

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"*

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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 INITIAL REPORT OF THE REPUBLIC KINGDOM OF ESWATINI
ON THE STATUS OF IMPLEMENTATION OF THE AFRICAN CHARTER ON THE
RIGHTS AND WELFARE OF THE CHILD**

July 2019

I. INTRODUCTION

1. The African Committee of Experts on the Rights and Welfare of the Child (ACERWC/the Committee) extends its compliments to the Government of the Kingdom of Eswatini and wishes to acknowledge with appreciation 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 33rd Ordinary Session, which was held from 18 to 28 March 2019, in Addis Ababa, Ethiopia, considered the Kingdom of eSwatini's initial report which was submitted in accordance with the State Party's obligation under Article 43 of the African Children's Charter.
2. The Committee welcomes the constructive dialogue it held with the delegation of eSwatini, led by the Deputy Prime Minister of the kingdom of ESwatini, Senator Themba Masuku. The Committee also applauds the rich representation of the relevant Government organs among the delegation. The dialogue enabled the Committee to better understand the measures that the State Party has undertaken towards the implementation of the African Children's Charter and the challenges it has faced. After a careful consideration of the facts in the State Party Report and the information provided during the constructive dialogue, the Committee has developed and adopted the following Concluding Observations and Recommendations which, in the Committee's view, provide guidance to better enhance the implementation of the provisions of the African Children's Charter.

II. PROGRESS IN THE IMPLEMENTATION OF THE CHARTER

3. The Committee applauds the legislative and institutional measures that the State Party has undertaken to implement the Charter. Particularly, the Committee appreciates the Government for taking the following measures:
 - i. Ratifying the African Charter on the rights and welfare of the Child; The UN Convention on the Rights of the Child; The Optional Protocols to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict, and the Sale of Children, Child Prostitution, and Child Pornography; The Palermo Protocol on Trafficking in Person, The Hague Convention on Inter-Country Adoptions, The International Labour Organisation's (ILO) Convention 138 on Minimum Age and The Convention on the Elimination of the Worst Forms of Child labour; The SADC Protocol on Gender and Development and SADC's Strategic Framework and Programme of Action for Comprehensive Care and Support for Orphans, Vulnerable Children and

- Youth; SADC Policy Framework and Programme of Care and Support for Teaching and Learning; and The Maseru Declaration on HIV and AIDS;
- ii. Enactment of the National Children's Policy 2009, Children's Protections and Welfare Act of 2012 (CPWA), Free Primary Education Act of 2011, Sexual Offences and Domestic Violence Act (SODV) 2018; Persons Living With Disability Act 2018, Free Primary Education Act of 2010, Marriage Act of 1964, and Birth Marriage and Death Act of 1983, and Refugee Act, 2017;
 - iii. Incorporation of children's rights in the 1994 Constitution;
 - iv. Establishment of the Children's Department within the Deputy Prime Ministers Office as a coordination mechanism for children's rights implementation;
 - v. Establishment of the Commission on Human Rights and Public Administration in 2009 mandated by the Constitution to receive complaints and address all violations of children rights;
 - vi. Sustained increase in budgetary allocation and investments of public resources in children's programmes such as health and education;
 - vii. The dissemination and popularization of the CPWA, which is based on the ACRWC and the UNCRC;
 - viii. Training of Government ministries and departments responsible for the implementation of the CPWA, such as Health, Education and Training, and Justice and Constitutional Affairs; and
 - ix. The regulation of business activities that affect the rights of children, in particular the enactment of the Environmental Management Act, 2002 and the Air Pollution Control Regulations, 2010, regulate and monitor the quality of air and prohibit the emission of harmful toxins by commercial and industrial entities.

III. AREAS OF CONCERN AND RECOMMENDATIONS

A. General measures of implementation

4. The Committee notes with appreciation the ratification by the State Party of key regional and international human rights instruments. The Committee encourages the State Party to ratify the Third Optional Protocol to the Convention on the Rights of the Child on a Communications Procedure.
5. The Committee further recommends the State Party to take measures towards domestication of all the treaties it has ratified.
6. The Committee commends the State Party for the incorporation of Children's rights under Section 29 of the Constitution. However, the Committee is concerned about the inclusion of lawful and moderate chastisement of a child for the purpose of correction in the constitution. The Committee further notes with concern the lack of socio-

economic rights in the Constitution. The Committee recommends the State Party to undertake the following measures.

- i. Amend the Constitution to prohibit corporal punishment in all settings;
 - ii. Include the principle of the best interest of the child in the Constitution, as an interpretive guide for all laws, actions, and decisions concerning children; and
 - iii. Extend the bill of rights under the Constitution to incorporate socio-economic rights;
7. The Committee notes that the National Plan of Action for children that has expired in 2015 is yet to be revised. The Committee recommends the State Party to fast track the adoption of a new National Plan of Action for Children.
 8. The Committee notes with appreciation the various legislative measures taken to implement the Charter, notably the enactment of the CPWA and SODV. The Committee encourages the State Party to fast track the on-going development of Regulations for the CPWA and the SODV with the aim of adopting them in 2020.
 9. The Committee commends the State Party for the measures it has undertaken to ensure equitable allocation of budget. The Committee also notes with appreciation that the highest proportion of the national budget goes to the Ministry of Education. However, the Committee is concerned about the prioritization of wage-spending in the education and other social sectors. The Committee encourages the State Party to ensure that the budget allocated to education and other social protection sectors are spent on capital investment and improvement of quality of services.
 10. The Committee notes that the child protection directorate under the Commission for Human Rights and Public Administration is not yet established. The Committee recommends the State Party to expedite the establishment of the directorate and to ensure adequate financial and human resource allocation for its full operationalization.
 11. The Committee notes with concern that key civil data and statistics regarding children is gathered by civil society originations. The Committee recommends the State Party to ensure that the Central Statistics Office of the Government is given the necessary resources and enabled to gather and analyse periodic disaggregated data on children.
 12. The Committee notes with appreciation the prohibition of all harmful and degrading cultural practices that are contrary to the African Children's Charter by the CPWA and the Constitution. The Committee encourages the State Party to continue undertaking awareness creation and promotion of positive cultural setting that respects the rights and welfare of the child.
 13. The Committee is concerned about the lack of legislation or formal Governmental mechanism facilitating the cooperation of the State Party with civil society organizations. The Committee recommends that the State Party establish formal mechanisms and structures to formalize and provide for systematic engagement of child rights NGOs, in the implementation of child rights instruments.

14. The Committee notes with concern the provision of the CPWA Part III No 15, which puts the burden on the child to refuse from being compelled to undergo any custom, or practise that negatively affects the child. The provision puts the burden on the child to refuse harmful practices; for reasons related to his/her age, fear of parents/caregivers or lack of understanding about the implications of undergoing a harmful practise, a child may not be in a position to be able to refuse such actions. The Committee urges the State Party to shift the burden away from the child and maintain the responsibility of the State Party itself to protect the child from any harmful practice, in accordance with the Charter.
15. The Committee notes with concern instances of forced eviction in the Malkerns and Nokwane that resulted in homelessness and negatively impacted the overall welfare of children and their rights to access to education, health and sanitation and food security, among others. The Committee recommends the State Party to undertake the following measures.
 - i. Provide effective remedies including reparations for forcibly evicted families in the Malkerns and Nokwane;
 - ii. Declare a nationwide moratorium on mass evictions until adequate legal and procedural safeguards are in place to ensure that all evictions comply with international and regional human rights standards; and
 - iii. Enact legislation prohibiting forced eviction and setting standards and safeguards in the course of eviction ensuring, among others, that no child is rendered homeless as a result of eviction.

B. Definition of a child and other age requirements

16. The Committee notes with appreciation the definition of a child as a person below the age of eighteen is clearly provided under the CPWA. However, the Committee is concerned that the Marriage act allows girls to get married from the age of 16 if permission is acquired from parents and Ministry of Justice. The Committee strongly recommends the State Party to amend the Marriage Act and eliminate any exception to the prescribed minimum age of marriage.

C. General principles

Non-discrimination

17. The Committee applauds the State Party for the various initiatives installed aiming to ensure non-discrimination of children with disabilities including: the development of the National Disability Plan of Action and its monitoring and evaluation framework; identification of learners with disabilities through school health programme;

Procurement of equipment and training of school health nurses and senior medical doctor on early identification; educating Government officials with specialized inclusive education diplomas and conducting capacity building pilot intervention for parents of children with hearing impairment. The Committee recommends the State Party to

- i. Strengthen and scale up these initiatives to reach out to children with various types disabilities including mobility, visual and mental disabilities;
- ii. Undertake community sensitization to combat stigmatization of children with disabilities;
- iii. Undertake assessment of the needs of children with disabilities in other sectors/platforms aside from education such as healthcare, family and alternative care environment, child participation platform with a view to ensuring their right to non-discrimination thereof and;
- iv. Undertake the necessary measures towards implementation of inclusive education.

Best interests of the child

18. The Committee commends the State Party for undertaking various training programs for representatives from various Government Offices Ministries, departments, and officials on the CPWA including on the best interests of the child and the incorporation of similar training in the annual training of the police academy. The Committee encourages the State Party to develop a best interest determination tool in order to assess and determine the best interest of the child in the various situations.

Right to life, survival and development

19. The Committee applauds the State Party for the establishment of Neighbourhood Care Points (NCPs) that provide early childhood development services to vulnerable children. However, the Committee is concerned about the non-functionality of these centres. The Committee recommends the State Party to undertake assessment on all the centres and undertake the necessary restructuring and capacity building to ensure their full and effective functioning.

20. From its engagement with the representatives of the State Party and various media reports, the Committee notes with concern that there are ritual killings committed against children. The Committee urges the State Party to investigate reports of ritual killings and take necessary measures to prevent such incidents. In this regard, the Committee notes with appreciation the on-going awareness creation and sensitization programs on the protection of all people in the country against all forms of violence.

21. The Committee notes that significant number of children are still suffering from severe malnourishment and stunting; reports show that 1 in every 4 children under age five are chronically malnourished, or stunted. The Committee urges the State Party to take an urgent measure to combat this worrying trend of stunting and malnourishment of children in the Country.
22. The Committee further notes that, despite the decline over the last decade, under-five mortality still remains high in the State Party, which stands at 70 deaths per 1,000 live births. The Committee urges the State Party to strengthen the ongoing efforts in decreasing under-five mortality rate and address with priority any challenges in this regard.
23. The Committee notes with concern that drought and the associated lack of food security unfavorably affect the rights and welfare of children. The Committee recommends the State Party to undertake the necessary measures to mitigate the impact of drought and food insecurity on the rights and welfare of the child.

Child participation

24. The Committee notes with appreciation the inclusion of the right to participation of the child in the CPWA. However, the Committee is concerned about the lack of forums for child participation and the existence of a culture that does not promote the participation of children in matters that affect them. The Committee recommends the State Party to undertake the following measures.
 - i. Adopt national guidelines or strategy on child participation;
 - ii. Create forums for child participation starting from family setting up to community and national levels;
 - iii. Establish a children's parliaments at district/sub-national and national levels that are inclusive of children from rural and urban centres; ensures equal participation of the girl and boy child and includes vulnerable children such as children with disabilities, children affected by HIV/AIDS and children in alternative family environments.
 - iv. Ensure that the participation of children is meaningful by taking in to account the views of children in decisions and actions that affect them; and
 - v. Undertake sensitization about the importance of participation of children in matters that affect them.

D. Civil rights and freedoms

Right to name, nationality and birth registration

25. The Committee notes with concern that Chapter IV of the Constitution of eSwatini provides citizenship by birth is transferred from the father and a child born to a married couple does not automatically obtain nationality from his or her mother. While exceptionally a child born outside of marriage can get the Swazi nationality of the mother if the child is not adopted or claimed by the father in accordance with law or custom. The Committee notes that this provision, being discriminatory, adversely affects the right to nationality of the child. The Committee is further concerned about the burdensome procedure in place that unmarried women are required to pass through to transfer citizenship to their children. The Committee recommends the State Party to align its nationality law with the provisions of the African Children's Charter. The Committee also recommends for the State party to make reference to the contents of the Committee's General Comment no 3 on Article 6 of the Charter on name, nationality and birth registration for further guidance. In particular the Committee recommends the State Party:

- i. To amend the constitution to enable the child acquire nationality from either parents irrespective of their marital status and to align the Nationality Act accordingly; and
- ii. Put in place legal and procedural safeguards to ensure that no child becomes stateless.

26. The Committee notes with appreciation the increase in the rate of birth registration owing to initiatives of the Government. However, the Committee is concerned that the rate is still low, as status of birth registration stands at 53.5%. The Committee notes that the low level of birth registration is recorded due to various factors such as direct and indirect cost of birth registration, inaccessibility of registration centres for rural communities, and the requirement for caregivers to produce identity card when they register children. The Committee further notes with concern that the Birth, Marriages, and Death Act is not aligned to the African Children's Charter and the CPWA. In this regard, the Committee recommends the State Party to undertake the following measures:

- i. Eliminate all fees attached to birth registration services, including for late registration;
- ii. Increase the accessibility of birth registration centres by establishing new centres in remote rural communities and facilitating for birth registration in all healthcare centres in the country;

- iii. Undertake birth registration campaigns to clear the backlog in birth registration in order to achieve universal registration; and
- iv. Amend the Births, Marriages, and Death Act in accordance with the CPWA and the Charter taking stock of the General Comment of the Committee on the right to name nationality and birth registration.

Protection against abuse and torture

27. The Committee notes with appreciation the development of the National Strategy to End Violence (2017-2022). However, the Committee is concerned by the fact that 89% of children below the age of 14 experience psychological or physical violence by caregivers or others in close contact with the child. The Committee is also concerned about violence being one of the reasons for school dropout and the high level of tolerance of violence against children in the society. The Committee urges the State Party to take the following measures:

- i. 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;
- ii. Allocate adequate financial and human resources towards implementation of the National Strategy to End Violence;
- iii. Ensure the establishment of institutions with adequate financial and human resources to implement the Sexual Offences and Domestic Violence bill; and
- iv. Establish care centres and psychosocial support systems for child victims of violence;

28. The Committee is further concerned about the high prevalence of gender-based violence in the State Party. Hence, the Committee urges the State Party to undertake the following measures to protect girls from gender based violence;

- i. Undertake continuous public sensitization and engage religious and cultural leaders to prevent gender based violence against girls;
- ii. Establish adequate centres for rehabilitation and reintegration of girls who are victims of gender based violence;
- iii. Ensure accountability of perpetrators of gender based violence by enhancing effectiveness of investigation and prosecution; and
- iv. Provide free legal aid to victims of gender-based violence.

E. Family environment and alternative care

29. The Committee notes with appreciation the recognition of the right to suitable family environment and alternative care provided under the CPWA; development of Early Childhood Development standards; the material, psychosocial and parenting education support given to parents and the steps taken toward improving accessibility and quality of childhood care and education (ECCE) services. However, the Committee is concerned about the high rate of orphaned children due to HIV/AIDS most of whom are placed in residential care institutions with limited supervision and monitoring. The Committee also notes with concern that 10-15% of families in the country are child headed and that there is lack of data on the situation of child headed households. The Committee recommends the State Party to undertake the following measures in this regard.

- i. Provide the necessary support to families affected by HIV/AIDS to prevent loss of the family environment;
- ii. Periodically monitor and evaluate the situation of children in alternative care institutions;
- iii. De-institutionalize and reduce the numbers of children in residential care by placing them into foster care and kinship care;
- iv. Increase the number of social workers providing services to children deprived of family environment;
- v. Provide special protection and support to child headed families through social cash transfer program and other means;
- vi. Undertake data collection and assessment of the situation of children in alternative care centres, informal care settings and child headed households for an informed planning and intervention; and
- vii. Expedite the adoption of the draft national standards and guidelines on foster care and kinship care.

30. The Committee notes with appreciation the establishment of an Adoption Committee under the CPWA and a mechanism to ensure safe placement of children taking in to account their best interest, however, the Committee is concerned that this has not yet become operational awaiting the adoption of a regulation. The Committee recommends the State Party to expedite the adoption of the regulation and to align the regulation with the Charter and other relevant instruments.

31. The Committee notes with concern that Inter-Country Adoption has been put on hold pending approval of the draft regulations and guidelines. The Committee recommends the State Party to expedite the adoption of the draft regulations and guidelines and ensure that inter-country adoptions are regulated and undertaken as a measure of last resort.

F. Basic health and welfare

32. The Committee commends the State Party for the measures taken to combat the disease including the social and behavioural change intervention and achievement of the global 90.90.90 Targets. However, the Committee notes with concern that HIV/AIDS is the leading cause of child mortality. Moreover, the Committee remains concerned that only 35% of pregnant women test for HIV. The Committee encourages the State Party to strengthen and scale up ongoing initiatives to combat HIV/AIDS and to undertake initiatives to increase the rate of pregnant women testing for HIV in order to prevent mother to child transmission.
33. The Committee is concerned about the high prevalence of Pneumonia and its impact on under-five mortality rate. The Committee recommends the State Party to increase awareness among parents/care-givers on early signs of Pneumonia and further encourages the State Party to strengthen the long-term strategy of treatment.
34. The Committee notes with appreciation that 88 percent of all births in the State Party are assisted by skilled birth attendants and 76 percent of pregnant women receive antenatal care one or more times during their pregnancy from skilled health workers. The Committee encourages the State Party to ensure that all births are assisted by skilled attendants and all mothers benefit from antenatal care.
35. The Committee notes with appreciation the high rate of Measles immunization coverage, which stands at 89 percent in the State Party. The Committee encourages the State Party to further increase this and ensure universal immunization.
36. The Committee is concerned about the high rate of HIV among adolescents and the inaccessibility of comprehensive sexual and reproductive health services and information to adolescents. The Committee is further concerned about the challenges of discrimination and stigmatization of adolescents in accessing sexual and reproductive services. The Committee recommends the State Party to undertake the following measures
 - i. 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;
 - ii. Establish centers for sexual and reproductive health services and information in youth friendly environments, high schools and youth centers;

- iii. Undertake awareness creation among healthcare professionals on youth friendly sexual and reproductive health services and information delivery; and
- iv. Sensitize the general public on the relevance on open dialogue among all age groups on sexual and reproductive health in order to reduce HIV/AIDS prevalence among adolescents.

37. The Committee is concerned that school-feeding program is not fully operationalized due to budget constraints. Taking in to account the multifaceted and long-term benefit, the Committee urges the State Party to prioritize and budget for the full operationalization of the program in all schools.

38. The Committee notes with concern that while 72% of households have access to safe drinking water; there is high disparity between rural and urban areas. Moreover, the Committee is concerned that about 42 percent of the total population have no access to improved sanitation facilities. The Committee encourages the State Party to ensure universal accessibility and availability of safe drinking water and recommends for measures to be taken towards the improvement of access to sanitation facilities.

G. Education, leisure and cultural activities

39. The Committee notes with appreciation the inclusion of the right to free primary education in the Constitution of the State Party. However, the Committee is concerned that top up fees are required by majority of public school thus excluding children who are economically disadvantaged, orphaned and those who are in vulnerable situation, from schools. The Committee recommends the State Party to finalize the on-going review of fee structure and eliminate top up fees in primary schools.

40. The Committee notes with appreciation the commendable teacher to pupil ratio, which is 1:40 at primary level and 1:35 at secondary level. The Committee encourages the State Party to maintain the ratio and work towards improved quality of education.

41. The Committee notes with concern the low number of secondary schools, which are a third of the number of primary schools. The Committee recommends the State Party to improve school infrastructure for secondary education.

42. The Committee is concerned about Section 4(3) of the Free Primary Education Act, which provides that foreign children shall pay for primary education and that the enrollment of a foreign child in primary education is dependent on its impact on the enrollment of a Swazi child who is eligible to enroll. The Committee further notes with concern challenges of enrollment of stateless children and irregular migrant children

in schools. The Committee notes that such acts constitute discrimination based on nationality that hinders the enjoyment of the right to education. The Committee further notes that primary education should be universal, compulsory and free, it should be granted to all children in the State Party irrespective of their nationality and status as an irregular/undocumented migrant. The Committee urges the State Party to review its Free Primary Education Act and relevant policy to enable all children in the country to have equal access to free primary education.

43. The Committee notes with concern that attendance rate in secondary education is low. The Committee recommends the State Party to address the causes of low attendance and improve the overall quality of education delivery in secondary education.
44. The Committee encourages the State Party to ensure that all children have equal opportunities for cultural and leisure activity and that schools have safe and adequate play grounds.

H. Special Protection Measures

Child labour

45. The Committee notes with appreciation that the minimum age of employment is set at the age of 15 years, which is in line with international standards. The Committee, however, notes with concern the lack of official statistics on incident of child labour in the State Party. The Committee recommends the State Party to gather data and undertake assessment of the prevalence of child labour for an informed intervention. The Committee further recommends the State Party to expedite the adoption of The National Plan of Action for the Elimination of Child labour.

Sexual Abuse and Exploitation

46. The Committee notes with appreciation the enactment of the Sexual Offences and Domestic Violence Act 2018 and the establishment of Domestic Violence, Child welfare, and Sexual Offences (DCS) units in all Police stations. The Committee encourages the State Party to establish the necessary mechanisms and allocate adequate resources for its effective implementation, and to undertake trainings on the Act for personnel in the justice system. The Committee further recommends the State Party to take special measures towards decreasing the vulnerability of children with disabilities to sexual abuse and exploitation.
47. The Committee is concerned about the findings of the National Study on Violence Against Children, which confirms that 1 in 3 females experience some form of sexual

violence by the time they attain majority; and 1 in 5 females experience coerced sex before the age of eighteen. In this regard, the Committee urges the State Party to undertake national campaign to end sexual violence against girls. The Committee further encourages the State Party to ensure the effective implementation of the Sexual Offences and Domestic Violence Act.

Refugee and migrant children

48. The Committee notes with appreciation the legislative and institutional measures taken to protect children on the move, notably the Immigration Act, the People Trafficking and People Smuggling Act 2009 and the provision of services by social workers and police to displaced children. However, the Committee notes that more needs to be done to ensure that the rights and welfare of refugee and migrant children are protected. The Committee recommends the State Party to undertake the following measures.

- i. Provide educational and health services for refugee children and ensure the re-integration of refugee children into the community;
- ii. Ensure that children born from migrant and refugee parents receive the same protection as that of children from Swazi parents;
- iii. Ensure that displaced children are protected from abuse and exploitation and provide rehabilitation and psychosocial support to refugee children who are in need;
- iv. Provide birth registration and identification services for migrant and refugee children; and
- v. Put in place family reunification programs for children separated from their parents and caregivers; and
- vi. Ensure that children who cannot be reunited with their parents/caregivers are placed in an alternative care environment.

Children in conflict with the law

49. The Committee notes with appreciation that the minimum age of criminal responsibility is set at the age of 12 years. The Committee further notes with appreciation the establishment a child- friendly court to protect the rights of children through the designation of all magistrate courts as children's courts. The Committee encourages the State Party to strengthen the capacity of these courts and increase their number in rural areas. The Committee further encourages the State Party to conduct trainings to magistrates and judges on children's rights.

50. The Committee notes with concern the lack of adequate places of safety for children in conflict with the law. The Committee recommends the State Party to allocate the

necessary resources for the establishment of adequate places of safety for children in conflict with the law as envisioned in the CPWA. The Committee further encourages the establishment of Domestic Violence and Child Protection Units in all police stations around the country.

51. The committee notes with concern instances of children who are not in conflict with the law being sent to juvenile correctional schools/Vulamasango at the request of their parents to be corrected for disobedience. The Committee urges the State Party to investigate the situation of children in Vulamasango/correctional schools and ensure that no child goes to any kind of correctional facility unless that child is in conflict with the law and as a measure of last resort.
52. The committee notes that a Legal Aid Bill is in development and makes provision for state-paid legal representation of children in conflict with the law. The Committee encourages the State Party to accelerate the finalization and adoption of the Bill.
53. The Committee recommends that the State Party considers:
 - i. Adopting pre-trial diversion programs to ensure that children in conflict with the law are not subjected to the regular justice administration procedure;
 - ii. Allocating additional budget for the juvenile justice administration and thereby establish additional juvenile courts in more regions, and train more juvenile judges; and
 - iii. Exerting more efforts to ensure that children in conflict with the law are provided with services such as education, health, protection, participation and leisure.

Children of imprisoned parents or care-givers

54. The Committee notes with appreciation the provision in the Correctional Services Act of 2017 and the National Health Policy of breast-feeding and for bonding between a mother and infant. However, the Committee notes with concern that children may stay in correctional facilities for lengthy period of time with their incarcerated caregivers. The Committee recommends the State Party to align its treatment of children of incarcerated caregivers with the Committee's General Comment no. 1 on Article 30 of the Charter, and encourages the State Party to undertake the following measures:
 - i. Prioritize non-custodial sentences for expectant mothers, primary or sole care givers;
 - ii. When custodial sentences are passed to sole or primary care givers, the decision to keep the child with the caregiver in detention should take in to account the age, sex, level of maturity, quality of relationship with caregiver and the existence of quality alternatives available to ensure the best interest of the child. It should also take in to account the views of the child depending on age and maturity;

- iii. In cases where custodial sentences are found to be necessary and the child's best interest dictates that s/he be kept in a detention facility with the caregiver, establish special alternative institutions;
- iv. Extend the protection given to incarcerated mothers, to primary or sole care givers under whose custody a child is placed;
- v. Ensure that children are not discriminated against in accessing their rights because of their parents/ primary caregivers' incarceration;
- vi. Ensure that children living with caregiver in special correctional facilities are never treated as prisoners and their rights to health, food, shelter, education and adequate standard of living are respected, protected and fulfilled;
- vii. If birth occurs in remand or prison facilities, ensure that birth registration takes place without delay and without mentioning prison or remand centre as place of birth.

Child marriage

55. The Committee notes with appreciation the low prevalence of child marriage in the State Party with only 5 percent of the young women aged 20- 24 years married before their 18th birthday and the criminalization of the act by the SODV. The Committee encourages the State Party to ensure that the practice is eliminated in the Country. In this regard, the Committee encourages the State Party to identify areas with prevalence of child marriage and undertake targeted measures.

I. Responsibility of the child

56. The Committee notes with appreciation the incorporation of the responsibilities of the child in the CPWA. The Committee recommends for the State Party to take note of its General Comment on article 31 of the Charter on the responsibilities of the child, and come up with initiatives to guide parents, teachers, and other concerned bodies to facilitate the active participation of children in fulfilling their responsibilities towards their peers, families, and society in general, in accordance with their evolving capacities and in a manner, that promotes the realization of their rights. The Committee further encourages the State Party to sensitize children about their rights and responsibilities and to empower them through education and the media to assume their responsibilities in the society and prepare them to develop in to well-rounded adults.

IV. Conclusion

57. The African Committee of Experts on the Rights and Welfare of the Child appreciates the efforts invested by the Government of ESwatini to implement the African Children's Charter and aspires for the implementation of these recommendations. The Committee would like to indicate that it will undertake a follow up Mission to assess the implementation of these recommendations in the foreseeable future. The Committee would also like to invite the State Party to submit its first periodic report in three-year time according to article 43 of the African Children's Charter.
58. The African Committee of Experts on the Rights and Welfare of the Child takes this opportunity to renew to the Government of the Kingdom of ESwatini the assurances of its highest consideration.

Done in July 2019

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