

**AFRICAN UNION**

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



**UNION AFRICAINE**

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

**الاتحاد الأفريقي**

*"An Africa Fit for  
Children"*

**UNIÃO AFRICANA**

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**CONCLUDING OBSERVATIONS AND RECOMMENDATIONS BY THE AFRICAN  
COMMITTEE OF EXPERTS ON THE RIGHTS AND WELFARE OF THE CHILD  
(ACERWC) ON THE PEOPLE'S DEMOCRATIC REPUBLIC OF ALGERIA REPORT  
ON THE STATUS OF IMPLIMENTATION OF THE AFRICAN CAHRTER ON THE  
RIGHTS AND WELFARE OF THE CHILD**

## **I. INTRODUCTION**

1. The African Committee of Experts on the Rights and Welfare of the Child (ACERWC/ Committee) extends its compliments to the Government of the People's Democratic Republic of Algeria and wishes to acknowledge with thanks receipt of the initial report on the status of the implementation of the African Charter on the Rights and Welfare of the Child (the African Children's Charter/ the Charter). The ACERWC, during its 26<sup>th</sup> Ordinary Session, considered the Republic of Algeria's initial report which was submitted in accordance with the State Parties obligation under Article 43 of the African Charter on the Rights and Welfare of the Child.
2. The Committee commends the State Party for its delegation led by H. E. Ambassador Soualem Lazhar, Director of Political Affairs and International Security, for the open and constructive dialogue.
3. The Committee notes with appreciation the fact that the State Party ratified the African Children's Charter and took various initiatives to implement the rights and duties enshrined in the Charter. However, the Committee regrets that the report was submitted with considerable delay, which prevented the Committee from reviewing the implementation of the Charter by the Republic of Algeria for some years after the ratification.

## **II. PROGRESS IN THE IMPLEMENTATION OF THE CHARTER**

4. The Committee commends the State Party among others on the following achievements;
  - a. Adopting various international and regional human rights instruments including the African Children's Charter;
  - b. Harmonizing the definition of the child in its national laws in line with article 2 of the African Children's Charter;
  - c. Adopting the National Action Plan for Children;

## **III. AREAS OF CONCERN AND RECOMMENDATIONS**

### **A. General Measures of Implementation**

5. The Committee commends the Government of Algeria for committing itself to international and regional human rights instruments in general and to the African Children's Charter in particular. The Committee recommends the Government of Algeria to reinforce its commitment to protect children through the harmonization of national laws in line with the principles and provisions of the African Children's Charter.

6. Furthermore, appreciating the adoption of the National Plan of Action (2008-2015), the Committee encourages the State Party to adopt a comprehensive children's rights law.
7. The Committee notes with appreciation the legal and institutional framework available for children. The Committee however, encourages the Government of Algeria to work on the implementation of the laws and policies through training and capacity building of its officials, increasing the budget for child rights issues and establish a functioning and strong monitoring and evaluation mechanism.
8. Appreciating the establishment of the National Human Rights Commission, the Committee recommends the State Party to ensure that the Commission functions independently and to allocate sufficient budget. The Committee further recommends the State Party to ensure that the Commission is accessible to all children.
9. The Committee regrets that it was not possible to receive alternative report from Civil Society Organizations (CSOs) in Algeria on the implementation of the African Children's Charter. Therefore, the Committee urges the State Party to create conducive environment to CSOs and to collaborate with CSOs in the implementation of the African Children's Charter. In addition, the State Party is encouraged to involve CSOs in preparation of the subsequent reports and in implementation of these recommendations.
10. Commending the existing data collection system, the Committee recommends the State Party to strengthen it and press for a comprehensive data collection and keeping system to better reflect the situation of children on the ground and to make an informed decision in law making and policy designing.
11. The Committee encourages the State Party to commemorate and celebrate the Day of the African Child (DAC) in each region every year with the objective of bringing impact on the life of children. To this effect, the Committee recommends the State Party to refer to the Concept Note on DAC which the Committee circulates to State Parties every year on different themes. Furthermore, the Committee recommends the Republic of Algeria to regularly submit a report to the Committee on the commemoration of the DAC.
12. The Committee encourages the State Party to continue promoting the rights of children through the dissemination of the African Children's Charter in local languages. In addition, the Committee recommends the State Party to ensure the availability of its report to the Committee on the implementation of the African Children's Charter to the general public.

## **B. Definition of the child**

13. Furthermore, the Committee urges the State Party to comply with article 21 (2) of the African Children's Charter which set the minimum age of marriage for both boys and girls at the age of 18 years.

### **C. General principles**

#### ***Non-discrimination***

14. The Committee welcomes the Constitutional guarantee for equality of everyone and non-discrimination. However, the Committee noted that there are instances on the ground whereby the girl child and women face discrimination particularly in cases of succession. Therefore, the Committee recommends the State Party to ensure the application of the principle of non-discrimination in all administrative and judicial actions to all children irrespective of their parents' or guardians' origin, ethnic group, color, sex, language, religion, political or other opinion, national or social origin, fortune, birth or other status.

#### ***The Best Interest of the Child***

15. The Committee noted that the guardian of a minor is a father while a mother can be a guardian upon the death of the father. The Committee is concerned that this provision of the Family Law undermines the best interest of the child in making decision on custody of children. Therefore, the Committee recommends the State Party to revise this provision making both parents the guardian of a minor. Moreover, the Committee recommends the State Party to supervise and monitor the full application of this principle as paramount principle in all administrative and judicial decisions that affect children and particularly in case of issuing maintenance orders.

#### ***The Right to Life, Survival and Development***

16. While appreciating the efforts of the State Party in reducing and controlling maternal and child mortality, the Committee recommends the State Party to continue its efforts to ensure universal access for pre natal and neonatal health services throughout the country; promote exclusive breast feeding for the first six months and strictly regulate commercials of supplementary products; and in collaboration with CSOs to ensure the provision of micronutrient products in regions where there is moderate and acute malnutrition. To this effect, the Committee recommends the State Party to make reference to the African Union Regional Nutrition Strategy (2015-2025).

17. Furthermore, the Committee noted with concern reports that a threat posed on the life of single mothers and girls as a result of sexual assault and violence. Therefore,

the Committee urges the Government of Algeria to take all necessary measures including resection of perpetrators.

### ***Child Participation***

18. The Committee welcomes the establishment of the children parliament and recommends the State Party to ensure that the children parliament is a platform for children to express and disseminate their opinion freely in all matters. In this regard, the Committee recommends the State Party to ensure that all children from all parts of the country are represented in the parliament, to allocate sufficient budget, and to take into account in decision making process the resolution of the children parliament.
19. In addition, the Committee recommends the State Party to promote respect for the views of the child in the family, in schools, and before administrative authorities and courts.

### **D. Civil Rights and Freedoms**

#### **Name, Nationality, Identity and registration at birth**

20. The Committee commends the State Party for the high rate of birth registration. However, the Committee noted with concern indication of inaccessibility of birth registration for children born out of wedlock. Therefore, the Committee recommends the State Party to lift all barriers that are cumbersome on birth registration for all children. In this regard, the Committee recommends the State Party to refer to the Committee's General Comment on article 6 of the African Children's Charter.

#### ***Freedom of Expression, Conscience, Thought and Religion***

21. The Committee recommends the State Party to ensure that children's freedom of expression, conscience, thought and religion is respected and to create awareness among parents or caregivers and in schools to this effect.

#### ***Protection of Privacy***

22. The Committee recommends the Government of Algeria to safeguard that the privacy of children in the juvenile justice system, child witnesses and child victims is protected. Furthermore, the Committee recommends the State Party to ensure that remedies are available whenever children's privacy is intruded.

#### ***Protection from abuse and torture***

23. The Committee noted with concern that sexual violence against children is poorly controlled. The Committee therefore, recommends the State Party in collaboration

with CSOs to establish protection programs throughout the country, to raise awareness, to prosecute and punish perpetrators in a manner that commensurate to their crimes, and to rehabilitate and reintegrate victims of sexual violence.

### **E. Family Environment**

#### ***Parental Guidance and Responsibilities***

24. While commending the efforts of the State Party to support the family, the Committee expresses its concern that parental responsibility is not equally assigned between men and women. The Committee has concerns on some provisions of the family law provisions which still prohibits the marriage of Muslim women to non-Muslims, which has an obvious negative impact on the rights of children born of such marriages; grants the mother custody of male children only until age 10 and of female children until they reach marriage age; took away the custody right of women who remarry after divorce; and make women and girls only inherit only one half of the share inherited by male members of the family. Furthermore, the Committee noted that the polygamy is not a prohibited act.

25. Therefore, the Committee urges the State Party to ensure that family responsibility is assigned equally between mothers and fathers and to revise all the provisions that discriminate against women and girls.

#### ***Family reunification and children deprived of the family environment***

26. The Committee recommends the State Party to ensure that alternative care in a family setting is exhausted before placing a child in an institutional care. Moreover, the Committee recommends the State Party to establish child care facilities in all regions, to improve the service in already existing facilities, and to regularly monitor and supervise institutional facilities.

#### ***Adoption***

27. The Committee noted that there is no adoption system in the State Party but a system of Kafala. However, the Committee is concerned that when the legal guardian (Kafil) dies, the Makfoul (child placed in Kafala) is considered as part of the heritage, and therefore, the legal heirs can decide whether or not to keep him or her in the family, a situation which places them at risk of being re-institutionalized. The Committee also noted that there are cases of illegal adoption and illegal placement in Kafala of children born out of wedlock. The Committee therefore recommends the Government of Algeria to ensure that children in the Kafala system enjoy the rights and freedoms enshrined under the African Children's Charter and to protect children from illegal adoption and placement in Kafala.

## **F. Basic Health and Welfare**

### ***Children with Disabilities***

28. Appreciating the efforts of the State Party in respecting the rights of children with disability, the Committee recommends the State Party to strengthen its efforts and to ensure that all children with disability have access public facilities such as medical centers, sport fields and playgrounds. Moreover, the Committee recommends the State Party to establish orthopedic services and where services are available to ensure that the services are more accessible, and flexible. Moreover, the Committee recommends the State Party to adopt a standard definition of disability in statistical data gathering within government ministries and across the country and to exert effort to prevent disabilities and disabling diseases before and after birth.

### ***Health and Health Services***

29. The Committee notes with satisfaction the measures taken and the results achieved in the health care services including the provision of free health care service for children, increased number of health care workers as well as declined rate of maternal, infant and under five mortality rate. Despite these commendable achievements, studies signal that tuberculosis, hepatitis, typhoid fever, cholera, and dysentery are risk factors for children. Therefore, the Committee recommends the State Party to make interventions to prevent and treat children from the risk factors. The Committee also recommends the State Party to strengthen its efforts in providing adequate access to antenatal care and delivery in health facilities.
30. The Committee recommends the State Party to explore solutions for children at risk of under-nutrition through the provision of iron-folate, promotion of exclusive breast feeding for the first six months after birth, and of complimentary feeding.
31. Furthermore, the Committee recommends the State Party to ensure that provision of public health services particularly the provision of primary health care services is evenly distributed in urban and rural areas. In this regard, the Committee calls upon the State Party to ensure that vulnerable children have access to basic health services and nutrition programs.
32. The Committee recommends the State Party to ensure that adolescent children have access to reproductive health information, services and care. In this regard, the Committee recommends the State Party to particularly reach children who drop-out of school, living in the streets, in refugee camps, and who are in other hazardous conditions.

## **G. Education, leisure and cultural activities**

33. The Committee applauds the increasing and high education enrollment and attendance rate for primary education. However, the Committee notes that the rate of secondary education attendance is low. Therefore, the Committee recommends the State Party to address the problem through various actions such as comprehensive school reforms and reducing class size.
34. The Committee is aware that the State Party has adopted an inclusive education policy. In this regard the Committee recommends the State Party to continue its efforts in campaigning for children with disability to enroll in schools and to ensure that a favorable physical and epistemic environment is created. Moreover, the Committee recommends the State Party to provide teachers trained in special needs education in order to minimize barriers in the learning process.
35. In respecting children's right to play, leisure, and have cultural life as central to their health and development, the Committee recommends the State Party to ensure that all children have an environment sufficiently free from waste, pollution, traffic and other physical hazards to allow them to circulate freely and safely within their local neighborhood; have resting time appropriate to their age and development; have leisure time free from other demands; and space and opportunities to play outdoors.

## **H. Special protection measures**

### ***Refugee, Migrant and Displaced Children***

36. The Committee, while appreciating the legal protection accorded for refugee children, noted that there are reports which indicate that refugees coming from the Sub-Saharan countries are denied of refugee status without fair hearing; that the health condition in the refugee camps is very poor; and mainly the support comes from UNHCR and other non-governmental institutions. Therefore, the Committee recommends the State Party to enhance its protection mechanism for refugee from Sub-Saharan African Countries and the quality of service in camps. In addition, the Committee recommends the State Party to ensure that asylum seeking, abandoned and unaccompanied have access to basic education, health care and other services. To this effect, the Committee recommends the State Party to collaborate with CSOs to trace and unify unaccompanied children, to explore durable solutions, and to provide psychosocial assistance.

### ***Children in Conflict with the Law***

37. The Committee noted with appreciation that the State Party is exerting efforts to ensure that children in conflict with the law are protected and established various organs who might undertake rehabilitation measures. In this regard, the Committee recommends the State Party to provide mechanisms and structures outside the prison to take care of minors in conflict with the law. In instances where detention is



inevitable, the Committee recommends the State Party to ensure that minors are detained separate from adults in all correction facilities in the country.

38. Moreover, the Committee recommends the State Party to establish child friendly courts across the country and to increase the working pool of psychologists and social workers in the juvenile justice system. To this effect, the Committee recommends the State Party to refer to the Guidelines on Action for Children in the Justice System in Africa.

### ***Children of Imprisoned Mothers***

- 39.30. The Committee notes with appreciation the adoption of Algerian Law No. 04-05 of 2005 which contains provisions in relation to children whose parents or caregivers are imprisoned and recommends the State Party to avoid detention of mothers and primary care givers and when detention deems to be inevitable to extend special treatment for mothers throughout conviction, sentencing, imprisonment and reintegration phases of the criminal justice process. To this effect, the Committee recommends the State Party to consult General Comment No.1 of the ACERWC on article 30 of the African Charter on the Rights and Welfare of the Child.

### ***Sexual Exploitation and abuse***

40. There are indications that violence and sexual abuse are common in the State Party. Researches show that children are abused by their parents and teachers. Therefore, the Committee urges the State Party to prevent and combat the crime of sexual exploitation of children, to prosecute the perpetrators, and to set in place rehabilitation and reintegration mechanisms for victims. In addition, the Committee recommends the State Party to cooperate with neighboring countries to stop the trafficking and smuggling of children. .

### ***Harmful Traditional Practices***

41. The Committee is highly concerned by the fact that the girl child marries before the age of 18 years old. Therefore, the Committee recommends the State Party to harmonize its law in line with article 21(2) of the African Children's Charter setting the minimum age of marriage for both boys and girls at the age of 18 years old.
42. Moreover, the Committee recommends the State Party to sensitize families, community and religious leaders on the damaging effect of harmful traditional practices on the physical, psychological and mental development of children.

#### **I. Responsibilities of the Child**

43. The Committee calls upon the State Party to create awareness among children regarding their responsibility towards their family, the society and the State and to ensure that children are given responsibilities taking into account their age, maturity

and ability. Moreover, the Committee recommends the State Party to ensure that the provision of the Charter on the responsibilities of the child is interpreted and applied in compatibility with the contents of other provisions of the Charter and by any means does not derogates the rights enshrined therein.

## **J. Conclusion**

44. The African Committee of Experts on the Rights and Welfare of the Child appreciates with satisfaction the efforts by the Government of the Republic of Algeria to promote and respect the rights of children and aspires to the implementation of these recommendations. The Committee would like to indicate that it will undertake a follow up Mission to ascertain the implementation of these recommendations in the foreseeable future. The Committee would also like to invite the State Party to submit its combined first, second, third, fourth and fifth periodic reports by September 2020 and to include in it information on the implementation of the present Concluding Observations and Recommendations. The African Committee of Experts on the Rights and Welfare of the Child takes this opportunity to renew to the Government of the Republic of Algeria, the assurances of its highest consideration.