

AFRICAN UNION

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



UNION AFRICAINE

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

الاتحاد الأفريقي

"An Africa Fit for Children"

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

Introduction

1. The African Committee of Experts on the Rights and Welfare of the Child (ACERWC) is established during the 37th Session of the Assembly of Heads of State and Government held in Lusaka in July 2001 in accordance with Article 32 of the African Charter on the Rights and Welfare of the Child (ACRWC). The Committee is mandated *inter alia*, to promote and protect the rights of the African Child pursuant to the provisions of the Charter.
2. Pursuant to its mandate under the Charter, the Committee has undertaken several activities including consideration of State Party reports on the implementation of the Charter, consideration of Communications (complaints), discussions on selected articles of the Charter, promotional and follow-up missions, adoption of various documents and many other activities as stated in this Report.
3. This Report summarizes the Recommendations and Decisions of the 22nd and 23rd Session of the Committee held from 04th to 08th November 2013 and 07th to 16th April 2014 both in Addis Ababa, Ethiopia as well as other activities undertaken.
4. The Report is hereby submitted for consideration by the Executive Council.

I. Decisions and Recommendations of the 22nd and 23rd Ordinary Sessions of the ACERWC

1. Decisions and Recommendation of the 22nd Session

1.1. Day of General Discussion on Discrimination and Violence against Girls in Africa

5. During this Session, the Committee held a Day of General Discussion on Discrimination and Violence against Girls in Africa. During the Discussion, the Committee pointed out the fact that most girls in Africa are discriminated and neglected. In their communities, girls face physical, sexual and psychological violence, and are harmed through inequalities in access to resources. Particularly, it was indicated that in times of conflict and crisis they are special targets of violence and discrimination. The Committee therefore emphasized the fact that Discrimination and violence against girls in Africa is one of the most pressing challenges facing the Continent. Following the General Discussion, the Committee issued the Addis Ababa Declaration on Ending Discrimination and Violence against Girls in Africa. The Declaration identified the major stakeholders and outlines the measures they should undertake to ensure that discrimination against girls is the concern of all and provide a conducive legal and policy environment for CSOs to operate in advancing child protection issues in the areas of advocacy, research, litigation and support for victims across Africa.
6. As a result, the Declaration calls upon Member States to Ratify all the relevant international child rights and international humanitarian instruments and fully harmonize

their national laws with the relevant international and regional standards, and criminalize and prosecute to the fullest extent of the law all forms of violence and discrimination committed against children and take all appropriate measures to prevent those crimes from occurring. It also calls upon the African Union to endorse the Declaration, establish conceptual clarity around what constitutes violence and discrimination against girls; provide the necessary budgetary and technical support to enable the ACERWC to further integrate the Declaration into existing national plans of action; and undertake a periodic review of the progress made in its implementation.

1.2. Adoption of the Guidelines on the Form and Content of Periodic State Party Reports Submitted Pursuant to Article 43(1)(b) of the ACRWC

7. Pursuant to article 43 of the African Charter on the Rights and Welfare of the Child (the Charter/ACRWC), each State Party has undertaken to submit reports on the measures it has adopted to give effect to the provisions of the Charter and on the progress made in the enjoyment of the rights guaranteed under the Charter. The initial report is due within two years of the entry into force of the Charter for the State Party concerned, and thereafter, every three years for the periodic reports.
8. The Committee therefore adopted Guidelines on the Form and Content of State Party Periodic Reports on the Implementation of the Charter. These guidelines are intended to guide State Parties in fulfilling their reporting obligations. It contains directions on what format periodic reports should take and on what information should be included in the reports. The guidelines relating to the content of the reports are meant to ensure that State Parties provide the ACERWC with a comprehensive understanding of the implementation of the Charter in State Parties. These guidelines apply to periodic reports that are submitted every three years.

2. Recommendations and Decisions of the 23rd Session

2.1. Day of General Discussion on Ending Child Marriage in Africa

9. During this Session, the Committee held a day of General Discussion on the theme 'ending Child marriage'. The Day of the General Discussion aimed at supporting the AU Campaign on Ending Child Marriage in Africa. During the Day of General discussion the Committee discussed various issues and mechanisms on ending child marriage in Africa. The Committee also made clear and concrete recommendations to State Parties and key stakeholders in taking the AU Campaign. In addition, the Committee also agreed and welcomed the request from the African Union Commission Department of Social Affairs for the Committee to appoint a Special Rapporteur, among its members, on child marriage that will be instrumental to advocate for changes in social and cultural behaviour at national, regional and grassroots levels to protect children who are at risk of being forced to marry.
10. Following this Discussion, the ACERWC came up with a Declaration on Ending Child Marriage in Africa. The Declaration identified the major stakeholders and outlined the

measures they should undertake to ensure that ending child marriage is the concern of all. As a result, the Declaration calls upon The African Union Commission to: Endorse this Declaration on ending child marriage;

- Provide the necessary budgetary and technical support to enable the ACERWC to advocate for the integration of the Declaration into existing national plans of action; and undertake a periodic review of the progress made in its implementation at national level; and
- Take child marriage as a policy priority and support policy action in addressing the rights of children and promote common standards on children rights by promoting adoption and implementation of the legal instruments at regional and national level;

11. Members States of the African Union, among others to:

- Ratify the ACRWC and all the relevant international child rights instruments and fully harmonise their laws and policies with the international and regional child rights standards on child marriage, and for Member States who have placed reservations to withdraw them
- Put in place mechanisms to operationalize existing legislation relating to child marriage and the rights of children in general including development of national action plans and provision of legal aid for enforcement of the rights of children to be free from child marriage;
- Develop and implement transformative social policies which include communities, traditional and religious leaders as central stakeholders, and which recognize children and child-led initiatives as key players in mitigating child marriage.

2.2. Consideration of Liberia State Party Report

12. Article 43 of the ACRWC stipulates that State Parties must submit their Initial State Party Reports within two years of ratification of the ACRWC and Periodic Reports on the implementation of the ACRWC every three years. Reporting helps State Parties to comprehensively and periodically review their national legislations and administrative rules, procedures and practices in relation to children's rights. Accordingly, the Committee received and considered the Initial Report of the Government of Liberia. After taking the floor, the delegation of the Republic of Liberia gave a brief on the implementation of the Charter in the Country. Following the brief, the Committee Members raised many issues relating to the health of Children under 5 years, the access to education of children with disabilities and facilities for people with disabilities. The existence of plural legal systems, including customary, religious and civil laws, was also noted as a challenge for the full realization of children's rights in Liberia. Issues related to girls' access to reproductive health facilities, challenges regarding Inter country adoption, the quality of education, the administration of Juvenile Justice, the corporal punishment of Children particularly in schools, and the low rate of birth registration have also been indicated in the Committee's questions. The Committee also brought up the issue of death penalty for children. At the end of the session, the Chairperson of the Committee commended the Government of Liberia for submitting the Initial Report and

informed that Liberia would receive the recommendations of the Committee in due course.

2.3. Day of the African Child (DAC)

- 13.** As it a practice every year, the Committee decided on the theme of the 2015 DAC be **‘25 years after the adoption of the African children’s charter: accelerating our collective efforts to end child marriage in Africa’.**

2.4. Adoption of the General Comment on Article 6 of the Charter

14. General Comments or recommendations are tools used by treaty bodies like the ACERWC to provide a substantive elaboration of the meaning of treaty provisions, as well as an in-depth analysis of procedural concerns regarding the respective instrument. Article 42 of the ACRWC gives such mandate to the ACERWC accordingly the Committee developed and adopted a General Comment on Article 6 of the African Charter on the Rights and Welfare of the Child, which talks about ‘Name and Nationality’. The General Comment note the fact that notwithstanding its heading (Name and Nationality), Article 6 recognizes three interlinked rights namely the right to a name (Art 6 (1)), the right to birth registration (Art 6 (2)) and the right to a nationality (Art 6 (3)). It also provides for state obligations with regard to the implementation of the right to a nationality (Art 6 (4)).
15. It also regarded the existence of up to date, comprehensive and international law-compliant legislation underpinning civil registration as fundamental to the fulfillment of the child’s right to a name, and to registration of birth. Legislation should specify, inter alia: the regulation of the role of government agencies involved in civil registration; the regulation of any semi government authorities involved in civil registration; the regulation of time periods for the registration of birth; details concerning the attribution of names and surnames in accordance with both custom and practice (albeit with due attention to the principles of non-discrimination on the basis of gender and birth status); the regulation of the use of technology to ensure that civil records maintain their probative value; regulations related to costs, access, and privacy of data; and regulation of late and delayed registration procedures.
16. Like other children’s rights, the General Comment states that, the rights to a name, to birth registration and to acquire a nationality cannot be fully implemented unless the cardinal principles of children’s rights are carefully observed. The implementation of those rights requires taking into account the best interests of the child, non-discrimination principles, his/her survival, development and protection as well as his/her participation. It is also indicated in the General Comment that the implementation of Article 6 also depends on good understanding of the principle of interdependence and indivisibility of children’s rights in general and the interdependence and indivisibility of the three rights provided for under Article 6 in particular.

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2.5. Adoption of the Rules of Procedures

18. The ACERWC in accordance with Article 38 of the ACRWC adopted the revised Rules of Procedures. These rules regulate the organization and establish the procedure of the Committee. Through the process of revision, the necessary has been done to harmonize this document with the rules of procedures of the African Commission on Human and Peoples' Rights and the African Court on Human and Peoples' Rights.

2.6. Adoption of a Strategy to Promote and Protect the Rights of Children with Disabilities

19. The Committee developed and adopted a strategy to Promote and Protect the Rights of Children with Disabilities. The vision of this strategy is: to promote and protect the rights of children with disabilities, where children with disabilities fully enjoy all their human rights and fundamental freedoms on an equal basis with others; their dignity is ensured and where their self-reliance and active participation in the community is promoted. The strategy recommends that Member States should adopt a three-fold approach to develop a medium term strategy consisting of development, implementation and monitoring and evaluation which should all receive due attention in the process of respecting, protecting and fulfilling the rights of children with disabilities. The strategy finally spells out the Roles and Responsibilities of the Member States, the ACERWC and Partners.

2.7. Adoption of the Logo of the ACERWC

20. In order to raise awareness on the mandate of the Committee, and by so doing increase its visibility and public recognition, the ACERWC adopted its logo during its 23rd Ordinary Session. The logo accompanied with a slogan "An Africa Fit for Children", reflects the vision and the mission the ACERWC wants to achieve for the wellbeing of African children. Its reproduces all the features of the AU Logo, which gives the ACERWC the institutional backup to effectively discharge its mandate.

21. Looking at the features, as it appears as a letterhead of this Report, the boy and girl child at the heart of the continent, with their hands up, symbolize the hopes and aspirations as the future of Africa. The palm leaves shooting up on either side of the outer circle stand for peace. The gold circle again symbolizes Africa's wealth and bright future. The plain map of Africa without boundaries in the inner circle signifies African unity. The small interlocking rings at the base stand for African solidarity and the blood shed for the Liberation of Africa.

III. Other Activities

3.1. The Universal Ratification and Reporting Campaign

22. The ACERWC notes that more than ten years after the entry into force of the African Charter on the Rights and Welfare of the Child (ACRWC), the number of ratification

stands at forty-seven (47) out of 54 African Union (AU) Member States and twenty-three (23) out of 47 State Parties have submitted their reports to the ACERWC.

23. Moreover, four (4) countries made a reservation on certain key provisions of the ACRWC. Based on this premise the ACERWC has decided to launch a Campaign for the Universal ratification of and Reporting on the implementation of the African Charter on the Rights and Welfare of the Child. The ratification and reporting Campaign is planned to be conducted within a two-year period culminating to 2015 during the commemoration of the 25th Anniversary of the adoption of the ACRWC (1990) and events in 2014 celebrating 15 years since its entry into force (1999). The Campaign aims to secure a universal ratification, reporting on the implementation of the ACRWC and withdrawal of reservation.

3.2. Advisory Opinion

24. The Committee submitted a *locus standi* application to the African Court on Human and Peoples' Rights requesting for its advisory opinion so that the Committee can bring cases before the Court as an organ established, recognized and operating within the framework of the AU.

3.3. Lobbying Missions for the ratifications of the Charter

25. One of the priorities of the ACERWC is to achieve the ratification of the Charter by all Member States which to date stands at 47 out of 54 Member States of the African Union. In this context, the ACERWC undertook an advocacy mission to the Republic of Tunisia for the acceleration of the ratification of the Charter on 25-29 November 2013. During this Mission, the Committee Members met with the Government officials and other stakeholders including the CSOs. The Government of the Republic of Tunisia welcomed the initiative and promised to ratify the Charter.

26. The Committee also undertook a mission to the Saharawi Arab Democratic Republic (SADR) to lobby for the ratification of the Charter. The mission was undertaken from 9-17 December 2013. During this mission the Committee had interactions with the Government and Stakeholders in the SADR, who appreciated the Committee's approach, and gave assurance that an acceleration of the ratification process would follow.

3.4. Follow up Mission on the implementation of the recommendations of the ACERWC

27. As stated in Article 43(1) of the ACRWC State Parties undertake to submit reports to the ACERWC on measures adopted to give effect to the provisions of the Charter and on progress made for the enjoyment of these rights. Following the consideration of each report, the Committee adopts Recommendations and Concluding Observations which are then forwarded to the concerned State Party. In order to follow up and ascertain the measures and actions taken by State Parties, the Committee undertakes a field mission

to the concerned State Party after two years of forwarding the Recommendation. On 9-14 December 2013, the Committee undertook a mission to the Republic of Niger where they met with the Government Officials, CSOs and other stakeholders in the Country. With all of these contacts, the delegation of the Committee outlined the objectives of the mission, which is to have a better implementation of the provisions of the Charter. At the end of the mission, the Committee noted with satisfaction that the Government of Niger had taken into account the prescribed measures, but still urged the Government to continue efforts to allocate the necessary human and financial resources for their full implementation.

3.5. Follow up on the implementation of Executive Council Decisions

28. The Executive Council (EX. Council Decision Ex.CI/Dec 776(XXII)), adopted by the 23rd Ordinary Session in May 2013, requested the Commission to undertake a study on the measures required to ensure continuity of the membership of the Committee, including the possibility of the renewal of the mandate of the members for another term, in line. The Department of Social Affairs sought advice from the Office of the Legal Counsel who informed that to renew the term of office of the Committee Members, the Charter (Article 37 (1)) has to be amended. The Office of the Legal Counsel then indicated Member States should suggest for the amendment of the Charter.
29. The Executive Council also requested the AUC to undertake an assessment on financing and human resources needed by the Committee with a view to adequately equipping the Committee to discharge its mandate effectively as envisaged in the African Charter. In this regard, a letter enquiring on the progress of the implementation of this Decision was written to the Administration and Human Resource Directorate of the AUC. The AHRD is yet to respond.

3.6. Follow up with submissions of State Party Reports

30. In line with the Universal Ratification and Reporting Campaign and Executive Council Decision (Ex.CL 797(XXIII)), the Chairperson of the ACRWC visited 13 Embassies of Member States who have ratified the ACRWC but whose Initial Report was overdue for more than 10 years. The Chairperson visited the following Embassies: Angola, Benin, Botswana, Chad, Gambia, Guinea, Lesotho, Malawi, Mauritius, Mozambique, Seychelles, South Africa and Zimbabwe. During his visits, the Chairperson recalled that the role of the ACERWC is to ensure that State Parties to the Charter submit their periodical reports two years after ratifying the Charter and every three years thereafter. He further recalled the Executive Council Decision passed during the May 2013 Session Decision (Ex.CL 797 (XXIII)) to urge State Parties that are yet to submit their reports to the Committee to comply with the provisions of the African Charter on the Rights and Welfare of the Child. Following the visits, the Republic of Mozambique, South Africa and the Republic of Guinea submitted their report. Among the issues that came out of the discussions is the proposal by most of the States to align the periodic reporting time from a (3) three years cycle to a (5) five years cycle (similar to the procedure in the UN Convention on the Rights of the Child) and this requires the amendment of the Charter.

The possibility of a full time Chairperson was also flagged out during the Chair's discussion with most of the Embassies.

3.7. Collaboration with AU Organs

31. The Committee has continued in its efforts to build and strengthen partnerships with various AU Organs with Human Rights mandates. Particularly, the Committee is strengthening its collaboration with the AU PSC, the AfCHPR and the ACHPR.
32. The Committee also held a consultative meeting with the Peace and Security Council in pursuant to the Executive Council Decision EX.CL/Dec.712 (XXI) that was adopted in June 2012 at its 21st Ordinary Session in which the Executive Council requested the PSC to take into account the rights of the Child in its agenda and cooperate actively with the ACERWC, in its efforts aimed at promoting the welfare of children in Africa. During the meeting the Council welcomed the call for an institutionalized collaboration between itself and the ACERWC in engaging AU Member States to take necessary measures and initiatives to ensure the protection of the rights of children in armed conflicts. The Council also indicated the need for the ACERWC to champion initiatives at national, regional and continental levels to bring more awareness on children's rights and welfare to various stakeholders. Moreover, the Council also welcomed the suggestion made by the ACERWC to organize a regular Open Session on children and armed conflict and a High Level Meeting on Peace and Security and Children Rights in Africa.
33. With regard to the collaboration between the Committee and the African Court on Human and Peoples' Rights (AfCHPR) and the African Commission on Human and Peoples' Rights (ACHPR), the Committee held a joint consultative meeting in November 2013, in Arusha. Following the Arusha meeting, the Committee also held a collaboration meeting during its 23rd Ordinary Session. During these meetings, these Organs discussed and reached to an agreement to collaborate in a number of activities which fall under their common mandates.
34. The Committee also held a Workshop to harmonize its Rules of Procedure with those of the African Commission on Human and People's Rights as well as those of the African Court on Human and People's Rights. This is in cognisance of the 2011 Human Rights Strategy for Africa adopted by the African Union calling for greater coordination among AU human rights institutions that envisions harmonisation of the rules of procedure with the African Court and African Commission.

3.8. Collaboration with UN Bodies

35. The Committee participated in the June 2013 Session of the UN Committee on the Rights of the Child (UNCRC) where the ACERWC and the UNCRC agreed to revitalize their joint working groups for the implementation of their March 2010 Recommendations, complement and work towards harmonizing their jurisprudence, particularly on areas of interest in respect to child rights, which would include in the area of concluding observations, General comments and in future the communications. The two

Committees could also harmonize the State Party Reporting system, issuance of joint general comments, statements and press releases as well as conducting joint missions to State Parties. Moreover, in September 2013 the ACERWC participated at a side-event organized by the Chairperson of the UN Human Rights Council, in collaboration with the ACERWC, the AfCHPR and the ACHPR, on the situation of Human Rights in Africa.

IV. Recommendations

36. In conclusion, the African Committee of Experts on the Rights and Welfare of the Child would like to draw the attention of the Executive Council on the following issues:

- Seven Member States have not yet ratified the ACRWC, namely these countries are: Tunisia, Sao Tome and Principe, Democratic Republic of Congo, Saharawi Arab Democratic Republic, South Sudan, Central African Republic and Somalia. Therefore, the ACERWC would like the Executive Council to engage these countries for the ratification of the Charter;
- The ACERWC would also like to draw the attention of the Executive Council to urge State Parties which have not yet reported to the Committee to comply with their reporting obligations;
- Four State Parties, namely Botswana, Egypt, Mauritania and Sudan, have placed reservation on the implementation of some of the provisions of the ACRWC. The ACERWC therefore would like the Executive Council to engage these State Parties so that they withdraw their reservations;
- The ACERWC would like the Executive Council to adopt the theme of the 2015 DAC, which is on **'25 years after the adoption of the African children's charter: accelerating our collective efforts to end child marriage in Africa'** as the theme for the Day of the African Child 2015';
- The ACERWC would like the Executive Council to adopt the proposal of the AUC for the Committee to appoint a Special Rapporteur on Child Marriage from its members; and
- The ACERWC would like the Executive Council to urge Member states to suggest for the amendment of the ACRWC, in relation to renewal of the term of Office (article 37(1)) an State Party Periodic Reporting cycle, Article 43 (1) (B), to change it from three years to every five years.