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

INTRODUCTORY NOTE**ON THE REPORT OF THE AFRICAN COMMITTEE OF EXPERTS ON
THE RIGHTS AND WELFARE OF THE CHILD (ACERWC) TO THE
TWENTY-FIRST SESSION OF THE EXECUTIVE COUNCIL**

1. The African Committee of Experts on the Rights and Welfare of the Child was established at the 37th Session of the Assembly of Heads of State and Government held in Lusaka, Zambia in July 2001, in conformity with Articles 32 and following of the African Charter on the Rights and Welfare of the Child. The Committee's mandate is, *inter alia*, to promote and protect the rights of the African child pursuant to the provisions of the Charter.
2. The Committee notes that, more than ten years after the entry into force of the Charter, its ratification has not yet been completed and observes that there has been slowness in the reporting of its implementation as required by Article 43 of the Charter.
3. In accordance with its mandate under the Charter, the Committee has undertaken several actions including the holding of its statutory sessions during which it considers reports of States Parties on the implementation of the Charter, the review of communications (complaints) received and many other activities undertaken outside sessions.
4. The present Report summarizes the Recommendations and Decisions of the 18th Committee Session held from 26 November to 1 December 2011 in Algiers, Algeria, the 19th session held from 26 to 30 March 2012 in Addis Ababa in Ethiopia and other activities undertaken, despite the weakness or even the lack of means. Indeed, for 2012 the funds allocated for the Committee budget have so far not been released for lack of a partner to defray them, which has caused a serious handicap in the implementation of its activities.
5. The Report is hereby submitted to the Executive Council for consideration.

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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 was established at the 37th Session of the Assembly of Heads of State and Government held in Lusaka, Zambia in July 2001 in accordance with Articles 32 and following of the African Charter on the Rights and Welfare of the Child. The Committee's mandate is, *inter alia*, to promote and protect the rights of the African Child pursuant to the provisions of the Charter.

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5. The Report is hereby submitted to the Executive Council for consideration.

I. ACTIVITIES UNDERTAKEN DURING THE EIGHTEENTH (18TH) SESSION

6. The 18th Session of the African Committee of Experts on the Rights and Welfare of the Child was held from 26 November to 1 December 2011 in Algiers, Algeria. It was preceded by the pre-session to consider the report of the NGO Coalition on the Rights of the Child in Sudan. The Committee also considered the preliminary reports on the implementation of the Charter in Cameroon, Niger and Senegal.

I.1 Pre-Session for consideration of the Report of the NGO Coalition on the Rights of the Child in Sudan.

7. In anticipation of the consideration of the report of the Republic of Sudan on the implementation of the African Charter on the Rights and Welfare of the Child, the

alternative report of the NGO Coalition on the Rights of the Child in Sudan was presented and discussed.

I.2 Consideration of the Preliminary Report of the Republic of Cameroon on the implementation of the African Charter on the Rights and Welfare of the Child

8. Cameroon's Report on the implementation of the Charter presented the regulatory framework for the protection of children which is characterized by the ratification of treaties such as the Charter, the Convention on the Rights of the Child as well as the general measures adopted by the State Party for the application of these Conventions and other instruments relating to children's rights. Cameroon has thus acceded to the definition of the child as provided by the Charter and to its basic principles which are the rights to life, survival and development, non-discrimination, best interests of the child and respect for the child's views. Provisions have also been taken to ensure the basic health and welfare of the child as well as his education, recreation and cultural activities. Certain welfare measures are also provided.

9. The report was presented to the Committee by the Minister of Social Affairs who recalled the legislative and regulatory measures adopted by the State Party as well as policies, programmes and actions initiated for the promotion and protection of the rights of the child.

10. Following the in-depth consideration of the report and the debates that followed the presentation, the Committee made the following comments and recommendations to the Republic of Cameroon. The Committee commended the State Party for all measures taken and efforts made towards the promotion and protection of the rights of the child, including the enactment of instruments taking into account the best interests of the child, the programme ensuring the education of children of all ages and promoting the education of girls, the establishment of governments and parliaments for children, measures taken in favour of children with disabilities and the development of infrastructure and health services.

11. However, shortcomings were found and mainly concern, among others, the non-domestication of the Charter, especially regarding the age of majority for marriage, access to employment, poor access to care by children in detention and those placed in institutional care, the low registration of children at birth observed among certain ethnic groups, disabilities affecting overall 22% of children aged 2-9 years with a high incidence of stunting, the low school enrolment and high dropout rates, the persistence of harmful traditional practices such as breast ironing or early marriage, violence against children such as corporal punishment, the high rate of morbidity, maternal and child mortality and child trafficking, the failure to ratify the Hague Convention of 1993 (on the Protection of Children and Co-operation in Respect of Inter-country Adoption) and the absence of juvenile judges and courts.

12. Referring to the shortcomings, the Committee made recommendations to the State Party. In agreement with the Government, a Committee mission will monitor the implementation of these recommendations in Cameroon.

I.3 Consideration of the Preliminary Report of the Republic of Niger on the implementation of the Charter

13. Niger's Report highlighted the situation of children, the measures taken in connection with the implementation of the Charter and the progress made in this area. These measures include the definition of the child, the general principles of the Charter and the provisions taken to ensure not only the basic health and welfare of the child but also his education, leisure and cultural activities. Social protection measures are also provided.

14. In presenting the report, the Minister of Social Development and Protection of Women and Children focused on measures taken, progress recorded as well as challenges and prospects in the promotion and protection of the rights of the child.

15. Following discussions and the thorough consideration of the report after the presentation, the Committee made comments and recommendations to the Republic of Niger. The Committee commended the State Party for the measures taken and efforts to protect the child especially in the areas of education for children and particularly for girls, the adoption of the Action Plan on Child Survival, Development and Protection, actions to enforce the registration of births and children with disabilities, the ratification of the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, the ratification of ILO Conventions on the Worst Forms of Child Labour, the establishment of a Steering Committee for their implementation and the Struggle against Slavery and the enshrinement of freedom of expression for youth groups and school associations.

16. However, the Committee found weaknesses such as the coexistence of several sources of rights, not taking into account the interest of the child, the persistence of cases of infanticide and child abandonment, low school enrolment and completion rates for both girls and boys and some discrimination in the choice of related solutions to the detriment of boys, lack of infrastructure and basic social services, parental influence on freedom of conscience and religion for children, failure to ratify the Hague Convention of 1993 (on the Protection of Children and Co-operation in Respect of Inter-country Adoption), the persistence of harmful traditional practices such as Female Genital Mutilation (FGM), early marriage, etc..

17. The Committee made recommendations to the State Party in respect of all the shortcomings. In agreement with the Government, a Committee mission will travel to Niger to monitor the implementation of these recommendations.

I.4 Consideration of the Preliminary Report of the Republic of Senegal on the implementation of the Charter

18. Senegal's Report highlighted the legislative measures taken to align or harmonize Senegalese law with the ACRWC at the judicial, administrative and institutional levels. Progress made in taking the child into account, the difficulties faced and prospects to ensure the implementation of the rights and welfare of the child were also discussed. The Report focused not only on the definition of the child, the general principles of the Charter and the basic health and welfare of the child but also on education, recreation and cultural activities, protective measures and the social context in which the child develops.

19. His Excellency the Ambassador of Senegal to Algeria, representing the Minister who was held up, focused the report on the efforts deployed by the State and civil society organizations in favour of the child and the constraints and obstacles faced.

20. After considering the report, the Committee made comments and recommendations to the Republic of Senegal. It commended the State Party for all measures taken and efforts to develop a child protection policy, sign the Hague Convention of 1993, ILO Conventions 182 and 138, promote the education of children, adopt legislation to enhance the struggle against child exploitation, mistreatment and abuse, intensify the fight against FGM, and foster access to pre-natal, natal and post-natal care.

21. The Committee found weaknesses such as non-alignment of national legislation with the provisions of the Charter, lack of coordination of actions in favour of the child, plurality in the definition of the child, deliveries outside health centres, insufficient number of civil status registration centres, early marriages, violence against children in families, neighbourhoods, homes, workplaces but also in school which is in essence a forum for the education and development of children, lack of health personnel, the resurgence of some debilitating diseases such as polio, persistent begging and corporal punishment.

22. The Committee made recommendations to the State Party in respect of all the shortcomings. In agreement with the Government, a Committee mission will travel to Senegal to monitor the implementation of these recommendations.

I.5 Finalizing the Amendment of ACERWC Draft Rules of Procedure

23. During the 18th session, the Committee finalized the amendment of its draft rules of procedure. The next steps will consist in harmonizing this working document with those of the African Court on Human and Peoples' Rights and the African Commission on Human and Peoples' Rights. The document will then be submitted to the Office of the Legal Counsel of the African Union Commission for approval.

I.6 Monitoring of Communications (complaints) received

24. In accordance with its Guidelines on Communications, the Committee designated one of its members to monitor the implementation of its Decision on the Right to Citizenship for Children of Nubian Descent in Kenya. The Committee also decided to undertake a mission to Kenya to inquire about the positive steps taken by the Kenyan Government for the implementation of this Decision.

25. The Committee further held sessions to hear the parties, particularly the plaintiffs and the government party involved in a communication on the violation of children's rights following the armed conflict in northern Uganda. The Committee decided to visit the area to better assess the situation before making a decision.

I.7 Grant of observer status

26. The Committee granted observer status to the Community Law Center of Western Cape University, South Africa.

II. ACTIVITIES UNDERTAKEN DURING THE NINETEENTH (19th) SESSION

27. The 19th session of ACERWC held from 26 to 30 March 2012 in Addis Ababa, Ethiopia, offered the Committee an opportunity to, among others, discuss Article 21 of the Charter (Protection against Harmful Social and Cultural Practices), identify the theme of the 2013 Day of the African Child, choose the theme for general comment and to present its work plan for 2012-2013.

II.1 Discussion and outcomes of the discussion on Article 21 of the Charter: "Protection against Harmful Social and Cultural Practices".

28. In collaboration with its partners, the Committee held two days of discussion on Article 21 of the Charter devoted to Harmful Traditional Practices (HTP) against children.

29. The main goal of these days of discussion was to find strategies to raise awareness of States Parties on their obligation to implement Article 21 of the Charter in order to protect children against negative social and cultural practices. After the various presentations and exchanges made on the subject, the Committee decided to use the State Party reports, various presentations and other relevant documents to assess the situation of Harmful Traditional Practices in order to establish priorities according to national and regional contexts. The Committee also decided to develop a partnership and synergetic action with other Union organs responsible for human rights issues as well as with civil society actors. There are also plans to develop general comments on Article 21 in order to guide Member States and partners on steps to take for the implementation of this article.

II.2 Adoption of the theme of the 2013 Day of the African Child (DAC)

30. Following discussions and review of numerous themes proposed for DAC 2013, the Committee adopted the following **theme: "Elimination of Harmful Social and Cultural Practices against Children: Our Collective Responsibility"**. This choice was based on the discussion on Article 21 of the Charter to bring Member States to take measures to protect children against HTP. After the adoption of the theme by the Executive Council, the Committee will prepare a guidance note and circulate it to all Member States and Partners to guide them on the purpose of the theme and the expected outcomes.

II.3 Adoption of the theme for General Comment

31. In its Work Plan 2012-2013, the Committee intends to develop, during 2012, a general comment on a topic related to the rights of the child. Through the general comment, the Committee will interpret the provisions of the Charter to guide Member States and stakeholders on its implementation. Accordingly, at its 19th session, the Committee decided to base the general comment on Article 30 of the Charter: **"Children of Imprisoned Mothers"**. The text of the General Comment will be adopted at the 20th session of the Committee in November 2012 and will be circulated to all Member States and stakeholders.

II.4 Presentation of ACERWC Work Plan 2012-2013

32. The Committee presented its Work Plan 2012-2013 focusing on 14 activities:

- Advocacy with Member States that have not yet ratified the Charter;
- Monitor ACERWC observations and recommendations on State Party Reports on the implementation of the Charter;
- Monitor Communications on violations of the rights of the child;
- Prepare and monitor the commemoration of the Day of the African Child (DAC);
- Improve ACERWC's communication strategy;
- Develop and update a database on the rights of the child;
- Improve ACERWC working procedures and guidelines;
- Organize ACERWC sessions and actively participate in the 3rd Pan-African Forum on Children;
- Attend AU Summits;
- Strengthen collaboration with other AU organs;
- Forge cooperation with Regional Economic Communities;
- Strengthen cooperation with the UN Committee on the Rights of the Child (UNCRC);
- Strengthen cooperation with civil society organizations;
- Develop and strengthen the capacity of the Committee and its Secretariat.

33. The Committee submitted the work plan to partners some of who offered to lend support for its implementation. The Committee and the partners concerned agreed to hold bilateral meetings in order to help further ideas and implement commitments.

III. ACTIVITIES UNDERTAKEN OUTSIDE SESSIONS

34. The Committee also conducted activities outside sessions:

III.1 Implementation of the *"Draft Charter on African Children"* Project

35. The Draft Charter on African Children, implemented in collaboration with the AUC Department of Social Affairs and a consortium of NGOs, aims to implement the African Charter on the Rights and Welfare of the Child through, among others, the development this year of Guidelines on Alternative Reports of Civil Society Organizations for the Implementation of the Charter, the development of a communication plan for the Committee and plans for collaboration with the Regional Economic Communities, the Permanent Representatives' Committee and the Peace and Security Council. The Committee would like to strengthen cooperation with these organs and especially get them to pay greater attention to the situation of children and take this aspect into account in their various initiatives.

36. It should be noted that this project was already presented in the previous report to the Executive Council.

III.2 Participation in meetings

37. As part of collaboration with the AU organs responsible for human rights, the Committee participated, from 22 to 23 March 2012, at the Session of the African Court on Human and Peoples' Rights and the 51st session of the African Commission on Human and Peoples' Rights. The Committee also attended the consultative meeting on the African Human Rights Strategy held from 12 to 14 April 2012.

CONCLUSION

38. 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 to the fact that more than ten years after the entry into force of the African Charter on the Rights and Welfare of the Child, only forty-six (46) of the fifty-four (54) Member States have ratified it, and only fifteen States Parties have fulfilled their obligation of submitting reports on the implementation of the Charter to the Committee. Accordingly, the Committee is requesting the Executive Council to urge countries that have not yet ratified the Charter and those that have not submitted their reports on the implementation of the Charter to accelerate the process. The Executive Council should further urge Member States to respond positively to Committee requests to undertake field missions.

39. The Committee requests the Executive Council to adopt the theme: **"Elimination of Harmful Social and Cultural Practices against Children: Our Collective**

Responsibility" as the theme for the 2013 Day of the African Child and urges Member States to take urgent measures to eradicate harmful traditional practices against children.

40. The Committee further requests the Executive Council to urge the Permanent Representatives' Committee, the Peace and Security Council and the Regional Economic Communities to cooperate actively with the Committee for greater integration of the rights and welfare of the child in their actions.

2012

Report of the African committee of experts on the rights and welfare of the child (ACERWC)

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