. This is the mark of their complicity."<sup>180</sup>

The father of Wiyao A., twelve, told Human Rights Watch that a trafficker showed up at his wife's funeral and offered to take one of his sixteen children to carpentry school in Côte d'Ivoire. "The man didn't say how much he would make, or what the work would be like," the father said. "I didn't have any fears, because I thought the man was an honorable man. I had known him for a long time and thought he wanted to help me."<sup>181</sup> When Wiyao arrived in Abidjan, the economic capital of Côte d'Ivoire, he said he was taken to a carpentry workshop where six older boys were working—three from Abidjan, and three from Togo like him. "We had to get up at 4:00 a.m., clean the workshop and start working by 6:00," he said. "We sometimes worked until 8:00 or 9:00 p.m.—they had lights so that we could work at night."<sup>182</sup>

For orphans, a lack of parental support renders them vulnerable to being trafficked multiple times. Atsou S. was first trafficked to Nigeria at age eleven, and when he got home there was no one to take care of him. "I stayed in Togo for two weeks and then had to leave again," he told Human Rights Watch. "There was nothing for me at home, so I thought it would be better to go back and find work."<sup>183</sup> He said the second boss was nicer than the first, which emboldened him to go again. "The third time," he said, "I left for Balanka and met a group. I stayed one year and then bought another bike and radio and came back. I have now sold both bikes and have one radio left."<sup>184</sup> In all of these cases, Atsou was brought to Nigeria by an intermediary who profited from his labor. Atsou said he would spend the money he made from selling his bicycles on his ailing grandmother. "If I leave again there will be no one to look after her," he said. "Here I can work on people's farms and make 500 CFA [U.S.75¢] for a day's work. They only need my help during the rainy season, though, and there hasn't been any rain yet this year. I am waiting for the rain."<sup>185</sup>

## Transport

Once recruited, boys endured long, sometimes dangerous journeys to their countries of destination. Boys trafficked from Togo to Nigeria told Human Rights Watch that they were transported across Benin and into southwest Nigeria. Each journey began with a trafficker setting a time and a place to meet the child in his

<sup>178</sup> Human Rights Watch interview with Emanuel Etorh, chief magistrate, Togo children's court, Lomé, May 13, 2002.

<sup>179</sup> Human Rights Watch interview with Victoire Lawson, project coordinator, BICE-Togo, Lomé, May 14, 2002.

<sup>180</sup> Human Rights Watch interview with Zakar T. Nambiema, prefect of Bafilo, May 2, 2002.

<sup>181</sup> Human Rights Watch interview with father of Wiyao A., Vo, May 16, 2002.

<sup>182</sup> Human Rights Watch interview with Wiyao A., Vo, May 16, 2002.

<sup>183</sup> Human Rights Watch interview, Élavagnon, May 10, 2002.

<sup>184</sup> Ibid.

<sup>185</sup> Ibid.



village—sometimes late at night, almost always at some distance from the boy’s house. At the rendezvous point, the child would typically be joined by other children from his village, all of them destined for work abroad. After assembling a small group of children, the trafficker would either take the children directly to Nigeria in a car, or keep them on the Togo side of the Togo-Benin border and await more children. From these border towns—Pagouda, Tchamba, Balanka, Kambolé—large groups of boys would cross into Benin and travel overland for several days into Nigeria.

Human Rights Watch’s interviewees described traveling along diverse routes and in groups of various sizes. In one case, two boys said they traveled from Sotouboua, a town not far from Togo’s western border, east to Sokodé, and then to the town of Tchamba where they met forty-three other boys. There all forty-five boys boarded a fifteen-seat truck and spent three days traveling to Nigeria. In another case, a boy from Dereboua said he traveled with two others to Kambolé—itself a circuitous journey—and then to Tchamba where he met eight others. Another frequently mentioned transit point in Togo was Balanka, a village just north of Kambolé on the Benin border. Several boys from the prefecture of Élavagnon reported taking long journeys to Balanka, where they crossed the border to Benin and met a large contingent—sometimes up to 250 boys—on the other side. One described his journey:

On the other side, another truck was waiting for us. It had no seats, so we had to stand up in the truck. We were 250 people in one truck, all standing. It was hot and we were falling on each other. The truck became so full that some boys had to sit on the edge. The boys on the edge would sometimes get hit by a tree and fall down—one boy fell from the truck and broke his leg. There was no hospital because we were in the bush, so we just picked him up and put him back on the truck. We drove in that truck for seven days, taking detours to avoid the soldiers. Sometimes we took the same route used to herd cattle from Nigeria to Benin. At night we got off the truck and slept in the bush.<sup>186</sup>

At the Benin-Nigeria border, boys reportedly received various instructions from their traffickers on how to avoid police and immigration officials. In no case did a child interviewed by Human Rights Watch remember passing through a proper checkpoint; rather, children testified to being made to get out of the trucks at the border, crawling through the bush and taking multiple detours. “There were soldiers there,” said one, “and the person who took us said we could be returned if we didn’t hide. So we got out and walked around the fields, so they could say we were just peasants in the fields.”<sup>187</sup> In most cases, boys testified to having evaded border patrols by being sent one by one, across rivers and through the bush, sometimes with the help of a paid accomplice.

Some testimony revealed collusion between traffickers and the border patrol. “We were told to bribe the guards if we got caught,” said one boy, who was traveling without about fifty other children. “The trafficker gave us some money and told us to bribe them.”<sup>188</sup> One of the boys being transported in the group of forty-five in a fifteen-seat truck (see above) said his trafficker was told by an official to pay a “surcharge.”<sup>189</sup> Human Rights Watch interviewed only one child who was stopped at the border en route to Benin. After bringing the boy home, the police arrested both the trafficker and the boy’s father, who had allegedly consented to the trafficking.<sup>190</sup> The boy’s father told Human Rights Watch he was imprisoned for twenty-five days; according to the boy, the trafficker was still in prison at the time of Human Rights Watch’s visit.

Truck journeys like the one described above lasted up to eight days, depending on how direct the route was and how often the truck broke down. Atsou S., fourteen, told Human Rights Watch that the first time he was trafficked, the back of the truck physically broke apart from the front:

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<sup>186</sup> Human Rights Watch interview, Élavagnon, May 10, 2002.

<sup>187</sup> Human Rights Watch interview, Sotouboua, May 4, 2002.

<sup>188</sup> Human Rights Watch interview, La Binah, May 3, 2002.

<sup>189</sup> Human Rights Watch interview, Sotouboua, May 4, 2002.

<sup>190</sup> Human Rights Watch interview, Tchamba, May 2, 2002.

My friend and I walked to Balanka and got on a truck to Nigeria. When the truck was passing through the bush, the back split in half and we all fell off. We had to wait a day for a second truck. There were nearly 200 children on that truck. When we got to the border, we got off and someone helped us across, where another truck was waiting. It took us eight days to get to Nigeria.<sup>191</sup>

Road travel in the region is notoriously dangerous, most roads being narrow, pot-holed and composed of hard-packed sand.<sup>192</sup> Crossing Benin from west to east requires traversing up to three rivers—the Couffo in the south, the Zou and the Ouémé in the east. Children interviewed by Human Rights Watch reported swimming across rivers, pushing vehicles through shallow water and crossing in small boats or canoes. One described the river crossing as “wild.” Another described having to cross the border at night and keep the truck from tipping into the river:

It was night when I got to Balanka. We left at 6:00 pm and got to the Benin border by 10:00. When we got to the border there were many routes to take—we got off the truck and passed on foot through the bush to avoid the police. We went one by one and had a meeting point on the other side. When we got to the river there was no bridge, so we crossed in the truck, trying to keep it balanced so it wouldn't tip. There was no food, and the truck was packed full. When we passed under the trees, some boys hit their heads on tree branches. I nearly fell off. We spent three more days on the road, sometimes stopping in a little village to eat some *gari*.<sup>193</sup>

A small number of children recounted having been trafficked singly rather than in a group. Twelve-year-old Wiyao A., who worked in a furniture factory in Abidjan, said his trafficker first brought him to Atitogon, a small town in the far south of Togo. He slept at the man's house, and the two of them departed for Lomé the next morning. From Lomé, Wiyao said he and his trafficker took a bus to Ghana and then drove all night to the border of Côte d'Ivoire. The next day, they crossed without speaking to anyone and took a public bus to Abidjan.

### **Receipt and Exploitation**

Most of the boys interviewed by Human Rights Watch reported working on farms in the towns and villages of Nigeria's southwest plateau. The use of child labor in this region is not limited to boys trafficked from Togo, but is part of a larger phenomenon involving boys trafficked from Nigeria's Akwa Ibom, Cross River and Imo states. A recent article in Nigeria's *Insider Weekly* magazine identified a Nigerian “slave triangle” between Ore in Ondo State, Shagamu in Ogun State and Lagos, Nigeria's largest city. According to the former chairman of the Yakurr Local Government, an area of Cross River State reported to be hard-hit by child trafficking recruitment, the trade is largely driven by local organized crime networks who profit from selling children to local subsistence farmers.

Togolese boys trafficked to Nigeria reported working on various farms in villages near Ibadan and Ogbomosho, both cities in Oyo State. Their testimony to Human Rights Watch revealed several trafficking routes within Nigeria: from Lagos north to Oyo city; from Ibadan to Awe; and from Ogbomosho to farms in the surrounding area. All of the areas in which they remembered working were either in Oyo state or in neighboring Oshun state.

Boys reported that from the beginning of the dry season in January until the end of the second rainy season in October, they cultivated yams, cassava, rice, beans, peanuts, sorghum, maize, sesame, and millet. Boys trafficked to Benin said they worked on cash crops such as cotton and cashews.

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<sup>191</sup> Human Rights Watch interview, Élavagnon, May 10, 2002.

<sup>192</sup> See, e.g., U.S. State Department, “Benin—Consular Information Sheet” (February 20, 2001), at <http://travel.state.gov/benin.html> (accessed July 9, 2002).

<sup>193</sup> Human Rights Watch interview, Élavagnon, May 10, 2002.

For the boys interviewed, work began almost immediately upon arrival and continued without respite. “We arrived in Nigeria and went straight to work,” said one fifteen-year-old, trafficked in 2001. “We weeded the fields. . . . We planted cassava, yam, rice, and sorghum.”<sup>194</sup> The tasks performed by the children, sometimes at ages as young as seven, varied. Many said they were told to shape the flat land into rows of small hillocks into which they planted yam shoots or other seedlings. “Dealing with the mounds was the hardest for us,” one said, “because we didn’t know how to do it.”<sup>195</sup> Another child, trafficked at age eleven, said the mounds were prepared row by row and, as a small boy, he had trouble keeping up with the others around him. Other tasks included weeding, clearing the brush, sowing seeds, and plowing.

According to these boys, most traffickers found short-term work for their recruits on local farms and then collected their wages. In this way, traffickers maximized their profits by assigning multiple jobs over a short period. “When we were finished with one job, they would find us another one,” said Etse N., who started in Ogbomosho with a group of nine others.<sup>196</sup> He described this routine:

If a job wasn’t big enough for nine boys, the trafficker would divide us into small groups. I worked on many different farms, and my trafficker kept looking for more jobs. I worked on maybe thirty farms a month. My trafficker wanted to make a lot of money, so he would find me jobs that were too big to handle—I’d be told to start something at 5:00 pm and not come home until I finished.<sup>197</sup>

Another child described going from one town to the next, often traveling distances of up to fifty miles, to earn money for his trafficker:

There were about twenty-five of us. We worked from 7:00 in the morning until 2:00 in the afternoon. Then we went to Isseyin, and we started the work. We worked from 5:00 in the morning until 7:00 or 8:00 at night. They gave us *gari* at noon. We did weeding, preparing the hillocks, everything, for cassava, beans, peanuts and millet. More boys would come during the harvest.<sup>198</sup>

This assigning-out system apparently provided traffickers with an incentive to maximize profits by overworking children. “It was like slavery,” said seventeen-year-old Sélom S., reportedly trafficked from Fasao after his parents died in 1994. “We worked from 5:00 a.m. to 6:00 or 7:00 p.m. without much of a break.”<sup>199</sup> The hours children said they spent working in the fields were excessive by any standard, all the more so given their age. Children recalled working fifteen-hour days, starting at 5:00 a.m. and finishing as late as 8:00 p.m. They took few if any breaks, on average an hour at lunchtime to nap or eat some *gari*. They said they worked seven days a week and took no holidays. One child, trafficked at the age of twelve, described having to work longer hours in order to keep up with the older boys:

I had to do the same work as the older boys. The smaller kids would cry because the work was too hard. We told our boss the work was too hard, but he said we had to continue. If we didn’t finish our day’s work, he would make us get up at 3:00 a.m. the next day instead of 5:00 a.m. We had one rest at lunchtime and worked until 8:00 p.m.<sup>200</sup>

Many boys described conditions of bonded labor, or working in conditions of servitude in order to pay off a debt. “[My boss] said he would pay for the trip and I could work off the money,” said Mawuena W., trafficked when he was eleven. “We worked from 6:00 in the morning until 6:30 at night, and at mid-day they gave us *gari*

<sup>194</sup> Human Rights Watch interview, La Binah, May 3, 2002.

<sup>195</sup> Human Rights Watch interview, Bassar, May 3, 2002.

<sup>196</sup> Human Rights Watch interview, Élavagnon, May 10, 2002.

<sup>197</sup> Ibid.

<sup>198</sup> Human Rights Watch interview, Sotouboua, May 4, 2002.

<sup>199</sup> Human Rights Watch interview, Sotouboua, May 4, 2002.

<sup>200</sup> Human Rights Watch interview, Sotouboua, May 4, 2002.

and pigeonpea.”<sup>201</sup> Others described having to pay for directions home once the rainy season was over. “The boss hired someone to show us the road home, and we had to pay him, too,” he said. “He left us in Benin.” Asked why they did not flee sooner, children spoke of the fear of being in a foreign country, the fact that they had no money with which to get home, and the hope that the next job would be easier than the last. “I didn’t know where to go,” said Mawuena W. “I didn’t know the place where we were, and the man kept saying if I wanted a bike, I would have to work.”<sup>202</sup>

### Exposure to Hazards and Abuse

Most boys interviewed by Human Rights Watch reported suffering physical injuries on the job. Some of these were from corporal punishment by their employers. “If you didn’t work well or fast enough, they punished you,” said one child. “You had to go draw and transport water all day or you were beaten with a stick. I was beaten ten times.”<sup>203</sup> Another child said younger children bore the brunt of the beatings. “Our boss would attack us if we complained, or beat the younger kids with a stick if they didn’t work hard enough,” he said. Having kept in contact with some of the younger children with whom he worked, this child said they were still scarred from their beatings.<sup>204</sup>

Other injuries resulted from the compulsory use of dangerous equipment. A few boys said they used machetes to cut the branches off trees, sometimes leading to physical injury. “It was only when someone had a cut on the leg from a machete or something else that they could see bleeding that they would let you stop working,” one child told Human Rights Watch.<sup>205</sup> Others were not permitted to stop working if they sustained an injury. “I nearly cut my finger off with the machete. My hand was completely swollen after two days,” said one boy. “I showed the boss, and he said, ‘That’s nothing—you are too lazy to work.’”<sup>206</sup> Wiyao A., whose job was to saw and sand wood for furniture, cut himself twice with a saw, once on each hand.<sup>207</sup> “Our boss never took us to the hospital,” Wiyao said when asked about his injuries. “When we said we were sick, he would accuse us of lying.”<sup>208</sup>

The fear of being sick or injured and thereby having to make up time or endure punishment was a recurring theme in Human Rights Watch’s interviews with trafficked boys. “Because I got sick and couldn’t work more, I didn’t get a radio,” said one child, who reportedly worked on a farm for eight months.<sup>209</sup> Mawuena W., trafficked when he was eleven, told a similar story. “One time I got sick with malaria and had to go to the hospital,” he said. “At the end I got a bike, but they didn’t give me a radio because I had been sick and missed time.”<sup>210</sup> Others said they kept their sickness to themselves, fearing they might even be deprived of food. “If you are ill and can’t work,” one said, “you are forced or you won’t be able to eat.”<sup>211</sup>

### Return

Boys who worked in agriculture in Nigeria recounted spending anywhere from eight months to two years abroad, after which they were released by their traffickers.<sup>212</sup> Typically around October or November, they said, they were given a bicycle and some other compensation such as a radio or sheet-metal roofing and instructed to find their way home. Some boys recalled being given cash for food or transportation, while others said they were referred to accomplices who charged them for indicating the path home. In one case, three boys said they found

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<sup>201</sup> Human Rights Watch interview, Sotouboua, May 4, 2002.

<sup>202</sup> Ibid.

<sup>203</sup> Human Rights Watch interview, Bassar, May 3, 2002.

<sup>204</sup> Human Rights Watch interview, Élavagnon, May 10, 2002.

<sup>205</sup> Human Rights Watch interview, Sotouboua, May 4, 2002.

<sup>206</sup> Human Rights Watch interview, Élavagnon, May 10, 2002.

<sup>207</sup> Human Rights Watch interview, Vo, May 16, 2002.

<sup>208</sup> Ibid.

<sup>209</sup> Human Rights Watch interview, Sotouboua, May 4, 2002.

<sup>210</sup> Human Rights Watch interview, Sotouboua, May 4, 2002.

<sup>211</sup> Human Rights Watch interview, Élavagnon, May 10, 2002.

<sup>212</sup> The most common lengths of stay were nine months, eleven months and one year. Two boys reported working abroad for two years.

temporary paid work in Nigeria after being released from their traffickers. Many boys said they sold everything but their bicycles in order to pay for food, directions or bribes. The bicycles were often sold on arrival.

As detailed below (see Section VII: State Response), the Togolese government has a policy of assisting trafficked children with safe return home and prosecuting the perpetrators. In interviews with Human Rights Watch, however, boys did not recall receiving any state assistance on their journeys home, either from Togolese or foreign authorities. Those trafficked to Nigeria described unassisted journeys by bicycle from Nigeria back to their villages, lasting up to nine days. They told of being robbed, forced to bribe soldiers, and going days on end without food. “We were sent home with three bowls of *gari* and 6,000 CFA [U.S.\$9],” said one boy, who left with two friends. “On the way from Nigeria to Benin, we had to bribe soldiers with 100-200 CFA [U.S.15-30¢] to let us pass.”<sup>213</sup> His friend continued the story. “After we ran out of food, we would steal cassava from a farm and eat it raw, like pigs. We did this for three days.”<sup>214</sup> Some boys told Human Rights Watch their money was stolen by bandits on the road. “Sometimes we were stopped by people who threatened to take our bicycles,” said one boy. “They would intercept us and demand 500 CFA [U.S.75¢] or force us to sell our radios for a low price.”<sup>215</sup>

Asked about the situation of boys traveling from Nigeria back to Togo, Suzanne Aho told Human Rights Watch that some have not made it home. “There are cases of boys who have died on the road on the way back,” she said. “If someone sees the cadaver, all they can do is bury it. These boys pay with their lives.”<sup>216</sup>

Wiyao A., in factory work in Abidjan, told Human Rights Watch that he fled with a friend two years after being trafficked, after receiving news that his mother had died in a lorry accident. Like the boys trafficked to Nigeria, Wiyao and his friend did not receive any state assistance from Ivorian authorities; rather, a stranger led them to the Abidjan office of the Bureau International Catholique de l’Enfance (BICE), which housed them temporarily, arranged for a government bus to Lomé and reunited them with their families. Once they arrived home, things apparently worsened for Wiyao’s friend. “When we were in Abidjan, he was coughing a lot,” Wiyao recalled, “but our master ignored him. Whenever we complained about being sick, he told us we were lazy and just didn’t want to work.”<sup>217</sup> Shortly after he returned home, Wiyao’s friend died reportedly of tuberculosis. “They didn’t detect it early enough,” Wiyao said. “He went to the hospital, and he died almost a year ago.”<sup>218</sup>

While many trafficked boys said they were urged to return the following season for more work, most said the experience was not worth it. “The bicycle was too little for the work I did,” said one. “If I could find a job here, I could buy three bicycles for the amount of work I did.”<sup>219</sup> At the same time, boys spoke of their limited opportunities at home. “When I got home I had nothing to eat, so I looked for odd jobs,” said one boy, reportedly trafficked when he was twelve. “I would go to the bicycle repairman and help him out in exchange for food. Before I left for Nigeria I was in grade four, but now I don’t go to school.”<sup>220</sup> Others testified to a similar lack of prospects. “My parents are careful and they won’t let me go,” said one. “But I’m back in the same situation. I don’t have money to buy fertilizer, and I can’t get a government job.”<sup>221</sup> Those who tried to persuade their friends not to go to Nigeria reported dubious success. “Once we knew of five people who were going,” one said, “and we managed to stop them. But then they told everyone that we had bikes and didn’t want other boys to have bikes like us.”<sup>222</sup>

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<sup>213</sup> Human Rights Watch interview, Élavagnon, May 10, 2002.

<sup>214</sup> Human Rights Watch interview, Élavagnon, May 10, 2002.

<sup>215</sup> Ibid.

<sup>216</sup> Human Rights Watch interview with Suzanne Aho, Lomé, May 6, 2002.

<sup>217</sup> Human Rights Watch interview, Vo, May 16, 2002.

<sup>218</sup> Ibid.

<sup>219</sup> Human Rights Watch interview, Sotouboua, May 4, 2002.

<sup>220</sup> Human Rights Watch interview, Élavagnon, May 10, 2002.

<sup>221</sup> Human Rights Watch interview, Bassar, May 3, 2002.

<sup>222</sup> Human Rights Watch interview, Sotouboua, May 4, 2002.

## VII. FAILURES IN STATE RESPONSE

Ensuring a safe return home is one of the principal obligations states owe to trafficked children. West African countries are in various respects failing in this obligation.<sup>223</sup>

### “Rescue” of Trafficked Children

In no case did Human Rights Watch document a “rescue” of a trafficked child initiated by Togolese or other authorities; rather, judging from the interviews by Human Rights Watch, girls’ first encounter with authorities typically occurred after they found their way to a police station, usually with the help of civilians, while boys did not recall receiving any state assistance on their journeys home.

It has been reported, however, that police in Gabon conduct periodic roundups of trafficked children and arrange for their repatriation by the embassy of their country of origin; this action has been described as “the only regulation in existence [in Gabon] to resolve the problem of child victims of trafficking.”<sup>224</sup>

### Togo’s Official Repatriation and Reintegration Initiatives

Togolese children who are found to have been trafficked abroad are supposed to be brought to the local Togolese embassy and repatriated according to an agreement between Togo and the country of destination.<sup>225</sup>

Once in the hands of Togolese authorities, trafficked children are meant to be reunited with their families according to a protocol set by Togo’s Ministry of Social Affairs. According to Judge Emanuel Edoth, chief magistrate of Togo’s children’s court, Social Affairs helps children locate their families and, where necessary, obtains judicial authorization to place a trafficked child in an NGO-operated shelter.<sup>226</sup> Government-operated shelters for trafficked children do not exist in Togo, nor does a formal mechanism for housing abused, neglected or abandoned children. The main facility used for these purposes, based in Lomé, is run by the NGO Terre des Hommes and is known as the Oasis Center. Before the government began cooperating with NGOs such as Terre des Hommes, authorities used to place trafficked children in detention along with children in conflict with the law; this practice was officially discontinued in Togo in 1998, however.<sup>227</sup> As discussed below, Togo does not have enough facilities to accommodate all returned children who require institutional care.

The individual responsible for trafficked children at Social Affairs is the director of the Department for the Protection and Promotion of the Family and Children. Suzanne Aho, who held this position during the time Human Rights Watch conducted this research, told Human Rights Watch she took care of particular tasks like identifying children’s families, delegating temporary custody of repatriated children to local NGOs, and opening bank accounts for children who come back with money.<sup>228</sup> She also kept detailed records of trafficked children and supervised a staff of agents at the prefectural and village level. With a U.S.\$302,000 grant from the World Bank, shared with the NGO CARE-Togo, Aho developed a system for training local “vigilance committees” to monitor trafficked children once they return home and help them with education and job training. The vigilance committees are also intended to prevent future cases of trafficking by, among other things, educating parents about the dangers of child labor, and reporting suspicious activity to the police.

Journalist Birgit Schwarz, who accompanied nine trafficked girls on their return home to Togo from Gabon with the help of a Gabonese NGO, described her encounter with Togo’s reintegration process as “a web of petty

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<sup>223</sup> This obligation is found in international conventions discussed in Section VIII: Legal Protection, below, as well as in the national laws and practices of individual states.

<sup>224</sup> Adihou, “Trafficking of children between Benin and Gabon,” p. 13.

<sup>225</sup> Repatriation does not always occur pursuant to a formal agreement: while an anti-trafficking protocol has existed among Togo, Benin, Nigeria, and Ghana since 1996, no formal agreement exists as yet between Togo and Gabon.

<sup>226</sup> Human Rights Watch interview with Emanuel Edoth, Lomé, May 13, 2002.

<sup>227</sup> Ibid.

<sup>228</sup> Human Rights Watch interview with Suzanne Aho, Lomé, May 6, 2002. These accounts are theoretically blocked until children reach the age of majority, although Aho said this rule was difficult to enforce over the will of children and parents.

jealousies and people fighting with one another.”<sup>229</sup> Schwarz told Human Rights Watch that after the girls were received at Terre des Hommes’ Oasis Center, the Department of Social Affairs transferred four of the nine children to the police station. “These children were already wary of being locked up by strangers after their experience in the Niger Delta,” Schwarz said.<sup>230</sup> But when she and an NGO worker went to the police station to check on the children, they were reportedly interrogated without being formally arrested, and harassed. “We were told we would see the children,” Schwarz recalled, “but then the police officers accompanied us back to our hotel, searched everything, and interrogated us for several hours. We only got our film back because the [German] ambassador went straight to the president to get it returned.”<sup>231</sup> Several officials from Togolese NGOs complained of a lack of coordination between government and NGO actors in the reintegration process, leading in some cases to the interruption of services being provided to trafficked children.<sup>232</sup>

Togo’s children’s court, which has jurisdiction over children who have been abused, neglected or orphaned, faces numerous challenges when it comes to protecting trafficked children. Judge Emanuel Etorh, chief magistrate of the children’s court, told Human Rights Watch that two major obstacles faced by the court at the moment are the unauthorized placement of children in institutions and a lack of resources to investigate children’s family situations. “You can’t just place a child in an institution without the authorization of a judge,” Etorh said. “This rule is meant to protect children.”<sup>233</sup> Etorh went on to explain that the Ministry of Social Affairs is supposed to bring repatriated children to the court so that an investigation can be judicially ordered, but this is “not always how it works in practice.”<sup>234</sup> In some cases, for example, government officials invite children to their homes or take them to NGOs without judicial authorization. Though he made no suggestion of bad faith on the part of these officials, Etorh insisted it was in the child’s best interests to be placed in a court-appointed institution pending an investigation of their family situation.

As already noted, to its credit Togo has prohibited the detention of trafficked children as a matter of policy. However, this prohibition was violated in the case of the Togolese girl detailed in a police cell on her return to Togo, described above, which constitutes a breach of the child’s right to be free from arbitrary detention under article 37(b) of the U.N. Convention on the Rights of the Child. This states that the detention of a child “shall be in conformity with the law and shall only be used as a measure of last resort and for the shortest appropriate period of time.”<sup>235</sup>

The reintegration efforts described here constitute positive government interventions which, if implemented properly, can protect the human rights of trafficked children and ensure their humane return to their families. Such efforts may also prevent children from falling into other forms of hazardous work or, worse, being trafficked a second time. The system in place in Togo, however, relies exclusively on the cooperation of local NGOs and falls short of international standards regarding the return and reintegration of trafficked children. These standards, articulated in both international conventions and expert reports,<sup>236</sup> emphasize the humane reintegration of *all* trafficked children, including social, medical and psychological counseling; action to remove stigmatization of trafficked children; and promotion of schooling and vocational training. The testimony of trafficked children interviewed by Human Rights Watch, in particular their vulnerability to sexual exploitation if left without care, underscores the importance of establishing a consistent protocol for the safe return of trafficked children in Togo and applying such a protocol universally.

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<sup>229</sup> Human Rights Watch telephone interview with Birgit Schwarz, New York, June 4, 2002.

<sup>230</sup> *Ibid.* The reference to the Niger Delta refers to a coastal region of Nigeria where trafficked girls are reportedly kept while awaiting transport by boat to Gabon (see above).

<sup>231</sup> *Ibid.*

<sup>232</sup> One NGO official recounted an incident in which her organization and the Ministry of Social Affairs jointly developed a protocol to reintegrate boys who had been trafficked to Côte d’Ivoire. Two of the children were orphans, so the NGO arranged for alternative care for them. “All of a sudden [Social Affairs] decided to place them,” the NGO official told Human Rights Watch. “It was, ‘you go here, you go there,’ and that’s it.” Human Rights Watch interview with an NGO official, Lomé, May 2002.

<sup>233</sup> Human Rights Watch interview with Emanuel Etorh, Lomé, May 13, 2002.

<sup>234</sup> *Ibid.*

<sup>235</sup> U.N. Convention on the Rights of the Child, art. 37(b).

<sup>236</sup> See the discussion in Section VIII: Legal Protection, below.

## Recipient Countries' Shelter and Repatriation Services

In **Gabon**, the government only recently initiated a program to protect trafficked children, establishing in March 2002 a shelter to provide them with legal, medical and psychological assistance. The Gabonese government also provides protective services in cooperation with local NGOs, including one operated by a former high school teacher from Togo.

Although **Nigeria** has drafted anti-trafficking legislation and demonstrated a commitment to prosecuting traffickers (see below), its protection of trafficked children is modest at best. A police unit in Lagos assists in the repatriation of trafficked children and provides short-term shelter; however, many trafficked children never make it to Lagos, and services have not been established in rural areas where children are known to be trafficked.

In **Benin** and **Côte d'Ivoire**, both countries of destination of Togolese children, the government relies on NGOs and international organizations to repatriate trafficked children and provide them with much-needed assistance. Côte d'Ivoire is also known for its successful bilateral accord with Mali, under which thousands of foreign trafficked children have been repatriated since 2000.

## Prosecution of Traffickers

There is an almost total lack of prosecution of child traffickers in **Togo**. Ten traffickers were arrested or detained in 2001, only to be released in most cases for lack of evidence.<sup>237</sup> Prosecution is especially difficult in countries such as Togo, where the judiciary is not fully independent; in January 2002, an Interpol Crime Intelligence Officer told a U.N. news service that corruption often prevents prosecutors from moving forward on child trafficking cases identified by police officers.<sup>238</sup> A lack of prosecution is also the case for **Gabon**, despite the drafting of an anti-trafficking law in August 2001.<sup>239</sup> In **Benin**, also a significant destination country for Togolese children, the government has had some success in intercepting and arresting traffickers but as of this writing, had not prosecuted any cases to conclusion.<sup>240</sup> Though some prosecutions are currently underway in Benin, a Beninese police chief recently reported to a journalist that of forty-five people he had arrested and sentenced for trafficking from 1997 to 2001, none ever went to prison.<sup>241</sup> In **Côte d'Ivoire**, as in Benin, an absence of targeted legislation combined with an apparent lack of political will makes prosecution of traffickers difficult if not impossible.

In addition to being a recipient country of trafficked boys, Nigeria is a significant country of origin for women trafficked to Europe and the Middle East, and has begun several high-profile prosecutions of persons organizing this trade.<sup>242</sup>

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<sup>237</sup> U.S. State Department *Country Reports on Human Rights Practices for 2001: Togo*, at [www.state.gov/g/drl/rls/hrrpt/2001/af/8408.htm](http://www.state.gov/g/drl/rls/hrrpt/2001/af/8408.htm) (accessed August 29, 2002).

<sup>238</sup> IRIN focus on regional efforts against child trafficking, p. 3.

<sup>239</sup> U.S. State Department, *Country Reports on Human Rights Practices for 2001: Gabon*, at [www.state.gov/g/drl/rls/hrrpt/2001/af/8374.htm](http://www.state.gov/g/drl/rls/hrrpt/2001/af/8374.htm) (accessed August 29, 2002); U.S. State Department, *2002 Trafficking in Persons Report: Gabon*, at [www.state.gov/g/tip/rls/tiprpt/2002/10679.htm](http://www.state.gov/g/tip/rls/tiprpt/2002/10679.htm) (accessed August 29, 2002).

<sup>240</sup> Email communication to Human Rights Watch from Jean-Claude Legrand, January 27, 2003.

<sup>241</sup> E-mail communication to Human Rights Watch from Birgit Schwarz, July 5, 2002.

<sup>242</sup> See e.g., "Immigration Service Arrests Three Human Traffickers," *This Day*, Lagos, March 28, 2002; "Court begins trial of seven human traffickers," *The Guardian*, Abuja, May 3, 2002.



## VIII. LEGAL PROTECTION AGAINST CHILD TRAFFICKING

### National Law

#### *Togo*

Child trafficking is not specifically mentioned in Togolese law; however, as of this writing a draft anti-trafficking law was before the Togolese legislative assembly as part of a draft Children's Code. The draft Children's Code consolidates relevant provisions of the Family Code along with some provisions of international conventions ratified by Togo (for example, the Convention on the Rights of the Child and the Hague Convention against International Child Abduction) and other pieces of domestic legislation. Most of the provisions incorporating articles of the Convention on the Rights of the Child are found in Title II of the draft Children's Code (Child's Right to Special Protection) and Title III (Penal Protection of Children). Title III, which contains the proposed anti-trafficking provisions, includes protections for both children in conflict with the law (Chapter I) and child victims of violence (Chapter II).

The proposed anti-trafficking provisions are contained in articles 459 to 466 of Title III, Chapter II of the draft code. Article 460 incorporates the definition of child trafficking found in the U.N. Trafficking Protocol, which is the "recruitment, transportation, transfer, harbouring, or receipt" of a child for the purposes of sexual or labor exploitation, forced labor, or slavery.<sup>243</sup> Trafficking of children is punishable by a five-to-ten-year prison term and a fine of between 1 and 10 million CFA (U.S.\$1,500-\$15,000).<sup>244</sup> Participants in organized trafficking rings may be punished more severely, with a prison term of ten to twenty years and a fine of between 10 and 100 million CFA (U.S.\$15,000- \$150,000).<sup>245</sup> Article 462 governs "attempted trafficking," an offense punishable with five to ten years of imprisonment and a 1 to 10 million CFA fine.<sup>246</sup>

Articles 463 and 464 impose penalties on those who aid and abet child trafficking, including parents. This includes anyone who would "intentionally help in the commission of child trafficking" (Article 463), as well as parents or relatives who "give up a child for sale" (Article 464). No further definition of these practices is provided. Article 463 also imposes a one- to five-year prison term on any relative or other person who, knowing that a trafficking infraction is about to be committed, fails to report it to a relevant authority.<sup>247</sup> It reads:

ART. 463 – That relatives, intermediaries, receivers and any other person who would intentionally help in the commission of child trafficking incur the same penalties. To be sentenced to one to five years of imprisonment are the relatives to the fourth degree,<sup>248</sup> neighbors and any other persons who will have knowledge of the situation of a child who is victim of an attempted trafficking or sale in the case in which it can be supposed that a denunciation of the attempt would impede the realization of the infraction or a subsequent commission of the infraction but who would not have denounced [the crime] to competent authorities.<sup>249</sup>

It is noteworthy that, at the same time it imposes a one-to-five-year prison term on parents and relatives who assist child traffickers, the draft legislation contains no explicit provisions on the protection and reintegration of trafficked children, and only one provision calling for "appropriate" state measures to prevent child trafficking (Article 465).

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<sup>243</sup> Republique togolaise, "Projet de Code de l'Enfant," (Lomé: November, 2001), p. 79.

<sup>244</sup> *Ibid.*, art. 460.

<sup>245</sup> *Ibid.*, art. 461.

<sup>246</sup> *Ibid.*, art. 462.

<sup>247</sup> The accused must also have thought that reporting it might have prevented the infraction. See draft code, art. 463.

<sup>248</sup> This includes members of the child's immediate family, as well as grandparents, aunts, uncles and first cousins.

<sup>249</sup> *Ibid.*, art. 463. Translation from the French by Human Rights Watch.

The foregoing provisions on parental complicity were included in the draft legislation over the objections of the president of the Children's Code drafting committee, Judge Emanuel Etorh. Etorh told Human Rights Watch that "everyone [on the committee] wanted to criminalize parental involvement," including "representatives from international NGOs."<sup>250</sup> But in his view, "it does not further the rights of the child to violate human rights [of parents] in this way... If a father takes a risk with his child, we know he's committed an infraction and has to be punished. But where I part with my fellow committee members is whether such a parent should be imprisoned for six years. The punishment should be six months to a year, not six years."<sup>251</sup> Suzanne Aho agreed. "We need to soften what's written [in the draft Children's Code] on punishment of parents because of how that might affect children," she told Human Rights Watch. "Children are also stigmatized when they have a parent in prison."<sup>252</sup>

Etorh's and Aho's views contrast with many that prevail in Togo's interior. In Bafilo, a village elder asserted that for "some parents, children are just a way to make money"; another added that "parents think their children can bring back something valuable. A lot don't think [trafficking] is so bad."<sup>253</sup> Waka Cne Arregba, the prefect of Bassar, said he sometimes threatens parents with punishment to deter them from cooperating with traffickers. "In this job, I am both prefect and policeman at the same time," he told Human Rights Watch. "People are afraid of me. We have to show force and tell the parents that if they are complicit we will put them in jail."<sup>254</sup>

Human Rights Watch opposes the imprisonment of parents who cooperate with child traffickers, in particular those who cooperate merely by failing to report known traffickers to the police. Where parents are guilty of child abuse, criminal negligence or any similar offense, they should be prosecuted to the full extent of the law. However, interviews with trafficked children consistently showed that parents did not intentionally abuse or neglect their children in the course of negotiating with child traffickers, but rather became resigned to the idea of sending their children away based upon false depictions of education, professional training or paid work abroad. Under these circumstances, Human Rights Watch recommends that parental involvement in child trafficking be addressed through a system of public education and special protection for children, rather than through criminal sanctions.

In terms of special protection for trafficked children, Togo's draft Children's Code contains a general section on the protection of children from violence, abuse and neglect perpetrated by parents and third parties. The key provision is article 401, which provides that if a child's health, morals, education or security are threatened, a judge of the children's court may order the child removed from his or her family environment and placed in an institution or with a specified guardian for a period of up to twenty-four months.<sup>255</sup>

## Other Countries

Children interviewed by Human Rights Watch reported being trafficked to six different countries in West Africa, namely, Benin, Côte d'Ivoire, Gabon, Niger, Nigeria, as well as Togo. As noted above, these countries possess different levels of legal protection against child trafficking, both in terms of the prosecution of traffickers and of the protection and reintegration of trafficked children. Some, like Gabon, Nigeria and Togo, have drafted specific legislation against child trafficking and, at this writing, were in the process of enacting it. Others rely on related offenses such as unauthorized migration of children, forced labor, fraudulent entry into national territory, and kidnapping.<sup>256</sup> In either case, however, prosecution of child traffickers has been sporadic. While Benin, Côte

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<sup>250</sup> Human Rights Watch interview with Emanuel Etorh, Lomé, May 13, 2002.

<sup>251</sup> Ibid.

<sup>252</sup> Human Rights Watch interview with Suzanne Aho, Lomé, May 6, 2002.

<sup>253</sup> Human Rights Watch meeting with villagers, Bafilo, May 2, 2002.

<sup>254</sup> Human Rights Watch interview with Waka Cne Arregba, prefect of Bassar, Bassar, May 3, 2002.

<sup>255</sup> Republic of Togo, "Projet de Code de l'Enfant," p. 69. Translation from the French by Human Rights Watch.

<sup>256</sup> See generally, ILO-IPEC, "Synthesis report," pp. 39-40; U.S. State Department *Country Reports on Human Rights Practices for 2001*; U.S. State Department *2002 Trafficking in Persons Report*.

d'Ivoire, Nigeria and Togo systematically arrest and detain traffickers, they have failed to prosecute most cases to conclusion.<sup>257</sup> Gabon and Niger report few arrests of child traffickers, let alone successful prosecutions.<sup>258</sup>

In its 2001 synthesis report on child trafficking in West Africa, ILO-IPEC reviewed the various legal and policy protections available to trafficked children in West Africa and concluded that “there is an absence of legislation in almost all the countries on this theme.”<sup>259</sup> While recognizing that some prosecutions of child traffickers have taken place, ILO-IPEC noted that criminal proceedings are “complicated and out of reach of the victims” and inaccessible to parents and child welfare professionals who are “ignorant or mistrustful of the judicial system.”<sup>260</sup> In addition, the report noted that despite the minimum age for employment being laid down by law, a lack of inspection capacity on the part of the ministries of labor contributes to the enduring prevalence of child work. Finally, despite the fact that some countries, including Togo, require special authorization for minors to cross borders, the ILO-IPEC report noted that lax enforcement of immigration laws allows traffickers to evade checkpoints and transport children across borders in large numbers.

### **Regional Anti-trafficking Efforts**

Among West African countries, combined efforts against child trafficking have taken the form of bilateral agreements on the repatriation of trafficked children, negotiations for a regional anti-trafficking convention, and efforts to harmonize domestic legislation. One bilateral agreement is that between Mali and Côte d'Ivoire, established in 2000 to prohibit the trafficking of children between the two countries for labor.<sup>261</sup> Togo has had a quadripartite repatriation agreement with Ghana, Benin and Nigeria since 1996. The trafficking documented in this report suggests a need for similar cooperation with Gabon and Côte d'Ivoire.

In February 2000, officials from twenty-one countries met in Libreville, Gabon and agreed to a “common platform for action” against child trafficking.<sup>262</sup> A follow-up consultation in March 2002 produced a strong consensus for a subregional convention against the trafficking of children and established a plan for the adoption of such a convention by December 2004.<sup>263</sup> As of this writing, this convention had not been drafted.

The Libreville process has benefited from a number of regional meetings and declarations designed to increase the knowledge base around child trafficking, mobilize national governments and harmonize national legislation.<sup>264</sup> Significant among these is an “Initial Plan of Action” developed by the fifteen member states of the Economic Community of West African States (ECOWAS) in Dakar in December 2001.<sup>265</sup> Child trafficking also reached the agenda of the Organization of African Unity (OAU) Council of Ministers just before that organization became the African Union (A.U.) in July 2002. Following the recommendation of the OAU Commission on Labour and Social Affairs,<sup>266</sup> the OAU Council of Ministers resolved in July 2002 to call on member states to

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<sup>257</sup> Ibid.

<sup>258</sup> Ibid.

<sup>259</sup> ILO-IPEC, “Synthesis report,” p. 47.

<sup>260</sup> Ibid.

<sup>261</sup> “Accord de Cooperation entre La République du Mali et La République de Côte D'Ivoire en Matière de Lutte Contre le Trafic Transfrontalier des Enfants (2000).”

<sup>262</sup> “Common Platform for Action of the Sub-Regional Consultation on the Development of Strategies to Fight Child Trafficking for Exploitative Labour Purposes in West and Central Africa” (Libreville: February 22-24, 2000).

<sup>263</sup> See UNICEF, “Deuxième Consultation Sous-Régionale Sur le Trafic Transfrontalier des Enfants” (Abidjan: UNICEF-WCARO, 2002); “West and Central Africa: Region to establish child trafficking legislation in 2004,” *IRIN News*, March 20, 2002.

<sup>264</sup> See e.g., Executive Secretariat, “ECOWAS Initial Plan of Action against Trafficking in Persons (2002-2003)” (Dakar: ECOWAS, 2001); First Specialized Meeting on the trafficking and exploitation of children in west and central Africa, “Rapport de Synthèse”; Yamoussoukro Declaration on the Trafficking of Children in West and Central Africa (2002); First International Meeting for the Harmonization of National Legislation against the Exploitation of Children in the Francophone Region and other African Countries, “Declaration of Ministers” (Bamako: March 28-29, 2002). See also, UNICEF, “Child Trafficking in West Africa: Policy Responses,” *Innocenti Insight* (Florence: Innocenti Research Centre, 2002), pp. 3-4.

<sup>265</sup> See “ECOWAS Plan of Action,” *ibid.* The member states are Benin, Burkina Faso, Cape Verde, Côte d'Ivoire, Gambia, Ghana, Guinea, Guinea-Bissau, Liberia, Mali, Niger, Nigeria, Senegal, Sierra Leone, and Togo.

<sup>266</sup> R. Salah, “Child Trafficking,” p. 6.

include “compulsory education, the elimination of child labour as well as children in conflict situations and child trafficking” in their priority programs on children.<sup>267</sup>

## International Law

### Overview

Child trafficking is prohibited under international law as both a “practice similar to slavery” and one of the “worst forms of child labor.”<sup>268</sup> The Convention on the Rights of the Child, the most far-ranging treaty on the civil, political, economic, social, and cultural rights of children, obliges states parties to “take all appropriate national, bilateral and multilateral measures to prevent the abduction, the sale of or traffic in children for any purpose or in any form.”<sup>269</sup> The Convention on the Rights of the Child further obliges states to ensure that children are not separated from their parents against their will; to take measures to combat the illicit transfer and nonreturn of children abroad; and to protect children from economic exploitation, hazardous labor, involvement in drug trafficking, sexual exploitation and abuse and any other form of exploitation.<sup>270</sup>

Of additional relevance to child trafficking is the Convention on the Rights of the Child’s guarantee of protection against abuse and neglect within the family. Article 20(1) provides that “a child temporarily or permanently deprived of his or her family environment, or in whose own best interests cannot be allowed to remain in that environment, shall be entitled to special protection and assistance provided by the State.”<sup>271</sup> This provision is especially relevant to children who have already been trafficked, particularly where parents have been complicit in the trafficking. The guiding principle in interpreting article 20 is the best interests of the child,<sup>272</sup> a principle that may in certain cases militate against the incarceration of parents who collude with child traffickers. For example, article 5 of the U.N. General Assembly’s 1986 Declaration on Social and Legal Principles relating to the Protection and Welfare of Children recognizes the child’s need for continued contact with his or her parents; it states that “in all matters relating to the placement of a child outside the care of the child’s own parents, the best interests of the child, particularly his or her need for affection and right to security and continuing care, should be the paramount consideration.”<sup>273</sup>

Togo ratified the Convention on the Rights of the Child in 1990. In 1997, the Committee on the Rights of the Child, the treaty body responsible for monitoring implementation of the convention, stated in its concluding observations on Togo that it was “seriously worried by the widespread sale and trafficking of children which result in their economic and sexual exploitation.”<sup>274</sup> Commenting on Togo’s implementation of the child protection provisions of the Convention on the Rights of the Child, the Committee expressed concern about “the persistence of child abuse, including ill-treatment in the family, and the absence at the administration level of an appropriate mechanism to prevent and combat this phenomenon.”<sup>275</sup>

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<sup>267</sup> OAU Council of Ministers, “Decision on the report of the twenty-fifth ordinary session of the OAU Labour and Social Affairs Commission/Ministerial Conference on Employment and Poverty Reduction in Africa (Durban: June 28-July 6, 2002).

<sup>268</sup> See, e.g., ILO Convention No. 182 concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour (1999), art. 3(a).

<sup>269</sup> U.N. Convention on the Rights of the Child, art. 35. Although it prohibits child trafficking, the Convention on the Rights of the Child does not provide any definition of the practice.

<sup>270</sup> U.N. Convention on the Rights of the Child, art. 9, 11, 32-34.

<sup>271</sup> This provision reinforces article 24(1) of the International Covenant on Civil and Political Rights (1976) guaranteeing children “the right to such measures of protection as are required by his status as a minor,” as well as the Convention on the Rights of the Child’s article 19(1), which guarantees protection from “all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse, while in the care of parent(s).”

<sup>272</sup> Article 9(1) of the Convention on the Rights of the Child provides that “a child shall not be separated from his or her parents against their will, except when competent authorities subject to judicial review determine, in accordance with applicable law and procedures, that such separation is necessary for the best interests of the child.” Article 3(1) of the Convention on the Rights of the Child obliges states to make the best interests of the child a “primary consideration” in “all actions concerning children.”

<sup>273</sup> U.N. General Assembly, Declaration on Social and Legal Principles relating to the Protection and Welfare of Children, with special reference to Foster Placement and Adoption Nationally and Internationally (1986), art. 5.

<sup>274</sup> United Nations, “Concluding Observations of the Committee on the Rights of the Child: Togo,” para. 27.

<sup>275</sup> United Nations, “Concluding Observations of the Committee on the Rights of the Child: Togo,” para. 22.

Since 1999, three specialized treaties related to child trafficking have been negotiated. The U.N. Protocol to the U.N. Convention Against Transnational Organized Crime to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (2000; known as the Trafficking Protocol) provides a model definition of child trafficking which has been incorporated into Togo's draft Children's Code.<sup>276</sup> Though not yet ratified by Togo or entered into force worldwide, the Trafficking Protocol has been signed by Togo and reflects a comprehensive international effort to codify a definition of child trafficking. The Trafficking Protocol isolates the three elements of child trafficking as: (1) the recruitment, transportation, transfer, harboring, or receipt;<sup>277</sup> (2) of any person under eighteen years of age;<sup>278</sup> (3) for the purposes of sexual or labor exploitation, forced labor, or slavery.<sup>279</sup> Because the countries that negotiated the Trafficking Protocol were unable to agree upon a definition of the term "exploitation," the protocol defines the term as including, at a minimum, "the exploitation or the prostitution of others or other forms of exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs."<sup>280</sup>

Article 3(c) of the Trafficking Protocol states that where children, as opposed to adults, are concerned, trafficking can exist in the absence of any coercion, abduction, fraud or deception. The provision has led to the observation that "[the] concept of 'willingness' is no longer accepted in international law since the adoption of the [Trafficking Protocol] . . . . The Protocol specifically excludes the possibility of 'consent' to trafficking by any person under the age of 18."<sup>281</sup> The Trafficking Protocol calls on states to take measures to prevent and punish child trafficking, including the enactment of criminal laws; to provide assistance and protection to trafficked persons; and to cooperate at the ministerial and governmental level in the achievement of these objectives.

ILO Convention No. 182 concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour (1999) situates child trafficking within the broader issue of child labor.<sup>282</sup> Convention 182 obliges states to take urgent and immediate action to eradicate child trafficking; it characterizes trafficking as a "practice similar to slavery," one that belongs in the same category as forced labor.<sup>283</sup> Convention 182 underlies the work of the International Programme to Eliminate Child Labor (IPEC), an ILO program designed to mobilize knowledge, advocacy and service around child labor. Having ratified Convention 182 in 2000, Togo is mandated to work with IPEC to create and implement a national plan of action against the worst forms of child labor, including child trafficking. The Convention is buttressed by a range of international conventions on forced labor, discrimination in employment and child labor, all of them ratified by Togo.<sup>284</sup>

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<sup>276</sup> Trafficking Protocol, art. 3. The Trafficking Protocol provides the foundation for the U.N. Office for Drug Control and Crime Prevention's "Global Programme Against Trafficking in Human Beings," a three-year study. Before the adoption of the Trafficking Protocol, the most widely-cited definition of trafficking was a 1994 definition of the U.N. General Assembly: "the illicit and clandestine movement of persons across national and international borders, largely from developing countries and some countries with economies in transition, with the end goal of forcing women and girl-children into sexually or economically oppressive and exploitative situations for the profit of recruiters, traffickers and crime syndicates, as well as other illegal activities related to trafficking, such as forced domestic labour, false marriages, clandestine employment and false adoption."

<sup>277</sup> Trafficking Protocol, art. 3(a)

<sup>278</sup> *Ibid.*, art. 3(c)-3(d).

<sup>279</sup> *Ibid.*, art. 3(a)

<sup>280</sup> *Ibid.*

<sup>281</sup> End Child Prostitution and Trafficking (ECPAT), "Trafficking in Children for Sexual Purposes: An Analytical Review" (Bangkok: ECPAT, 2001), note 1.

<sup>282</sup> See also, ILO Recommendation No. 190 Concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour (1999).

<sup>283</sup> ILO Convention No. 182, art. 3(a).

<sup>284</sup> The ILO's Convention 29 concerning Forced or Compulsory Labour (1930) (ratified by Togo on June 7, 1960) and Convention 105 concerning the abolition of Forced Labour (1957) (ratified by Togo on July 10, 1999) aim to eradicate "all work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily." Convention 111 concerning Discrimination in Respect of Employment and Occupation (1960) (ratified by Togo on November 8, 1983) governs discrimination against women in the workplace, including gender-based violence and exploitation of women in the employment sphere. The issue of child labor is addressed by Convention 138 concerning Minimum Age for Admission to Employment (1976) (ratified by Togo on March 16, 1984), which obliges states parties to "raise progressively the minimum age for admission to employment or work to a level consistent with the fullest physical and mental development of young persons" (art. 1). The Minimum Age Convention sets at eighteen the minimum age for admission to "any type of employment or work which by its nature or the circumstances in which it is carried out is likely to jeopardize the health, safety or morals of young persons."

A third recent anti-trafficking treaty is the Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography (2000). Togo signed the Optional Protocol in November 2001 but has not ratified it; it entered into force worldwide in January 2002. Parties to the protocol are required to enact penal laws against the “offering, delivering or accepting” of a child for the purpose of sexual exploitation or forced labor.<sup>285</sup> They are further required to establish jurisdiction over these offenses, extradite offenders where necessary, provide each other with legal assistance, and provide for the confiscation of prohibited goods or proceeds of crime. Beyond prosecution, states are required to provide support services and witness protection for trafficked children, to take measures to prevent the offenses listed in the protocol, and to strengthen international cooperation in the fight against trafficking.

In addition to mandating the progressive eradication of child trafficking, all four of the abovementioned treaties guarantee trafficked children rights with respect to their social recovery and reintegration. Article 39 of the Convention on the Rights of the Child obliges states parties to “take all appropriate measures to promote physical and psychological recovery and social reintegration of a child victim of ... any form of neglect, exploitation or abuse.”<sup>286</sup> This guarantee is given additional content in article 6 of the Trafficking Protocol, article 7 of Convention No.182 and article 8 of the Optional Protocol.<sup>287</sup> Guidance in protecting trafficked children may also be found in the Agenda for Action of the First World Congress against Commercial Sexual Exploitation of Children (1996), the so-called Stockholm Agenda, which has been accorded some weight by the Committee on the Rights of the Child.<sup>288</sup> Among the recommendations in the Stockholm Agenda applicable to child labor trafficking are the provision of social, medical and psychological counseling to trafficked children; gender-sensitive training of medical personnel, teachers, social workers, and NGOs; action to prevent and remove social stigmatization of trafficked children; promotion of alternative means of livelihood to trafficked children and their families; and measures to create behavioral changes on the part of perpetrators.<sup>289</sup>

### ***Relevant Law on Child Slavery***

The abuses described by Human Rights Watch’s interviewees constitute practices similar to slavery as defined by both the the U.N. Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery (1956) and ILO No. Convention 182. Ratified by Togo in 1980, the Slavery Convention defines as a practice similar to slavery “any institution or practice whereby a child or young person under the age of eighteen years, is delivered by either or both of his natural parents or by his guardian to another person, whether for reward or not, with a view to the exploitation of the child or young person or of his labour.”<sup>290</sup> This definition captures many of the situations described by Human Rights Watch’s interviewees and overlaps considerably with the definition of child trafficking found in the U.N. Trafficking Protocol. ILO Convention No. 182 goes a step further, explicitly classifying child trafficking as one of many “practices similar to slavery.”<sup>291</sup> While Convention No. 182 does not define either child trafficking or slavery, it is clear from the Slavery Convention and the Trafficking Protocol that the combination of movement and exploitation of a child is what the two have in common.

<sup>285</sup> As noted above, “exploitation” is not defined under international law, and “forced labor” is defined in article 2.1 of ILO Convention No. 29 Concerning Forced Labour as “all work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily (art 3(1)).”

<sup>286</sup> U.N. Convention on the Rights of the Child, art. 39.

<sup>287</sup> It should be noted that the Trafficking Protocol contains weaker language on protecting trafficked children (see articles 6 and 7) than on prosecuting traffickers (article 5).

<sup>288</sup> In 1997, for example, the Committee on the Rights of the Child drew Togo’s attention to the Stockholm Agenda. See United Nations, “Concluding Observations of the Committee on the Rights of the Child: Togo,” para. 53. Additional, non-legal sources of child protection measures are Economic and Social Council, “Recommended Principles and Guidelines on Human Rights and Human Trafficking: Report of the United Nations High Commissioner for Human Rights to the Economic and Social Council,” U.N. Doc. E/2002/100 (New York: U.N. Publications, May 20, 2002), pp. 3, 10-11, 12-13; “Human Rights Standards for the Treatment of Trafficked Persons,” at [www.hrlawgroup.org/initiatives/trafficking\\_persons](http://www.hrlawgroup.org/initiatives/trafficking_persons) and [wagner.inet.co.th/org/gaatw/index.html](http://wagner.inet.co.th/org/gaatw/index.html) (accessed September 3, 2002); and A.D. Jordan, “The Annotated Guide to the Complete U.N. Trafficking Protocol” (Washington, D.C.: International Human Rights Law Group, 2002).

<sup>289</sup> First World Congress against Commercial Sexual Exploitation of Children, “Declaration and Agenda for Action” (1996), art. 5.

<sup>290</sup> U.N. Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery (1956), art. 1(d).

<sup>291</sup> ILO Convention No. 182, art. 3(a).

Even outside the context of trafficking, child domestic labor has been deemed to constitute a practice similar to slavery when performed under certain circumstances. In interviews with girls trafficked into domestic labor as well as local experts, Human Rights Watch documented long hours of unpaid work, physical abuse, sexual abuse, denial of education for the period of domestic labor, and responsibilities exceeding girls' age and capacity. Many girls recalled negotiations between their parents and intermediaries involving fraud, deception or an exchange of money.<sup>292</sup> Noting many of these hazards, UNICEF stated in 1999 that "the exploitation, abuse and discrimination suffered by child domestic workers . . . are to be deplored and . . . are in violation of the 1956 [Slavery Convention]."<sup>293</sup>

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<sup>292</sup> These interviews are recounted in detail in "Girls trafficked into domestic and market labor," above.

<sup>293</sup> UNICEF, "Child Domestic Workers," p. 2. UNICEF also noted that domestic work performed under these circumstances violates girls' rights to independent identity, selfhood and freedom (U.N. Convention on the Rights of the Child articles 8, 13, 15, and 37); parental nurture and guidance (U.N. Convention on the Rights of the Child articles 7, 8 and 9); physical and psychological well-being (U.N. Convention on the Rights of the Child articles 19 and 27); educational development (U.N. Convention on the Rights of the Child article 28); and protection from exploitation, including sexual exploitation, sale and trafficking (U.N. Convention on the Rights of the Child articles 32, 34 and 35).

## IX. DETAILED RECOMMENDATIONS

**To all West African governments implicated in the trafficking of children, including Togo, Benin, Nigeria, Niger, Côte d'Ivoire, Ghana and Gabon<sup>294</sup>**

### *Concerning the prosecution of child trafficking and related offenses*

- Ratify the United Nations (U.N.) Protocol to the Convention Against Transnational Organized Crime to Prevent, Suppress and Punish the Trafficking of Persons especially Women and Children (2000—the Trafficking Protocol) and the Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography (2000). Promptly enact legislation creating the offense of child trafficking, consistent with the above protocols as well as with the U.N. Convention on the Rights of the Child (1989) and International Labour Organization (ILO) Convention No. 182 and Recommendation No. 190 concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour (1999).
- Consistent with the consensus decision of the 2002 consultation meeting in Libreville, Gabon, of twenty-one African states, establish a regional anti-trafficking convention, ensuring that any convention incorporates full protection of the human rights of trafficked children. Include qualified representatives from NGOs and civil society in all regional negotiations. As part of a multilateral anti-trafficking strategy, advocate for the priority inclusion of child trafficking on the agenda of the new African Union.
- Promptly investigate, prosecute and punish perpetrators of trafficking in children, using existing penal laws until targeted anti-trafficking legislation is enacted. Ensure transparency in prosecution of traffickers by maintaining a public record of all prosecutions and the disposition of all cases. Take immediate steps to investigate any allegations of corruption involving police officers, gendarmes, prosecutors, members of the judiciary or anyone else involved in the enforcement of penal laws related to child trafficking, and to prosecute infractions.

### *Concerning the recruitment of trafficked children*

- As part of regional negotiations, develop a protocol for identifying and pre-empting potential child traffickers, and monitor the implementation of this protocol by local bodies. Include in the protocol information on methods used by child traffickers to gain parental consent, such as payment and promises of education and professional training.
- Incorporate information about child trafficking into school curricula. Sensitize community and religious leaders about the causes of child trafficking, the potential hazards of child labor, and the Convention on the Rights of the Child. Provide information to all personnel working with and for children, such as judges, lawyers, magistrates, law enforcement personnel, army officials, teachers, school administrators, health care providers, social workers, local government officials, and personnel of child-care institutions.
- Give priority attention to the expansion of educational and vocational opportunities for children, especially girls. Develop, implement and monitor programs to address disparities in school attendance and drop-out rates between boys and girls. Implement public information campaigns about the potential hazards to be encountered in domestic, market, agricultural, and factory labor. Staff local vigilance committees with women and men who are specifically trained in educating families about alternatives to placing children into hazardous work.

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<sup>294</sup> These countries are implicated by testimony in this report; however, within the West Africa region the ILO has also documented child trafficking in Burkina Faso, Cameroon and Mali.



- Target orphans and other children affected by HIV/AIDS as a vulnerable group in the context of child trafficking, incorporating specific measures to protect orphans and AIDS-affected children into the national plan of action against child trafficking. Strengthen programs to combat discriminatory practices toward children infected with or affected by HIV/AIDS.

***Concerning the transport of trafficked children***

- In cooperation with neighboring countries, reinforce border controls at both official crossings and border areas used for the clandestine movement of children. Station anti-trafficking units in towns and villages where children being trafficked are known to congregate in transit. As part of regional negotiations, establish protocols to identify and apprehend child traffickers, and monitor the application of these protocols. Promptly investigate any allegation of border guards accepting bribes from or charging “fees” to child traffickers, and discipline and prosecute those responsible. Enact anti-corruption provisions into domestic law, consistent with article 9 of the U.N. Convention Against Transnational Organized Crime (2000).<sup>295</sup>
- Station officers trained in the identification and apprehension of child traffickers at transit points where trafficked children are known to congregate before being taken abroad. Establish a system to ensure the safe return to their home countries of children who have been taken abroad by intermediaries and subsequently abandoned, including appropriate support services and access to child-friendly personnel.

***Concerning the commercial exploitation of trafficked children***

- Promptly investigate any complaints of hazardous child labor, and increase the inspection, enforcement and monitoring capacity of ministries of labor with respect to child labor. Enact specific regulations governing minimum age of employment, hours of work, hazards unique to child labor such as use of dangerous equipment, forms of labor likely to be injurious to children, corporal punishment, entitlement to rest and leisure, and compensation. Design and implement sensitization campaigns for the agricultural sector as well as for those who employ domestic workers, and prosecute those who violate minimum employment standards.
- Take all appropriate law enforcement measures against perpetrators of physical and/or sexual violence against child domestic workers. Develop public information campaigns about the prevalence of abuse against domestic workers. Ensure care and support to children who escape domestic labor and who have suffered physical or sexual violence, including treatment of sexually transmitted diseases.

***Concerning the safe return and reintegration of trafficked children***

- As part of regional negotiations, develop and implement a consistent regional protocol for the return, repatriation and rehabilitation of trafficked children, through collaboration between “sending,” “receiving” and “transit” countries, local NGOs, multilateral organizations such as the United Nations Children’s Fund (UNICEF) and ILO, children and parents. Enact regulations providing trafficked children with the full range of protections outlined in article 6 of the U.N. Trafficking Protocol, article 7 of ILO Convention No. 182, article 8 of the Optional Protocol to the Convention of the Rights of the Child on the Sale of Children, and NGO documents such as the Human Rights Standards for the Treatment of Trafficked Persons.
- Establish protocols for police officers, gendarmes, other state officials and outreach workers to follow when children who claim to have been trafficked seek their help, including the safe delivery home or to a place of safety, and monitor the application of those protocols. Establish centralized public registers of all trafficked children and their whereabouts, with the oversight of the children’s court or analogous institution, where this

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<sup>295</sup> Article 9 requires states to (1) to the extent appropriate and consistent with their legal systems, adopt legislative, administrative or other effective measures to promote integrity and to prevent, detect and punish the corruption of public officials; and (2) take measures to ensure effective action by their authorities in the prevention, detection and punishment of the corruption of public officials, including providing such authorities with adequate independence to deter the exertion of inappropriate influence on their actions.

exists. Ensure that any money owed to children by employers is received by them through the formation of a trust or other legal mechanism.

- Release any child who has been placed in detention for legal transgressions arising from their having been trafficked, and provide special protection measures in accordance with the Convention on the Rights of the Child, specialized anti-trafficking instruments, and national law. Enact an explicit prohibition against the detention of trafficked children in punitive institutions.
- Effectively monitor the progress of all formerly trafficked children and ensure they are not re-trafficked. Ensure appropriate care and support for children whose parents are complicit in child trafficking or are otherwise abusive or negligent. Develop a protocol for finding appropriate foster care or, if necessary, institutional placement for such children. Promote alternative means of livelihood for children at risk of school drop-out.
- Protect the safety of trafficked children by enacting strong witness protection provisions. Ensure that trafficked children who provide testimony in criminal proceedings have an opportunity to do so in a child-friendly environment, such as outside of a formal courtroom setting.
- For purposes of program planning and evaluation, develop a system of monitoring the incidence of child trafficking and the government response. Maintain a database of trafficked children's demographic information and family backgrounds, methods of recruitment, relationships to intermediaries, modes of transport abroad, types of work abroad, lengths of stay, methods of escape, and methods of return and/or rehabilitation. Share relevant data with governments of other countries affected by child trafficking.

#### **To the Government of Togo**

In addition to those recommendations directed at all West African countries implicated in the trafficking of children, the government of Togo should:

- Modify provisions of the draft Children's Code imposing prison sentences on parents who aid child traffickers, fail to report child trafficking or offer children for sale. Create an explicit defense for parents who are genuinely deceived about the purpose of their child's recruitment, believing it to be educational or otherwise non-exploitative. Allow for reduced penalties for parents who reasonably but mistakenly believe that aiding and abetting child trafficking, or failing to report child traffickers to the police, is in their child's best interests.
- Ensure the legally guaranteed free and accessible primary education for all children as provided in article 28 of the Convention on the Rights of the Child. Implement measures to improve school enrolment and retention, and develop a system for the regular evaluation of the effectiveness of these interventions. Promptly investigate cases of children being expelled from school for inability to pay fees or for school supplies. Monitor the activity of potential child traffickers on or near school grounds.

#### **To Donors Supporting these Governments**

- Increase support for targeted anti-trafficking initiatives by specific government departments and nongovernmental organizations. Develop a system for measuring concretely the effectiveness of anti-trafficking initiatives. Strengthen the capacity of NGOs to receive and care for trafficked children by providing training on pertinent gender issues and appropriate resources to prevent overcrowding of transit centers. Pressure national governments to provide support to effective NGO initiatives.
- Provide anti-trafficking support to countries of transit and those "receiving" Togolese children (such as Benin, Nigeria, Niger, Côte d'Ivoire and Gabon) as well as countries "sending" children to Togo (such as Ghana,

Benin and Nigeria). Refrain from using any suspensions of development assistance as an excuse for not taking an active role in anti-trafficking efforts.<sup>296</sup>

- Monitor whether anti-trafficking programs address human rights violations underlying child trafficking, in particular discrimination against girls. Ensure that donor supported anti-trafficking programs are not undermined at the local level by, for example, treatment of trafficked children as delinquents, threats of imprisonment against parents, or discrimination against families affected by HIV/AIDS.

#### **To the United Nations**

- Facilitate the negotiation and ratification of a regional anti-trafficking protocol among all West African countries. Ensure the participation of NGOs and civil society in the negotiation and ratification process.
- Strenuously advocate for greater donor support for governmental and nongovernmental anti-trafficking programs. Integrate child trafficking into global strategies on poverty alleviation, development, education and women's rights.
- *To UNICEF:* Formally evaluate Togo's implementation of the 1997 Concluding Observations of the Committee on the Rights of the Child. Pressure donor countries to provide adequate resources for Togo to fulfill its obligations under the Convention on the Rights of the Child. Make concrete recommendations regarding the implementation of article 35 on the elimination of child trafficking. Develop training programs on the causes, methods and consequences of child trafficking, for implementation into school curricula.
- *To UNICEF and the ILO:* Provide technical assistance to the Togolese government on the elimination of child trafficking, including an analysis of the child trafficking provisions of the draft Children's Code. Research best practices on the reintegration of trafficked children, and make recommendations to Togo's National Committee for the Reception and Social Reintegration of Child Trafficking Victims.
- *To the Office for Drug Control and Crime Prevention (ODCCP):* Ensure that efforts to prosecute and punish child traffickers respect the human rights of trafficked children, in accordance with article 6 of the U.N. Trafficking Protocol and relevant human rights instruments.
- *To the Economic and Social Council and the Office of the High Commissioner for Human Rights (OHCHR):* Ensure that domestic legislation implementing the U.N. Trafficking Protocol complies with the Recommended Principles and Guidelines on Human Rights and Human Trafficking (2002).

#### **To Multilateral Organizations in Africa**

- *To the Economic Community of West African States (ECOWAS):* Monitor the implementation of the 2001 ECOWAS Initial Plan of Action against Trafficking in Persons, and in particular enforce the requirement that member states provide a biannual progress report on implementation. Evaluate these progress reports publicly.
- *To the Executive Council of the African Union (A.U.):* Call on all member states to include anti-trafficking policies and programs among their top priorities on children. In collaboration with the legal department, participate in the drafting of a subregional anti-trafficking convention. Through the Economic, Social and Cultural Council (ECOSOCC), invite the contribution of anti-trafficking NGOs to anti-trafficking resolutions and initiatives.

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<sup>296</sup> As noted above, both the United States and the European Union have suspended development assistance to Togo since the early 1990s due to a lack of free and fair elections.

- *To the African Commission on Human and Peoples' Rights:* Include child trafficking on the agenda at biannual meetings. Instruct experts to prepare advisory documents on violations of the African Charter on Human and Peoples' Rights (1981), and to make recommendations as to how the Commission can assist governments to end child trafficking.

## X. CONCLUSION

This report implicates both child traffickers and government officials in grave abuses of the human rights of children. From the moment they promise to provide children with schooling, vocational training and paid work, child traffickers perpetrate horrific abuses with virtual impunity. They take children on long journeys that cause injury, sickness and death; order them to perform difficult and often hazardous labor; rarely compensate them for their services; and subject them to repeated mental and physical cruelty. Sometimes with the supposed consent of parents, traffickers keep children from their homes for long periods of time and deny them all contact with their families. Rarely do they fulfill their promise to provide children education, professional training or adequate compensation for their work.

The Togolese government's promise to take immediate and effective steps to eradicate child trafficking rings hollow. According to international conventions signed or ratified by Togo, an effective response to child trafficking requires the prosecution of traffickers, the protection and reintegration of trafficked children, and the mitigation of forces fueling the supply of and demand for trafficked child labor. In 2001, however, Togo arrested or detained only ten traffickers, while it detained fifty-five parents of children stranded in Cameroon after a boat to Gabon capsized.<sup>297</sup> Most of the alleged traffickers were ultimately released for lack of evidence.<sup>298</sup> At the same time, border patrols in Togo failed to prevent traffickers from traversing the country's borders, and in some cases accepted bribes. Children who escaped or were released from hazardous labor received inadequate protection from law enforcement officers, rendering them vulnerable to abandonment, sex work and re trafficking.

Like other countries in West Africa, Togo raises resource constraints as one reason why its response to child trafficking has been so ineffective. The country's leading anti-trafficking official told Human Rights Watch that she needs "many many more resources" to protect trafficked children and described her office's budget as "a virtual budget" that "exists only on paper."<sup>299</sup> The director of cabinet for Togo's Department for the Protection and Promotion of the Family and Children, Koffi Badjow Tcham, added that "the resources are not commensurate with the problem," and that after returning trafficked children to their communities, "it would be nice to guarantee at least their primary education."<sup>300</sup> These and other officials cite suspensions of development assistance by the United States and the European Union as reasons why the government fails to protect the basic human rights of children.

An examination of Togo's anti-trafficking strategy reveals that the problem goes far beyond resource constraints, however. The cornerstone of this strategy is a law that would imprison the parents of trafficked children for up to five years for simply failing to report a known trafficker to the police. At the same time, the proposed law contains no guarantees on the reintegration of trafficked children and their protection from further abuse and re trafficking. The law also contains weak and insufficient language on the prevention of trafficking, containing one provision calling for "appropriate" prevention measures compared to six provisions on the prosecution and punishment of perpetrators, parents and relatives.

Togo's prevention strategy has equally failed to address the root causes behind child trafficking. While endeavoring to raise awareness of child trafficking, the government has paid less attention to the forces that compel parents and children into believing—or wanting to believe—the promises of child traffickers. These forces are not limited to poverty, but also include denial of educational opportunity, the subordinate status of girls, and the loss of parents to sickness and disease. Despite promising children free primary education, the government has not delivered and has allowed children unable to pay school fees to be expelled from school and

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<sup>297</sup> U.S. State Department *Country Reports on Human Rights Practices for 2001*, p. 17.

<sup>298</sup> Ibid.

<sup>299</sup> Human Rights Watch interview with Suzanne Aho, Lomé, May 6, 2002.

<sup>300</sup> Human Rights Watch interview with Koffi Badjow Tcham, Lomé, May 7, 2002.

subsequently be recruited by child traffickers. It has neglected the plight of children trafficked following the death of a parent, whose numbers will only swell as HIV/AIDS spreads across West Africa.

Foreign governments also have an obligation to address child trafficking in Togo, whether it be through protecting children trafficked to their countries or by contributing technical or financial assistance to Togo's anti-trafficking efforts. The countries implicated in this report have recognized the existence of child trafficking in their borders, arrested or detained some traffickers, and/or assisted in the repatriation of trafficked children to or from Togo. However, they are no further ahead than Togo in enacting targeted anti-trafficking legislation, seeing prosecutions through to completion, and establishing consistent protocols for the humane reintegration of trafficked children. Likewise, the international community has not gone far enough in providing the necessary financial assistance to Togo's anti-trafficking programs.<sup>301</sup>

Togo has participated in a succession of international meetings on child trafficking and has joined other nations in renouncing the practice. It has drafted new anti-trafficking legislation, established committees to raise community awareness, and repatriated children found to have been trafficked abroad. These preliminary actions are positive, but are not commensurate with the scale of the child trafficking problem, either in terms of the number of children trafficked or the severity of the abuses they experience. Absent a more sustained commitment to prevention, prosecution and protection, children will continue to be lured from their homes, spirited across and within Togo's borders and exploited with virtual impunity.

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<sup>301</sup> At this writing, international assistance for Togo's anti-trafficking efforts included a U.S.\$302,000 grant from the World Bank; a share of a U.S.\$4,200,000 grant from the U.S. Department of Labor to ILO-IPEC for regional anti-trafficking efforts; and a \$2,000,000 grant from the U.S. Department of Labor for a "Child Labor Education Initiative," disbursed in October 2002.

## **APPENDIX A: EXCERPTS FROM THE UNITED NATIONS CONVENTION ON THE RIGHTS OF THE CHILD**

**United Nations Convention on the Rights of the Child, G.A. res. 44/25, annex, 44 U.N. GAOR Supp. (No. 49) at 167, U.N. Doc. A/44/49 (1989).**

### **PREAMBLE**

*The States Parties to the present Convention,*

*Considering* that, in accordance with the principles proclaimed in the Charter of the United Nations, recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world,

*Bearing in mind* that the peoples of the United Nations have, in the Charter, reaffirmed their faith in fundamental human rights and in the dignity and worth of the human person, and have determined to promote social progress and better standards of life in larger freedom,

*Recognizing* that the United Nations has, in the Universal Declaration of Human Rights and in the International Covenants on Human Rights, proclaimed and agreed that everyone is entitled to all the rights and freedoms set forth therein, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status,

*Recalling* that, in the Universal Declaration of Human Rights, the United Nations has proclaimed that childhood is entitled to special care and assistance,

*Convinced* that the family, as the fundamental group of society and the natural environment for the growth and well-being of all its members and particularly children, should be afforded the necessary protection and assistance so that it can fully assume its responsibilities within the community,

*Recognizing* that the child, for the full and harmonious development of his or her personality, should grow up in a family environment, in an atmosphere of happiness, love and understanding,

*Considering* that the child should be fully prepared to live an individual life in society, and brought up in the spirit of the ideals proclaimed in the Charter of the United Nations, and in particular in the spirit of peace, dignity, tolerance, freedom, equality and solidarity,

*Bearing in mind* that the need to extend particular care to the child has been stated in the Geneva Declaration of the Rights of the Child of 1924 and in the Declaration of the Rights of the Child adopted by the General Assembly on 20 November 1959 and recognized in the Universal Declaration of Human Rights, in the International Covenant on Civil and Political Rights (in particular in articles 23 and 24), in the International Covenant on Economic, Social and Cultural Rights (in particular in article 10) and in the statutes and relevant instruments of specialized agencies and international organizations concerned with the welfare of children, '

*Bearing in mind* that, as indicated in the Declaration of the Rights of the Child, "the child, by reason of his physical and mental immaturity, needs special safeguards and care, including appropriate legal protection, before as well as after birth",

*Recalling* the provisions of the Declaration on Social and Legal Principles relating to the Protection and Welfare of Children, with Special Reference to Foster Placement and Adoption Nationally and Internationally; the United

Nations Standard Minimum Rules for the Administration of Juvenile Justice (The Beijing Rules) ; and the Declaration on the Protection of Women and Children in Emergency and Armed Conflict,

*Recognizing* that, in all countries in the world, there are children living in exceptionally difficult conditions, and that such children need special consideration,

*Taking due account* of the importance of the traditions and cultural values of each people for the protection and harmonious development of the child,

*Recognizing* the importance of international co-operation for improving the living conditions of children in every country, in particular in the developing countries,

*Have agreed* as follows:

## **PART I**

\* \* \*

### **Article 3**

1. In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration.
2. States Parties undertake to ensure the child such protection and care as is necessary for his or her well-being, taking into account the rights and duties of his or her parents, legal guardians, or other individuals legally responsible for him or her, and, to this end, shall take all appropriate legislative and administrative measures.
3. States Parties shall ensure that the institutions, services and facilities responsible for the care or protection of children shall conform with the standards established by competent authorities, particularly in the areas of safety, health, in the number and suitability of their staff, as well as competent supervision.

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### **Article 19**

1. States Parties shall take all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse, while in the care of parent(s), legal guardian(s) or any other person who has the care of the child.
2. Such protective measures should, as appropriate, include effective procedures for the establishment of social programmes to provide necessary support for the child and for those who have the care of the child, as well as for other forms of prevention and for identification, reporting, referral, investigation, treatment and follow-up of instances of child maltreatment described heretofore, and, as appropriate, for judicial involvement.

### **Article 20**

1. A child temporarily or permanently deprived of his or her family environment, or in whose own best interests cannot be allowed to remain in that environment, shall be entitled to special protection and assistance provided by the State.
2. States Parties shall in accordance with their national laws ensure alternative care for such a child.
3. Such care could include, inter alia, foster placement, kafalah of Islamic law, adoption or if necessary placement in suitable institutions for the care of children. When considering solutions, due regard shall be paid to the



desirability of continuity in a child's upbringing and to the child's ethnic, religious, cultural and linguistic background.

\* \* \*

#### **Article 28**

1. States Parties recognize the right of the child to education, and with a view to achieving this right progressively and on the basis of equal opportunity, they shall, in particular:

- (a) Make primary education compulsory and available free to all;
- (b) Encourage the development of different forms of secondary education, including general and vocational education, make them available and accessible to every child, and take appropriate measures such as the introduction of free education and offering financial assistance in case of need;
- (c) Make higher education accessible to all on the basis of capacity by every appropriate means;
- (d) Make educational and vocational information and guidance available and accessible to all children;
- (e) Take measures to encourage regular attendance at schools and the reduction of drop-out rates.

\* \* \*

#### **Article 31**

1. States Parties recognize the right of the child to rest and leisure, to engage in play and recreational activities appropriate to the age of the child and to participate freely in cultural life and the arts.

2. States Parties shall respect and promote the right of the child to participate fully in cultural and artistic life and shall encourage the provision of appropriate and equal opportunities for cultural, artistic, recreational and leisure activity.

#### **Article 32**

1. States Parties recognize the right of the child to be protected from economic exploitation and from performing any work that is likely to be hazardous or to interfere with the child's education, or to be harmful to the child's health or physical, mental, spiritual, moral or social development.

2. States Parties shall take legislative, administrative, social and educational measures to ensure the implementation of the present article. To this end, and having regard to the relevant provisions of other international instruments, States Parties shall in particular:

- (a) Provide for a minimum age or minimum ages for admission to employment;
- (b) Provide for appropriate regulation of the hours and conditions of employment;
- (c) Provide for appropriate penalties or other sanctions to ensure the effective enforcement of the present article.

\* \* \*

#### **Article 34**

States Parties undertake to protect the child from all forms of sexual exploitation and sexual abuse. For these purposes, States Parties shall in particular take all appropriate national, bilateral and multilateral measures to prevent:

- (a) The inducement or coercion of a child to engage in any unlawful sexual activity;
- (b) The exploitative use of children in prostitution or other unlawful sexual practices;
- (c) The exploitative use of children in pornographic performances and materials.

**Article 35**

States Parties shall take all appropriate national, bilateral and multilateral measures to prevent the abduction of, the sale of or traffic in children for any purpose or in any form.

**Article 36**

States Parties shall protect the child against all other forms of exploitation prejudicial to any aspects of the child's welfare.

**Article 37**

States Parties shall ensure that:

(b) No child shall be deprived of his or her liberty unlawfully or arbitrarily. The arrest, detention or imprisonment of a child shall be in conformity with the law and shall be used only as a measure of last resort and for the shortest appropriate period of time;

\* \* \*

**Article 39**

States Parties shall take all appropriate measures to promote physical and psychological recovery and social reintegration of a child victim of: any form of neglect, exploitation, or abuse; torture or any form of cruel, inhuman or degrading treatment or punishment; or armed conflicts. Such recovery and reintegration shall take place in an environment which fosters the health, self-respect and dignity of the child.

## APPENDIX B: ILO CONVENTION NO. 182 AND RECOMMENDATIONS

### **Convention No. 182 concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour**

*The General Conference of the International Labour Organization,*

*Having been convened* at Geneva by the Governing Body of the International Labour Office, and having met in its 87th Session on 1 June 1999, and

*Considering* the need to adopt new instruments for the prohibition and elimination of the worst forms of child labour, as the main priority for national and international action, including international cooperation and assistance, to complement the Convention and the Recommendation concerning Minimum Age for Admission to Employment, 1973, which remain fundamental instruments on child labour, and

*Considering* that the effective elimination of the worst forms of child labour requires immediate and comprehensive action, taking into account the importance of free basic education and the need to remove the children concerned from all such work and to provide for their rehabilitation and social integration while addressing the needs of their families, and

*Recalling* the resolution concerning the elimination of child labour adopted by the International Labour Conference at its 83rd Session in 1996, and

*Recognizing* that child labour is to a great extent caused by poverty and that the long-term solution lies in sustained economic growth leading to social progress, in particular poverty alleviation and universal education, and

*Recalling* the Convention on the Rights of the Child adopted by the United Nations General Assembly on 20 November 1989, and

*Recalling* the ILO Declaration on Fundamental Principles and Rights at Work and its Follow-up, adopted by the International Labour Conference at its 86th Session in 1998, and

*Recalling* that some of the worst forms of child labour are covered by other international instruments, in particular the Forced Labour Convention, 1930, and the United Nations Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery, 1956, and

*Having decided* upon the adoption of certain proposals with regard to child labour, which is the fourth item on the agenda of the session, and

*Having determined* that these proposals shall take the form of an international Convention;

*adopts* this seventeenth day of June of the year one thousand nine hundred and ninety-nine the following Convention, which may be cited as the Worst Forms of Child Labour Convention, 1999.

#### **Article 1**

Each Member which ratifies this Convention shall take immediate and effective measures to secure the prohibition and elimination of the worst forms of child labour as a matter of urgency.

## **Article 2**

For the purposes of this Convention, the term *child* shall apply to all persons under the age of 18.

## **Article 3**

For the purposes of this Convention, the term *the worst forms of child labour* comprises:

- (a) all forms of slavery or practices similar to slavery, such as the sale and trafficking of children, debt bondage and serfdom and forced or compulsory labour, including forced or compulsory recruitment of children for use in armed conflict;
- (b) the use, procuring or offering of a child for prostitution, for the production of pornography or for pornographic performances;
- (c) the use, procuring or offering of a child for illicit activities, in particular for the production and trafficking of drugs as defined in the relevant international treaties;
- (d) work which, by its nature or the circumstances in which it is carried out, is likely to harm the health, safety or morals of children.

## **Article 4**

1. The types of work referred to under Article 3(d) shall be determined by national laws or regulations or by the competent authority, after consultation with the organizations of employers and workers concerned, taking into consideration relevant international standards, in particular Paragraphs 3 and 4 of the Worst Forms of Child Labour Recommendation, 1999.
2. The competent authority, after consultation with the organizations of employers and workers concerned, shall identify where the types of work so determined exist.
3. The list of the types of work determined under paragraph 1 of this Article shall be periodically examined and revised as necessary, in consultation with the organizations of employers and workers concerned.

## **Article 5**

Each Member shall, after consultation with employers' and workers' organizations, establish or designate appropriate mechanisms to monitor the implementation of the provisions giving effect to this Convention.

## **Article 6**

1. Each Member shall design and implement programmes of action to eliminate as a priority the worst forms of child labour.
2. Such programmes of action shall be designed and implemented in consultation with relevant government institutions and employers' and workers' organizations, taking into consideration the views of other concerned groups as appropriate.

## **Article 7**

1. Each Member shall take all necessary measures to ensure the effective implementation and enforcement of the provisions giving effect to this Convention including the provision and application of penal sanctions or, as appropriate, other sanctions.
2. Each Member shall, taking into account the importance of education in eliminating child labour, take effective and time-bound measures to:
  - (a) prevent the engagement of children in the worst forms of child labour;
  - (b) provide the necessary and appropriate direct assistance for the removal of children from the worst forms of child labour and for their rehabilitation and social integration;

- (c) ensure access to free basic education, and, wherever possible and appropriate, vocational training, for all children removed from the worst forms of child labour;
- (d) identify and reach out to children at special risk; and
- (e) take account of the special situation of girls.

3. Each Member shall designate the competent authority responsible for the implementation of the provisions giving effect to this Convention.

#### **Article 8**

Members shall take appropriate steps to assist one another in giving effect to the provisions of this Convention through enhanced international cooperation and/or assistance including support for social and economic development, poverty eradication programmes and universal education.

#### **Article 9**

The formal ratifications of this Convention shall be communicated to the Director-General of the International Labour Office for registration.

#### **Article 10**

1. This Convention shall be binding only upon those Members of the International Labour Organization whose ratifications have been registered with the Director-General of the International Labour Office.

2. It shall come into force 12 months after the date on which the ratifications of two Members have been registered with the Director-General.

3. Thereafter, this Convention shall come into force for any Member 12 months after the date on which its ratification has been registered.

#### **Article 11**

1. A Member which has ratified this Convention may denounce it after the expiration of ten years from the date on which the Convention first comes into force, by an act communicated to the Director-General of the International Labour Office for registration. Such denunciation shall not take effect until one year after the date on which it is registered.

2. Each Member which has ratified this Convention and which does not, within the year following the expiration of the period of ten years mentioned in the preceding paragraph, exercise the right of denunciation provided for in this Article, will be bound for another period of ten years and, thereafter, may denounce this Convention at the expiration of each period of ten years under the terms provided for in this Article.

#### **Article 12**

1. The Director-General of the International Labour Office shall notify all Members of the International Labour Organization of the registration of all ratifications and acts of denunciation communicated by the Members of the Organization.

2. When notifying the Members of the Organization of the registration of the second ratification, the Director-General shall draw the attention of the Members of the Organization to the date upon which the Convention shall come into force.

#### **Article 13**

The Director-General of the International Labour Office shall communicate to the Secretary-General of the United Nations, for registration in accordance with article 102 of the Charter of the United Nations, full particulars of all

ratifications and acts of denunciation registered by the Director-General in accordance with the provisions of the preceding Articles.

#### **Article 14**

At such times as it may consider necessary, the Governing Body of the International Labour Office shall present to the General Conference a report on the working of this Convention and shall examine the desirability of placing on the agenda of the Conference the question of its revision in whole or in part.

#### **Article 15**

1. Should the Conference adopt a new Convention revising this Convention in whole or in part, then, unless the new Convention otherwise provides --

(a) the ratification by a Member of the new revising Convention shall ipso jure involve the immediate denunciation of this Convention, notwithstanding the provisions of Article 11 above, if and when the new revising Convention shall have come into force;

(b) as from the date when the new revising Convention comes into force, this Convention shall cease to be open to ratification by the Members.

2. This Convention shall in any case remain in force in its actual form and content for those Members which have ratified it but have not ratified the revising Convention.

#### **Article 16**

The English and French versions of the text of this Convention are equally authoritative.

### **Recommendation no. 190 concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour**

*The General Conference of the International Labour Organization,*

*Having been convened* at Geneva by the Governing Body of the International Labour Office, and having met in its Eighty-seventh Session on 1 June 1999, and

*Having adopted* the Worst Forms of Child Labour Convention, 1999, and Having decided upon the adoption of certain proposals with regard to child labour, which is the fourth item on the agenda of the session, and

*Having determined* that these proposals shall take the form of a Recommendation supplementing the Worst Forms of Child Labour Convention, 1999;

*adopts* this seventeenth day of June of the year one thousand nine hundred and ninety-nine the following Recommendation, which may be cited as the Worst Forms of Child Labour Recommendation, 1999.

1. The provisions of this Recommendation supplement those of the Worst Forms of Child Labour Convention, 1999 (hereafter referred to as "the Convention"), and should be applied in conjunction with them.

#### **I. Programmes of action**

2. The programmes of action referred to in Article 6 of the Convention should be designed and implemented as a matter of urgency, in consultation with relevant government institutions and employers' and workers' organizations, taking into consideration the views of the children directly affected by the worst forms of child labour, their families and, as appropriate, other concerned groups committed to the aims of the Convention and this Recommendation. Such programmes should aim at, inter alia:

- (a) identifying and denouncing the worst forms of child labour;
- (b) preventing the engagement of children in or removing them from the worst forms of child labour, protecting them from reprisals and providing for their rehabilitation and social integration through measures which address their educational, physical and psychological needs;
- (c) giving special attention to:
  - (i) younger children;
  - (ii) the girl child;
  - (iii) the problem of hidden work situations, in which girls are at special risk;
  - (iv) other groups of children with special vulnerabilities or needs;
- (d) identifying, reaching out to and working with communities where children are at special risk;
- (e) informing, sensitizing and mobilizing public opinion and concerned groups, including children and their families.

## **II. Hazardous work**

3. In determining the types of work referred to under Article 3(d) of the Convention, and in identifying where they exist, consideration should be given, inter alia, to:
- (a) work which exposes children to physical, psychological or sexual abuse;
  - (b) work underground, under water, at dangerous heights or in confined spaces;
  - (c) work with dangerous machinery, equipment and tools, or which involves the manual handling or transport of heavy loads;
  - (d) work in an unhealthy environment which may, for example, expose children to hazardous substances, agents or processes, or to temperatures, noise levels, or vibrations damaging to their health;
  - (e) work under particularly difficult conditions such as work for long hours or during the night or work where the child is unreasonably confined to the premises of the employer.

4. For the types of work referred to under Article 3(d) of the Convention and Paragraph 3 above, national laws or regulations or the competent authority could, after consultation with the workers' and employers' organizations concerned, authorize employment or work as from the age of 16 on condition that the health, safety and morals of the children concerned are fully protected, and that the children have received adequate specific instruction or vocational training in the relevant branch of activity.

## **III. Implementation**

5. (1) Detailed information and statistical data on the nature and extent of child labour should be compiled and kept up to date to serve as a basis for determining priorities for national action for the abolition of child labour, in particular for the prohibition and elimination of its worst forms as a matter of urgency.

(2) As far as possible, such information and statistical data should include data disaggregated by sex, age group, occupation, branch of economic activity, status in employment, school attendance and geographical location. The importance of an effective system of birth registration, including the issuing of birth certificates, should be taken into account.

(3) Relevant data concerning violations of national provisions for the prohibition and elimination of the worst forms of child labour should be compiled and kept up to date.

6. The compilation and processing of the information and data referred to in Paragraph 5 above should be carried out with due regard for the right to privacy.

7. The information compiled under Paragraph 5 above should be communicated to the International Labour Office on a regular basis.

8. Members should establish or designate appropriate national mechanisms to monitor the implementation of national provisions for the prohibition and elimination of the worst forms of child labour, after consultation with employers' and workers' organizations.

9. Members should ensure that the competent authorities which have responsibilities for implementing national provisions for the prohibition and elimination of the worst forms of child labour cooperate with each other and coordinate their activities.

10. National laws or regulations or the competent authority should determine the persons to be held responsible in the event of non-compliance with national provisions for the prohibition and elimination of the worst forms of child labour.

11. Members should, in so far as it is compatible with national law, cooperate with international efforts aimed at the prohibition and elimination of the worst forms of child labour as a matter of urgency by:

- (a) gathering and exchanging information concerning criminal offences, including those involving international networks;
- (b) detecting and prosecuting those involved in the sale and trafficking of children, or in the use, procuring or offering of children for illicit activities, for prostitution, for the production of pornography or for pornographic performances;
- (c) registering perpetrators of such offences.

12. Members should provide that the following worst forms of child labour are criminal offences:

- (a) all forms of slavery or practices similar to slavery, such as the sale and trafficking of children, debt bondage and serfdom and forced or compulsory labour, including forced or compulsory recruitment of children for use in armed conflict;
- (b) the use, procuring or offering of a child for prostitution, for the production of pornography or for pornographic performances; and
- (c) the use, procuring or offering of a child for illicit activities, in particular for the production and trafficking of drugs as defined in the relevant international treaties, or for activities which involve the unlawful carrying or use of firearms or other weapons.

13. Members should ensure that penalties including, where appropriate, criminal penalties are applied for violations of the national provisions for the prohibition and elimination of any type of work referred to in Article 3(d) of the Convention.

14. Members should also provide as a matter of urgency for other criminal, civil or administrative remedies, where appropriate, to ensure the effective enforcement of national provisions for the prohibition and elimination of the worst forms of child labour, such as special supervision of enterprises which have used the worst forms of child labour, and, in cases of persistent violation, consideration of temporary or permanent revoking of permits to operate.

15. Other measures aimed at the prohibition and elimination of the worst forms of child labour might include the following:

- (a) informing, sensitizing and mobilizing the general public, including national and local political leaders, parliamentarians and the judiciary;
- (b) involving and training employers' and workers' organizations and civic organizations;
- (c) providing appropriate training for the government officials concerned, especially inspectors and law enforcement officials, and for other relevant professionals;



- (d) providing for the prosecution in their own country of the Member's nationals who commit offences under its national provisions for the prohibition and immediate elimination of the worst forms of child labour even when these offences are committed in another country;
- (e) simplifying legal and administrative procedures and ensuring that they are appropriate and prompt;
- (f) encouraging the development of policies by undertakings to promote the aims of the Convention;
- (g) monitoring and giving publicity to best practices on the elimination of child labour;
- (h) giving publicity to legal or other provisions on child labour in the different languages or dialects;
- (i) establishing special complaints procedures and making provisions to protect from discrimination and reprisals those who legitimately expose violations of the provisions of the Convention, as well as establishing helplines or points of contact and ombudspersons;
- (j) adopting appropriate measures to improve the educational infrastructure and the training of teachers to meet the needs of boys and girls;
- (k) as far as possible, taking into account in national programmes of action:
  - (i) the need for job creation and vocational training for the parents and adults in the families of children working in the conditions covered by the Convention; and
  - (ii) the need for sensitizing parents to the problem of children working in such conditions.

16. Enhanced international cooperation and/or assistance among Members for the prohibition and effective elimination of the worst forms of child labour should complement national efforts and may, as appropriate, be developed and implemented in consultation with employers' and workers' organizations. Such international cooperation and/or assistance should include:

- (a) mobilizing resources for national or international programmes;
- (b) mutual legal assistance;
- (c) technical assistance including the exchange of information;
- (d) support for social and economic development, poverty eradication programmes and universal education.

## **APPENDIX C: OPTIONAL PROTOCOL TO THE CONVENTION ON THE RIGHTS OF THE CHILD ON THE SALE OF CHILDREN, CHILD PROSTITUTION AND CHILD PORNOGRAPHY**

### **Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography**

*The States Parties to the present Protocol,*

*Considering* that, in order further to achieve the purposes of the Convention on the Rights of the Child and the implementation of its provisions, especially articles 1, 11, 21, 32, 33, 34, 35 and 36, it would be appropriate to extend the measures that States Parties should undertake in order to guarantee the protection of the child from the sale of children, child prostitution and child pornography,

*Considering* also that the Convention on the Rights of the Child recognizes the right of the child to be protected from economic exploitation and from performing any work that is likely to be hazardous or to interfere with the child's education, or to be harmful to the child's health or physical, mental, spiritual, moral or social development,

*Gravely concerned* at the significant and increasing international traffic in children for the purpose of the sale of children, child prostitution and child pornography,

Deeply concerned at the widespread and continuing practice of sex tourism, to which children are especially vulnerable, as it directly promotes the sale of children, child prostitution and child pornography,

*Recognizing* that a number of particularly vulnerable groups, including girl children, are at greater risk of sexual exploitation and that girl children are disproportionately represented among the sexually exploited,

*Concerned* about the growing availability of child pornography on the Internet and other evolving technologies, and recalling the International Conference on Combating Child Pornography on the Internet, held in Vienna in 1999, in particular its conclusion calling for the worldwide criminalization of the production, distribution, exportation, transmission, importation, intentional possession and advertising of child pornography, and stressing the importance of closer cooperation and partnership between Governments and the Internet industry,

*Believing* that the elimination of the sale of children, child prostitution and child pornography will be facilitated by adopting a holistic approach, addressing the contributing factors, including underdevelopment, poverty, economic disparities, inequitable socio-economic structure, dysfunctioning families, lack of education, urban-rural migration, gender discrimination, irresponsible adult sexual behaviour, harmful traditional practices, armed conflicts and trafficking in children,

*Believing* also that efforts to raise public awareness are needed to reduce consumer demand for the sale of children, child prostitution and child pornography, and believing further in the importance of strengthening global partnership among all actors and of improving law enforcement at the national level,

*Noting* the provisions of international legal instruments relevant to the protection of children, including the Hague Convention on Protection of Children and Cooperation in Respect of Intercountry Adoption, the Hague Convention on the Civil Aspects of International Child Abduction, the Hague Convention on Jurisdiction, Applicable Law, Recognition, Enforcement and Cooperation in Respect of Parental Responsibility and Measures for the Protection of Children, and International Labour Organization Convention No. 182 on the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour,

*Encouraged* by the overwhelming support for the Convention on the Rights of the Child, demonstrating the widespread commitment that exists for the promotion and protection of the rights of the child,

*Recognizing* the importance of the implementation of the provisions of the Programme of Action for the Prevention of the Sale of Children, Child Prostitution and Child Pornography and the Declaration and Agenda for Action adopted at the World Congress against Commercial Sexual Exploitation of Children, held in Stockholm from 27 to 31 August 1996, and the other relevant decisions and recommendations of pertinent international bodies,

*Taking due account* of the importance of the traditions and cultural values of each people for the protection and harmonious development of the child,

*Have agreed* as follows:

#### **Article 1**

States Parties shall prohibit the sale of children, child prostitution and child pornography as provided for by the present Protocol.

#### **Article 2**

For the purposes of the present Protocol:

(a) Sale of children means any act or transaction whereby a child is transferred by any person or group of persons to another for remuneration or any other consideration;

(b) Child prostitution means the use of a child in sexual activities for remuneration or any other form of consideration;

(c) Child pornography means any representation, by whatever means, of a child engaged in real or simulated explicit sexual activities or any representation of the sexual parts of a child for primarily sexual purposes.

#### **Article 3**

1. Each State Party shall ensure that, as a minimum, the following acts and activities are fully covered under its criminal or penal law, whether such offences are committed domestically or transnationally or on an individual or organized basis:

(a) In the context of sale of children as defined in article 2:

(i) Offering, delivering or accepting, by whatever means, a child for the purpose of:

a. Sexual exploitation of the child;

b. Transfer of organs of the child for profit;

c. Engagement of the child in forced labour;

(ii) Improperly inducing consent, as an intermediary, for the adoption of a child in violation of applicable international legal instruments on adoption;

(b) Offering, obtaining, procuring or providing a child for child prostitution, as defined in article 2;

(c) Producing, distributing, disseminating, importing, exporting, offering, selling or possessing for the above purposes child pornography as defined in article 2.

2. Subject to the provisions of the national law of a State Party, the same shall apply to an attempt to commit any of the said acts and to complicity or participation in any of the said acts.

3. Each State Party shall make such offences punishable by appropriate penalties that take into account their grave nature.

4. Subject to the provisions of its national law, each State Party shall take measures, where appropriate, to establish the liability of legal persons for offences established in paragraph 1 of the present article. Subject to the legal principles of the State Party, such liability of legal persons may be criminal, civil or administrative.

5. States Parties shall take all appropriate legal and administrative measures to ensure that all persons involved in the adoption of a child act in conformity with applicable international legal instruments.

#### **Article 4**

1. Each State Party shall take such measures as may be necessary to establish its jurisdiction over the offences referred to in article 3, paragraph 1, when the offences are committed in its territory or on board a ship or aircraft registered in that State.

2. Each State Party may take such measures as may be necessary to establish its jurisdiction over the offences referred to in article 3, paragraph 1, in the following cases:

(a) When the alleged offender is a national of that State or a person who has his habitual residence in its territory;

(b) When the victim is a national of that State.

3. Each State Party shall also take such measures as may be necessary to establish its jurisdiction over the aforementioned offences when the alleged offender is present in its territory and it does not extradite him or her to another State Party on the ground that the offence has been committed by one of its nationals.

4. The present Protocol does not exclude any criminal jurisdiction exercised in accordance with internal law.

#### **Article 5**

1. The offences referred to in article 3, paragraph 1, shall be deemed to be included as extraditable offences in any extradition treaty existing between States Parties and shall be included as extraditable offences in every extradition treaty subsequently concluded between them, in accordance with the conditions set forth in such treaties.

2. If a State Party that makes extradition conditional on the existence of a treaty receives a request for extradition from another State Party with which it has no extradition treaty, it may consider the present Protocol to be a legal basis for extradition in respect of such offences. Extradition shall be subject to the conditions provided by the law of the requested State.

3. States Parties that do not make extradition conditional on the existence of a treaty shall recognize such offences as extraditable offences between themselves subject to the conditions provided by the law of the requested State.

4. Such offences shall be treated, for the purpose of extradition between States Parties, as if they had been committed not only in the place in which they occurred but also in the territories of the States required to establish their jurisdiction in accordance with article 4.

5. If an extradition request is made with respect to an offence described in article 3, paragraph 1, and the requested State Party does not or will not extradite on the basis of the nationality of the offender, that State shall take suitable measures to submit the case to its competent authorities for the purpose of prosecution.

#### **Article 6**

1. States Parties shall afford one another the greatest measure of assistance in connection with investigations or criminal or extradition proceedings brought in respect of the offences set forth in article 3, paragraph 1, including assistance in obtaining evidence at their disposal necessary for the proceedings.

2. States Parties shall carry out their obligations under paragraph 1 of the present article in conformity with any treaties or other arrangements on mutual legal assistance that may exist between them. In the absence of such treaties or arrangements, States Parties shall afford one another assistance in accordance with their domestic law.

#### **Article 7**

States Parties shall, subject to the provisions of their national law:

- (a) Take measures to provide for the seizure and confiscation, as appropriate, of:
  - (i) Goods, such as materials, assets and other instrumentalities used to commit or facilitate offences under the present protocol;
  - (ii) Proceeds derived from such offences;
- (b) Execute requests from another State Party for seizure or confiscation of goods or proceeds referred to in subparagraph (a) (i) and (ii);
- (c) Take measures aimed at closing, on a temporary or definitive basis, premises used to commit such offences.

#### **Article 8**

1. States Parties shall adopt appropriate measures to protect the rights and interests of child victims of the practices prohibited under the present Protocol at all stages of the criminal justice process, in particular by:

- (a) Recognizing the vulnerability of child victims and adapting procedures to recognize their special needs, including their special needs as witnesses;
- (b) Informing child victims of their rights, their role and the scope, timing and progress of the proceedings and of the disposition of their cases;
- (c) Allowing the views, needs and concerns of child victims to be presented and considered in proceedings where their personal interests are affected, in a manner consistent with the procedural rules of national law;
- (d) Providing appropriate support services to child victims throughout the legal process;
- (e) Protecting, as appropriate, the privacy and identity of child victims and taking measures in accordance with national law to avoid the inappropriate dissemination of information that could lead to the identification of child victims;
- (f) Providing, in appropriate cases, for the safety of child victims, as well as that of their families and witnesses on their behalf, from intimidation and retaliation;
- (g) Avoiding unnecessary delay in the disposition of cases and the execution of orders or decrees granting compensation to child victims.

2. States Parties shall ensure that uncertainty as to the actual age of the victim shall not prevent the initiation of criminal investigations, including investigations aimed at establishing the age of the victim.

3. States Parties shall ensure that, in the treatment by the criminal justice system of children who are victims of the offences described in the present Protocol, the best interest of the child shall be a primary consideration.

4. States Parties shall take measures to ensure appropriate training, in particular legal and psychological training, for the persons who work with victims of the offences prohibited under the present Protocol.

5. States Parties shall, in appropriate cases, adopt measures in order to protect the safety and integrity of those persons and/or organizations involved in the prevention and/or protection and rehabilitation of victims of such offences.

6. Nothing in the present article shall be construed to be prejudicial to or inconsistent with the rights of the accused to a fair and impartial trial.

### **Article 9**

1. States Parties shall adopt or strengthen, implement and disseminate laws, administrative measures, social policies and programmes to prevent the offences referred to in the present Protocol. Particular attention shall be given to protect children who are especially vulnerable to such practices.
2. States Parties shall promote awareness in the public at large, including children, through information by all appropriate means, education and training, about the preventive measures and harmful effects of the offences referred to in the present Protocol. In fulfilling their obligations under this article, States Parties shall encourage the participation of the community and, in particular, children and child victims, in such information and education and training programmes, including at the international level.
3. States Parties shall take all feasible measures with the aim of ensuring all appropriate assistance to victims of such offences, including their full social reintegration and their full physical and psychological recovery.
4. States Parties shall ensure that all child victims of the offences described in the present Protocol have access to adequate procedures to seek, without discrimination, compensation for damages from those legally responsible.
5. States Parties shall take appropriate measures aimed at effectively prohibiting the production and dissemination of material advertising the offences described in the present Protocol.

### **Article 10**

1. States Parties shall take all necessary steps to strengthen international cooperation by multilateral, regional and bilateral arrangements for the prevention, detection, investigation, prosecution and punishment of those responsible for acts involving the sale of children, child prostitution, child pornography and child sex tourism. States Parties shall also promote international cooperation and coordination between their authorities, national and international non-governmental organizations and international organizations.
2. States Parties shall promote international cooperation to assist child victims in their physical and psychological recovery, social reintegration and repatriation.
3. States Parties shall promote the strengthening of international cooperation in order to address the root causes, such as poverty and underdevelopment, contributing to the vulnerability of children to the sale of children, child prostitution, child pornography and child sex tourism.
4. States Parties in a position to do so shall provide financial, technical or other assistance through existing multilateral, regional, bilateral or other programmes.

### **Article 11**

Nothing in the present Protocol shall affect any provisions that are more conducive to the realization of the rights of the child and that may be contained in:

- (a) The law of a State Party;
- (b) International law in force for that State.

### **Article 12**

1. Each State Party shall, within two years following the entry into force of the present Protocol for that State Party, submit a report to the Committee on the Rights of the Child providing comprehensive information on the measures it has taken to implement the provisions of the Protocol.
2. Following the submission of the comprehensive report, each State Party shall include in the reports they submit to the Committee on the Rights of the Child, in accordance with article 44 of the Convention, any further

information with respect to the implementation of the present Protocol. Other States Parties to the Protocol shall submit a report every five years.

3. The Committee on the Rights of the Child may request from States Parties further information relevant to the implementation of the present Protocol.

#### **Article 13**

1. The present Protocol is open for signature by any State that is a party to the Convention or has signed it.
2. The present Protocol is subject to ratification and is open to accession by any State that is a party to the Convention or has signed it. Instruments of ratification or accession shall be deposited with the Secretary- General of the United Nations.

#### **Article 14**

1. The present Protocol shall enter into force three months after the deposit of the tenth instrument of ratification or accession.
2. For each State ratifying the present Protocol or acceding to it after its entry into force, the Protocol shall enter into force one month after the date of the deposit of its own instrument of ratification or accession.

#### **Article 15**

1. Any State Party may denounce the present Protocol at any time by written notification to the Secretary- General of the United Nations, who shall thereafter inform the other States Parties to the Convention and all States that have signed the Convention. The denunciation shall take effect one year after the date of receipt of the notification by the Secretary-General.
2. Such a denunciation shall not have the effect of releasing the State Party from its obligations under the present Protocol in regard to any offence that occurs prior to the date on which the denunciation becomes effective. Nor shall such a denunciation prejudice in any way the continued consideration of any matter that is already under consideration by the Committee on the Rights of the Child prior to the date on which the denunciation becomes effective.

#### **Article 16**

1. Any State Party may propose an amendment and file it with the Secretary-General of the United Nations. The Secretary-General shall thereupon communicate the proposed amendment to States Parties with a request that they indicate whether they favour a conference of States Parties for the purpose of considering and voting upon the proposals. In the event that, within four months from the date of such communication, at least one third of the States Parties favour such a conference, the Secretary-General shall convene the conference under the auspices of the United Nations. Any amendment adopted by a majority of States Parties present and voting at the conference shall be submitted to the General Assembly of the United Nations for approval.
2. An amendment adopted in accordance with paragraph 1 of the present article shall enter into force when it has been approved by the General Assembly and accepted by a two-thirds majority of States Parties.
3. When an amendment enters into force, it shall be binding on those States Parties that have accepted it, other States Parties still being bound by the provisions of the present Protocol and any earlier amendments they have accepted.

**Article 17**

1. The present Protocol, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited in the archives of the United Nations.
  
2. The Secretary-General of the United Nations shall transmit certified copies of the present Protocol to all States Parties to the Convention and all States that have signed the Convention.



**APPENDIX D: PROTOCOL TO THE U.N. CONVENTION ON TRANSNATIONAL  
ORGANIZED CRIME TO SUPPRESS, PREVENT AND PUNISH THE TRAFFICKING IN  
PERSONS, ESPECIALLY WOMEN AND CHILDREN**

**Protocol to Suppress, Prevent and Punish the Trafficking in Persons, Especially Women and Children,  
Supplementing the United Nations Convention on Transnational Organized Crime**

**PREAMBLE**

*The States Parties to this Protocol,*

*Declaring* that effective action to prevent and combat trafficking in persons, especially women and children, requires a comprehensive international approach in the countries of origin, transit and destination that includes measures to prevent such trafficking, to punish the traffickers and to protect the victims of such trafficking, including by protecting their internationally recognized human rights,

*Taking into account* the fact that, despite the existence of a variety of international instruments containing rules and practical measures to combat the exploitation of persons, especially women and children, there is no universal instrument that addresses all aspects of trafficking in persons,

*Concerned* that, in the absence of such an instrument, persons who are vulnerable to trafficking will not be sufficiently protected,

*Recalling* General Assembly resolution 53/111 of 9 December 1998, in which the Assembly decided to establish an open-ended intergovernmental ad hoc committee for the purpose of elaborating a comprehensive international convention against transnational organized crime and of discussing the elaboration of, inter alia, an international instrument addressing trafficking in women and children,

*Convinced* that supplementing the United Nations Convention against Transnational Organized Crime with an international instrument for the prevention, suppression and punishment of trafficking in persons, especially women and children, will be useful in preventing and combating that crime,

*Have agreed as follows:*

**I. GENERAL PROVISIONS**

**Article 1**

**Relation with the United Nations Convention  
against Transnational Organized Crime**

1. This Protocol supplements the United Nations Convention against Transnational Organized Crime. It shall be interpreted together with the Convention.
2. The provisions of the Convention shall apply, mutatis mutandis, to this Protocol unless otherwise provided herein.
3. The offences established in accordance with article 5 of this Protocol shall be regarded as offences established in accordance with the Convention.

**Article 2**  
**Statement of purpose**

The purposes of this Protocol are:

- (a) To prevent and combat trafficking in persons, paying particular attention to women and children;
- (b) To protect and assist the victims of such trafficking, with full respect for their human rights; and
- (c) To promote cooperation among States Parties in order to meet those objectives.

**Article 3**  
**Use of terms**

For the purposes of this Protocol:

- (a) "Trafficking in persons" shall mean the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs;
- (b) The consent of a victim of trafficking in persons to the intended exploitation set forth in subparagraph (a) of this article shall be irrelevant where any of the means set forth in subparagraph (a) have been used;
- (c) The recruitment, transportation, transfer, harbouring or receipt of a child for the purpose of exploitation shall be considered "trafficking in persons" even if this does not involve any of the means set forth in subparagraph (a) of this article;
- (d) "Child" shall mean any person under eighteen years of age.

**Article 4**  
**Scope of application**

This Protocol shall apply, except as otherwise stated herein, to the prevention, investigation and prosecution of the offences established in accordance with article 5 of this Protocol, where those offences are transnational in nature and involve an organized criminal group, as well as to the protection of victims of such offences.

**Article 5**  
**Criminalization**

1. Each State Party shall adopt such legislative and other measures as may be necessary to establish as criminal offences the conduct set forth in article 3 of this Protocol, when committed intentionally.
2. Each State Party shall also adopt such legislative and other measures as may be necessary to establish as criminal offences:
  - (a) Subject to the basic concepts of its legal system, attempting to commit an offence established in accordance with paragraph 1 of this article;
  - (b) Participating as an accomplice in an offence established in accordance with paragraph 1 of this article; and
  - (c) Organizing or directing other persons to commit an offence established in accordance with paragraph 1 of this article.

**II. PROTECTION OF VICTIMS OF TRAFFICKING IN PERSONS**

**Article 6**  
**Assistance to and protection of victims of trafficking in persons**

1. In appropriate cases and to the extent possible under its domestic law, each State Party shall protect the privacy and identity of victims of trafficking in persons, including, inter alia, by making legal proceedings relating to such trafficking confidential.

2. Each State Party shall ensure that its domestic legal or administrative system contains measures that provide to victims of trafficking in persons, in appropriate cases:

- (a) Information on relevant court and administrative proceedings;
- (b) Assistance to enable their views and concerns to be presented and considered at appropriate stages of criminal proceedings against offenders, in a manner not prejudicial to the rights of the defence.

3. Each State Party shall consider implementing measures to provide for the physical, psychological and social recovery of victims of trafficking in persons, including, in appropriate cases, in cooperation with non-governmental organizations, other relevant organizations and other elements of civil society, and, in particular, the provision of:

- (a) Appropriate housing;
- (b) Counselling and information, in particular as regards their legal rights, in a language that the victims of trafficking in persons can understand;
- (c) Medical, psychological and material assistance; and
- (d) Employment, educational and training opportunities.

4. Each State Party shall take into account, in applying the provisions of this article, the age, gender and special needs of victims of trafficking in persons, in particular the special needs of children, including appropriate housing, education and care.

5. Each State Party shall endeavour to provide for the physical safety of victims of trafficking in persons while they are within its territory.

6. Each State Party shall ensure that its domestic legal system contains measures that offer victims of trafficking in persons the possibility of obtaining compensation for damage suffered.

#### **Article 7**

##### **Status of victims of trafficking in persons in receiving States**

1. In addition to taking measures pursuant to article 6 of this Protocol, each State Party shall consider adopting legislative or other appropriate measures that permit victims of trafficking in persons to remain in its territory, temporarily or permanently, in appropriate cases.
2. In implementing the provision contained in paragraph 1 of this article, each State Party shall give appropriate consideration to humanitarian and compassionate factors.

#### **Article 8**

##### **Repatriation of victims of trafficking in persons**

1. The State Party of which a victim of trafficking in persons is a national or in which the person had the right of permanent residence at the time of entry into the territory of the receiving State Party shall facilitate and accept, with due regard for the safety of that person, the return of that person without undue or unreasonable delay.
2. When a State Party returns a victim of trafficking in persons to a State Party of which that person is a national or in which he or she had, at the time of entry into the territory of the receiving State Party, the right of permanent residence, such return shall be with due regard for the safety of that person and for the status of any legal proceedings related to the fact that the person is a victim of trafficking and shall preferably be voluntary.
3. At the request of a receiving State Party, a requested State Party shall, without undue or unreasonable delay, verify whether a person who is a victim of trafficking in persons is its national or had the right of permanent residence in its territory at the time of entry into the territory of the receiving State Party.

4. In order to facilitate the return of a victim of trafficking in persons who is without proper documentation, the State Party of which that person is a national or in which he or she had the right of permanent residence at the time of entry into the territory of the receiving State Party shall agree to issue, at the request of the receiving State Party, such travel documents or other authorization as may be necessary to enable the person to travel to and re-enter its territory.

5. This article shall be without prejudice to any right afforded to victims of trafficking in persons by any domestic law of the receiving State Party.

6. This article shall be without prejudice to any applicable bilateral or multilateral agreement or arrangement that governs, in whole or in part, the return of victims of trafficking in persons.

### **III. PREVENTION, COOPERATION AND OTHER MEASURES**

#### **Article 9**

##### **Prevention of trafficking in persons**

1. States Parties shall establish comprehensive policies, programmes and other measures:

- (a) To prevent and combat trafficking in persons; and
- (b) To protect victims of trafficking in persons, especially women and children, from revictimization.

2. States Parties shall endeavour to undertake measures such as research, information and mass media campaigns and social and economic initiatives to prevent and combat trafficking in persons.

3. Policies, programmes and other measures established in accordance with this article shall, as appropriate, include cooperation with non-governmental organizations, other relevant organizations and other elements of civil society.

4. States Parties shall take or strengthen measures, including through bilateral or multilateral cooperation, to alleviate the factors that make persons, especially women and children, vulnerable to trafficking, such as poverty, underdevelopment and lack of equal opportunity.

5. States Parties shall adopt or strengthen legislative or other measures, such as educational, social or cultural measures, including through bilateral and multilateral cooperation, to discourage the demand that fosters all forms of exploitation of persons, especially women and children, that leads to trafficking.

#### **Article 10**

##### **Information exchange and training**

1. Law enforcement, immigration or other relevant authorities of States Parties shall, as appropriate, cooperate with one another by exchanging information, in accordance with their domestic law, to enable them to determine:

- (a) Whether individuals crossing or attempting to cross an international border with travel documents belonging to other persons or without travel documents are perpetrators or victims of trafficking in persons;
- (b) The types of travel document that individuals have used or attempted to use to cross an international border for the purpose of trafficking in persons; and
- (c) The means and methods used by organized criminal groups for the purpose of trafficking in persons, including the recruitment and transportation of victims, routes and links between and among individuals and groups engaged in such trafficking, and possible measures for detecting them.

2. States Parties shall provide or strengthen training for law enforcement, immigration and other relevant officials in the prevention of trafficking in persons. The training should focus on methods used in preventing such trafficking, prosecuting the traffickers and protecting the rights of the victims, including protecting the victims

from the traffickers. The training should also take into account the need to consider human rights and child- and gender-sensitive issues and it should encourage cooperation with non-governmental organizations, other relevant organizations and other elements of civil society.

3. A State Party that receives information shall comply with any request by the State Party that transmitted the information that places restrictions on its use.

## **Article 11**

### **Border measures**

1. Without prejudice to international commitments in relation to the free movement of people, States Parties shall strengthen, to the extent possible, such border controls as may be necessary to prevent and detect trafficking in persons.

2. Each State Party shall adopt legislative or other appropriate measures to prevent, to the extent possible, means of transport operated by commercial carriers from being used in the commission of offences established in accordance with article 5 of this Protocol.

3. Where appropriate, and without prejudice to applicable international conventions, such measures shall include establishing the obligation of commercial carriers, including any transportation company or the owner or operator of any means of transport, to ascertain that all passengers are in possession of the travel documents required for entry into the receiving State.

4. Each State Party shall take the necessary measures, in accordance with its domestic law, to provide for sanctions in cases of violation of the obligation set forth in paragraph 3 of this article.

5. Each State Party shall consider taking measures that permit, in accordance with its domestic law, the denial of entry or revocation of visas of persons implicated in the commission of offences established in accordance with this Protocol.

6. Without prejudice to article 27 of the Convention, States Parties shall consider strengthening cooperation among border control agencies by, inter alia, establishing and maintaining direct channels of communication.

## **Article 12**

### **Security and control of documents**

Each State Party shall take such measures as may be necessary, within available means:

(a) To ensure that travel or identity documents issued by it are of such quality that they cannot easily be misused and cannot readily be falsified or unlawfully altered, replicated or issued; and

(b) To ensure the integrity and security of travel or identity documents issued by or on behalf of the State Party and to prevent their unlawful creation, issuance and use.

## **Article 13**

### **Legitimacy and validity of documents**

At the request of another State Party, a State Party shall, in accordance with its domestic law, verify within a reasonable time the legitimacy and validity of travel or identity documents issued or purported to have been issued in its name and suspected of being used for trafficking in persons.

## **IV. FINAL PROVISIONS**

### **Article 14 Saving clause**

1. Nothing in this Protocol shall affect the rights, obligations and responsibilities of States and individuals under international law, including international humanitarian law and international human rights law and, in particular, where applicable, the 1951 Convention and the 1967 Protocol relating to the Status of Refugees and the principle of non-refoulement as contained therein.

2. The measures set forth in this Protocol shall be interpreted and applied in a way that is not discriminatory to persons on the ground that they are victims of trafficking in persons. The interpretation and application of those measures shall be consistent with internationally recognized principles of non-discrimination.

### **Article 15 Settlement of disputes**

1. States Parties shall endeavour to settle disputes concerning the interpretation or application of this Protocol through negotiation.

2. Any dispute between two or more States Parties concerning the interpretation or application of this Protocol that cannot be settled through negotiation within a reasonable time shall, at the request of one of those States Parties, be submitted to arbitration. If, six months after the date of the request for arbitration, those States Parties are unable to agree on the organization of the arbitration, any one of those States Parties may refer the dispute to the International Court of Justice by request in accordance with the Statute of the Court.

3. Each State Party may, at the time of signature, ratification, acceptance or approval of or accession to this Protocol, declare that it does not consider itself bound by paragraph 2 of this article. The other States Parties shall not be bound by paragraph 2 of this article with respect to any State Party that has made such a reservation.

4. Any State Party that has made a reservation in accordance with paragraph 3 of this article may at any time withdraw that reservation by notification to the Secretary-General of the United Nations.

### **Article 16 Signature, ratification, acceptance, approval and accession**

1. This Protocol shall be open to all States for signature from 12 to 15 December 2000 in Palermo, Italy, and thereafter at United Nations Headquarters in New York until 12 December 2002.

2. This Protocol shall also be open for signature by regional economic integration organizations provided that at least one member State of such organization has signed this Protocol in accordance with paragraph 1 of this article.

3. This Protocol is subject to ratification, acceptance or approval. Instruments of ratification, acceptance or approval shall be deposited with the Secretary-General of the United Nations. A regional economic integration organization may deposit its instrument of ratification, acceptance or approval if at least one of its member States has done likewise. In that instrument of ratification, acceptance or approval, such organization shall declare the extent of its competence with respect to the matters governed by this Protocol. Such organization shall also inform the depositary of any relevant modification in the extent of its competence.

4. This Protocol is open for accession by any State or any regional economic integration organization of which at least one member State is a Party to this Protocol. Instruments of accession shall be deposited with the Secretary-General of the United Nations. At the time of its accession, a regional economic integration

organization shall declare the extent of its competence with respect to matters governed by this Protocol. Such organization shall also inform the depositary of any relevant modification in the extent of its competence.

### **Article 17** **Entry into force**

1. This Protocol shall enter into force on the ninetieth day after the date of deposit of the fortieth instrument of ratification, acceptance, approval or accession, except that it shall not enter into force before the entry into force of the Convention. For the purpose of this paragraph, any instrument deposited by a regional economic integration organization shall not be counted as additional to those deposited by member States of such organization.

2. For each State or regional economic integration organization ratifying, accepting, approving or acceding to this Protocol after the deposit of the fortieth instrument of such action, this Protocol shall enter into force on the thirtieth day after the date of deposit by such State or organization of the relevant instrument or on the date this Protocol enters into force pursuant to paragraph 1 of this article, whichever is the later.

### **Article 18** **Amendment**

1. After the expiry of five years from the entry into force of this Protocol, a State Party to the Protocol may propose an amendment and file it with the Secretary-General of the United Nations, who shall thereupon communicate the proposed amendment to the States Parties and to the Conference of the Parties to the Convention for the purpose of considering and deciding on the proposal. The States Parties to this Protocol meeting at the Conference of the Parties shall make every effort to achieve consensus on each amendment. If all efforts at consensus have been exhausted and no agreement has been reached, the amendment shall, as a last resort, require for its adoption a two-thirds majority vote of the States Parties to this Protocol present and voting at the meeting of the Conference of the Parties.

2. Regional economic integration organizations, in matters within their competence, shall exercise their right to vote under this article with a number of votes equal to the number of their member States that are Parties to this Protocol. Such organizations shall not exercise their right to vote if their member States exercise theirs and vice versa.

3. An amendment adopted in accordance with paragraph 1 of this article is subject to ratification, acceptance or approval by States Parties.

4. An amendment adopted in accordance with paragraph 1 of this article shall enter into force in respect of a State Party ninety days after the date of the deposit with the Secretary-General of the United Nations of an instrument of ratification, acceptance or approval of such amendment.

5. When an amendment enters into force, it shall be binding on those States Parties which have expressed their consent to be bound by it. Other States Parties shall still be bound by the provisions of this Protocol and any earlier amendments that they have ratified, accepted or approved.

### **Article 19** **Denunciation**

1. A State Party may denounce this Protocol by written notification to the Secretary-General of the United Nations. Such denunciation shall become effective one year after the date of receipt of the notification by the Secretary-General.

2. A regional economic integration organization shall cease to be a Party to this Protocol when all of its member States have denounced it.

**Article 20**  
**Depositary and languages**

1. The Secretary-General of the United Nations is designated depositary of this Protocol.
2. The original of this Protocol, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Secretary-General of the United Nations.



## ACKNOWLEDGMENTS

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