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**REPORT OF THE COMMITTEE OF EXPERTS ON THE RIGHTS
AND WELFARE OF THE CHILD (ACERWC)**

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AND WELFARE OF THE CHILD (ACERWC)**

INTRODUCTORY NOTE

1. The African Committee of Experts on the Rights and Welfare of the Child (ACERWC) was established during the 37th Session of the Assembly of Heads of State and Government held in Lusaka in July 2001 in accordance with Article 32 of the African Charter on the Rights and Welfare of the Child (ACRWC). The Committee is mandated *inter lia*, to promote and protect the rights of the African child pursuant to the provisions of the Charter.
2. Pursuant to its mandate under the Charter, the Committee has undertaken several activities including consideration of State Party reports on the implementation of the Charter, adoption of Africa's Agenda on Children Rights, adoption of the report on the findings of the Continental study on the impact of conflicts and crises on children in Africa, declaration on the theme for the Day of African Child 2018, and consideration of Communications.
3. This Report summarizes the Recommendations and Decisions of the 28th and 29th Ordinary Sessions of the Committee held from 21 October-01 November 2016 in Banjul, the Gambia and 02-09 May 2017 in Addis Ababa, Ethiopia, respectively, as well as other activities undertaken within this timeframe.
4. The Report is hereby submitted for consideration by the Executive Council.

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*African Committee of Experts on the Rights
and Welfare of the Child (ACERWC)*



UNION AFRICAINE

*Comité Africain d'Experts sur les Droits et le
Bien-être de l'Enfant (CAEDBE)*

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"An Africa Fit for Children"

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REPORT OF THE AFRICAN COMMITTEE OF EXPERTS ON THE RIGHTS AND WELFARE OF THE CHILD (ACERWC)

**REPORT OF THE AFRICAN COMMITTEE OF EXPERTS
ON THE RIGHTS AND WELFARE OF THE CHILD
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INTRODUCTION

1. The African Committee of Experts on the Rights and Welfare of the Child (ACERWC) was established during the 37th Session of the Assembly of Heads of State and Government held in Lusaka in July 2001 in accordance with Article 32 of the African Charter on the Rights and Welfare of the Child (ACRWC). The Committee is mandated *inter lia*, to promote and protect the rights of the African child pursuant to the provisions of the Charter.
2. Pursuant to its mandate under the Charter, the Committee has undertaken several activities including consideration of State Party reports on the implementation of the Charter, consideration of Communications (individual complaints), investigative missions, adoption of various documents and many other activities as stated in this Report.
3. This Report summarizes the Recommendations and Decisions of the 28th and 29th Ordinary Sessions of the Committee held from 21 October to 01 November 2016 in Banjul, Gambia and 02-09 May 2017 in Maseru, Lesotho respectively, as well as other activities undertaken within this timeframe.
4. The Report is hereby submitted for consideration by the Executive Council.

I. DECISIONS AND RECOMMENDATIONS OF THE 28TH AND 29TH ORDINARY SESSIONS OF THE ACERWC

1. DECISIONS AND RECOMMENDATION OF THE 28TH SESSION

1.1. CONSIDERATION OF THE PERIODIC REPORT OF THE REPUBLIC OF CAMEROON ON THE IMPLEMENTATION OF THE AFRICAN CHILDREN'S CHARTER

5. In accordance with Article 43 of the ACRWC the Committee received and considered the Periodic Report of the Government of the Republic of Cameroon on the implementation of the African Children's Charter.
6. Following the brief presentation by the Head of the delegation, the Committee commended the Government of Cameroon for submitting its Periodic Report and for the high level delegation presented. The Committee thereafter raised questions for clarifications in relation to matters included in the various clusters of rights. The clarification questions include: whether there are laws put in place for the prohibition and prosecution of harmful traditional practices including breast ironing and Female Genital Mutilation; whether all births are registered and birth certificates are issued without challenges; the minimum age for marriage; whether there exist a National Action

Plan to tackle child labour; and the age of criminal liability. Furthermore, questions were raised with respect to statelessness in the Bakasi Region; ritual Killing and children with albinism.

7. Following the questions from the Committee, the Representatives of the Government reflected on the matters including the fact that FGM and other HTPs are prohibited under the Cameroonian Criminal Code 2016. With regard to birth registration, the delegation mentioned that the Government of Cameroon has resolutely embarked on it after making an analysis with respect to corrupt practices involved in the issuance of certificates and has resolved the situation. With respect to statelessness and the people of Bakasi, the delegation responded that in line with the judicial decision given in the demarcation of the Bakasi Region to Cameroon, the people of Bakasi were given a timeline to choose their nationalities between Nigeria and Cameroon. Concerning the age of criminal responsibility of children in Cameroon, the delegation mentioned that it is set at 10 years of age. In addressing the issue of ritual killings, the delegation underlined that ritual crimes are not specifically mentioned in the Criminal Code but the general offences section in the Code can be used to punish perpetrators and in 2014, 8 perpetrators were charged to court for murder and the case is on-going.

8. After a careful consideration of the State Party report and the CSO report, the Committee sent concluding observations and recommendations to the Government of Cameroon. The Committee will also undertake follow-up mission on the implementation of its recommendations in the foreseeable future.

1.2. CONSIDERATION OF THE INITIAL REPORT OF THE STATE OF ERITREA ON THE IMPLEMENTATION OF THE AFRICAN CHILDREN'S CHARTER

9. In accordance with Article 43 of the ACRWC the Committee received and considered the Initial Report of the Government of the State of Eritrea on the implementation of the African Children's Charter.

10. The Committee commended the State of Eritrea for submitting its Initial Report and for the high level delegation presented. The Committee raised questions for clarifications in relation to matters included in the various clusters of rights. The clarification questions include: the definition of a child, harmonization of laws in line with ratified international instruments, laws safeguarding the rights of children, FGM/C, level of coordination between government, the extent of birth registration, death sentences against children, respect for the views of the child, minority groups and refugees participation in the preparation of the report, respect for a child's rights to freedom of religion, harmonization of the age of marriage, measures protecting children from being recruited in the army, and budgetary allocation to the welfare of children. In addition, the Committee sought clarification on measures to deal with the health sector budgetary allocation, , inclusion in education, reduction of maternal and child mortality rates, street children, and sex tourism.

11. In addressing the concerns of the Committee, the Delegation explained that coordination is done by an inter-ministerial body made up of the Ministry of Labour, Ministry of Health, Ministry of Labour and Human Welfare, Ministry of Education and the Ministry of Justice. On laws concerning children, it was said that there exists no special legislation concerning children however they are incorporated under the civil and criminal Code all of which protect the rights and welfare of children. Furthermore, it was said that the Civil Code defines a child as a minor less than 18 years. With regard to the registration of births, it was stated that parents are required to register their children within three months. If this is not done within this period, a person with a parent of Eritrean nationality can bring an application to a court and witnesses brought to support the application. On measures of guarantees to prevent children being sentenced to death, it is mentioned that the Penal Code specified that a child may not be sentenced to death.

12. The Delegation also stated that for both sexes, sixteen is the age of marriage however where marriage is concluded between individuals under fifteen; an interested party can institute a case or the Attorney General for the marriage to be declared null and void. With regard to child soldiers, the Delegation stated that children are not being conscripted into the military and instead children were going to school. It was also mentioned that child labour is not an issue in the country. On child trafficking, the Delegation clarified that the issue has decreased due to awareness raising campaigns. On the issues of militarisation, it was further stated that there is a military camp and the Government requires youth above 18 to enroll to the camp due to national security however no children are sent there.

13. Following the State Party Report, the Committee sent its concluding observations and recommendations to the Government of Eritrea.

1.3. CONSIDERATION OF THE INITIAL REPORT OF THE REPUBLIC OF GHANA ON THE IMPLEMENTATION OF THE AFRICAN CHILDREN'S CHARTER

14. In accordance with Article 43 of the ACRWC the Committee received and considered the Initial Report of the Government of the Republic of Ghana on the implementation of the African Children's Charter. The delegation of the Republic of Ghana gave a briefing on the implementation of the Charter in the State Party.

15. The Committee thereafter raised questions for clarifications in relation to matters including: the widen mandate of the Ministry of Gender, Children and Social Protection, the various definitions of a child found in different laws, conflict between the legal age of marriage and customary laws, birth registration, statelessness, child labour, abandoned children, protection of victims of sexual abuse, and child trafficking.

16. In addressing the questions from the Committee, the Delegation stated that the mandate of the Ministry of Gender, Children and Social Protection was expanded to better protect the rights and welfare of children as the former Ministry was not empowered to protect vulnerable people which include children. On the various age of

children in different laws, the Committee was informed that despite differences in the law, a child is anyone under 18 years and in cases of sexual abuse the age of sexual consent is not defence to engage in sexual activities with a minor. Concerning the age of criminal responsibility, it was mentioned that the prospective amendment of the Children's Act will consider increasing the age to 14 in line with best practices and taking into consideration prior recommendations. On the question of juvenile justice system, the Delegation informed that Domestic Violence and Victim Support Units are found in police districts. Furthermore, it was mentioned that trial of children are heard at the family courts whose personnel are trained and the Chief Justice has proposed to change procedures along with the establishment of family court at the level of the high court.

17. It was also indicated that birth certificate is required to acquire a passport and for admittance in school and during admissions in kindergarten, and that assistance is given to obtain birth certificates. It was added that the health service collaborate with the Birth and Death Unit and outreach services are held every week bringing services to the door step of parents to assist those who have not registered their children. On statelessness, it was stated that children cannot be rendered stateless because where citizenship of a person, particularly a child, cannot be determined, citizenship is granted. On teenage pregnancy, it was mentioned by the Delegation that the Ministry of Education does not have a policy on the issue; rather practice guides the way how these girls return to school and educational authorities also assist those who wish to move to another school.

18. The Delegation also pledged the government's commitment to report periodically. Finally, the ACERWC asked that the concluding observation to be issued be given serious considerations which were sent subsequent to the Session.

1.4. ADOPTION OF THE AFRICA'S AGENDA FOR CHILDREN FOR THE COMING 25 YEARS

19. The year 2015 marked 25 Years of the adoption of the African Charter on the Rights and Welfare of the Child. As part of the activities to commemorate the day, a conference was organised at the Headquarters of the African Union Commission on the Status of Children's rights in Africa to assess the position of children in the past 25 years. The Conference was attended by Representatives from Member States, Regional Economic Communities, UN Agencies, International and Regional Organisations, and the Academia. At the Conference, a number of papers, in line with the identified thematic areas were presented. The presentations and discussion mainly focused on the impact of the African Children's Charter on the protection of the rights of children as well as the challenges faced in the implementation of the Charter. Based on the findings, the African Committee of Experts on the Rights and Welfare of the Child decided to develop a 25 year Agenda for children's rights in Africa. Since its inception in November 2015, the draft Agenda has gone through rigorous discussions and debates by various stakeholders, where significant inputs were gathered from. After careful deliberation on the draft, the Committee then adopted a long term agenda called

Africa's Agenda for Children 2040: Fostering an Africa Fit for Children during its 28th Ordinary Session.

20. Elaborating on the vision of Agenda 2063 in respect of children and bringing its attention to Paragraph 53 of the Agenda; the main objective of the Agenda for Children is to restore the dignity of the African child through assessing the achievements and challenges faced towards the effective implementation of the African Children's Charter. Moreover, the Agenda intends to establish long-term strategies that will contribute towards sustaining and protecting children's rights in Africa. The overall target is to expand significant goals and priority areas to which the respective Member states and the African Union commit to for the upcoming 25 years. The ACERWC would therefore like the Executive Council to adopt the Agenda as an African Union Document.

1.5. ADOPTION OF THE REPORT ON THE CONTINENTAL STUDY ON THE IMPACT OF CONFLICTS AND CRISES ON CHILDREN IN AFRICA

21. In its 28th Ordinary Session, the ACERWC has adopted its first comprehensive continental study on the impact of crises and conflicts on children in Africa. In its Decision in 2012, the Executive Council requested the African Union Peace and Security Council (PSC) to take into account the rights of the child in its agenda and cooperate actively with the African Committee of Experts on the Rights and Welfare of the Child (Decision EX.CL/Dec.712 (XXI)). In view of implementing such Decision, the ACERWC has held a joint meeting with the PSC on 18 February 2014 where the Council suggested for the ACERWC to undertake a study which assesses the situation of children in armed conflict and its impact across the Continent. Taking the suggestion in good order, the Committee kicked off the process in undertaking a comprehensive continental study on the impact of conflicts and crises on children in Africa.

22. The study concentrates on conflicts and crises across Africa over the last 10 years and the measures by State and non-State actors to protect the rights of children during and in the aftermath of such situations. It addresses psychological impact, education, health and nutrition/food security, separation from parents/caregivers and sexual and gender-based violence. The study builds its analysis on the four cardinal principles of the African Children's Charter namely the best interest of the child; the right to life, survival and development; and respect for the views of the child as evidenced through children's voices.

23. Being the first of its kind at the African Union level, the study draws urgency towards Member States to address the challenges that children are facing in conflict situations and halt recruiting and using children for military purposes. Taking the new challenges into consideration, the study, particularly, urges for a high level commitment from Member States to establish effective and functioning mechanisms to address the impact of conflict and crises on children and provide for the care and protection of children affected by armed conflict.

1.6. APPOINTMENT OF A NEW SPECIAL RAPPOREUR ON ENDING CHILD MARRIAGE

24. The ACERWC has appointed Mrs Dikere Marie-Christine Bocoum as the AU Special Rapporteur on Ending Child Marriage for a term of two years starting from October 2016.

2. RECOMMENDATIONS AND DECISIONS OF THE 29TH ORDINARY SESSION WHICH WAS HELD FROM 02-09 MAY 2017

2.1 CONSIDERATION OF THE INITIAL REPORT OF THE GOVERNMENT OF CHAD ON THE IMPLEMENTATION OF THE AFRICAN CHILDREN'S CHARTER

25. In accordance with Article 43 of the ACRWC the Committee received and considered the Initial Report of the Government of the Republic of Chad on the implementation of the African Children's Charter. During the consideration of the State Party report, the Committee raised questions for clarifications in relation to the structure of children's parliament, coordination of child right issues in the country, disparities in education enrolment of boys and girls, birth registration, abandoned children, silence in relation to child soldiers, the lack of up-to-date statistics, arranged marriages, the restrictive title of the Protection code and children in armed conflict.

26. In response to the concerns of the Committee, the Delegation indicated that the Ministry of Justice coordinates all activities and works related to all Human rights issues together with the inter-ministerial committee. With regard to age, the delegation mentioned that there are no disparities of age in Chad, the recognized age is 18 for majority; and that the law on marriage has nothing to do with gender, the age is valid despite the gender. The delegation also informed the Committee members that since the year 2012, the Government of the Republic of Chad has been relentless in the construction of schools and health centers. However, the delegation noted the statistics are not up to date and intends to provide updated data in the most recent report. Moreover, the delegation noted the urgent need to address and create strategies that will enable all children to have access to health centers particularly in the rural areas. The delegation acknowledged the issue of child marriage, child abduction and ransoms, with most frequent cases between the border of Cameroon, and indicated that sensitization and awareness raising programmes are ongoing. The delegation noted this matter is of high concern to the Government and security measures have been taken to improve surveillance and highway robberies.

27. The delegation further mentioned that the issue of the legitimate spouse mentioned in the birth certificate, was not within the legal provisions in the Chadian Government; however, the Government is currently working in drafting a harmonized system.

28. The Committee commended the progress made in the implementation of the Charter in Chad and noted that the country needs to continue to defy challenges in relation to health, education and violence.

2.2 CONSIDERATION OF THE INITIAL REPORT OF THE GOVERNMENT OF THE UNION OF COMOROS ON THE IMPLEMENTATION OF THE AFRICAN CHILDREN'S CHARTER

29. In accordance with Article 43 of the ACRWC the Committee received and considered the Initial Report of the Government of the Union of Comoros on the implementation of the African Children's Charter.

30. Following a brief presentation by the Head of the delegation, the Committee raised questions for clarifications with respect to the fact that rights of children in Comoros are drowned within general laws and policies on human rights, and the lack of specific institutions and laws for child protection.

31. Other concerns raised by the Committee include protection of specific needs of most vulnerable children, inclusive education, birth registration certificates and harmonization with other vital statistics, exception on the minimum age of consent for marriage, monitoring and evaluation system, action plan to address the issue of negative impacts of culture and religion on the rights of the child, poverty and its impacts on education, abuse of children in Quran schools, and instances of statelessness.

32. The delegation of the Government of Comoros appreciated the questions of the Committee and further clarified certain issues. It was noted that there are various policies and measures that are directly and specifically targeted at protection of child rights such as the national policy for the protection of children, an overarching policy that protects children in the country. The delegation explained that cash/monetary transfer project provides assistance to precarious homes with vulnerable children. It is a symbolic assistance to assist children's education and development and also is a pilot project that focuses on families with no earnings at all. Furthermore, there is a national protection policy for children with disabilities and the State is further planning on improving services such as inclusive education. The head of delegation further noted that even though Comoros is a predominantly a Muslim country, freedom of religion is guaranteed and exercised. The head of the Delegation in her final remarks mentioned that all the issues and questions discussed have been properly noted and will be addressed subsequently.

33. The Committee reiterated the benefits of the reporting process in helping to reveal the progress and the challenges in implementing the Charter.

2.3 CONSIDERATION OF THE INITIAL REPORT OF THE GOVERNMENT OF COTE D'IVOIRE ON THE IMPLEMENTATION OF THE AFRICAN CHILDREN'S CHARTER

34. In accordance with Article 43 of the ACRWC the Committee received and considered the Initial Report of the Government of Cote D'Ivoire on the implementation of the African Children's Charter.

35. Following the brief presentation by the Head of the delegation, the Committee commended the Government of Cote D'Ivoire for submitting its Initial Report and for the high level delegation presented. The Committee thereafter raised questions for clarifications on matters related to the on-going child marriages, child trafficking, the need for equal services particularly for children located in rural areas, disparities in terms of gender in education, the issuance of the birth certificate (including children in refugee camps) and children with mothers in prisons.

36. Emphasis was also made on the need to involve children especially in preparations of such significant events. Moreover, the Committee members inquired about the translation of the Charter due to the fact that awareness is key to educating and safeguarding the rights of the child.

37. Reflecting the Committee's questions, the delegation stated that the Government of Cote D'Ivoire has displayed commitment to align its works with the Committee's visions. The works of the Government within the educational institutions enable children to engage in discussions based on human rights. Moreover, sensitization activities are covered within the various community contexts. The delegation further elaborated on the works achieved such as the national program for orphans with HIV/AIDs, the provision of scholarships for children and measures taken to assure young pregnant girls were provided with the opportunity to resume after giving birth. The various activities within educational institutions are a true reflection of the country's efforts to commit to safeguarding and protecting the rights of the child. The delegation also emphasized on the fact that their works abide with three essential principles namely, prevention, protection and monitoring assessments.

38. The delegation acknowledged the valuable input of the Committee members and responded to the various topics and themes that emerged throughout the discussions. The delegation noted law makers have displayed efforts to protect families and children however, there is need to develop effective strategies and measures that will contribute towards the protection of the children.

2.4 CONSIDERATION OF THE INITIAL REPORT OF THE GOVERNMENT OF THE UNITED REPUBLIC OF TANZANIA ON THE IMPLEMENTATION OF THE AFRICAN CHILDREN'S CHARTER

39. In accordance with Article 43 of the ACRWC the Committee received and considered the Initial Report of the Government of the United Republic of Tanzania on the implementation of the African Children's Charter. The Committee raised questions

for clarifications on various matters including: the protection of children from discrimination, the possibility of making children's rights issues a Union's matter, the slow amendment process of the witchcraft act, halting the attacks and killings of children with albinism and provision of services and improving the lives of children with albinism who are living in the temporary holding shelters, chronic malnutrition that results in stunting, harmonization of laws related to the definition of the child and under-five mortality rate.

40. In responding to the various questions posed, the delegation stated that the Government recognizes most of the issues raised by the Committee and is working towards improving them step by step. It was also noted that the draft Constitutional amendment, which clearly provides that a child is a person under the age of 18, is among the legislative measures towards harmonization of laws on the definition of the child. Another legislative measure discussed was the amendment of the witchcraft act, which is on the adoption process. According to the delegation, other measures undertaken include; allocation of budget to facilitate the coordination of child protection activities within the Union, creation of favourable educational environment for children with disabilities, creation of child marriage free zones and rendering free medical service for children under five and pregnant mothers.

41. The Committee stressed on the urgent need to respond effectively to the challenge of the treatment of children with albinism and it will send its recommendations on the report to the State Party soon.

2.5 REPORT ON THE IMPLEMENTATION OF THE ACERWC DECISION ON BEHALF OF THE CHILDREN OF NUBIAN DESCENT IN KENYA

42. In September 2011, the ACERWC published its first ever decision on a communication, in favour of the Nubian community in Kenya, recommending that Kenya undertakes a series of actions to remedy the operation and lasting effects of systemic discriminatory treatment of this community in Kenya's national civil registration and identity documentation procedures. Following this Decision, a Delegation from the Government of Kenya presented the Country's position on the progress it has achieved in implementing the decision and recommendations of the ACERWC on the communication.

43. The measures taken include; making of the descendants of migrants and stateless persons and migrants and stateless persons eligible for registration for citizenship according to the 2010 constitution, opening an 8 year window of registration of children up to 29 August 2019, putting in place a monitoring plan in health facilities to ensure that every birth is registered at any maternal health outlets, conducting accelerated mobile registration, establishment of a guideline on orphan and vulnerable children, reengineering the education management information system, sensitization of religious leaders on birth registration, distribution of registration guidelines to registration agents, ensuring that, government registers all birth as soon as they occur irrespective of any circumstance, subsidizing secondary school education, capitation increase in

2014/15 academic year, including fruits and vegetables in school feeding programs, health facilities development, commencing free child delivery services, including HIV/AIDS education in the school curriculum and making the principle of non-discrimination central to issues of health and education. The head of delegation expressed that legislative, administrative and other measures have been taken to comply with the decision of the Committee on the communication. The Committee also held a closed session with the Delegation to discuss the way forward on further implementation of the decision.

44. In concluding the session, the Chairperson of the Committee expressed sincere appreciation for the Government of Kenya in their cooperation with the Committee and stressed that Kenya is going on the right direction for a better future of the Talibés children.

2.6 REPORT ON THE IMPLEMENTATION OF THE ACERWC DECISION ON BEHALF OF THE TALIBE CHILDREN IN SENEGAL

45. In April 2014, July 2012 the ACERWC made a Decision on the Communication submitted by the Centre for Human Rights, University of Pretoria (South Africa) and La Rencontre Africaine pour la Défense des Droits de l'Homme (RADDHO) of Senegal against the Government of Senegal regarding talibés children who are forced to beg on the streets of Senegal. Accordingly, a delegation from the Government of Senegal gave a presentation on the progress they have achieved in implementing the decision and recommendations of the Committee. The Head of the Delegation expressed that the problem of child begging specially of the Talibé is recognized as a big challenge in the child protection system of Senegal. In this regard, the measures that were taken include the following; the allocation of budget for the implementation of the recommendations (one hundred million CFA), supporting Daras with nutrition, collaborating and signing of bilateral agreements with border countries for the return of children to their homes, accelerating the adoption of a child rights code, the creation of 3 new children's courts in areas that do not have any, construction of 74 Daras in the Northern part of the region, drafting of curriculum for Daras that includes learning of Quran, Arabic and French subjects, setting up of norms, standards and time schedules for Daras and strengthening access to medical coverage for Talibé children with initiative for universal health coverage for children.

46. The delegation further elaborated that based on the measures taken, certain positive results have been seen. There is an increase in the rate of children in school, better quality of education, 1147 children were withdrawn from the street and 2344 Talibé children were enrolled in health units. Moreover, challenges that were faced in the process of implementation were presented by the delegation. One of the major challenges holding back the implementation of the recommendations was said to be deeply rooted harmful traditional values. The delegation expressed the strong desire of the Government of Senegal to ensure the full implementation of the recommendation and to create a Senegal where no child has to beg. Furthermore, the delegation expressed that the government is currently working with all relevant stakeholders,

including religious leaders, member of the community, CSOs, private sector and neighbouring countries.

47. In concluding the session, the Chairperson of the Committee expressed sincere appreciation for the Government of Senegal in their cooperation with the Committee and stressed that Senegal is going on the right direction for a better future of the Talibés children.

2.7 PRESENTATION BY THE SPECIAL RAPPORTEUR ON CHILD MARRIAGE

48. The incoming Special Rapporteur on child marriage Hon Marie-Christine Bocoum made a presentation concerning the progress of the Campaign to End Child Marriage in Africa and her plans in building on what has already been started by the previous Rapporteur. Accordingly, the incoming Special Rapporteur will be focusing on the link between the Campaign and Agenda 2063, involving the Regional Economic Communities in the implementation strategy, fixing the age of marriage at 18 for both boys and girls throughout Africa, asking for attestation documents of age before conducting marriages, ensuring legal and social assistance for reproductive health for girls in rural and urban areas, schooling and maintenance of girls within schools and give special attention to the issue of child marriage in reviewing state reports by ACERWC. The Special Rapporteur called upon the cooperation from all stakeholders including Member States, African Union, and partners.

2.8 CONSIDERATION OF COMMUNICATIONS

49. The ACERWC has considered and decided on the admissibility rulings of the following communications:

- i) Ahmed Bassiouny represented by advocate Dalia Lotfy and Amal, mother of the minor Vs Government of Arab Republic of Egypt: The Communication is declared inadmissible;
- ii) Sohaib Emad represented by advocate Dalia Lotfy and Samar Emad, sister of the victim Sohaib Emad Vs Government of Arab Republic of Egypt-The Communication id declared inadmissible.

50. In 2014, the ACERWC received a Communication IHRDA Vs the Republic of Malawi regarding the definition of the child. The Complainant submitted that the age which defines a child as it is stated in the Malawian Constitution is contrary to the provision of the African Children's Charter. Recognising the problem, the Government and the Complainants have agreed to settle the case amicably. The amicable settlement was reached between the parties in the Communication during the 28th Ordinary Session of the Committee. The amicable agreement requires for the Respondent State undertakes to do everything within its power to amend its Constitution and all other relevant laws to be in compliance with article 2 of the African Charter on the Rights and Welfare, and the Respondent State complies with its

reporting obligation as prescribed in the agreement. In this regard, the Respondent State has submitted 2 reports dated 25 January 2017 and 25 April 2017 where the State indicated that it has complied with the requirements of the amicable settlement by adopting a bill which amends the Constitution of Malawi. The amendment documents are submitted to the Committee. The Committee then extended its appreciation to the Government of Malawi as it revealed a commitment which can be benchmarked by the concerned Member States across the continent; and encouraged the Government of Malawi to continue working towards harmonising the provisions of other relevant laws with the newly adopted definition of the child as it is reflected in the Constitution.

2.9 SELECTION OF DAC 2018 THEME

51. Taking the consultations made by children on the theme of Day of African Children into consideration, after further discussions and deliberations, the Committee decided for the theme of DAC 2018 to be on **“Leave No Child behind-for Africa’s Development”**.

II. CHALLENGES OF THE ACERWC

52. The ACERWC would like to draw the attention of the Executive Council to the challenges it is facing in undertaking its activities. For the Committee to effectively deliver on its mandate, it requires a strong, well-staffed and competent Secretariat. As the Committee has now receiving and considering more State Party reports and complaints on violations of children’s rights, the need for strengthening the Secretariat, in terms human and material resources is very critical. It was in due consideration of the capacity challenges that the ACERWC is facing that the Executive Council made a Decision (Doc. EX.CL/Dec.776(XXIII)), where the Council requested the AUC to undertake an assessment on financing and human resource needed by the Committee with a view to adequately equipping the Committee to discharge its mandates effectively as envisaged in the African Charter.

53. The expanding scope of work and needs is daunting for a group of only 11 part time members with few Secretariat staffs and limited financial resources. The numbers of State Party and alternative reports and communications submitted have continued to increase at a higher rate than the corresponding capacity needed to manage them. Therefore, the ACERWC would like to bring to the attention of the Executive Council that the Secretariat of the Committee still faces a significant systemic capacity deficit and there is a need further strengthens its capacity.

III. RECOMMENDATIONS

54. In conclusion, the African Committee of Experts on the Rights and Welfare of the Child would like to draw the attention of the Executive Council on the following issues:

- i) Eight Member States have not yet ratified the ACRWC, namely: Central African Republic, Democratic Republic of Congo, Morocco, Tunisia, Sao Tome and Principe, Saharawi Arab Democratic Republic, South Sudan,

and Somalia. Therefore, the ACERWC would like the Executive Council to urge these countries to expedite the ratification of the Charter;

- ii) To congratulate State Parties which have submitted their reports on the implementation of the African Children's Charter and to urge State Parties which have not yet reported to the Committee to comply with their reporting obligations;
- iii) To urge the four State Parties, namely Botswana, Egypt, Mauritania and Sudan, that have placed reservations on the implementation of some of the provisions of the ACERWC to withdraw their reservations;
- iv) To adopt the theme of the 2018 DAC, which is on **“Leave No Child Behind for Africa's Development”**;
- v) To appreciate the Government of Kenya for the progress achieved in implementing the Decision and Recommendations of the ACERWC in the Communication regarding the challenges of children of Nubian descendants in Kenya; and encourage the Government to work towards the full implementation of the Recommendations of the ACERWC;
- vi) To appreciate the Government of Senegal for the progress it achieved in implementing the Decision and Recommendations of the ACERWC in the Communication regarding talibés children who are forced to beg on the streets of Senegal; and encourage the Government to work towards the full implementation of the Recommendations of the ACERWC;
- vii) To appreciate the Government of Malawi for adopting a Constitutional Amendment Bill which increases the age of majority from 16 to 18 years of age, which is in line with the definition of the child as it is stated in the African Children's Charter;
- viii) To welcome the findings of the continental study on the impact of conflicts and crises on children in Africa;
- ix) To adopt the “Africa's Agenda on Children's Rights: Fostering an Africa fit for Children” (Agenda 2040) as an African Union document and urge Member States to work towards the full implementations of the aspirations included in the Agenda;
- x) To welcome the appointment of the incoming AU Special Rapporteur on Ending Child Marriage, Mme Marie-Christine Bocoum, and congratulate the outgoing Special Rapporteur, Mme Fatima-Zohra Sebaa.

DRAFT
DECISION ON THE REPORT OF THE AFRICAN COMMITTEE OF EXPERTS
ON THE RIGHTS AND WELFARE OF THE CHILD (ACERWC)
Doc. EX.CL/1033(XXXI)

The Executive Council,

1. **TAKES NOTE** of the Report of the African Committee of Experts on the Rights and Welfare of the Child;
2. **ADOPTS** the Report and **COMMENDS** the Committee for the work done in monitoring the implementation of the African Charter on the Rights and Welfare of the Child;
3. **URGES** Member States who have not yet ratified the Charter, to expedite their ratification process; and State Parties which have placed reservations on the application of the provisions of the Charter to consider the withdrawal of the same;
4. **APPRECIATES** State Parties which have submitted their Reports on the implementation of the African Children's Charter and **CALLS UPON** States Parties that have not yet submitted their reports to do so in line with their obligations under the Charter;
5. **ADOPTS** the theme for the Day of the African Child 2017: "**Leave No Child Behind for Africa's Development**" and **REQUESTS** Member States to commemorate the Day of the African Child;
6. **APPRECIATES** the Government of Kenya for the progress achieved in implementing the Decision and Recommendations of the ACERWC in the Communication regarding the challenges of children of Nubian descendants in Kenya; and **ENCOURAGES** the Government to work towards the full implementation of the Recommendations of the ACERWC;
7. **APPRECIATES** the Government of Senegal for the progress it achieved in implementing the Decision and Recommendations of the ACERWC in the Communication regarding talibés children who are forced to begging on the streets of Senegal; and **ENCOURAGES** the Government to work towards the full implementation of the Recommendations of the ACERWC;
8. **APPRECIATES** the Government of Malawi for adopting a Constitutional Amendment Bill which increases the age of majority from 16 to 18 years of age, which is in line with the definition of the child as it is stated in Article 2 of the African Children's Charter;
9. **WELCOMES** the findings of the continental study on the impact of conflicts and crises on children in Africa, and **URGES** the concerned Member States to

address the plights of children within their territory who are affected by crises and conflicts;

10. **ADOPTS** the “Africa’s Agenda on Children’s Rights: Fostering an Africa fit for Children” (Agenda 2040) as an African Union document and **URGES** Member States to work towards the full implementations of the aspirations included in the Agenda;
11. **WELCOMES** the appointment by the ACERWC of Mme Marie-Christine Bocoum as the AU Special Rapporteur on Ending Child Marriage and **CONGRATULATES** the outgoing Special Rapporteur, Mme Fatima-Zohra Sebaa, for the work she has done during her term of office.

2017

Rapport du Comité Africain d'Experts sur les Droits et le Bien-Être de l'Enfant (CAEDBE)

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