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**EXECUTIVE COUNCIL**

**Thirty-Sixth Ordinary Session**

**06 - 07 February 2020**

**Addis Ababa, Ethiopia**

**EX.CL/1209(XXXVI)**

Original : English

**ACTIVITY 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**

### **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);
2. As stated in article 1 of the African Children's Charter, States Parties shall recognize the rights, freedoms and duties enshrined in the Charter and shall undertake to the necessary steps to adopt legislative or other measures as may be necessary to give effect to the provisions of the African Charter on the Rights and Welfare of the Child;
3. The ACERWC is established to promote and protect the rights of the child and in particular to monitor the implementation of the African Children's Charter;
4. 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), adoption of various documents and other activities as stated in this Report;
5. Accordingly, the current report summarizes the Recommendations and Decisions of the 33rd and 34th Ordinary Sessions of the Committee which were held on 18-28 March 2019 in Addis Ababa and 25 November-05 December 2019 in Cairo respectively, as well as other activities undertaken between January and December 2019.

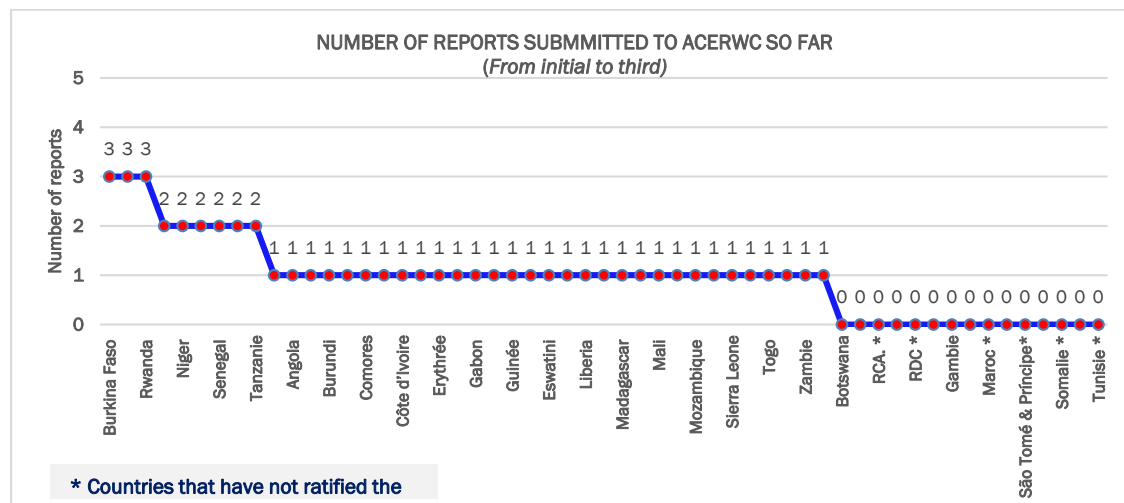
## ACTIVITIES OF THE ACERWC DURING THE REPORTING PERIOD (JANUARY-DECEMBER 2019)

### ITEM I: STATUS of RATIFICATION, RESERVATION AND REPORTING ON THE AFRICAN CHILDREN'S CHARTER

1. The African Children's Charter currently is ratified by 49 Countries. Six Countries are yet to ratify the Charter, namely, DRC, Morocco, Sahrawi Arab Democratic Republic, Somalia, South Sudan and Tunisia. Four Countries have also made reservations on application of some of the provisions of the Charter, these Countries are Botswana, Egypt, Mauritania and Sudan. Out of the 49 Countries which have ratified the Charter, thirty-Nine counties have submitted at least their initial report, of which Kenya, Rwanda, Burkina Faso, Tanzania, South Africa, Niger, and Senegal have submitted their periodic reports. Four counties, namely Burkina Faso, Rwanda, Nigeria and Kenya have submitted their 2nd periodic reports. Countries which have never submitted any report to the ACERWC include: Botswana, Cape Verde, Central African Republic, Djibouti, Equatorial Guinea, Gambia, Mauritius, Sao Tome and Principe (Initial report yet to be due) and Seychelles. The tables below summarize the status of reservation and reporting under the African Children's Charter.

**Table i- Countries with Reservation on the African Children's Charter**

Country	ACRWC	Issue
<b>Botswana</b>	Article 2	Definition of a child
<b>Egypt</b>	Article 24	regarding adoption (although this is under review and a similar reservation to the CRC has already been removed)
	Article 30 (a-e)	special treatment of children of imprisoned mothers
	Article 44	Mandate of the ACERWC to receive Communications
	Article 45(1)	Mandate of the ACERWC to conduct investigations in Member States
<b>Mauritania</b>	Article 9	The right to freedom of thought, conscience and religion
<b>Sudan</b>	Article 10	Protection of privacy
	Article 11(6)	Education of children who become pregnant before completing their education
	Article 21(2)	Child marriage

**Table ii- Status of Reporting under the African Children's Charter**

## ITEM II: STATE PARTY REPORTS, CONCLUDING OBSERVATIONS AND RECOMMENDATIONS

2. Article 43 of the African Children's Charter gives the ACERWC a mandate to receive and consider State Party Reports on the implementation of the African Children's Charter. In this regard, during the reporting period the ACERWC has received and considered State Party Reports from the following State Parties:

- i. Initial Report of the Republic of Benin
- ii. Initial Republic of the Kingdom of Eswatini
- iii. Initial Report of the Islamic Republic of Mauritania
- iv. Periodic Report of the Federal Republic of Nigeria
- v. Periodic of the Republic of Rwanda
- vi. Periodic Report of the Republic of Senegal
- vii. Periodic Report of the Republic of South Africa

### 2.1. Initial Report of the Republic of Benin

3. During its 33rd Ordinary Session, the ACERWC considered the Initial Report of the Government of Benin on the implementation of the African Children's Charter. Following the consideration of the report, the ACERWC has sent its Concluding Observations and Recommendations to the State Party. The ACERWC commends the Government of Benin for the various legislative, administrative and other measures it has undertaken towards the implementation of the provisions of the African Children's Charter. Despite the progress achieved, the Committee remains concerned by the existing gaps in the protection and promotion of children's rights in the Country, particularly in the areas of minimum age of marriage, life, survival, development, birth registration, education, harmful practices and

violence against children. The major recommendations of the Committee include, for the State Party to:

- Provide clear provisions to set the minimum age of marriage at 18 with no exceptions whatsoever;
- Provide food supplements to children, and train families and farmers on how to use supplements in producing food to overcome under-nutrition and ensure that foods have the necessary micro-nutrients that are needed for children's development;
- Increase the coverage of immunization, such as measles, by decentralizing immunization centers;
- Provide sexual and reproductive health education for adolescent girls in schools;
- Take concrete measures to ensure that all children born in its territory are registered and birth certificates are issued without any cost;
- Address issues of gender disparity in education enrolment and completion rates;
- Put in place National Action Plan to Eliminate the Worst Forms of Child Labour and increases the number of labour inspectors and build their capacity to identify child labour and withdraw children from situations of child labour;
- Conduct an assessment on the prevalence of sexual exploitation of children in all settings, and train law enforcement and the judiciary on child friendly procedures for reporting cases of sexual exploitation and establish child friendly courts for victims in all parts of the Country

## **2.2. Initial Republic of the Kingdom of Eswatini**

4. During its 33rd Ordinary Session, the ACERWC considered the Initial Report of the Kingdom of Eswatini on the implementation of the African Children's Charter. Following the consideration of the report, the ACERWC has sent its Concluding Observations and Recommendations to the State Party. The ACERWC commends the Government of Kingdom of Eswatini for the various legislative, administrative and other measures it has undertaken towards the implementation of the provisions of the African Children's Charter. Despite the progress achieved, the Committee remains concerned by the existing gaps in the protection and promotion of children's rights in the Country, particularly in the areas of corporal punishment, statelessness, birth registration, violence against children, gender based violence, sexual and reproductive health rights, harmful practices, and children in contact with the law. The major recommendations of the Committee include, for the State Party to:

- Put in place legal and procedural safeguards to ensure that no child becomes stateless;
- Increase the accessibility of birth registration centers and eliminate all fees attached to birth registration services, including for late registration;
- Undertake national campaign to end all forms of violence against child with the objective of changing societal attitudes and behaviour regarding all forms of violence against children;
- Ensure the establishment of institutions with adequate financial and human resources to implement the Sexual Offences and Domestic Violence bill, and undertake continuous public sensitization and engage religious and cultural leaders to prevent gender based violence against girls;
- Ensure accountability of perpetrators of gender based violence by enhancing effectiveness of investigation and prosecution;

- Provide the necessary support to families affected by HIV/AIDS to prevent loss of the family environment;
- De-institutionalize and reduce the numbers of children in residential care by placing them into foster care and kinship care;
- Adopt an adolescent health policy and program with a focus on prevention of STDs and STIs as well as protection of the overall rights and welfare of adolescents in all circumstances, including the protection of the right to education of pregnant girls or adolescent mothers;
- Ensure that children born from migrant and refugee parents receive the same protection as that of children from Swazi parents; and
- Adopt pre-trial diversion programs to ensure that children in conflict with the law are not subjected to the regular justice administration procedure.

### **2.3. Periodic Report of the Republic Senegal**

5. During its 33rd Ordinary Session, the ACERWC considered the Initial Report of the Republic of Senegal on the implementation of the African Children's Charter. Following the consideration of the report, the ACERWC has sent its Concluding Observations and Recommendations to the State Party. The ACERWC commends the Government of the Republic of Senegal for the various legislative, administrative and other measures it has undertaken towards the implementation of the provisions of the African Children's Charter. Despite the progress achieved, the Committee remains concerned by the existing gaps in the protection and promotion of children's rights in the Country; particularly in the areas of child labour, children with disabilities, harmful practices, corporal punishment, and discrimination in education. The major recommendations of the Committee include, for the State Party to:

- Review all legislations that are not consistent with Article 2 of the African Children's Charter on the definition of the child, and to take all necessary measures to eliminate child marriages and other cultural practices which are contrary to the provisions of the African Children's Charter;
- Reinforce its commitments to ensure that all girls and boys, in urban, rural and least developed areas, have equal access to educational opportunities;
- Address the causes of low enrolment and high dropout rate at secondary and tertiary levels of education, especially for girls, including child marriage, sexual violence and child labour;
- Make existing and newly established school facilities in all regions of the country, educational materials, curriculum, teaching approaches, school organization and management, and other support systems adaptable and suitable to the needs of inclusive education;
- Increase enforcement of existing legislations that criminalize child trafficking, forced begging and abuse, and investigate and hold accountable those who transgress these laws;
- Finalise and pass the draft law establishing legal status and regulations for Daaras or Koranic schools in order to prohibit and punish the participation of marabouts in child abuse and exploitation such as child begging;
- Increase funding and support to structures that can provide legal assistance to separated children such as talibés who are victims of abuse or exploitation.

### **2.4. Periodic Report of the Republic of South Africa**

6. During its 33rd Ordinary Session, the ACERWC considered the Periodic Report of the Republic of South Africa on the implementation of the African Children's Charter. Following the consideration of the report, the ACERWC has sent its Concluding Observations and Recommendations to the State Party. The ACERWC commends the Government of the Republic of South Africa for the various legislative, administrative and other measures it has undertaken towards the implementation of the provisions of the African Children's Charter. Despite the progress achieved, the Committee remains concerned by the existing gaps in the protection and promotion of children's rights in the Country; particularly in the areas of birth registration, statelessness, education, children with disabilities, harmful practices, unaccompanied migrant children, discrimination, and the right to health. The major recommendations of the Committee include, for the State Party to:

- Ensure that no child is left without nationality and remove all barriers which are hindering stateless children from getting their birth registered;
- Train adequate teachers and ensure equal distribution of qualified teachers by giving special attention to schools found in rural areas;
- Strengthen implementation of Accelerated Schools Infrastructure Delivery Initiative and urgently equip schools with relevant infrastructures;
- Amend the Screening, Identification and Assessment and Support (SIAS) Policy to allow for a more streamlined school placement procedure of children currently not in the education system;
- Ensure country wide implementation of the Child Healthcare Problem Identification Program by expanding the program to all hospitals and clinics of all provinces;
- Amend both the Marriage act and the Recognition of customary Marriages Act and ensure that the minimum age of marriage is at the age of 18 without any exceptions;
- Intensify awareness campaigns to educate the community on the effect of harmful practices such as ukuthwala and virginity testing on the rights of children; and
- Identify and ensure the rights of unaccompanied migrant children.

## 2.5. Periodic Report of the Republic of Rwanda

7. During its 33rd Ordinary Session, the ACERWC considered the Periodic Report of the Republic of Rwanda on the implementation of the African Children's Charter. Following the consideration of the report, the ACERWC has sent its Concluding Observations and Recommendations to the State Party. The ACERWC commends the Government of the Republic of Rwanda for the various legislative, administrative and other measures it has undertaken towards the implementation of the provisions of the African Children's Charter. Despite the progress achieved, the Committee remains concerned by the existing gaps in the protection and promotion of children's rights in the Country, particularly in the areas of survival, development, birth registration, corporal punishment, children with disabilities, budget for education sector, unaccompanied children, child prostitution and trafficking in of children. The major recommendations of the Committee include, for the State Party to:

- Enhance its investment on the right to life, survival and development, among others by creating awareness on nutritious foods that can be made from readily available household goods, providing nutrition supplements in areas where malnutrition is prevalent, and increasing the rate of immunization for vaccinations which play enormous role in preventing deadly diseases;

- Increase access to birth registration for all children born in all areas of the Country;
- Ensure that corporal punishment is explicitly prohibited in all settings including residential care facilities, correction centers and other facilities;
- Sensitize adolescent girls on contraception options including emergency contraception pills and prevention of sexually transmitted diseases including HIV;
- Employ a continued effort to ensure that children with disabilities are not excluded from health services such as immunizations and nutrition supplements;
- Increase the budget allocated for the education sector proportionally with the increase of the total budget of the Country;
- Strengthen efforts in introducing school retention programs such as expanding the school feeding program to a wide range of schools; providing bursaries and other support for children from economically disadvantaged families; and reducing any related cost students might be required to incur to remain in school;
- Establish the necessary referral mechanism for children involved in prostitution to ensure their rehabilitation and reintegration without dropping out from school; and
- Establishes a cross-border cooperation with neighboring countries for prevention, identification of victims, repatriation, family tracing and reunification.

## **2.6. Periodic report of the Federal Republic of Nigeria**

8. During its 33rd Ordinary Session, the ACERWC considered the Periodic Report of the Federal Republic on the implementation of the African Children's Charter. Following the consideration of the report, the ACERWC has sent its Concluding Observations and Recommendations to the State Party. The ACERWC commends the Government of the Federal Republic of Nigeria for the various legislative, administrative and other measures it has undertaken towards the implementation of the provisions of the African Children's Charter. Despite the progress achieved, the Committee remains concerned by the existing gaps in the protection and promotion of children's rights in the Country, particularly in the areas of children in conflict situation, sexual violence, separation of children, education, children with disabilities, maternal mortality, teenage pregnancy, and harmful practices. The major recommendations of the Committee include, for the State Party to:

- Design and implement effective strategy/program identifying and addressing the challenges of children who are subject to sexual violence due to the on-going insurgency in northeast Nigeria, and address the marginalisation, discrimination and rejection that children who were born as a result of such kind of sexual violence are facing;
- Enact legislation to explicitly prohibit all forms of corporal punishment of children in all settings;
- Reinforce the compulsory aspect of education and make primary education free of charge by removing the payment attached to school enrolment;
- Strengthen provision of security to students and teachers in schools especially in states affected by armed conflict;
- Conduct a study with a view to identify causes of high dropout and address them accordingly;
- Develop a comprehensive program for provision of the necessary special needs educational materials and assistive devices for children with disabilities that respond to their needs in special schools as well as ordinary schools;



- Intensify efforts to address the high maternal mortality rate and reduce the high level of teenage pregnancies by removing the barriers that adolescent girls face in accessing contraceptive services and ensuring that they have access to comprehensive reproductive health information and health services including maternal health care particularly in the rural areas;
- Establish well-coordinated and effective mechanism to address insecurity and other child right protection issues in the IDP camps;
- Intensify efforts to ensure that children are not used as suicide bombers;
- Intensify sensitization campaigns to educate the community on the effect of harmful practices such as FGM and virginity testing on the rights of children; and
- Allocate relevant resources to extend adequate social, legal and health protection for children who are victims of witchcraft accusations.

## **2.7. Consideration of the Initial Report of the Islamic Republic of Mauritania**

9. During its 34th Ordinary Session, which was held on 25 November-05 December, the ACERWC has considered the Initial Report of the Islamic Republic of Mauritania. The Delegation of the Islamic Republic of Mauritania led by His Excellency Mohamed El Hassen Boukhreiss, Commissioner for Human Rights presented the measures the Government has taken to implement and domesticate the African Children's Charter to the ACERWC. The content of the concluding observations and recommendations of the ACERWC on the report of the State Party will be part of the Committee's next activity report to the Executive Council.

## **ITEM III: ADVOCACY AND FOLLOW UP MISSIONS**

### **3.1. ADVOCACY MISSION TO SAHRAWI ARAB DEMOCRATIC REPUBLIC ON RATIFICATION OF THE AFRICAN CHILDREN'S CHARTER**

10. The ACERWC has undertaken an advocacy mission to Sahrawi Arab Democratic Republic on the ratification of the African Charter on the Rights & Welfare of the Child, the Mission was undertaken 30 April-05 May 2019. The Mission aimed at engaging the Relevant Government Officials, Members of the Saharawi National Council (SNC), Representatives of national institutions in charge of the rights and other stakeholders to advocate for expediting the process of ratification of the African Children's Charter. During the Mission, the committee has engaged the relevant Ministries including Ministry of Social Affairs and Promotion of Children and Women, Ministry of Education, Ministry of Public Health, the Sahrawi National Committee of Human Rights; local civil society organizations (CSOs) and children parliament youth group. The committee also had a consultative meeting with members of Parliament and technical team of the nominated committee of Sahrawi National Council at the Parliament. The representatives of the Government of Saharawi have confirmed that the charter is set as an agenda item at the Parliamentary discussion for the second quarter of year, and the Government will work towards ratification of the Charter in the coming few months before the end of the year 2019.

### **3.2. FOLLOW UP MISSION TO ZIMBABWE ON THE IMPLEMENTATION OF THE CONCLUDING OBSERVATIONS AND RECOMMENDATIONS**

11. The ACERWC has undertaken a follow up mission to Zimbabwe on 12-15 June 2019 to monitor the level of implementation of the concluding observations and recommendations issued by the ACERWC to the Government of Zimbabwe following the consideration of the latter's initial report on the implementation of the African Children's Charter in 2015. During the Mission, the ACERWC has engaged the Government of Zimbabwe through a constructive dialogue to learn about the progress achieved, challenges faced, and opportunities exist in the implementation of its concluding observations and recommendations.

12. Moreover, the Committee was invited by the Government of Zimbabwe to observe the celebration of the Day of the African Child (DAC) in the Country. The Committee noted with great appreciation that the DAC celebrations include a live seating of the Child Parliament; in the presence of the President of the Republic of Zimbabwe, H.E. Emmerson Mnangagwa as well as Ministers of sectors that work on children's rights and welfare. The Committee also noted with appreciation that the strong structures within the child parliament are a replica of the structure of the Government of Zimbabwe. Despite the positive trends in the State Party, the ACERWC identified challenges and recommended for the Government of Zimbabwe to:

- Submit its periodic report to the Committee on the status of the implementation of the provisions of the African Children's Charter as soon as possible;
- Ensure that there is proper coordination mechanism among organs that work on children's rights and welfare; and to this end consider one of the following options:
- Establishing a separate Ministry which deal with protection and promotion of children's rights including the mandate to coordinate the work among other ministries and organs of the Government in relation to children's rights issues;
- Consider removing the National Plan of Action for Children from its current host, the Ministry of Health and Child Care, and place it under the Ministry of Public Services, Labour, and Social Welfare; or take the National Plan of Action for Children back to the Office of the President where it used seat;
- Prioritize laws that affect children in the process of harmonization of laws with the constitution given the large number of laws being considered for alignment; and in doing so ensure, among others, that child marriage is criminalized, corporal punishment is outlawed in all settings, and children born out of wedlock are not discriminated during birth registration as well as inheritance;
- Carry out mobile birth registration periodically and ensure birth registration for all children;
- Link birth registration with other basic services such as birth notification, post-natal care at most important milestones such as vaccinations so that parents are not required to move long distanced only for birth registration;
- Sensitize communities about the negative impact of corporal punishment and introduce various modes of positive discipline in schools and at home;
- Assess the rate and reasons of school drop-out and devise mechanism to prevent as well as to target children who are out of school;
- Ensure that adolescent girls have access to sexual reproductive health services and sexual reproductive health education is provided in schools;
- Undertake thorough investigation and prosecution of perpetrators of violence such as sexual exploitation and child labour.

### **3.3. FOLLOW UP MISSION TO LIBERIA ON THE IMPLEMENTATION OF THE CONCLUDING OBSERVATIONS AND RECOMMENDATIONS**

**13.** The ACERWC has undertaken a follow up mission to Liberia on 06-08 November 2019 to monitor the level of implementation of the concluding observations and recommendations issued by the ACERWC to the Government of Liberia following the consideration of the latter's initial report on the implementation of the African Children's Charter in 2015. During the Mission, the ACERWC has engaged the Government of Liberia through a constructive dialogue to learn about the progress achieved, challenges faced, and opportunities exist in the implementation of its concluding observations and recommendations.

**14.** Following its Mission, the Committee noted with appreciation that the efforts that the Government has put in place to implement the recommendations of the ACERWC. Despite the positive trends in the State Party, the ACERWC identified challenges and recommended for the Government of Liberia to:

- Harmonize customary and statutory marriage laws with the Charter;
- Repeal provisions of the penal code imposing death penalty and life imprisonment on children;
- Establish juvenile courts in all counties;
- Train female police members to be part of the women and children protection police unit;
- Identify and address root causes of rape and other sexual abuse;
- Explicitly ban FGM and take other measures to eradicate the practice;
- Ban corporal punishment in all settings and undertake awareness creation activities to introduce positive disciplining; and
- Amend the constitution to ensure that children are not discriminated based on race or any other prohibited ground in the charter, in acquisition of nationality and ensure that nationality laws do not render any child stateless or at risk of statelessness.

### **3.4. FOLLOW UP MISSION TO REPUBLIC OF GUINEA ON THE IMPLEMENTATION OF THE CONCLUDING OBSERVATIONS AND RECOMMENDATIONS**

**15.** The ACERWC has undertaken a follow up mission to Liberia on 25-27 September 2019 to monitor the level of implementation of the concluding observations and recommendations issued by the ACERWC to the Government of Guinea following the consideration of the latter's initial report on the implementation of the African Children's Charter in 2015. During the Mission, the ACERWC has engaged the Government of Guinea through a constructive dialogue to learn about the progress achieved, challenges faced, and opportunities exist in the implementation of its concluding observations and recommendations.

**16.** Following its Mission, the Committee noted with appreciation that the efforts that the Government has put in place to implement the recommendations of the ACERWC. Despite the positive trends in the State Party, the ACERWC identified challenges and recommended for the Government of Guinea to:

- Identify the causes of girls dropping out of school and devise strategies to keep girls in school;

- Provide assistance, particularly by granting free school supplies to children in vulnerable situation including, children of economically disadvantaged parents; Consider community strategies for promoting schooling of children;
- Decentralize birth registration centers to all parts of the Country and eliminate expenses related to birth registration;
- Identify the causes of girls dropping out of school and devise strategies to keep girls in school;
- Fight against the use of children in begging;
- Strengthen the training of judges and other personnel in the justice sector on child friendly justice system to address the specific cases of children in conflict with the law.

#### ITEM IV: COMMUNICATIONS

17. The table below provides the total list of communications submitted to the ACERWC. Since its establishment, the ACERWC has received a total of 12 Communications; out of which nine are finalised.

SN	Parties to the Comm.	Date Received	Status
1	Michelo Hunsungule and others (on behalf of children in northern Uganda) v. The government of Uganda	2005	Finalised
2	Institute for Human Rights and Development in Africa (IHRDA) and Open Society Justice Initiative on behalf of children of Nubian descent in Kenya v. The Government of Kenya	20 April 2009	Finalised
3	The Centre for Human Rights (University of Pretoria) and La Rencontre Africaine pour la Defense Des Droits de l'homme (Senegal) V. The Government of Senegal	27 July 2012	Finalised
4	Institute for Human Right and Development in Africa V. The Government of Malawi	29 October 2014	Pending (under amicable settlement)
5	African Centre of Justice and Peace Studies (ACJPS) and People's Legal Aid Centre (PLACE) V. the Government of Republic of Sudan	19 August 2015	Finalised
6	The Institute for Human Right and Development in Africa and Finders Group Initiative on behalf of TFA (a minor) V. The Government of Republic of Cameroon	16 November 2015	Finalised
7	Minority Rights Group International and SOS-Esclaves on behalf of Said Ould Salem and Yarg Ould Salem V. The Republic of Mauritania	15 December 2015	Finalised
8	Dalia Lotfy on behalf Sohaib Emad V. The Government of the Arab Republic of Egypt	31 March 2016	Finalised
9	Dalia Lotfy on behalf Ahmed Bassiouny V. The Government of the Arab Republic of Egypt	31 March 2016	Finalised

10	Etoungou Nko'o on behalf of Mr and Mrs. Elogo Menye and Rev Daniel Ezo'o Ayo V. the Government of Cameroon.	22 April 2016	Finalised
11	Project Expedite Justice et al against the Republic of the Sudan.	26 August 2018	Pending
12	Legal and Human Rights Centre and Centre for Reproductive Rights (on behalf of Tanzanian girls) against the United Republic of Tanzania	17 June 2019	Pending

18. During the reporting period, the Committee received a new communication against Tanzania.

19. During its 34<sup>th</sup> Ordinary Session, the Committee considered the status of implementation of its Decision on Minority Rights Group International and SOS-Eslaves on behalf of Said Ould Salem and Yarg Ould Salem V. The Republic of Mauritania. After hearing the briefing from the Delegation of Mauritania, the Committee encouraged the Government of Mauritania to continue its efforts to ensure that victims of slavery are rehabilitated, reintegrated, empowered to complete their studies, and provided with social protection services.

20. During its 34<sup>th</sup> Ordinary Session, the Committee also considered a report on implementation of the amicable settlement in the Communication *Institute for Human Rights and Development in Africa (IHRDA) against the Republic of Malawi*. The Committee called on the Government of Malawi to submit the written report on implementation of the terms of the settlement in the official channel.

## ITEM V: POPULARIZATION OF AGENDA 2040 AND ENHANCING CHILD PROTECTION STRUCTURES WITHIN RECS

21. The ACERWC has been engaging with Regional Economic Communities (RECs) for the past few years in order to enhance child rights protection frameworks at sub-regional level. The Committee has developed collaborative plan of action with RECs and engages them in various activities. Between 2018 and 2019, the Committee organized meetings at RECs level on various child rights issues including cross border issues affecting children. Such meetings were organized with East African Community (EAC), Economic Community of West African States (ECOWAS), Southern African Development Community (SADC), Economic Community of Central African States (ECCAS), the Arab Maghreb Union (AMU), and the Intergovernmental Authority on Development (IGAD). During the meetings with RECs, the Committee observed that the child protection system at each RECs level has different structure and is at a varying stage.

22. During the reporting period, the Committee also had workshops on the popularization of Agenda 2040 and findings of the study on children on the move in ECAAC region on 5-6 September 2019 and North and Horn of Africa Regions on 31 October-01 November. Following the ACERWC's engagement with the various RECs, it was indicated that not all RECs are at the same level of child protection in terms of normative, institutional and structural mechanisms. Therefore, the Committee is of the view that there is a need to have a harmonized child rights mechanism in all RECs in:

- Creating a platform for intra and inter RECs dialogue and collaboration;
- Playing a coordinating role for harmonized regional child protection systems;
- Supporting progress tracking by RECs on AU agenda 2063, 2040 and SDGs for integrated implementation of the three agendas;
- Organizing annual experience sharing workshop where all RECs and partner states come together;
- Knowledge sharing and provision of technical support to ensure that there is a focal person in each RECs that works with the ACERWC;
- Documentation and scaling up best practices in RECs; and
- Strengthening advocacy and accountability mechanisms of RECs.

## **ITEM VI: SELECTION OF THE THEME FOR THE DAY OF THE AFICAN CHILD (DAC) 16 JUNE 2021**

**23.** Taking into consideration the consultations made by children on the theme of the Day of African Children into consideration, after further discussions and deliberations, the Committee decided for the theme of DAC 2021 to be on **“30 years after the adoption of the Charter: accelerate implementation of Agenda 2040 for an Africa fit for children”**.

## **ITEM VII: DAY OF GENERAL DISCUSSIONS AND PANEL DISCUSSIONS**

### **7.1. Day of General Discussion on Preventing and Ending Online Child Sexual Exploitation in Africa (OCSE).**

**24.** During its 33<sup>rd</sup> Ordinary Session, on 19 March 2019, the ACERWC held a Day of General Discussion on Preventing and Ending Online Child Sexual Exploitation in Africa (OCSE). Making reference to Article 27 of the African Children's Charter, participants discussed Member States' obligations to protect children from all forms of sexual exploitation and sexual abuse; in particular the inducement, coercion or encouragement of a child to engage in any sexual activity; the use of children in prostitution or other sexual practices; and the use of children in pornographic activities, performances and materials. The Discussion also reaffirmed the African Union's vision in the Agenda 2063 (paragraph 53) which prescribes 'African children shall be empowered through the full implementation of the African Charter on the Rights of the Child' and its elaboration in respect of children as reflected through Africa's Agenda for Children 2040. The discussion also took note relevant AU Instruments and Decisions including the African Union Cyber Security and Personal Data Protection Convention (the Malabo Convention) and AU Executive Council Decision (Ex.CL/1017(XXXIII)) on safeguarding and promoting the rights and welfare of children in the cyberspaces. From the discussions the Committee noted the rapid expansion of internet connectivity in Africa, the several opportunities it offers for learning, social inclusion and civic engagement of children in Africa, as well as the increasing and significant risks to Online Child Sexual Exploitation; and expressed concern by the limited measures put in place by African Union Member States to protect children from the potential risks that they are exposed to online including Online Child Sexual Exploitation. In this regard, the ACERWC called on

Member States to initiate multi-stakeholder country level responses to protect children's rights in the cyberspaces and address Child Online Protection with emphasis on Online Child Sexual Exploitation using relevant models and guidelines.

## **7.2. Day of General Discussion on Children Affected by Armed Conflict**

**25.** During its 34th Ordinary Session, on 26 November 2019, the ACERWC held a Day of General Discussion on Children Affected by Armed Conflict (CAAC). Following the discussion, the Committee recommends AU Member States to:

- Address the underlying causes of conflict on the continent by *inter alia* investing in addressing poverty and inequality, proliferation of small arms, bad governance, corruption, and promote the rule of law and respect for human rights in line with Agenda 2063;
- End impunity by strengthening regional and national accountability mechanisms including investigative and prosecutorial capacities for the six grave violations;
- Strengthen national child protection systems and informal justice systems to effectively prevent girls and boys in conflict situations from being harmed, monitor violations when they occur, and ensure effective responses, including rehabilitation, education, community reintegration and other appropriate services;
- Consider ratifying instruments which they have not yet ratified that are relevant for protecting children affected by conflict, especially the Kampala Convention and the ACRWC;
- Endorse the Safe Schools Declaration and Guidelines for Protecting Schools and Universities from Military Use during Armed Conflict, if they have not yet done so;
- Establish universal, compulsory, and free birth registration system and age determination mechanisms that are easily accessible even in situations of conflict;
- End military detention of children and adopt formal handover protocols that provide for the swift transfer of children from military custody to civilian child protection authorities;
- Actively engage within the framework of the Group of Friends of Children Affected by Armed Conflict with a view to support the CAAC agenda within the AU;
- Ensure that laws and policies prevent the double marginalization and exclusion of girls, and prohibit all forms of violence and exploitation against girls in all contexts, especially in conflict situations;
- Establish state financed, inclusive and institutionalized child participation mechanisms for children to engage throughout the conflict management and resolution cycle.

## **26. The Committee also urges the AU Commission to:**

- Undertake to finalize the process of appointing the Special Envoy on CAAC by 2020 in light of the decision Assembly/AU/Dec.718 (XXXII), wherein the AU endorsed the request to appoint a Special Envoy for Children in conflict situations;
- Ensure that there is a robust, institutionalized and financed child protection architecture, which facilitates coordination and quality programming to address the needs of children in armed conflict as well as in all AU peace support operations;
- Integrate child protection indicators in the Roadmap on Silencing the Guns;

- Review the implementation of its previous decisions on children in armed conflict to enable the PSC in determining further steps to address existing challenges for implementation of decisions;
- Expedite the rolling out to Member States and RECs/RMs of the AU Disarmament, Demobilization and Reintegration Operational Guidelines for Children which were developed by the Peace and Security Department in 2014;
- Expedite the adoption of the Draft Guidelines for the Protection of Civilians in African Union Peace Support Operations, including the protection of children.

### **7.3. THE SALEEMA INITIATIVE ON FEMALE GENITAL MUTILATION (FGM)**

**27.** During its 34th Ordinary Session, the ACERWC has organised a panel discussion on accountability mechanism to end FGM within the framework of the AU's Initiative called the Saleema initiative on female genital mutilation. The Saleema Initiative was adopted at the 32nd Summit of the Assembly of Heads of States following a wide and numerous consultations and that the designated champion is the President of Burkina Faso. The initiative, among others, requests States to provide for an accountability mechanism to end FGM. The discussion highlighted that among the countries where there is prevalence of FGM, 22 of them have adopted laws banning FGM. The presentation informed that the high rate of prevalence of FGM is concentrated in east and western part of the continent. Despite the normative commitments, over 125 million have been subjected to FGM in Africa while the number is 200 million at the global level which makes Africa to for 65%. Moreover, there is an increasing number of FGM by health workers and enforcement of the law is the main challenge. Following the discussion, it was noted that there is a need for targeted and strategic communication and advocacy campaign to mobilize action to address social norms and cultural dynamics; resource allocation for sustainable funding; strengthened policy and legislative frameworks; improved data and evidence; and institutionalizing an AU accountability mechanism to end FGM in Africa.

### **ITEM VIII: ADOPTION OF THE ACTIVITIES AROUND THE CELEBRATION OF THE 30<sup>TH</sup> YEARS OF ANNIVERSARY OF THE AFRICAN CHILDREN'S CHARTER**

**28.** The African Charter on the Rights and Welfare of the Child (ACRWC) was adopted by the Assembly of Heads of State and Government of the Organization of African Unity in July 1990, and entered into force in November, 1999. After 30 years of its adoption, 49 countries have ratified the Charter. The ACERWC plans to celebrate the 30th anniversary of the Charter with a view to intensify its effort to ensure the implementation of the Children's Charter to the best advantage of children in Africa.

**29.** The ACERWC, during its 34th Ordinary Session, adopted the following core activities to be undertaken in the context of the 30th years of anniversary of the Charter. The major activities are:

- Engaging Member States on Reporting and ratification
- stakeholder consultative forum to monitor the implementation of Agenda 2040
- Child Rights Summit
- Assessment of AU's response on CAAC



- Assessment of status of children's right in Africa in 2020
- High Level Conferences with RECs
- CSO experience sharing forum
- Booklet on ACERWC activities
- Communication and branding activities

#### **ITEM IX: ELECTION OF BUREAU**

**30.** The Committee elected its new bureau for a term of two years from November 2019 to November 2021. The new bureau of the Committee is composed of the following Members

- i. Hon. Joseph Ndayisenga- Chairperson
- ii. Hon. Azza El Ashamawy- 1<sup>st</sup> Vice – President
- iii. Hon Sidikou Aissatou Allassane Moulaye -2<sup>nd</sup> Vice President
- iv. Hon. Hermine Kembo Takam Gatsing- Rapporteur
- v. Hon. Maria Mapani Kawimbe -Deputy Rapporteur

#### **ITEM X: The need for restructuring the Secretariat of the ACERWC**

**31.** The Secretariat is currently domiciled within the Department of Social Affairs of the African Union Commission. The Committee is supported by a Secretariat headed by a Secretary and at time of writing includes 2 additional regular and 3 short term staff, and 3 seconded staff. The efforts of the Committee to effectively discharge its mandate have been hampered by serious lack of human, financial and material resources.

**32.** The need for restructuring of the Secretariat staff is now urgent taking into consideration the decision to relocate the Secretariat and the increased demand for the Committee to protect and promote the Rights of the Child and the need for a harmonized structure across the Organs of AUC. The draft has already been submitted to AHRM and waiting to be consider by the Subcommittee on Structure.

**33.** For the Committee to effectively deliver on its mandate, it requires a professional, effective, capacitated, well-staffed and competent Secretariat. Due to the increasing visibility of the Committee, the ACERWC is now receiving more State Party Reports and Communications (Complaints), the need for strengthening the Secretariat, in terms of financial, human and material resource, is very critical. This could be inferred from the Decision of the Executive Council-Decision on the African Committee of Experts on the Rights and Welfare of the Child Doc.EX.CL/797(XXIII)- which requests the Commission 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. It would be impossible for the ACERWC to effectively discharge its functions and deliver on its mandate with the very limited number of staff that the Secretariat currently has. Indeed, the Committee has been trying to mobilize resources to have more seconded staff with a view to slightly mitigating the challenge.

### **Item XI : Limited implementation of the Committee's Decisions and Recommendations**

**34.** As per article 43 of the African Children's Charter, the ACERWC has the mandate to receive and consider State Party reports on the status of the implementation of the Children's Charter. After considering State Party reports it issues concluding observations and recommends measures that States Parties may take to improve implementation of the Children's Charter. In accordance with Article 44, ACERWC also has the mandate to consider complaints against States Parties of alleged violations of the Children's Charter. If it finds a violation it will issue recommendations for the State Party to comply with in order to rectify the violation. Under Article 45 ACERWC may also undertake investigations in African countries, followed by recommendations to the State Party on the measures it should take in relation to the issue under investigation.

**35.** The ACERWC notes that its recommendations and decisions arising out of these aspects of its mandate can lead to better implementation of the Children's Charter only if States implement them. Monitoring State compliance with the decisions and recommendations of ACERWC is therefore key to the full realization of children's rights. Despite this fact, the ACERWC is facing challenges due to non-implementation of States with its decisions and recommendations. As mentioned above, for instance, from the three Countries that the ACERWC has undertaken a monitoring missions to, namely Zimbabwe, Guinea and Liberia, it is noted that the State Parties are not in full compliance of the Recommendations of the Committee. Similarly, the Committee also notes that most its Decisions on the Communications it received are hardly implemented. Various reasons contribute to this non-compliance, including:

- i. Lack of (Inadequate) legislative and institutional frameworks that can facilitate the implementation of the decisions of ACERWC and sometimes lack of capacity to implement;
- ii. Lack of political will from some States to implement the decisions of ACERWC;
- iii. Lack of budgetary allocation to implement the decisions and recommendations of ACERWC- Recommendations and decisions require budgetary allocation for their realization;
- iv. Lack of collaboration among Government Organs and other stakeholders- Decisions and recommendations require an "owner" entrusted to implement them at national level. When State Parties receive ACERWC recommendations and decisions they seldom communicate the recommendations to the organ responsible for implementing them, or assign an organ for their implementation. This generates a situation where no national organ is accountable for their implementation.

36. The Committee further notes that there is a perceived lack of finality in the decisions and recommendations of the ACERWC as states do not consider them as being legally binding despite the obligations of Member States articulated in Article 1 of the Children's Charter. In this regard, the Committee would like to reiterate the ongoing discussion on the possibility of amending article 5 of the Protocol on the establishment of the African Court with a view to include the ACERWC as an AU Organ which can directly access the Court.

## 8. RECOMMENDATIONS

37. 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:

- To urge the Six Member States which have not yet ratified the ACRWC, namely: Democratic Republic of Congo, Morocco, Tunisia, Saharawi Arab Democratic Republic, South Sudan, and Somalia, to expedite the ratification of the Charter;
- To congratulate State Parties which have submitted their reports on the implementation of the African Children's Charter and to urge State Parties, namely which have not yet reported to the Committee to comply with their reporting obligations; these Countries are Botswana, Cape Verde, Central African Republic, Djibouti, Equatorial Guinea, Gambia, Mauritius, Sao Tome and Principe (Initial report yet to be due) and Seychelles;
- To welcome the initiative of the ACERWC to lead on the celebration of the 30<sup>th</sup> Years of Anniversary of the adoption of the African Children's Charter and calls on Member States of the African Union commemorate the year 2020 and intensify their effort to ensure the implementation of the Children's Charter to the best advantage of children in Africa;
- To adopt the theme for DAC 2021 to be on '**30 years after the adoption of the Charter: lets implement Agenda 2040 for an Africa fit for children**';
- Calls upon the Governments of the Republic of Benin, the Kingdom of Eswatini, Republic of Guinea, the Republic of Liberia, the Republic of Mauritania, the Federal Republic of Nigeria, the Republic of Rwanda, the Republic of Senegal, the Republic of South Africa, and the Republic of Zimbabwe to work towards the full implementation of the ACERWC's Concluding Observations and Recommendations;
- Calls on Member States to work towards ending Online Child Sexual Exploitation (OCSE), enhance their efforts to protect children from the potential risks that they are exposed to online, initiate multi-stakeholder country level responses to protect children's rights in the cyberspaces and address the challenges of Online Child Sexual Exploitation using relevant models and guidelines.
- Take note of the AU's Saleema Initiative to end FGM and call on the concerned Member States to mobilize action to address social norms and cultural dynamics, enhance resource allocation for sustainable funding, strengthen policy and legislative frameworks, improved data and evidence with a view to eliminate the practice of FGM.

- To call up on RECs to work closely with the ACERWC towards establishing a harmonised child protection mechanism through establishing the required normative and institutional frameworks;
- To take note of the current reform process at the AU and the process of relocation of the Secretariat of the ACERWC and to request the Commission to take the necessary measures to respond to the human, financial, and structural needs of the Secretariat of the ACERWC;

## DRAFT DECISION OF THE ACERWC

### The Executive Council,

1. **TAKES NOTES** 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. **WELCOMES** the initiative of the ACERWC to lead on the celebration of the 30<sup>th</sup> Years of Anniversary of the adoption of the African Children's Charter in the year 2020; and **URGES** Member States of the African Union to take concrete steps to commemorate the Anniversary in 2020 and intensify their effort to ensure the full implementation of the African Children's Charter;
4. **URGES** Member States who have not yet ratified the African Children's Charter, namely, the Democratic Republic of Congo, Morocco, Tunisia, Saharawi Arab Democratic Republic, South Sudan, and Somalia, to consider ratifying the Charter before the end of the year 2020; add reservation with name
5. **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 expedite the process of submission of their reports;
6. **ADOPTS** the theme for the Day of the African Child 2021: **30 years after the adoption of the Charter: accelerate implementation of Agenda 2040 for an Africa fit for children'** and **REQUESTS** Member States to commemorate the DAC and report on the implementation of the recommendations of the Committee;
7. **TAKES NOTE of the efforts they put in place to implement the recommendations of the ACERWC** **URGES** the Governments of the Republic of Guinea, the Republic of Liberia, and the Republic of Zimbabwe to work towards the full implementation of the ACERWC's Concluding Observations and Recommendations;
8. **CALLS ON** Member States to combat Online Child Sexual Exploitation (OCSE), and enhance their efforts to protect children from the potential harms that they are exposed to online, **initiate** multi-stakeholder country level responses to protect children's rights in the cyberspaces;
9. **STRONGLY URGES** the concerned Member States to address the underlying causes of conflict on the continent by *inter alia* investing in addressing poverty and inequality, **proliferation** of small arms, bad governance, corruption and promote the rule of law and respect for human rights in line with Agenda 2063;

10. **CALLS ON** the African Union Commission to finalize the process of appointing the Special **Envoy** on CAAC by 2020 in light of the decision Assembly/AU/Dec.718 (XXXII);
11. **COGNIZANT** of the Assembly's Decision which adopted the AU's Saleema Initiative to end **FGM**, **CALLS** on the concerned Member States to mobilize action to address social norms and cultural dynamics, enhance resource allocation for sustainable funding, strengthen policy and legislative frameworks, improved data and evidence with a view to eliminate the practice of FGM;
12. **REFERS** to the Councils' Decision No. Ex. CL/Dec.977 (XXXI)) adopting the 'Africa's Agenda for Children 2040: Fostering an Africa Fit for Children' as the Union's document and **URGES** Member States to work towards the full implementation of the Agenda;
13. **CALLS ON** RECs to work closely with the ACERWC towards establishing a harmonised child protection mechanism through establishing the required normative and **institutional** frameworks;
14. **TAKES NOTE** of the current process of relocation of the Secretariat of the ACERWC, **REQUESTS** the Commission to take the necessary measures to respond to the human and **financial** resource needs of the Secretariat of the ACERWC; and pursuant to the Assembly's Decision (no of decision), **CALLS UPON** the Government of the Kingdom of Lesotho and the AUC to facilitate the relocation of the Secretariat of the ACERWC.

2020-02-07

# Activity Report of the African Committee of Experts on the Rights and Welfare of the Child (ACERWC)

African Union

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