



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

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

Comitê Africano dos Direitos e  
Bem-Estar da Crianças

اللجنة الأفريقية المعنية بحقوق الطفل ورفاهه

Nala House,  
Balfour Road, Maseru

Kingdom of Lesotho

Email:

acerwc-secretariat@africa-union.org

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

### CONCEPT NOTE OF THE DAY OF THE AFRICAN CHILD (DAC) 2022

#### Theme:

**'Eliminating Harmful Practices Affecting Children: Progress on Policy and  
Practice since 2013'**

## I. INTRODUCTION AND BACKGROUND

1. The theme of the Day of the African Child (DAC) 2022 is '***Eliminating Harmful Practices Affecting Children: Progress on Policy and Practice since 2013***'. The African Committee of Experts on the Rights and Welfare of the Child (The Committee/ ACERWC), established in accordance with Articles 32 and 33 of the African Charter on the Rights and Welfare of the Child (the Charter/ACRWC) selected this theme for the commemoration of the DAC in 2022.
2. The commemoration of the DAC is mainly to recall the 1976 uprisings in Soweto when high-school students in South Africa started protesting against apartheid-inspired education resulted in the public killing of these unarmed young protesters by police officials.<sup>1</sup>
3. The commemoration of the DAC 2022 presents an opportunity to take stock of what has been done with regards to the adoption of policies and practices and reflect on what more needs to be done to effectively eliminate harmful practices affecting children in Africa. The DAC 2022 presents further an opportunity to review the status of harmful practices affecting children in Africa by highlighting the issues that African children are facing in their daily lives due to the harmful practices, and assess where we are toward the protection and assistance of children who are at risk and victims of harmful practices in Africa. These reviews and assessments aim to inform relevant stakeholders who are working in the area of children's rights on the continent in order to reinforce their efforts in addressing the obstacles related to harmful practices affecting children in Africa.
4. The DAC 2022 also provides an occasion for Governments, UN Agencies, International Organizations, NGOs, CSOs and other relevant stakeholders to renew their ongoing engagements towards the protection and assistance of children affected by harmful practices through the organization of specific activities and programs to prevent, protect and assist children who are at risk and victims of harmful practices in Africa.
5. The commemoration of DAC 2022 aims to re-evaluate the approaches, policies, programs and legislation that have been adopted by the Member States since the celebration of DAC 2013.

### ***Background of the commemoration of DAC 2013***

6. The Committee would like to recall that the theme of the DAC 2013 was '***Eliminating Harmful Social and Cultural Practices Affecting Children: Our Collective Responsibility***'. The Committee would also like to recall the objectives of the DAC 2013 which were :
  - To take stock of and raise awareness about harmful practices against children;
  - To undertake advocacy with African Governments, Civil Society Organizations including faith-based Organizations, the media and other

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<sup>1</sup> South African History online 'The June 16 Soweto Youth Uprising' Available at <https://www.sahistory.org.za/article/june-16-soweto-youth-uprising> (Accessed 04 October 2021).

role players for greater mobilization for the realization of the rights of children against harmful practices;

- To consider effective strategies for the prevention of harmful practices against children; and,
  - To provide a platform for facilitating children's participation with the aim of gathering children's views on strategies to eliminate harmful social and cultural practices.
7. During the 22nd Ordinary Session of the ACERWC on 05 November 2013, the Committee organized the Day of General Discussion on Discrimination and violence against girls in Africa. This event brought a significant outcome through the adoption of the Addis Ababa Declaration on Ending Discrimination and Violence against Girls in Africa.<sup>2</sup> Moreover, participants of the 23rd DAC Commemoration on **'Eliminating Harmful Social and Cultural Practices affecting children: Our collective responsibility'** committed to undertake comprehensive follow-up and interventions towards the realization of the outputs of the 2013 DAC commemoration and issued the declaration on eliminating harmful social and cultural practices in Africa.

### ***Initiatives in addressing harmful practices in Africa***

8. Article 1(3) of the ACRWC imposes a duty on State Parties to discourage any custom, tradition, cultural or religious practices inconsistent with the rights enshrined therein. The African Children's Charter calls on States to 'take all appropriate measures to eliminate harmful social and cultural practices affecting the welfare, dignity, normal growth and development of the child'.<sup>3</sup> Moreover, article 5 of the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (Maputo Protocol) stated that States Parties must prohibit and condemn all forms of harmful Practices. Agenda 2063, under Aspiration 6, calls for ending all forms of gender-based violence, including harmful practices. The elimination of all forms of harmful practices is also clearly reflected in the Sustainable Development Goal (SDG) 5 (target 5.3) 'Eliminate all harmful practices, such as child, early and forced marriage and FGM'. Target 16.2 of the SDGs seeks to realize the right of every child to live free from fear, neglect, all forms of abuse and exploitation.
9. The African Union (AU) has been engaged in efforts to eliminate harmful practices in Africa. The AU campaign to end child marriage was launched in 2014 and was initially meant to last for two years, targeting ten high burden countries namely Burkina Faso, Cameroon, Chad, Ethiopia, Mauritania, Mozambique, Malawi, Niger, Sierra Leone and Zambia. The campaign aimed to accelerate the end of child marriage in Africa by enhancing continental awareness of the harmful impact of child marriage and by taking appropriate legal, social and economic measures to end child marriage in Africa. The campaign was later extended to 2018, targeting 30 high prevalence countries. In 2019, a new campaign strategy was adopted for the 2019-2023 period, with a notable need to expand the campaign in North Africa. As part of the campaign, the AU appointed a Goodwill Ambassador for ending child marriage and the ACERWC in 2014 adopted the Addis Ababa Declaration on ending child

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<sup>2</sup> ACERWC 'The Addis Ababa declaration on ending child marriage in Africa' (April 2014) at 2-6.

<sup>3</sup> Article 21 (1) of the African Charter on the Rights and Welfare of the Child (ACRWC).

marriage, appointing an AU Special Rapporteur. Following the launch of these initiatives, in 2015 the Heads of State and Government of the AU announced that they had formally adopted an African common position on the AU campaign to end child marriage in Africa.<sup>4</sup>

10. The AU also launched a continental initiative to end Female Genital Mutilation (FGM) and saved 50 million girls at risk. Saleema initiative was spearheaded by H.E. Roch Marc Christian Kaboré, President of the Republic of Burkina Faso, designated the AU Champion on eliminating FGM during the 32nd Session of the Assembly of AU of the Heads of State and Government.<sup>5</sup>
11. The 32nd Session of the Assembly of AU Heads of State and Government endorsed the AU initiative on eliminating FGM (Saleema initiative) and adopted a Decision titled 'Galvanizing political commitment towards the elimination of FGM'.<sup>6</sup> The AU Heads of State and Government Assembly Decision Assembly/AU/Dec.737(XXXII) endorsed the implementation of the Saleema initiative to advocate for the implementation of strong legislation, allocation of domestic financial resources and engagement of communities most affected by the practice of FGM. The Plan of Action of the Saleema initiative and its accountability framework guided the Member States, partners, civil society and communities.<sup>7</sup>
12. In addition to the above-mentioned initiatives, the AU adopted several other campaigns and initiatives to end violence against children. In 2019, the AU adopted the Ten-Year Action Plan on the Eradication of Child Labour, Forced Labour, Human Trafficking and Modern Slavery in Africa (2020-2030) to achieve the objective and targets of the AU Agenda 2063 regarding the elimination of all forms of child labour in the continent in line with target 8.7 of the UN Agenda 2030. The Regional Action Plan on Albinism in Africa (2017–2021) was also developed in response to human rights violations being committed against persons with albinism, including children.<sup>8</sup>

### ***The Rationale of the theme of the DAC 2022***

13. The Committee decided that the theme of DAC 2022 will focus on harmful practices due to the high prevalence of those practices in Africa. The prevalence of harmful cultural practices continues to violate the rights of children across the continent. These harmful practices hinder children from fully enjoying their fundamental rights as enshrined in the African Children's Charter. The harm that harmful practices cause forces children to experience immediate physical and mental consequences. These practices further cause a negative impact on

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<sup>4</sup> Agenda 2040 : Fostering an Africa Fit for children 'Assessment of the first phase of implementation (2016-2020) at 112.

<sup>5</sup> African Union 'The African Union launches a continental initiative to end Female Genital Mutilation and Save 50 million Girls at Risk' (February 2019) Available at <https://au.int/en/pressreleases/20190211/african-union-launches-continental-initiative-end-female-genital-mutilation> (Accessed 6 October 2021).

<sup>6</sup> African Union (n5 above).

<sup>7</sup> UNFPA-UNICEF Joint Programme on the elimination of Female Genital Mutilation 'Accelerating change' Annual report (2018) Available at <https://www.unfpa.org/sites/default/files/pub-pdf/19-152-UNJP-FGM-AR2018-Aug2019.pdf> (Accessed 6 October 2021) at 99.

<sup>8</sup> Agenda 2040 : Fostering an Africa Fit for children (n4 above) at 113.

children's dignity, physical, psychosocial, moral integrity and development, participation, health, educational, economic and social status.<sup>9</sup>

***Legislative, institutional and administrative gaps in addressing harmful practices***

14. The assessment of the first phase of implementation of Agenda 2040 found that States have been less successful in harmonizing customary legal norms, policies and practices with the ACRWC.<sup>10</sup> 12 countries such as Algeria, Angola, Burundi, Cape Verde, Comoros, Libya, Morocco, Mozambique, Rwanda, São Tomé and Príncipe, Seychelles and Tunisia have been identified as countries that have the weakest legal and policy framework in addressing harmful practices.<sup>11</sup>
15. Moreover, the constitutions of many countries across the continent lack a provision on the elimination of harmful practices. The lack of explicit prohibition of harmful practices by law provides an indispensable underpinning for other measures required to promote their effective and lasting abandonment. The lack of explicit legal prohibition impedes States Parties from explicitly prohibiting all harmful practices against children, taking necessary measures to prevent and address harmful practices, secure the protection and redress of children at risk and fight impunity.<sup>12</sup>
16. The absence of an efficient data collection system related to the status of harmful practices on the continent hinders States Parties to take appropriate measures to prevent harmful practices and effectively protect child victims.

**II. Why does the theme of DAC 2022 focus on harmful practices affecting children**

17. The commemoration of the DAC 2022 presents an opportunity for the ACERWC to evaluate what has been done, and what ought to be done to eliminate harmful practices in Africa.
18. The DAC 2022 calls for serious introspection and commitment towards addressing the numerous challenges related to harmful practices that children are facing across the continent. The theme of DAC 2022 focuses on harmful practices affecting children to stress the urgent need to eliminate all harmful practices and advance the realization of children's rights in Africa. The theme of DAC 2022 further highlights the prevalence of harmful practices in Africa, the significant role and responsibility of every stakeholder to ensure that every child is protected from harmful practices.

<sup>9</sup> European Institute for Gender Equality 'Harmful practices' Available at <https://eige.europa.eu/thesaurus/terms/1233> (Accessed 20 October 2021).

<sup>10</sup> Agenda 2040: Fostering an Africa Fit for Children (n4 above) at 56.

<sup>11</sup> AV Eerdewijk and others 'The State of African Women Report' (June 2018) Available at [https://www.kit.nl/wp-content/uploads/2018/11/Key-Findings\\_State-of-African-Women-Report.pdf](https://www.kit.nl/wp-content/uploads/2018/11/Key-Findings_State-of-African-Women-Report.pdf) (Accessed 06 October 2021) at 40.

<sup>12</sup> AV Eerdewijk and others (n11 above) at 40.

### **Definition ‘harmful practices’**

19. The Protocol to the African Charter on Human and Peoples’ Rights on the Rights of Women in Africa (Maputo Protocol) indicates that harmful practices include ‘all behaviour, attitudes and/or practices which negatively affect the fundamental rights of women and girls, such as their right to life, health, dignity, education and physical integrity’.<sup>13</sup>
20. ‘Harmful practice is a collective term for many different forms of abuse which all share a similar characteristic, that they are seen as acceptable practices within sections of society. Harmful practices include, amongst other forms of abuse, child marriage, forced marriage, FGM, breast flattening, hate crimes, child abuse linked to faith or belief and so-called honour-based abuse’. ‘Harmful practices are persistent practices and behaviours that are grounded on discrimination based on sex, gender, age and other grounds as well as multiple and/or intersecting forms of discrimination that often involve violence and cause physical and/or psychological harm or suffering.’<sup>14</sup>
21. ‘Harmful traditional practices are particular forms of violence against women and girls which are defended based on tradition, culture, religion, or superstition by some community members.’<sup>15</sup> ‘Harmful practices refer to behaviours and practices which are harmful to people’s physical and mental health.’<sup>16</sup>
22. A variety of harmful practices exist, including ‘FGM, child and forced marriage, virginity testing and related practices, extreme dietary restrictions, including during pregnancy (force-feeding, food taboos), binding, scarring, branding/infliction of tribal marks, corporal punishment, stoning, violent initiation rites, widowhood practices, accusations of witchcraft, infanticide, incest and body modifications that are performed for beauty or marriageability of girls and women.’<sup>17</sup>
23. Agenda 2040, under its Aspiration 7 indicates that harmful practices such as breast ironing, FGM, or cutting, and child marriage have to be ended; harmful child labour practices and child trafficking for forced labour have to be eliminated and no child has to be subjected to corporal punishment. Violence against children may occur in the private sphere, in schools, in communities, or the home. It may take the form of corporal punishment in various settings, both public and private; forced and harmful labour practices and trafficking for forced labour.

<sup>13</sup> Article 1g of the Protocol to the African Charter on Human and Peoples’ Rights on the Rights of Women in Africa (Maputo Protocol).

<sup>14</sup> Safeguarding network ‘Harmful practices’ Available at <https://safeguarding.network/content/safeguarding-resources/harmful-practices/> (Accessed 06 October 2021).

<sup>15</sup> F Amahazion ‘Breast ironing: A brief overview of an underreported harmful practice’ *Journal of Global Health* 11:03055 (2021) at 1.

<sup>16</sup> Youth do it! ‘Harmful Traditional Practices’ Available at [https://www.youthdoit.org/themes/sexual-and-reproductive-healthand-rights-are-human-rights/harmful-traditional-practices/?gclid=EAlaIqobChMI--qt-YLV8wIVheIRCh1wkQxNEAMYAiAAEqJe\\_D\\_BwE](https://www.youthdoit.org/themes/sexual-and-reproductive-healthand-rights-are-human-rights/harmful-traditional-practices/?gclid=EAlaIqobChMI--qt-YLV8wIVheIRCh1wkQxNEAMYAiAAEqJe_D_BwE) (Accessed 15 October 2021).

<sup>17</sup> United Nations Human Rights Office of the High Commissioner ‘Information series on sexual and reproductive health and rights : Harmful practices’ (2020) Available at [https://www.ohchr.org/Documents/Issues/Women/WRGS/SexualHealth/INFO\\_Harm\\_Pract\\_WEB.pdf](https://www.ohchr.org/Documents/Issues/Women/WRGS/SexualHealth/INFO_Harm_Pract_WEB.pdf) (Accessed 15 October 2021) at 1.

24. Aspiration 7 of Agenda 2040 indicates that ‘harmful practices include acts such as FGM, child marriage, virginity testing, breast ironing and child witch killings; gender-based violence; corporal punishment; forced labor; sexual violence; sexual exploitation; child pornography; and sexual trafficking’.<sup>18</sup>

### ***Impact of harmful practices on children***

25. Harmful practices rob children especially the girl child of their childhood, deny them the chance to determine their future and threaten the well-being of individuals, families and societies.<sup>19</sup>

26. Harmful practices cause physical and/or emotional abuse. All forms of harmful practices are likely to cause harm and suffering.<sup>20</sup> Harmful practices have negative consequences on children and they are likely to cause physical, psychological, economic and social harm and/or violence and limitations on children’s capacity to participate fully in society or develop and reach their full potential. Harmful practices are imposed on children by family, community members and society at large.<sup>21</sup>

27. Harmful practices affect the child’s physical and mental health in the short and longer-term, impair their ability to learn and socialize and impact their transition to adulthood with adverse consequences later in life.

### **Gains made since 2013**

28. The AU has led the continental efforts to address harmful practices such as child marriage and FGM/C by developing various normative frameworks for the elimination of child marriage and FGM/C in Africa. To improve the lives of millions of girls and foster the implementation of these frameworks, the AU launched a continental campaign to end child marriage in Africa on 29 May 2014 and appointed a Special Rapporteur on Child Marriage, mandated to conduct fact-finding missions on alleged violations, seek co-operation with State parties, and develop constructive dialogue with governments, civil society organizations and other actors.<sup>22</sup>

29. Agenda 2040 was adopted by the ACERWC during the commemoration of the 25th Anniversary of the ACRWC in 2015. The 2040 Agenda was developed as a supplement to the broader Agenda 2063 for Africa’s socio-economic transformation, which also calls specifically for the empowerment of children. Aspiration 6 of the AU Agenda 2063 aspires to create ‘an Africa whose development is people-driven, relying on the potential offered by African people,

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<sup>18</sup> International Justice Resource Center ‘African Union Assembly adopts 2040 Agenda for Children’ (August 2017) Available at <https://ijrcenter.org/2017/08/14/african-union-assembly-adopts-2040-agenda-for-children/> (Accessed 20 October 2021).

<sup>19</sup> Unicef ‘Harmful practices Child marriage and female genital mutilation are internationally recognized human rights violations’ (June 2021) Available at <https://www.unicef.org/protection/harmful-practices> (Accessed 18 October 2021).

<sup>20</sup> Safeguarding network (n14 above).

<sup>21</sup> European Institute for Gender Equality (n9 above).

<sup>22</sup> UNFPA ‘Africa launches historic campaign to end child marriage’ (June 2014) Available at <https://www.unfpa.org/news/africa-launches-historic-campaign-end-child-marriage> (Accessed 4 October 2021).



especially its women and youth, and caring for children'. Agenda 2040 sets out ten aspirations, to be achieved by 2040 and identifies action steps, mostly to be taken by AU Member States. The implementation of the Aspirations of the Agenda 2040 and 2063 relate, directly or indirectly, to the realization of children's rights in general and eradication of all forms of violence against children and harmful practices in particular as protected under international and regional instruments.

30. Harmful practices have been addressed by the ACERWC especially in its Concluding Observations and Recommendations, declarations and General Comments (GC). The ACERWC, through its GC No. 5, expects States Parties to pass national laws and provide legal protection against harmful social and cultural practices. In its Concluding Observations and recommendations, the ACERWC calls on States Parties to eliminate customs and practices prejudicial to the enjoyment of children's rights and calls on States to prevent, protect and assist children who are victims or at risk to be subjected to harmful practices.
31. In 2017, the ACERWC and the African Commission on Human and Peoples' Rights (ACHPR) adopted a Joint GC on ending child marriage which outlines the laws, institutions and policies needed for States to prohibit child marriage and to protect those at risk. The Joint GC clarified the important fact that cultural practices are harmful to African children. In particular, child marriage has a serious impact on the enjoyment of children's rights.<sup>23</sup> The Joint GC prohibits child marriage, sets the legal age of marriage at 18 years without allowing any exception, calls on States to take effective action to enact legislation that prohibits child marriage for all marriages, under all forms of law, including customary or religious law and makes registration of all marriages in an official registry mandatory.<sup>24</sup>
32. In 2019, the campaign to end FGM known as Saleema initiative, was launched by the AU to save more than 50 million girls in Africa under the age of 15 who were at risk of undergoing the FGM.
33. In addition to the regional treaty body, the Joint General Recommendation/GC No. 31 of the Committee on the Elimination of Discrimination against Women (CEDAW Committee) and GC No. 18 of the Committee on the Rights of the Child on Harmful Practices (2014) sets standards for the protection of children's rights as far as child marriage is concerned.<sup>25</sup> By adopting the 2030 Agenda for Sustainable Development, States reaffirmed their commitment to 'eliminate all harmful practices, such as child, early and forced marriage and FGM' by 2030.<sup>26</sup>

<sup>23</sup> African Child Policy Forum (ACPF) 'Africa's 30-Year Journey with the African Children's Charter: Taking Stock, Rekindling Commitment' Available at [https://resourcecentre.savethechildren.net/node/18571/pdf/thecharter30narrativereportenglish\\_acpf.pdf](https://resourcecentre.savethechildren.net/node/18571/pdf/thecharter30narrativereportenglish_acpf.pdf) (Accessed 20 October 2021) at 44.

<sup>24</sup> AV Eerdewijk and others (n11 above) at 39.

<sup>25</sup> L Mwambene 'Recent legal responses to child marriage in Southern Africa: The case of Zimbabwe, South Africa and Malawi' (2018) *18 African Human Rights Law Journal* at 535.

<sup>26</sup> United Nations Human Rights Office of the High Commissioner 'Information series on sexual and reproductive health and rights : Harmful practices' (2020) Available at [https://www.ohchr.org/Documents/Issues/Women/WRGS/SexualHealth/INFO\\_Harm\\_Pract\\_WEB.pdf](https://www.ohchr.org/Documents/Issues/Women/WRGS/SexualHealth/INFO_Harm_Pract_WEB.pdf) (Accessed 20 October 2021) at 1.



### ***Progress in eliminating harmful cultural practices***

34. There has been significant progress in eliminating harmful cultural practices, especially FGM and child marriage. FGM is traditional in 29 African countries, and laws criminalizing the practice were rare in the 1990s. However, 27 of those 29 countries had passed laws criminalizing FGM by 2020, with Sudan the latest to legislate.<sup>27</sup>
35. Several Southern African countries have recently developed national initiatives aimed at ending child marriages. In 2015 the Constitutional Court in Zimbabwe outlawed child marriages concluded under any law. In the same year, South Africa, through the South African Law Reform Commission, proposed criminalizing both forced and child marriages as a result of, among others, harmful cultural practices. In 2017, Malawi amended its constitutional provision and unequivocally set the marriageable age of both women and men at 18 years.<sup>28</sup> In 2016, Uganda enacted an amendment to its Children's Act to penalize any harmful cultural or customary practices with a term of imprisonment up to 7 years or a fine, or both.<sup>29</sup> Ghana's amendment of its Children's Act in 2019<sup>30</sup> and Rwanda's amendment of its Children's Act in 2016 to penalize any harmful customary practices.<sup>31</sup>
36. Five countries such as Ghana, Ethiopia, Somalia, Sudan and Uganda stand out as having a strong legal and policy framework because they have a constitutional provision to eliminate harmful practices, a legal provision to prohibit FGM and a programmatic response to end FGM. Three Western African countries namely Liberia, Mali and Sierra Leone have a programmatic response to end the practice.<sup>32</sup>
37. There has been progress across many States to involve religious leaders in the protection of children against harmful practices, and most notably about the harms of FGM. The majority of States (42) have enacted laws that prohibit harmful traditional practices.<sup>33</sup> Progress is also being made to address the issue of corporal punishment.<sup>34</sup>
38. The AU campaign against harmful cultural practices, in particular, child marriage, resulted in significant changes in legislation, policies and practices. It has been recognized that Malawi and Zambia that are among countries with high child marriage prevalence rates have become global and continental champions as a result of the demonstrable progress they have achieved at national and community levels, backed by a high-level political commitment in the efforts to eradicate child marriage.<sup>35</sup>

<sup>27</sup> African Child Policy Forum (ACPF) 'Africa's 30-Year Journey with the African Children's Charter: Taking Stock, Rekindling Commitment' at xii.

<sup>28</sup> L Mwambene (n25 above) at 530.

<sup>29</sup> Section 7 (3) of Uganda Children's Amendment Act, 2016.

<sup>30</sup> Ghana Children's Act 560 of 1998 (as amended, 2019).

<sup>31</sup> Section 7 (3) of Rwanda's Children's Amendment Act, 2016.

<sup>32</sup> AV Eerdewijk and others (n11 above) at 40.

<sup>33</sup> Agenda 2040 : Fostering an Africa Fit for children (n4 above) at 106

<sup>34</sup> Agenda 2040 : Fostering an Africa Fit for children (n4 above) at 109.

<sup>35</sup> The Conversation 'Africa's agenda for children: progress, but still a long way to go' (June 2021) Available at <https://theconversation.com/africas-agenda-for-children-progress-but-still-a-long-way-to-go-162677> (Accessed 20 October 2021).

39. To address the issue related to FGM in Africa, the ACERWC decided to develop a GC on FGM. Once adopted, the GC on FGM will play a significant role in providing comprehensive interpretations to relevant stakeholders concerning the obligations of States to prevent, protect and eliminate harmful practices in Africa. The GC on FGM will further identify the root causes of FGM in Africa and what should be done to address those issues. It will also define the various legislative, administrative, institutional, and other appropriate measures that should be adopted by States Parties to eliminate FGM in Africa. The GC on FGM will likewise describe the obligations of States Parties to establish legal structures and ensure that harmful practices are promptly and impartially investigated and that effective remedies are provided to children who have been harmed.

## **Persistent challenges**

### ***Weak law enforcement***

40. The weak law enforcement is a major factor in failing to eliminate harmful practices in Africa.<sup>36</sup> The constitutions of many countries across the continent lack a provision on the elimination of harmful practices; only eight countries have such a provision, namely Ghana, Ethiopia, Malawi, Somalia, South Sudan, Sudan, Swaziland and Uganda; and, only seven countries have provisions in statutory law regarding harmful practices, such as Botswana, Lesotho, Malawi, Mauritius, Namibia, Swaziland and Zimbabwe.<sup>37</sup>

41. The law in many countries tends to be discriminatory and inconsistent with international standards. In a significant number of countries, there is a serious lack of enforcement and implementation of laws and policies. The continued high incidence of child labour, child marriage and violence against children demonstrates the wide gap between rhetoric and action, as well as the serious challenge of poor enforcement and policy implementation.<sup>38</sup>

## ***COVID-19 and the rise of harmful practices in Africa***

42. Despite the efforts at the national and continental levels to eliminate harmful practices affecting children, harmful practices are increasing in Africa. There is a range of issues that need to be addressed as a consequence of the effects of the COVID-19 pandemic on children across the continent. COVID-19 has had and continues to have a negative effect on children's well-being, learning, development and protection. Collective reports from CSOs and activists operating across East Africa and the Horn of Africa have noted a considerable rise in FGC cases across Somalia and Somaliland, Kenya, Tanzania and Sudan. According to a recent UNFPA rapid assessment, 31 percent of

<sup>36</sup> African Child Policy Forum (ACPF) 'Africa's 30-Year Journey with the African Children's Charter: Taking Stock, Rekindling Commitment' at 38.

<sup>37</sup> AV Eerdewijk and others (n11 above) at 40.

<sup>38</sup> African Child Policy Forum (ACPF) 'The African Report on Child Wellbeing 2018 Progress in the child-friendliness of African governments' (2018) at XIX.

community members across Somalia and Somaliland stated that there has been an increase in FGC incidents compared to the pre-COVID-19 period.<sup>39</sup>

43. It has been found that from March 2020, early in the global COVID-19 crisis, incidents of FGC began to increase at an alarming rate. Despite the positive progress in ending the practice in Kenya, there have been consistent reports of girls being subjected to FGC, or fleeing their homes for fear of being cut, from various counties due to school closures and the implementation of lockdown measures.<sup>40</sup> The economic impacts of COVID-19 are also contributing to an increase in FGC practices, child or early marriage to fetch a higher bride price across Kenya in particular.<sup>41</sup> There has been also an increased rate of FGC that were being reported across East and West Africa, where COVID-19 related lockdowns were being seen as an opportunity to carry out FGC undetected. COVID-19 has exacerbated the situation of harmful practices by increasing the vulnerability of children to be exposed to further risk to experience harmful practices with no recourse to essential prevention, protection and support services.<sup>42</sup>

### ***Status of harmful practices in Africa***

44. FGM, child and/or forced marriage are among the harmful practices that are the most prevalent, and harm girls' quality of life; enjoyment of sexual and reproductive health; and curtail educational and employment opportunities for girls, among other negative effects.<sup>43</sup>

45. Africa knows the highest rates of child marriage in the world where one in four women and girls in Sub-Saharan Africa is married before the age of 18. The prevalence of child marriage is highest in Western and Central Africa, and only slightly lower in Eastern and Southern regions. Child marriage prevalence rates in the continent vary between 2% (Tunisia) and 3% (Algeria), and 55% (Mali), 68% (CAR and Chad) and up to 76% (Niger). In seven countries namely Burkina Faso, CAR, Chad, Guinea, Mali, Niger and South Sudan, more than half of women and girls are married when they turn 18. In as many as 20 countries, child marriage prevalence lies between 30% and 50% of women and girls.<sup>44</sup>

46. In Western and Central Africa also, where child marriage is commonly practiced, prevalence has been 50–52% for the past 30 years. It is estimated that if the current trend continues, by 2050, Africa will become the region with the largest number of child marriages in the world.<sup>45</sup>

47. Countries with high levels of child marriage also have high rates of maternal deaths and high adolescent birth rates. The prevalence rates of FGM higher than 80% have been found in Djibouti, Egypt, Eritrea, Mali, Sierra Leone and

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<sup>39</sup>Orchid Project 'Impacts of COVID-19 on female genital cutting' (September 2020) [https://reliefweb.int/sites/reliefweb.int/files/resources/COVID\\_female\\_genital\\_cutting\\_FGC\\_policy\\_briefing\\_Orchid\\_Project\\_FINAL%20%281%29.pdf](https://reliefweb.int/sites/reliefweb.int/files/resources/COVID_female_genital_cutting_FGC_policy_briefing_Orchid_Project_FINAL%20%281%29.pdf) (Accessed 20 October 2021) at 10.

<sup>40</sup> Orchid Project (n39 above) Available at 1.

<sup>41</sup> Orchid Project (n39 above) at 11.

<sup>42</sup> Orchid Project (n39 above) at 1.

<sup>43</sup> Agenda 2040: Fostering an Africa Fit for children (n4 above) at 106.

<sup>44</sup> AV Eerdewijk and others (n10 above) at 37.

<sup>45</sup> AV Eerdewijk and others (n10 above) at 38.

Sudan, with Guinea and Somalia at the highest rates, of 97% and 98%, respectively. In some countries and subnational regions, girls are cut before their fifth birthday (Eritrea, Ghana, Mali, Mauritania, Nigeria and Senegal), in others between five and nine years of age (CAR, Chad, Egypt and Somalia) and in others again between ten and fourteen years (also in CAR, as well as Guinea-Bissau, Kenya and Sierra Leone).<sup>46</sup>

48. There has been little progress in terms of comprehensively outlawing corporal punishment in all settings, and it remains a common practice. It has been found that only nine African countries have outlawed corporal punishment in all settings. Corporal punishment is still practiced in schools in more than half of African countries, under the guise of reasonable chastisement.<sup>47</sup> The use of violent discipline at home is almost universal in Burundi, Ghana, and Mozambique, where more than nine out of ten children experienced a form of corporal punishment at home. The rate of corporal punishment in South Africa is high as 56 percent.<sup>48</sup>
49. Harmful practices affect the enjoyment of the right to education. Child, early and forced marriage contributes to higher rates of school dropouts and forced exclusion from schools. The CEDAW Committee has underscored how harmful practices directly threaten girls' human right to education: 'By failing to curb child marriage, governments fail in their obligation to ensure access to education for girls on an equal basis with boys.' The right to education includes the right of women and adolescents 'to accurate information about sexual and reproductive health and rights and on the impacts of harmful practices as well as access to adequate and confidential services.'<sup>49</sup>
50. The sexual and reproductive health needs and rights of adolescents are mostly unmet and this often stems from the significant discrimination and barriers they encounter, both in law and practice, in accessing information, goods and services on reproductive health.<sup>50</sup> The lack or limited access to sexual and reproductive health services and information leads to the inability of children especially girl children to protect themselves from unwanted pregnancy, childbirth-related complications, and sexually transmitted diseases and infections.
51. There have also been some emerging forms of sexual exploitation of children such as online sexual exploitation of children and sexual exploitation of children in travel and tourism.<sup>51</sup>

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<sup>46</sup> AV Eerdewijk and others (n10 above) at 38.

<sup>47</sup> ACPF 'Harmonization of Laws on Children in Africa' (2020) at 66.

<sup>48</sup> ACPF 'Violence against children in Africa: A Report on Progress and Challenges (2021) at 10.

<sup>49</sup> United Nations Human Rights Office of the High Commissioner 'Information series on sexual and reproductive health and rights : Harmful practices' (2020) Available at [https://www.ohchr.org/Documents/Issues/Women/WRGS/SexualHealth/INFO\\_Harm\\_Pract\\_WEB.pdf](https://www.ohchr.org/Documents/Issues/Women/WRGS/SexualHealth/INFO_Harm_Pract_WEB.pdf) (Accessed 20 October 2021) at 3.

<sup>50</sup> ACPF (n47 above) at 53.

<sup>51</sup> ACPF (n47 above) at 72.

52. The African continent has the highest levels of child labour in the world. 2016 Global Estimates of Child Labour indicates that one-fifth of children in Africa are involved in child labour, while 9 percent are involved in hazardous work. Sub-Saharan Africa has the largest proportion of child labourers with 29 percent of children aged 5 to 17 years as compared to North Africa where 5 percent of children aged 5 to 17 are engaged in child labour. In all regions across the continent, girls are as likely to be engaged in child labour as boys.<sup>52</sup> In Mali, Benin, Chad and Guinea-Bissau, more than half of all children are engaged in child labour. Children in poor families are three times more likely to be in child labour than those from wealthier backgrounds.<sup>53</sup>
53. The consequences of Child marriage are severe, with many girls forced into sex, pregnancy and childbirth without regard for their consent or physical and psychological readiness. Adolescent pregnancy significantly increases the risk of child mortality, premature birth and obstetric fistula.<sup>54</sup> Discrimination, violence and harmful practices against children with albinism have reached alarming proportions.<sup>55</sup>
54. Women and girls with disabilities are at particular risk of harmful practices, which are typically justified on the grounds of sociocultural and religious customs.<sup>56</sup>

### ***Other persistent challenges***

#### ***Non-ratification of the Charter and reservations***

55. The reservations that have been made by Botswana on Article 2 of the ACRWC (definition of the child); Egypt on Article 24 (adoption), Article 30 (a-e) regarding the special treatment of children of imprisoned mothers, Article 44 (Communications procedures); and Article 45 (1) about the Committee conducting investigations in the Member States; Mauritania on Article 9 (right to freedom of thought, conscience and religion); and, Sudan on Article 10 about the protection of privacy, Article 11 (6) concerning the education of children who become pregnant before completing their education or Article 21 (2) about child marriage; and the non-ratification of the ACRWC by some Member States

<sup>52</sup> UNICEF, 'Child Labour' (October 2019) Available at <https://data.unicef.org/topic/child-protection/child-labour/> (Accessed 20 October 2021).

<sup>53</sup> African Child Policy Forum (ACPF) 'The African Report on Child Wellbeing 2018 Progress in the child-friendliness of African governments' (2018) at 39.

<sup>54</sup> UNFPA 'Africa launches historic campaign to end child marriage' (June 2014) Available at <https://www.unfpa.org/news/africa-launches-historic-campaign-end-child-marriage> (Accessed 4 October 2021).

<sup>55</sup> Office of the Special Representative of the Secretary-General on Violence against Children 'Protecting children from harmful practices in plural legal systems with a special emphasis on Africa' (2014) Available at [file:///C:/Users/hp/Downloads/protecting\\_children\\_from\\_harmful\\_practices\\_-\\_english\\_0.pdf](file:///C:/Users/hp/Downloads/protecting_children_from_harmful_practices_-_english_0.pdf) (Accessed 20 October 2021) at 29.

<sup>56</sup> United Nations Human Rights Office of the High Commissioner 'Information series on sexual and reproductive health and rights: Harmful practices' (2020) Available at [https://www.ohchr.org/Documents/Issues/Women/WRGS/SexualHealth/INFO\\_Harm\\_Pract\\_WEB.pdf](https://www.ohchr.org/Documents/Issues/Women/WRGS/SexualHealth/INFO_Harm_Pract_WEB.pdf) (Accessed 20 October 2021) at 3.

continue to perpetuate harmful practices and the impunity of the perpetrators of child rights violations.

### **Other challenges**

56. A limited implementation of the decisions of the Committee to respond to the incidences of harmful practices; the low State Party Reporting on the status of harmful practices at the local and national levels and the limited use of the ACERWC's complaints mechanism are some of the persistent challenges that hinder children to enjoy the effective protection against harmful practices in Africa.

## **III. Objectives of DAC 2022**

### **General Objective**

57. The general objective of DAC 2022 is to take stock of the progress achieved and identify challenges with regard to the elimination of harmful practices affecting children in Africa.

### **Specific Objectives**

58. The specific objectives of the celebration of the 2022 DAC are:

- To encourage Member States to do a national assessment on the status of their legislative and policy frameworks and their implementation to address harmful practices against children;
- To encourage Member States to ensure meaningful participation of children in their effort to address the challenges of harmful practices against children;
- To mobilize partnership among stakeholders, including UN Agencies, CSOs, children's representatives, traditional leaders, the media and academia to work towards the elimination of harmful practices against children in Africa;
- To provide policy guidance and create platforms to share capacity and experience among stakeholders for a joint continental action against harmful practices.

## **IV. Expected outcomes/ Activities to be undertaken by the ACERWC to commemorate DAC 2022**

The ACERWC envisages the following outcomes/activities during the commemoration of the DAC in 2022:

- **A continental webinar/seminar on 16 June 2022**

The Continental webinar/celebration will reflect on the progress of Member States in practices and policies in addressing harmful practices, the persistent challenges and



what should be done to ensure that all children without any discrimination are protected against all forms of harmful practices.

- **A continental launch of the GC on FGM**

The areas that need to be strengthened through partnership, coordination and, active involvement of the relevant government ministries or departments, public service, civil society organizations, religious and community leaders, communities, families and the media will be highlighted in the GC.

The Continental launch of the GC on FGM presents a great opportunity to inform the relevant stakeholders on the findings of the status of FGM on the continent and the recommendations that should be put in place to reduce the prevalence of FGM in Africa.

- **Continental report/study on the status of harmful practices against children in Africa**

The effectiveness of the protection of children against harmful practices lies in the evaluation of the responses that States Parties, ACERWC, other AU Organs, CSOs and NGOs have been undertaken to address the issue of harmful practices in Africa. The findings of the study will play a significant role to inform relevant stakeholders on the progress, persistent challenges and what should be done to improve the prevention, protection and assistance of children who are at risk or victims of harmful practices in Africa.

The findings of the study will be shared with the Member States and the recommendations will reach the relevant stakeholders working at regional and sub-regional levels and national and sub-national levels.

**Member States reaffirm engagement to:**

- Use the preventive measures to effectively fight harmful practices in Africa;
- Prioritize the adoption of legislation, policy, programs and practices that prevent, protect and assist children;
- Develop national and sub-national strategies to eliminate all forms of harmful practices at national and sub-national levels;
- Utilize the four cardinal principles in the planning and implementation of the commemoration of DAC 2022;
- Translate into local languages the DAC 2022 key messages and widely disseminate them in national and sub-national media houses including the local newspapers, radio, tv, and various social media platforms.
- Comply with the obligation of reporting on the status of harmful practices at the local and national levels, effectively implement the decisions of the ACERWC;
- Ratify the ACRWC (for the countries that have not yet ratified) and withdraw reservations on the articles of the ACRWC (for the countries that have reservations); and,

- Protect and assist children from various backgrounds including the most vulnerable and marginalized.

## **V. Methodology**

19. The ACERWC, in collaboration with relevant stakeholders, will hold a Continental webinar to Commemorate the 2022 DAC on June 16, 2022.

20. The ACERWC calls on all AU Member States to celebrate the 2022 DAC, in collaboration with various stakeholders such as CSO, UN Agencies and other partner organizations. Several activities and events should be organized at national and sub-national levels according to the theme of DAC 2022. Member States and partners are also encouraged to translate key messages into local languages and ensure that during the commemoration of the DAC, there will be local and national media coverage.

21. The ACERWC strongly recommends to utilizing the four cardinal principles in the planning, implementation and monitoring of 2022 DAC activities.

## **VI. Recommendations for the Member States**

The Concept Note aims to inform specific activities that Member States should undertake in line with the theme of DAC 2022. These recommendations have the objective to inform the content and structure of Member States' reports to the ACERWC on how their commemoration of DAC 2022 has played a crucial role in addressing harmful practices. The recommendations are as follow:

- i. Member States should conduct a national study/assessment on harmful practices affecting children. The study should provide details regarding the acts considered harmful in the respective countries; their legislative and institutional framework in place (or the absence of it); whether legislation prohibiting all forms harmful practices are in place, including new and emerging manifestations, supported by detailed legal provisions on counselling, reporting, investigation and prosecution of incidents of violence against children; status of implementation of the various normative frameworks (both national and international); whether mechanisms are in place for children to get redress in cases where they are affected by harmful practices; the role of traditional and religious institutions; etc.
- ii. Member States should launch public information and awareness campaigns for the abolition of harmful practices affecting children- such Campaign should initiate collective discussions involving the communities concerned, and undertake capacity building of professionals working with and for children.
- iii. Member States should take measures to review all national legislation or practice providing justification for, or allowing consent to, harmful practices against children, including on grounds of culture, tradition, honor, or religion.

- iv. Member States should identify and engage children who are in a particular vulnerable situation to be affected by harmful practices- such group of children may include the girl child, children with disabilities, children with albinism, children on the move, children in a street situation, children living in rural areas, etc.
- v. In countries where FGM is practiced, Member States should adopt legislation abolishing FGM, sensitize and train health care workers to refrain from conducting medicalized forms of FGM and educate the community.
- vi. In countries where child marriage is practiced, Member States should ensure that their legislations are in line with the African Children's Charter and set the minimum age of marriage at 18; facilitate awareness-raising regarding child marriage by engaging with civil society organizations, grass-roots organizations, traditional and religious leaders and the private sector, including the media;
- vii. Member States should ensure that corporal punishment is prohibited in all settings, including as a form of discipline or punishment in schools, institutions and the criminal justice system;
- viii. Member States should ensure that all forms of harmful labour practices are prohibited;
- ix. Member States should strengthen their support scheme for families to enable them adequately protect their children, by enhancing their economic capacity such as through child-sensitive social protection schemes and by involving parents in programs that promote positive, nonviolent, non-discriminatory forms of child-rearing;
- x. Engage constructively with relevant stakeholders, including CSOs and children to combat harmful practices affecting children, and provide a conducive legal and policy environment for CSOs and children to operate in advancing child protection issues in the areas of advocacy, research, litigation and support for victims;
- xi. Member States should enact and enforce the legal prohibition of all forms of harmful practices at the national and sub-national levels and adequately sanction or criminalize harmful practices;
- xii. Member States should provide for the means of prevention, protection, recovery, reintegration and redress for victims and combat impunity;
- xiii. Member States should address the root causes of harmful practices, implement durable solutions that will prevent, protect and assist children who are at risk or victims of harmful practices;

- xiv. Member States should utilize the four cardinal principles (the best interest of the child; non-discrimination; life, survival and development and participation) when planning, drafting and implementing the programs and policies related to the prevention, protection and assistance of children who are at risk and victims of harmful practices in their national and subnational levels;
- xv. Member States should take all appropriate measures to eliminate customs and practices prejudicial to the realization of children's rights;
- xvi. Member States should timely report to the ACERWC on the status of all forms of harmful practices by indicating the challenges and obstacles faced in addressing the harmful practices, steps and programs undertaken to reduce/eliminate harmful practices in their national and sub-national levels, consider and implement the decisions and recommendation of the Committee;
- xvii. Member States should strengthen partnership, collaboration and engagements with relevant stakeholders such as Regional Economic Communities, UN Agencies, and other key actors in addressing harmful practices.

## **VII. Commemoration of the DAC and Reporting**

The ACERWC calls upon the Member States to effectively prevent, protect and assist children who are victims or at risk of harmful practices. Hence, the appropriate programs and activities to celebrate DAC 2022 should be organized and prioritized.

The reports submitted by the States Parties will be informative to the ACERWC who will take note of the progress in practice and policy, the best practices with regards to the protection of children against harmful practices, the challenges faced in addressing the harmful practices and the steps that the Member States have taken to improve the protection of children against harmful practices in Africa. This will further help the ACERWC to evaluate where we are as a continent in addressing the harmful practices and the level of achievement of the objective and recommendations of DAC 2022.

**ANNEX**

**Monitoring Framework for Reporting on Commemoration of the Day of the African Child 2022: Template: 'Eliminating Harmful Practices Affecting Children: Progress on Policy and Practice since 2013'.**

This template is a reporting framework that the AU Members States and other stakeholders may use to report to the ACERWC on DAC 2022.

**Country/Organization:**

**Partners:**

**Measures and Activities undertaken:**

- Summary/Analysis of the theme as it applies to national, local or organisational context  
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- Legal, Policy, Administrative and other measures in place to address the challenges of children affected by harmful practices.  
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- Measures undertaken to identify, reach and promote awareness about children affected by harmful practices.  
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- Campaigns launched, studies conducted, partnerships established to eliminate harmful practices affecting children.  
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- Groups of children who are particularly affected by harmful practices and the measures undertaken to address their specific challenges.  
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- Key progress achieved at country level with regard to elimination of harmful practices affecting children in Africa.  
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- Major challenges at country level with regard to elimination of harmful practices affecting children in Africa.

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**Report on Events Organised on or leading up to 16 June 2022**

EVENT	DETAILS OF EVENT	NO. OF PARTICIPANTS/THOSE REACHED (CHILDREN)*	DETAILS OF IMPLEMENTING AGENCY	NATIONAL, REGIONAL OR DISTRICT LEVEL IMPACT

\*Provide disaggregated data on age, sex, place of origin, etc.