

AFRICAN UNION

الاتحاد الأفريقي



UNION AFRICAINE

UNIÃO AFRICANA

Addis Ababa, ETHIOPIA P. O. Box 3243 Telephone: 00251 (0)11-551 7700

Fax: 00251 (0)11-551 7844

website : www.au.int

**32nd SESSION OF THE AFRICAN
COMMITTEE OF EXPERTS ON THE RIGHTS AND
WELFARE OF THE CHILD (ACERWC)
12 – 20 NOVEMBER 2018
ADDIS ABABA, ETHIOPIA**

**ACERWC/RPT (XXXII)
Original: English**

REPORT

THIRTY-SECOND ORDINARY SESSION OF THE AFRICAN COMMITTEE OF EXPERTS ON THE RIGHTS AND WELFARE OF THE CHILD (ACERWC)

I. INTRODUCTION

1. The 32nd Session of the African Committee of Experts on the Rights and Welfare of the Child was held from 12 to 20 November 2018 at Radisson Blu Hotel in Addis Ababa, Ethiopia.

II. ATTENDANCE

2. The meeting was attended by ten members of the ACERWC, Representatives of the African Union Commission, Representatives of the Governments of Nigeria, South Africa and Zambia, Representatives of CSOs from Senegal, Zambia, Rwanda, eSwatini, Nigeria and South Africa, Representatives of United Nations Children's Fund (UNICEF), Save the Children, Plan International, World Vision International (WVI), The African Child Policy Forum (ACPF), International Committee of the Red Cross (ICRC), End Child Prostitution, Child Pornography and Trafficking of Children for Sexual Purposes (ECPAT International), African Movement of Working Children and Youth (AMWCY), Child Helpline International , Africa wide Movement for Children, Child Rights Network for Southern Africa, East African Centre for Human Rights (EACHRights), Baha'i International Community (BIC), Zimbabwe National Council for the Welfare of Children (ZNCWC), Global Initiative to End All Corporal Punishment of Children, Eastern Africa Child Rights Network (EACRN), Initiative for Social and Economic Rights (ISER), Minority Rights Group International, and SOS Esclaves.

ITEM 1: OPENING CEREMONY

Remarks by a representative of the UN Agencies

3. Dr. Edward Addai, UNICEF Representative to the AU/UNECA, made remarks on behalf of the UN Agencies. He started by highlighting that children make up a large number of the population of Africa, yet they are disproportionately affected by factors such as conflict, diseases, and harmful practices. While children should be registered at birth, enjoy living in family environment with adequate food, and attending school, they are affected by harmful practices and migration. Dr Addai indicated that in 2017, 2.5 million Children died before their 5th birthday and above 58 million were stunted . He further mentioned that Africa has the highest rate of out of school children and as a consequence several children lack skills to be competitive and mostly end up in the street. Harmful practices such as child marriage and FGM also affect children and report shows that 120 million children are estimated to get married before 18 years of age and it was underlined that such practices perpetuate gender inequality and adolescent poverty. Highlighting the

challenges, he as well recognised the efforts employed and specifically applauded the AU for its measures on harnessing the demographic dividend and the Committee's work in the implementation of the Charter; increasing awareness about Agenda 2040; increasing ratification of and reporting on the Charter; and development of concluding observation and recommendations. Moreover, Dr Addai commended the ongoing study of the Committee on children on the move and the General Comments on ending child marriage and birth registration. He highlighted that the 32nd session is taking place at an important time where in 2019 the UN Convention on the Rights of the Child will celebrate its 30th anniversary and in 2020 the African Children's Charter celebrates its 30th anniversary and thereby he recommended that the Committee starts planning activities around the celebration of the 30th anniversary of the adoption of the charter and consider convening a children's summit.

4. Dr Addai stressed that the Continent has strategies and policies on child rights, including the Charter, and that the focus should be on stronger implementation of the existing frameworks. Finally, Dr Addai recommended to the Committee that it engages State Parties to adopt policies and laws in line with the regional frameworks including harmonization of laws; to increase budget allocation to children's rights, and to strengthen data as well as monitoring and evaluation. Dr Addai concluded his remarks by informing the Committee that it can count on the support of UNICEF and the UN family for its work and activities to create an Africa fit for Children.

Remarks by the Commissioner for Social affairs

5. On behalf of H.E. Amira El Fadil Mohamed El Fadil, Mrs Mariama Mohamed Cisse, Director of Social Affairs, congratulated Mr Joseph Ndayisenga, Mrs Sidikou Aissatou Alassane Moulaye and Dr Azza Ashmawy for their re-election as members of the Committee for another term.

6. Mrs Cisse mentioned that the Department of Social Affairs has various activities on children's rights and that children's issues form part of the works of the Department. She mentioned that in the past years the Department of Social Affairs has designed and implemented various activities which aim at promoting and protecting children's rights. She particularly mentioned that the Saleema Campaign on ending Female Genital Mutilation (FGM) being one of the main activities of the Department and that a lot has been happening around the Campaign. For instance, she stated that recently in the year 2018, the Department of Social Affairs has organized a high-level dialogue in Burkina Faso where Ministers signed a Declaration to end FGM by 2030 and the host Country, Burkina Faso, expressed its willingness to be the champion on the cause and lead the process forward. In addition to the Saleema Campaign. Mrs Cisse also mentioned the various initiatives that the Department has embarked on; such as, the AU Campaign on Ending Child Marriage and the initiatives relating to combating malnutrition.

7. In her remarks, Mrs Cisse invited the Committee to work with the Department of Social Affairs on child rights issues and called on partners to support its activities. She particularly pointed out activities around Agenda 2040, State Party reporting and the Committee's studies as joint areas of engagement.

8. As a newly appointed Director of the Department of Social Affairs, after more than 10 years of service as the Secretary of the ACERWC, she extended her appreciation to the Members of the Committee, Staff of the Secretariat and partner organisations for the commitment they exerted for the protection and promotion of children's rights in Africa. Finally, she reassured that the Department of Social Affairs is committed to work with the Committee and its partners to further take the agenda of creating an Africa fit for Children forward.

Opening Statement by Chairperson of the ACERWC

9. The Chairperson of the ACERWC, Mrs Goitseone Nanikie Nkwe started her statement by congratulating Mrs Mariama Mohamed Cisse for her new appointment as the Director of Social Affairs and Members of the Committee who have been re-elected at the previous Summit of the African Union. The Chairperson welcomed all participants to the Session and indicated that the presence of large number of partners is a reflection of the increasing work of the Committee.

10. In her opening statement, Mrs. Nkwe highlighted that the work of the Committee in terms of the State Party reporting mechanism has increased and that during this session, State Party reports from Nigeria, South Africa and Zambia will be considered. She then specifically congratulated South Africa for the timely submission of its periodic report. She also stated that in the past few months the Committee undertook a number of activities including, an advocacy mission in Somalia on the ratification of the African Children's Charter and follow-up mission to monitor the implementation of concluding observations and recommendations in Ethiopia and Madagascar. The Chairperson called upon partners to follow-up on findings of the Committee and assist State Parties in their endeavours to ratify and implement the Charter. Mrs Nkwe also mentioned that the Committee has engaged the Regional Economic Communities (RECs), namely the East African Community(EAC), Economic Community of West African States(ECOWAS), and Southern African Development Community (SADC) with a view to popularizing Agenda 2040 and identifying cross border issues affecting children's rights in the respective regions.

11. In highlighting the contents of the 32nd Ordinary Session, the Chairperson indicated that in addition to consideration of State Party reports, the Committee will also consider the draft study on mapping children on the move within Africa and the concept note for the Day of the Africa Child 2019 which will be celebrated on 16 June 2019 under the theme of 'Humanitarian action in Africa – children's rights first'.

She also indicated that discussions on the draft general comment on article 22 on children in armed conflict and consideration of complementary reports of various CSOs form part of the current Session.

12. While noting the progress achieved, the Chairperson indicated that there are many challenges faced by children including conflict, child trafficking for sexual and economic exploitation, sale and abduction of children, child marriage and other harmful practices as well as poverty and lack of access to basic services. She then called upon all stakeholders to work together than ever to address these challenges. Finally, the Chairperson thanked partners who supported the convening of this session mainly UNICEF, Plan International, Save the Children, European Union, and ICRC. Mrs. Nkwe then declared the 16th Pre-session and 32nd Ordinary Session officially open.

Swearing in of Committee members

13. On 13 November 2018, the following newly re-elected Members of the Committee were sworn in:

- i. Hon. Azza el Ashmawy
- ii. Hon. Joseph Ndayisenga
- iii. Hon. Aïssatou Mme Sidikou
- iv. Hon. Clement Mashamba

ITEM 2: CONSULTATIONS AMONG COMMITTEE MEMBERS AND APPOINTMENT OF RAPORTEURS FOR APPLICATIONS FOR OBSERVER STATUS RECEIVED

14. The Members of the Committee received observer Status Applications from four organizations namely Amnesty International, Center for Reproductive Health, Internet Watch Foundation, and SOS Enclaves. Rapporteurs were assigned for the four observer status applications received and it was agreed that the Committee will decide on the applications following the examination by the designated rapporteurs.

ITEM 3: PROCEDURAL MATTERS

- **Adoption of Agenda of the Session**

15. The Committee considered the program for the session and adopted the same as amended.

- **Organization of work**

16. The Committee agreed to carry out its deliberations in open, semi closed and closed sessions according to the Agenda.

ITEM 4: BRIEF PRESENTATIONS BY PARTNERS

17. Representative of Plan International, Ms Yodit Mekuria, informed that Plan International is finalizing a 5-year strategy, which will increase its support and focus on child marriage and girls in crisis. Plan International has made a deliberate decision to focus its interventions on girls and made addressing gender inequality its priority. This departure; however, does not exclude boys and men from its response framework. Ms Yodit indicated that Plan International will continue to support the Committee to hold State Parties accountable for the implementation of the Children's Charter and that Plan commits to the following: (i) finalize the concluding observation database (ii) support the CSO forum to improve their capacity and engagement with the ACERWC (iii) disseminate and popularize the CAAC study (iv) support the popularization of the Joint General Comment on Ending Child Marriage & Agenda 2040. Plan International called on the Committee to consider calling on Member States to harmonize their marriage laws with the African Common position on Ending Child Marriage; the institutionalization of the African Girls summit with clear dates and mandates; taking action on the auctioning of a 16-year old South Sudanese girl in marriage.

18. Ms Doris Mpoumou, representative of Save the Children International extending her appreciation for the work of the Committee; she called for the institutionalization of the visit by the Special Rapporteur on ending child marriage. Ms Mpoumou further indicated that Save the Children's Strategy for 2019-2021 focuses on children in armed conflict and it was announced that Save the Children serves as secretariat for the collaboration network established as 'friends of children affected by armed conflicts'. In this regard, she also commended the Committee for the appointment of the Special Rapporteur on Children in Armed Conflict and informed that Save the Children is ready to support the mandate of the office. Save the Children also pledged to support the follow-up activities in relation to the Continental Study on the Impact of Conflict and Crisis on Children in Africa. Finally, Ms Mpoumou recommended to the Committee to consider including child marriage as a grave violation in situations of conflict.

19. Dr Violet Odala, Representative of the African Child Policy Forum (ACPF) commended the Committee for successfully carrying out the popularization of Agenda 2040 in the RECs. She mentioned that ACPF had undertaken numerous activities in pursuit of this objective, two of which are; the preparation of a Pan-African Report entitled *Spotlighting the Invisible: Justice for Children in Africa*, which was accompanied with a Continental Conference on Access to Justice for Children in Africa, and, the launch of its flagship report, *The African Report on Child Wellbeing 2018: Progress in the Child-Friendliness of African Governments*. Dr Odala indicated that these reports would serve as a useful resource to the Committee in the deliberation of its mandate to monitor the implementation of the Charter and in giving

recommendations to governments when reviewing States Party Reports. In terms of some of its upcoming activities, Dr. Odala mentioned that in collaboration with the Committee, ACPF would be conducting a Continental Study on the status of Harmonization of Laws on Children in Africa, and that it is also updating the Child Law Resources. It was further highlighted that ACPF is considering to conduct a comprehensive continental study on sexual exploitation of children in Africa, and, in Feb 2019, it will be hosting the *9th High Level Cross Regional Round Table on The Prevention and Elimination of Violence against Children*, in collaboration with the Office of the Special Representative of the UN Secretary General on Violence Against Children. ACPF reiterated its commitment to continue supporting the work of the Committee in effectively exercising its mandate.

20. Ms Anna Henry, from the Global Initiative to End All Corporal Punishment of Children, welcomed the Committee's new General Comment No. 5 on systems strengthening for child protection which calls for the adoption of legislation to outlaw corporal punishment in all settings. She underlined that clear recommendations such as this General Comment, from a regional body of influence are essential to support progress in recognition of children's rights. She also stated that the Global Initiative welcomes the fact that Nigeria and South Africa, to be reviewed by the Committee during this session, have become a Pathfinder country in the Global Partnership to end all violence against children – committing to accelerated action to protect children. Ms Henry further indicated that South Africa is currently consulting on legislation to prohibit corporal punishment in the home. She also indicated that in 2020, Tunisia will be hosting the 4th global intergovernmental conference on corporal punishment, which will be the first time the conference has been hosted outside Europe. Finally, Ms Henry ascertained that her organization is committed to make progress in protecting children from harm from physical punishment and to meet the ambitious goals of the 2040 Agenda.

21. The Child Rights Network for Southern Africa (CRNSA), represented by Mr Musa Chibwana, commended the Committee for its activities around Agenda 2040. Mr Chibwana congratulated South Africa and Zambia for submitting their report and urged the Committee to give attention to issues of inequality and exclusion of children in considering the State Party Reports. Mr Chibwana also mentioned that CRNSA has been supporting submission of complementary reports and engaged in the popularization workshop of Agenda 2040 in SADC. While commending the Committee for reaching RECs in relation to Agenda 2040, it committed to supporting the progress including the suggested child rights protocol for SADC.

22. Dr Nkatha Murungi, representative of Center for Human Rights, congratulated the Committee for successfully convening the Session, and congratulated Members of the Committee who have been re-elected. She then highlighted some of the key initiatives that the Centre had undertaken since the previous Session, including support to the implementation of the mandate of the Special Rapporteurs on the

Rights of Women in Africa; the implementation of the General Comment on Child Marriage in Africa; follow up on the implementation of the decision of the Committee against Senegal on the rights of Talibe children; the Annual Disability Rights Conference, and the annual advanced short course on the rights of children in Africa. The CHR noted with concern, the status of the rights of intersex children in Africa who are subjected to unnecessary genital normalisation surgeries without consent. It was noted that in rural and traditional communities in Africa, intersex children are routinely violated, or even killed due to the social stigma attached to being intersex. The Centre informed the Committee that it had already started engaging the African Commission on Human and Peoples' Rights on this issue, and called upon the Committee to devote time to discuss the subject, and to consider a joint resolution with the Commission on what can be done to protect the rights of Intersex children. The Centre offered to support the Committee to facilitate the discussion if so required. The Centre further invited the Committee to the 2019 edition of the Centre's flagship All Africa Moot Court Competition will be held in Gaborone Botswana in July 2019 as the edition would focus on the rights of children in the context of migration and displacement.

23. Child Fund in its briefing highlighted that its approach to child protection focuses on strengthening systems to preventing and responding to all forms of violence against children and youth and that it utilizes a bottom-up approach by strengthening existing structures at community level and link them with formal structures of protection. It was informed that Child Fund does so by mapping of community based child protection mechanisms where it engages communities including children in the protection using a participatory approach of inquiry to better understand how communities currently prevent and respond to child protection issues. More than 150 communities have been mapped, nearly 400,000 children and caregivers have been asked about their awareness of child protection mechanisms and their willingness to use them, 219 CBCPMs have been identified and assessed, and 50 community action plans have been created. Child Fund highlighted that alcohol abuse and financial stress were some of the factors driving physical violence and abuse in the home. Sexual abuse and exploitation was also commonly cited by children and youth. Child Fund also works in partnership with other child-focused agencies to End Violence against Children and we have joined forces globally, regionally and nationally.

24. The representative of Graca Machel Trust, Mr Richard Montsho conveyed his appreciation to the Committee for successfully organizing the Session. Mr Montsho informed that Graca Machel Trust is committed to support the mandate of the Committee in its activities through the development and implementation of the Child Rights Complaints Mechanisms Toolkit; supporting the Committee to engage civil society and State Parties on preventing and ending child marriage; to implement various initiatives to address the situation of out of school children; and through its advocacy for private and public investment in adolescents.

25. Mr Jean Jacques from ICRC mentioned that, based on the realities encountered on the frontline of conflict, there is a need to mitigate effects of violence and war on children. He highlighted the key principles which must be upheld which include that all children, including children displaced by armed conflict must be treated with special respect and protection, including ensuring access to food and health care, education and to be reunited with their families. Children who have been recruited by armed groups and are accused of having committed crimes should be treated primarily as victims of violations of international law. Mr Jacques also underlined that children must be detained only as a measure of last resort, and their detention must be limited to the shortest possible time. He indicated that steps must be taken to ensure children are treated with humanity and dignity. Finally, it was stressed that children must have access to education, including in situations where children are orphaned or separated from their families, or for detained children.

26. The Representative of ECPAT International, Ms Beatrice Gacengo, expressed appreciation to the Committee for granting ECPAT International an observer status at its 30th Ordinary Session. She reiterated ECPATs commitment in supporting the committee to fulfil its mandate of promoting and protecting the rights of children in Africa. She stated that ECPATs main area of expertise is 'Ending the Sexual Exploitation of Children' and that over the years, ECPAT has invested in cutting edge research to keep abreast with emerging trends in the various forms of sexual exploitation of children, including 'Online Child Sexual Exploitation', and the 'Sexual Exploitation of Children in Travel and Tourism'. Based on its belief that no one entity can end the sexual of exploitation of children in isolation, ECPAT has established strategic partnerships with various stakeholders including UN agencies, INGOs, local CSOs, global and local law enforcement agencies including INTERPOL and private sector entities in Travel and Tourism and Information and Communication Technologies. ECPAT concluded by stating that it looks forward to continued working relationship with the committee and supporting the committee's mandate.

27. Ms Naitore Nyamu Mathenge, representative of Equality Now, expressed her gratitude for the Committee for granting Observer Status to Equality Now and commended the Committee's action on the situation of Noura as it added voice to the ongoing advocacy. Ms Mathenge however indicated that Noura is still in prison and that the Committee should continue engaging the Government of Sudan on the same as well as its reservations on the Charter. Equality Now also raised its concern about the access to education of pregnant girls in Tanzania and Sierra Leone; high level of gender based violence in Kenya including sexual violence, teenage pregnancies; and discrimination of women to transfer nationality to their children in various States. In all its concerns, Equality Now urged the Committee to engage the respective State Parties to adopt laws and policies and take administrative measures to address the issues.

28. The representative of the Eastern African Child Rights Network appreciated the works of the Committee in monitoring the implementation of the Charter as well as the adoption of the Joint General Comment on Ending Child marriage. It was informed that East African States are affected by conflict which has resulted in more than 2 million children to be out of school only in South Sudan. It was also raised that CSOs are controlled significantly and have no space to engage in many activities a case in point being Burundi where CSOs are subjected to work on the priorities of the Government. The Network urged the Committee to engage State Parties in these issues.

29. Ms Martha Bedane, representative of World Vision International, noting that the African Union's theme for 2019 is "Refugees, Returnees and Internally displaced persons: Towards Durable Solutions to Forced Displacement", she stated that the most vulnerable children are often found in situations of humanitarian crisis as refugees, migrants and IDPs. Consistent with this theme, she also noted is the decision of the Committee on the DAC 2019 theme around "Humanitarian Action in Africa: Children's Rights First". Ms Martha indicated that international action has been predominantly centered on changing the behavior/attitudes of armed forces and armed groups towards child recruitment, with limited regard to the factors that increase children's vulnerability to recruitment and other forms of violence or may lead them to 'choose' to join armed forces and armed groups. It was stated that World Vision has embarked on a research in order to expand the current framing of the dialogue and ensure children are protected from violence, and to unpack the push factors. The research will explore what makes children join armed forces and groups as well as what measures can be applied to prevent recruitment by building children's resilience and strengthening the protective environment around them. World Vision called up on the Committee for continued collaboration in ensuring advocacy around the importance of child protection as lifesaving intervention central to global discussions on ending child recruitment and other violence in the context of conflict.

30. Representative of Baha'i International Community noted that while every other step taken to improve the right and welfare of the child is commendable, it should be supported by a holistic type of education that will help children grow as full adults who have purpose in life, who value service to society more than material benefits. This cannot be done by one community alone; all have to be united and there is a need to develop a common vision and a common strategy. It was informed that children are potentially the light of the world and their spiritual education takes paramount importance. In efforts of community growth process the opening of children classes take precedence above most other lines of actions. Baha'i International Community stated that it continues to strengthen and refine age appropriate children materials, the method of teachers training and the styles of delivery.

31. SOS Esclaves highlighted that their organization is based in a country where some children are not considered as human beings and subjected to slavery. Such children do not have the right to go to school and it was informed that the Government of Mauritania is refusing to accept the reality and take actions. It was indicated that engagement with the Committee enables SOS-Esclaves to support child protection strategies, inform the Committee about child slavery in Mauritania, to put pressure on the Government of Mauritania to comply with the decision of the Committee on the communication against Mauritania, and to strengthen the capacity of other CSOs in Mauritania for the protection of children affected by slavery in Mauritania.

ITEM 5: PRESENTATION AND DISCUSSION ON THE DRAFT GENERAL COMMENT ON ARTICLE 22

32. Mr Robert Doya Nanima, the consultant for the assignment, took Committee Members and participants through the main aspects of the draft General Comment. Mr Nanima indicated that the development of the General Comment was informed by prior initiatives such as the Graca Machel Report of 1996, West African Conference on War-affected Children, the work of the AU Peace and Security Council, the role of Regional Economic Communities, the 2016 continental study of the Committee on the impact of conflict and crisis on children in Africa. He underscored that the main objective of the General Comment is to expound State Party Obligations under article 22 and to assist States in the conceptualisation, adoption and implementation of laws, policies, and practices to protect children in the context of armed conflict inform. The scope of the General Comment includes the best interest principle, right to non- discrimination, right to life, right to human dignity, protection from torture, inhuman or degrading treatment, right to health, right to education. Mr Nanima stated that the obligation of States under article 22 consists the obligation to respect, to protect and fulfil. The General Comment also provides for remedies and takes the position that remedies should be subject centred, and that States should act in due diligence.

33. During the presentation, Mr Nanima raised issues for discussion and also for guidance from Members of the Committee on whether the issue of the girl child should be mainstreamed or should have a separate section in the General Comment; on the approach for International Humanitarian Law and International Human Rights Law that should be adopted in the General Comment; on whether the principle of the best interest of the child should be used as a gap-filling tools; on the role of National Human Rights Institutes; and on whether or not the six grave breaches should be adopted in the General Comment or more violations should be included in the grave breaches.

34. Following the presentation discussions were held and suggestions were made on various issues. It was suggested that a complementary approach should be adopted in relation to International Humanitarian Law and International Human Rights Law. It was also suggested that the issue of the girl child should be dealt in a separate section and in this regard Plan International expressed its willingness to support the process in the event where an extra cost is attached to it.

35. It was further suggested that the Committee, from previous general comments it has developed, should identify what has worked and what has failed so that this General Comment benefits from the assessment. During the discussion, the possibility of involving State Parties to get their feedback on the content of the General Comment was raised. The need to reflect the peculiar interest of Africa in identifying breaches as the 6 grave breaches can be reviewed was also raised. It was discussed that issues in relation to sale and transfer through embargo of arms, extraterritorial application of article 22 of the Africa Children's Charter, and categorization of children in to most vulnerable such as children with disabilities in conflict situations should be considered and reflected in the draft. Some concerns on the position of the draft General Comment on progressive realization of education, health and food in situation of conflict were also raised by participants. The need to include Regional Economic Communities in addition to NHRIs in the General Comment was also flagged during the discussions. In addition, indications were made on the need to appreciate the specific situation of children internally displaced and also those children living in a country that is not in conflict but who might be affected by conflict.

36. Contributions were further made on issues such as the reproductive health rights of adolescents, obligation to build and restore peace, the interaction of relevant AU organs in relation to children in armed conflict, the participation of children in the process of the development of the General Comment, sexual exploitation and abuse of children by peacekeepers, and training of army on child rights in the mobilization of troops as prevention mechanism.

37. Finally, in taking the draft forward, it was informed that the draft General Comment will be translated and shared for further inputs and this will be followed by convening experts meeting as well as a validation workshop.

ITEM 6: PRESENTATION OF THE CONTINENTAL STUDY ON CHILDREN ON THE MOVE

38. Dr. Gorge Mukundi and Ms Faten Aggad, consultants representing the Maendeleo group, presented the draft report of the study on mapping children on the move within Africa, which was commissioned by the ACERWC. They commenced

their presentation by expressing gratitude to the ACERWC and members of the Maendeleo group for the hard work and collaboration in ensuring the success of the study. The consultants discussed some of the limitations of the study. For instance, the existence of various forms of statistics from different sources, make it very difficult for the study to specifically identify the exact number of children on the move within Africa. However, for the purpose of this study, mainly relying on the data and information from UNHCR, IOM, UNICEF and other UN Agencies, it was estimated that there are 244 million migrants internationally and in Africa, the study notes the presence of 5.4 million refugees 12.6 million IDPs

39. The study adopted a comprehensive definition of children on the move. It defined it as *'Children who have moved from their habitual place of residence to another place within or outside their country, voluntarily or involuntarily, accompanied or unaccompanied by their parents, caregivers or families either as internally displaced persons, refugees, asylum-seekers, economic migrants or trafficked persons and who may suffer or may be at risk of suffering exploitation, abuse, neglect or violence'*.

40. The consultants explained that the legal framework informing the study was guided by the ACRWC, UNCRC and instruments pertaining to movement of people. It was further informed by the four cardinal principles of the Charter; namely non-discrimination, best interest of the child, survival and development and participation. For the purpose the content of the study, the Consultants stated that, certain rights were identified as being core rights, these are education, health care, name, birth registration and identification, nationality, family protection and parental care, protection from sexual abuse and exploitation, protection from torture, cruel, inhumane and degrading treatment and migration. The findings of the study reveal that Central African and Great Lakes, and East African regions have the highest number of children on the move. It is also indicated that there is an increase in terms of children on the move within the continent.

41. Six major routes of movement of children have also been identified; these are Horn of Africa in to the Gulf, Eastern-Mediterranean route, Sinai route, Southern Africa route, East and Central in to North Africa route and West Africa route. The gender lens of the manner of movement of children indicates that there are as many girls who move, as there are boys, and certain transit points are used by girls and not boys.

42. Taking conflict as the main push factor, the Study classifies drivers of children on the move into three main categories. The first is conflict and insecurity; this includes internal displacement, refugees, recruitment into armed forces and violent extremism. The second driver is illegal activities, which include trafficking, smuggling and forced labor. The third relates to economic and social drivers, which includes

poverty, child abuse, forced marriage, harmful practices, climate change, education, economic opportunities, and weak domestic child protection

43. Following the presentation, comments and questions were raised from Members of the Committee and the participants of the Session. Questions were raised around the availability of child friendly criminal justice systems for children on the move, reliability of the sources of data, the situation of returnees, the issue of statelessness, the status of migrant children who are missing or deceased on the route and the relationship between technology and children on the move. Suggestions were also made on separately looking in to the drivers of internal movement, exploring child neglect as one driver of movement, dividing drivers as positive such as education and negative such as conflict.

44. The consultants reflected on the interventions from the floor and concluded that the findings of the study reveal that countries were not ready and equipped to respond to the movement of children. In conclusion, it was stated that there is a lot that can be done for children on the move. However, the recommendations of the study are limited to what the committee can do within the limit of its mandate.

ITEM 7: BRIEFING ON GLOBAL COMPACT ON MIGRATION

45. Ms Thokozile Ruzvidzo, Director for social development for policy division UNECA made a presentation on the Global Compact on Migration (GCM). She reiterated the importance of looking in to ongoing initiatives with regards to children on the move, before thinking of new initiatives to address some of the challenges identified on the mapping of children on the move within Africa. She mentioned that the Global Compact for Safe Regular and Orderly Migration, drawing inspiration from the SDGs and other documents, is an outcome of the 2016 high-level summit on refugees and migrants. The Global compact, once adopted in December, is expected to encompass the main internationally agreed principles on international migration and international cooperation mechanisms. She suggested that the regional migration should be looked at, in the context of the GCM, taking in to account that 80% of migration take place within Africa. It was explained that the GCM aims to set out a range of principles, commitments and understanding among Member States with regards to migration. It was recalled that the UNECA in collaboration with IOM and the African Union Commission, Department of Social Affairs, supported 3 phases of consultation on the GCM within Africa.

46. She further stated that migration cuts across various sectors of government, there is a developmental and human rights aspect to migration. Hence, the GCM is based on crosscutting principles, it provides a holistic view on migration. Looking at the content, the GCM has 23 objectives for implementation; the rights of the child being contained therein. It was recalled that negotiations in the making of the GCM

show that there is frustration around the proliferation of documents without implementation. Hence it is important to ensure implementation, a robust follow up mechanism is critical for the success of the GCM. After commending the AU agreement for the free movement of people, it was indicated that the following essential steps should be taken to ensure full regional integration, thereby addressing migration challenges. Facilitating intra-Africa integration by lifting visa restrictions; introducing measures to ensure legal protection; improving rights for African migrants who live in Europe; boosting the capacity of research on children's rights around migration and ensuring data collection and analysis on migration.

47. Following the presentation, comments and questions were raised with regards to the effectiveness of the GCM taking in to consideration the push back from certain developed nations and its non-binding nature. Questions were also raised on the implementation of Objective 12 of the GCM.

48. After the interventions, the presenter explained that the GCM was made a non-binding instrument due to the push back from developed nations. Noting that 80% of movements take place within Africa, there should be an effort to provide opportunities within Africa for the 20% of the migrants who are moving to Europe. It was stated that IOM has been given the mandate to operationalize Objective 12 of the GMC. The presenter then concluded by inviting the Committee for the official launch of the GCM in Marrakesh, Morocco in December 2018, and reassuring the Committee of the commitment of the UNECA to ensure that the recommendations of the Session are integrated in the ongoing work regarding migration.

ITEM 8: BRIEFING BY CSO FORUM

49. Dr Musa Chibwana and Mr Cleophas Maragia Angwenyi, representing the CSO Forum, briefed the Committee on the 13th meeting on the CSO Forum, which took place between 9-11 November 2018 in Addis Ababa, Ethiopia. In their presentations, the representatives raised various issues including the effect of the ongoing AU reform, the shrinking CSO space within the AU Human Rights System, and its impact and roadmap on the relocation of the Secretariat to Lesotho. Suggestions were also made for the theme for DAC to run for more than a year to gain traction in the discourse; establishment of CSO thematic groups around Agenda 2040 to increase the involvement of CSOs beyond complementary report; to develop a General Comment on sexual and reproductive rights of adolescents highlighting the specific challenges in Africa, such as the case of inter-sex children and complementing the UNCRC General Comment on this area; and to enhance child participation in the activities of the Committee.

50. Following the presentation, Members of the Committee attested to the willingness of the Committee to continually engage with CSOs, and solicited the commitment of the CSO Forum to continually cooperate with the Committee. It was

stated that participation of children at platforms provided by the Committee is something that the Committee needs to improve; there is also a need to undertake grassroots mobilization on child participation. It was recalled that the Committee adopted thematic area special rapporteurs; joint effort of the CSO Forum and the Committee is needed operationalize these mechanisms. The Committee also called up on the CSO Forum to work on increasing the awareness of CSOs on the communication mandate of the Committee.

51. Representatives of the Forum stated that the Forum is training national coalitions of CSOs working on child rights in Africa on the Communication mandate of the Committee, and there are plans to upscale the reach of the trainings. In conclusion, the CSO Forum assured the Committee that the Forum will remain committed in its engagement with the Committee and will also engage with CSOs outside the Forum to increase the reach of its work.

ITEM 9: PRESENTATION ON DAC 2019 CONCEPT NOTE

52. The presentation on the Day of the African Child (DAC) was given by a consultant, Dr Robert D Nanima from the Dullah Omar Institute. As a point of departure, Dr Nanima present the theme of the DAC for 2019 which is 'Humanitarian Action in Africa: Children's Rights First'. He mentioned that this particular theme was inspired by the Soweto Uprising of 1976 and is an ode to the children who were gunned down on 16 June 1976. The theme also aims to inspire stakeholders not only to protect children's rights, but to protect children's rights first. Furthermore, Dr Nanima stressed that this theme focuses on humanitarian crises within a broad context, which contemplates manmade as well as natural crises, including armed conflicts, natural disasters and human errors.

53. Dr Nanima pointed out that, while it is not the practice currently, it is important to ensure that children's rights are a primary consideration. It is particularly important to take note of rights such as the right to health, education and birth registration. Children who are internally displaced, in particular, face challenges of mental health, lack of education, birth registration, cultural and linguistic differences and the non-accompaniment by an adult. These issues, Dr Ninima proposed, should be of primary concern and consideration. The rationale for this, Dr Nanima explained, is that humanitarian crises have implications on society, and children are the most vulnerable. Thus, the purpose of humanitarian action should be to look after children and uphold their rights, dignity and wellbeing. He also quoted provided information provided by UNICEF in 2018 which found that 1 in 4 children is in a humanitarian crisis area. The disrespect of international law- such as the failure to use the principles of distinction and proportionality- only make matters worse. The continued

interruption of parties offering humanitarian relief further perpetuates the violation of the rights of the child.

54. Dr Nanima also made use of Agenda 2040, in conjunction with Agenda 2063, to remind the room of the relevance and importance of the chosen theme; particularly, he noted that the Committee should look at Aspirations 7 and 9 as a tool to remind state parties of their duty to uphold the rights of the child, especially the child's right to dignity, survival and life, even in situations on humanitarian crises. Finally, as expected outcomes, Dr Nanima mentioned that the Committee should make an affirmation that the protection of children's rights should be at the forefront in humanitarian crises, that there should be continental commemoration of the Day of the African Child (with at least two thirds of African Union state parties hosting celebrations of the day), a continental commemoration of the Day of the African Child jointly hosted by the AU and State Parties on the 16th of June 2019 as well as reports of efforts made to implement the theme in affected areas and prosecution of perpetrators of violations of the rights of the child.

55. Members of the Committee, Civil society Organizations and State Parties raised questions to Dr Nanima, especially with regard to state party responsibility to protect, protection measures put in place for disaster management, the inclusion of child participation, broadening the theme to include other types of crises not mentioned in the presentation, dealing with girls' and boys' issues separately, the inclusion of a response to children who are victims of sexual exploitation during humanitarian crises and putting in place a mechanism to monitor the implementation of the chosen theme.

56. Noting that the concept note currently concentrates a lot more internally displaced children and that the chosen theme is strikingly similar to that of the year 2015, Dr Nanima responded that there should be a report of what was achieved in the previous years and what will be done differently in the year 2019. Other considerations, he affirmed, will be made by his team collectively before the reworked concept note is produced.

ITEM 10: PRESENTATION ON THE PROGRESS MADE IN THE CAMPAIGN ON ENDING CHILD MARRIAGE IN AFRICA

57. Hon. Bocoum, the Special Rapporteur on the AU Campaign on Ending Child Marriage, updated the Committee and participants on the recently carried out activities including her missions to Egypt, Eritrea and Zambia to monitor the progress made in the campaign on ending child marriage in Africa.

58. Hon. Bocoum reported that in Eritrea she found that the country has made strides in the application of policies which focus on the empowerment and inclusion of women in all areas of life. Furthermore, she found that there has been enactment

of laws which criminalise child marriage, and other harmful traditional practices such as female genital mutilation.

59. Hon. Bocoum also reported that in Egypt, the Government has also opted for an inclusive approach which appreciates the involvement of women in the solutions sought for the issues they are faced with. Furthermore, Hon. Bocoum noted that Egypt has made a multisectoral effort to raise awareness and educate girls about their rights through the creation of 'integration centres' and 'youth camps' and the dissemination of the Arabic version of the African Charter on the Rights and Welfare of the Child.

60. Finally, Hon. Bocoum reported that in Zambia the Government has made commendable efforts to include community leaders in the efforts made to end child marriage. The granting of scholarships to the poor and building of schools in communities, she noted, is also commendable.

61. Generally, Hon. Bocoum informed that the missions went well, and that part of the success was owed to partnership with stakeholders such as UNICEF who continuously offer support through continued monitoring and evaluation of the situation in the abovementioned countries and a number of others. As a way forward, she mentioned that the Department for Social Affairs assesses the impact of these efforts made in the period of 2016 to 2019 so as to gain inspiration on a way forward with regard to the next five-year plan for ending child marriage in Africa.

62. Hon. Bocoum also noted that collaboration between the Special Rapporteur, the Committee, the Secretariat, State Parties, the goodwill Ambassador and other stakeholders is crucial for the continued success of this mission and campaign. A special emphasis should also particularly be placed on the aspect of educating girls, instead of marrying them off at a young age.

63. Members of the Committee, State Parties and the Civil society Organizations raised questions on a number of themes, especially regarding national plans of State Parties, more especially the countries visited during this mission. Discussions were also made on the extent and implication of civil society engagement and efforts, the introduction of criminal sanctions for solicitors of child marriage, and the importance of sharing reports and best practices with all stakeholders, particularly with State Parties. Finally, she mentioned the fact that State Parties' willingness to collaborate in the efforts remains crucial and that the implementation and monitoring of mechanisms to monitor the situation are very important. She also reiterated the importance of using education as a tool to counter the practice of child marriage, as well as other harmful traditional practices.

ITEM 11: PRESENTATION ON CHILD PARTICIPATION IN AREAS AFFECTED BY CONFLICT

64. Ms Maryline Njoroge from Save the Children ESARO, Mr Abdoulaye Cisse, from l'Association pour la Promotion des Enfants et Jeune Communicateurs du Mali and Ms Dorcas Anyier Aguer Reech from Smile Again Africa Development Organization made a presentation about the participation of children in armed conflict and shared country experiences from Mali and South Sudan.

65. Setting the context of conflict and its impact on children, Ms Maryline, indicated that currently 1 in 6 children is experiencing conflict and that the number of children living in conflict areas has increased by 75% between 1990 and 2016. 165 million children living in conflict situation are affected by high intensity conflict which results in lack of access to basic services and exposes children to violence. She also underlined that 6 of the top 10 most affected counties exist in Africa namely Somalia, Nigeria, South Sudan, Democratic Republic of Congo, Sudan, and Central African Republic. Ms Maryline underlined that child participation includes issues about the point at which a child participates, the level of engagement, and which children get involved. She also explained that there are three types of child participation modalities namely consultative, collaborative and child led participations. In the consultative model, adults are more dominant and it is adult led and managed, hence there is very little possibility for children to impact the outcome. In the collaborative model adults and children have partnership and almost equal engagement. This model is still adult initiated but children are empowered to influence the outcome. The child led model offers highest level of child engagement as children are given space and opportunity to initiate activities; children have more control over the process and adults are facilitators.

66. Ms Maryline informed that Protecting Children in Armed Conflict is a project initiated with a goal of ensuring that African peace support operations prevent and respond to violence against children. It was explained that the objectives of the Project include strengthening child protection capacity, building functional accountability mechanism, building evidence for advocacy, and empowering children and civil society to engage and support national CSOs to engage in peace keeping. The Project is informed by the fact that children in armed conflict are rarely informed about measures taken in relation to their situations.

67. Mr Abdoulaye shared the experience of Mali on child participation in armed conflict. He alluded that Mali is affected by crisis since March 2012 and indicated that as of May 2018, 750 schools were still closed in the North and Central regions and as a result, 225,000 children are out of school; the number of children at risk of malnutrition increased from 622,000 to 856,000 between 2017 and 2018; more than 1,000 children are active in armed forces and groups in northern Mali; and in 2017, 833 cases of Sexual Gender Based Violence (SGBV) were reported. In such conflict

situation, he said, training on child participation are being carried out to elaborate what child participation entails; and children have been consulted in 2 regions of Mali which was followed by a report on the situation of children in conflict in Mali. He further highlighted that during the celebration of DAC, a declaration developed by children which contains issues of children in conflict situation was submitted to the President of Mali. A child led campaign called 'No forgotten Child' has been launched by the National advisory board on childhood. It was stressed that lobbying for peace agreement will continue and strengthening community systems and structures to further include child protection in local cultures and practices will be undertaken. The effort continues towards political acceptance of children's participation both at national and regional and involvement of children in designing programs policies.

68. Ms Dorcas shared the experience of South Sudan on child participation in conflict. She indicated that Child participation is inclusive of girls and boys. However, she informed that various factors affect child participation in conflict areas including cultural factors, children's lack of access to information and basic services in conflict areas, lack of awareness about the importance of child participation among communities, insecurity, inter-clan conflict, rape, sexual exploitation and abduction. She also highlighted that consultations were held with children in Bor and Juba, yet it was difficult for children to engage meaningfully as children in the back of their mind believed they do not have the right to participate. There is no proper tool that can be used for child participation and therefore it is not clear how to consult children. During consultations with children in armed conflict, violations including lack of services such as education, health as well as sexual exploitation, displacement, early marriage, teenage pregnancies, loss of cultural values were raised by children. Underlining the way forward, the presenter called for actions towards increasing awareness on inclusive participation including children with disabilities, street children, separated and unaccompanied minors; developing clear tools and ways of working on child participation; giving an opportunity to children to express themselves in a child centred approach. It was also suggested that governments should develop policies to support to children for their participation.

69. Following the presentation, participants raised issues in relation to what kind of participation is expected from children affected by conflict given the various violations they face. Moreover, it was discussed that the conversation on child participation should extend to cover child refugees, children affected by child marriage and sexual exploitation. It was also suggested that technology and media can be utilized to enhance child participation. Finally, the Committee informed that its developing Guidelines on Child Participation which will contribute to the discourse.

ITEM 12: PRESENTATION ON AU TRAVEL POLICY

70. Mr Wondimu Molla from the AUC Travel Unit briefed the Committee about the role of the AUC travel Unit, its responsibilities, and the travel policy of the AU. Members of the Committee raised their concerns in relation to travel arrangements and requested Travel Unit to cooperate in making their travel smooth and easier.

ITEM 13: PRESENTATION OF AFRICAN CHILDREN CHARTER PROJECT (ACCP)

71. Mr Anteneh Bezuayehu, Project Manager of the ACCP, informed the Committee about the major progress achieved, the challenges faced and points for consideration. He informed that an additional funding of 1.3 million USD has been approved for the CAAC project. As the additional budget has been integrated within the existing budget and framework, Mr Anteneh indicated that the budget will be used for the three objectives of ACCP which are capacity building of Committee, promotion of the rights of the child, and capacity building of CSO. He also highlighted the support of the project in relation to the mandate of the Committee, such as the support on the follow up mission in Ethiopia, translation of State Party reports, popularization of Agenda 2040, the development of the DAC concept note as well as the General Comment on article 22. In addition, Mr Anteneh raised some of the challenges faced in the execution of activities pertaining to delays in implementation of activities such as fact-finding missions, follow-up missions, and recruitment. The Committee was also informed that the ACCP baseline survey will be finalized and shared soon and that ACCP will be undertaking ACCP review and planning meeting early 2019. On the way forward, Mr Anteneh called for enhanced implementation on delayed activities; and improved clarification on the roles of partners especially partners who are not members of the ACCP. Moreover, he raised concerns on the impact of the relocation of the Secretariat of the Committee on the project. In concluding his presentation, Mr Anteneh sought information on the outcome of the meeting of the Committee with the other organs on the collaboration of the three human rights organs as it relates to the proposed reform.

72. Following the presentation, discussions were made on the issues and concerns raised by the ACCP Project Manager.

ITEM 14: CONSIDERATION OF THE STATE PARTY REPORT: SOUTH AFRICA FIRST PERIODIC REPORT: OPEN SESSION

73. The Delegation of the Republic of South Africa, led by Ms Constance Nxumalo, Deputy-Director General of the Department of Social Affairs, briefly presented to the ACERWC the measures the Government has taken to implement and domesticate the African Children's Charter. At the forefront, it transpired that a large number of

new laws, policies and amendments have been tabled or implemented in order to strengthen the protection of children's rights.

74. Highlighting some of the measures that have been taken, Ms. Nxumalo mentioned the ratification of the International Covenant of Economic, Social and Cultural Rights (ICESCR) and amendments made to child-protection instruments such as the Criminal Procedure Act, Child Justice Act and the Children's Act. Furthermore, Ms. Nxumalo also mentioned the important appointment of a Children's Rights Commissioner within the South African Human Rights Commission. H.E. Nxumalo also emphasised the strides made by the Government in terms of provisioning for social services by drawing the Committee's attention to the increase in child beneficiaries of the child support, foster care and special care grants over the reporting period. Also importantly, H.E. Nxumalo explained that the coordination and monitoring of children's rights has since 2014 fallen under the auspices of the Department of Social Development, which works with the National Plan of Action for Children and Monitoring and Evaluation Strategy for Child Rights and Wellbeing, the National Children's Rights Intersectoral Coordination Committee and the National Child Care and Protection Forum to ensure that children's rights are protected, in policy and in practice.

75. Following the presentation, members of the Committee congratulated the Government of South Africa for its efforts to implement the African Children's Charter and its timely submission of its first periodic report. The members of the Committee, however, also raised a number of questions and concerns on which they engaged the Government. Some key concerns included the country's reservation to the ICESCR, which renders access to basic education a progressively realisable right, and the non-ratification of the Third Optional Protocol to the United Nations Convention on the Rights of the Child, which would allow individuals to bring communications before the Committee on the Rights of the Child. Furthermore, while praising the strides made in terms of legislative action, the Committee also raised concerns about the lack of empirical evidence to substantiate the successes listed in the state party report. The Committee also raised the issue of the non-harmonisation of the age of marriage in legislative, common and customary law, despite the recommendation that efforts should be made to harmonise these laws in a way that is consistent with the Charter. The Committee also raised concerns about violence in schools, corporal punishment in the home, the apparent drop in the number of inter-country adoptions and the persistent divide between different races, geographic areas and economic standing. Added to this, the Committee also discussed the continued harmful practices of virginity testing, illegal cultural circumcisions and *ukuthwala* (the abduction of young girls for purposes marriage) and failure to deliver schooling materials on time to some schools, especially in the province of Limpopo.

76. In response to the Committee's questions, the Delegation of the Government of South Africa offered some clarifications as well as admission of its shortfalls on some

of these issues. For example, the Delegation of the Government of South Africa highlighted that the country's legal framework is such that there is no need to ratify the Third Optional Protocol to the CRC and that the Constitution also offers sufficient support for the immediate realisation of the right to basic education that the reservation to the ICESCR has become moot. In terms of harmonising the definition of the age of marriage, combating harmful traditional practices and outlawing corporal punishment in the home, it was reported that laws and amendments have been tabled and are being discussed. With regard to the issue of unavailable data, the Delegation was able to respond with some which was missing from the state report; however, some other statistics and data, they admitted, would have to be submitted to the Committee at a later stage. It was also noted that the Government continues to make an effort to end all types of discrimination, particularly racial discrimination, as well as continue to fund most of its educational budget to the poorest schools which are in most need of assistance- this too, they noted, is an effort to close the gap created by the urban-rural divide and different economic status.

77. In conclusion, the Delegation informed that it is ready to receive recommendations from the Committee and continue to use them to inform its policies and decisions on the subject of children's rights. The Committee thanked the Delegation and announced that they will communicate the concluding observations and recommendations, and will undertake a follow-up mission to examine the implementation of its recommendations in the following two years.

ITEM 16: PRESENTATION ON EVALUATION OF THE ACERWC'S STRATEGIC PLAN 2014-2019

78. A presentation was made on the methodology for the evaluation of the ACERWC Strategic Plan for the period of 2015-2019. Comments were then made on the proposed methodology for the planned evaluation. It was also stated that the evaluation report will be presented at the upcoming retreat of the Committee which will be held in December 2018.

ITEM 17: PRESENTATION OF THE 2018 BUDGET ABSORPTION RATE AND ACERWC 2019 WORKPLAN

79. The Secretariat presented on the budget absorption of the Committee in 2018. It was shown that the budget was not entirely used and stated that the main reason for this was that some funding came in late and so the Secretariat operated as though those funds were not available.

80. With regard to the 2019 work plan, it was noted that there is a budget for about 14 activities including missions to the countries which have not yet ratified the

African Children's Charter, the promotion of Agenda 2040, emphasising the link between Agenda 2040 and Agenda 2063, the two Committee Sessions and any other meetings which may come about as well as hiring an administrative assistant. Following the presentation, discussions were made on better implementation of activities and allocation of budgets for items such as operationalisation of the Offices of Special Rapporteurs.

ITEM 18: DISCUSSIONS ON ACRWC AT 30

81. The year 2020 will mark the 30th anniversary since the adoption of the African Charter on the Rights and Welfare of the Child, in July 1990. The Secretariat of the ACERWC presented the proposed activities for the celebration of the adoption of the Charter. A decision was made to draft a concept note and commence the preparations for the celebration. Hon Clement Mashamba and Hon Azza el Ashmawy were selected as focal persons from the Committee to work with the Secretariat on this matter.

ITEM 19: CONSIDERATION OF STATE PARTY REPORT: BENIN REPORT

82. Despite the invitation from the ACERWC, the Government of Benin has not attended the Session; hence consideration of its report has been deferred to the upcoming Session in March 2019.

ITEM 20: CONSIDERATION OF STATE PARTY REPORT: NIGERIA REPORT

83. Despite the invitation from the ACERWC, the Government of Nigeria has not attended the Session; hence consideration of its report has been deferred to the upcoming Session in March 2019.

ITEM 21: CONSIDERATION OF PENDING COMMUNICATIONS (MALAWI, MAURITANIA AND SUDAN)

84. The Committee deliberated on matters related to three Communications. The first Communication is the matter between Institute for Human Rights and Development in Africa (IHRDA) and the Government of Malawi. The Communication is set to be settled amicably as per the agreement between the Parties which was concluded in 2016. In terms of the agreement reached, the Government of Malawi committed itself to align all its laws, including the Constitution, with the provisions of the African Children's Charter before December 2018. With regard to this Communication, the Committee specifically considered the request of the Respondent State, Malawi, to extend the deadline which was originally set on December 2018 to December 2019. Deliberating on the request, the Committee recognised, with appreciation, the fact that the Government has made some progress in implementing the terms of the amicable settlement; hence provisionally

approved move the deadline of harmonisation of laws from December 2018 to December 2019- pending consultation of the proposal with the Applicant in the matter.

85. Secondly, the Secretariat briefed the Committee regarding the new Communication registered against the Sudan, which was submitted by six civil society organisations regarding alleged violations of children's rights in South Kordofan and Blue Nile Regions. After consultation, the Committee held that, before the case is heard and a decision is made on admissibility, more time should be given to the Government of the Sudan to share its views and the Secretariat should send a reminder to the Government to this effect.

86. Finally, the Committee also deliberated on the request it received from Mauritania regarding its Decision on the matter between Minority Rights Group International et SOS-Esclaves and Mauritania. It was noted that the Government of Mauritania had alleged that the case was inadmissible because local remedies had not been exhausted when the Committee heard the case. However, also noting that the reason for alleged non-exhaustion of local remedies, the Committee held that admissibility cannot be revisited because a decision has already been made.

ITEM 22: PRESENTATION OF DRAFT DATA BASE ON MONITORING OF CONCLUDING OBSERVATIONS AND STATES PARTIES REPORTS

87. The Secretariat presented on the planned activity, that it is planning to implement in collaboration with Plan International, on developing a database on State Party Reports and monitoring implementation of concluding observations. The Secretariat indicated that the platform, which will be installed in the Committee's website. It was mentioned that the objective of the database is to ensure a systematic and sustainable deposit of State Reports, Concluding Observations and Recommendations of the ACERWC. Once finalised, the database will play a crucial role in increasing accessibility of State Party Reports, Concluding Observations and Recommendations, follow up missions reports on Concluding Observations and Recommendations, and other related documents of the ACERWC. It will also ensure user friendly navigation and systematize the data storage system based on thematic areas, time, country and type of report. After the presentation, the Committee deliberated on the contents of the presentation and approved the planned activity.

ITEM 23 : DISCUSSION ON THE PROPOSAL TO INCLUDE DISABILITIES IN THE REPORTING GUIDELINES

88. The Secretariat presented to the Committee on the possible inclusion and consideration of disability rights within reporting Guidelines. After offering the different models of definition of disability, it was proposed that the Committee needs to intensify its efforts to protect the rights of children with disabilities. It was

particularly mentioned that the language of the Charter should be revised in a way that implies the rights of children with disabilities are to be seen too progressively.

89. Members of the Committee agreed with the notion of including disability rights in the reporting guidelines; furthermore, the members also offered some suggestions. The members proposed an amendment of article 13 to be more protective of children with disabilities- which will be proposed to the relevant AU Policy Organs. Additionally, it was also suggested that the Committee should also look at application of the whole Charter in a friendlier way as well as including the rights of children with disabilities as a particular focus in the overall strategy of the Committee.

ITEM 24: CONSIDERATION OF STATE PARTY REPORT: ZAMBIA REPORT

90. The Head of the Delegation, Mr Joe Kapembwa, Permanent Secretary of the Ministry of Youth, Sport and Child Development started his presentation by informing the Committee that the preparation of the State Party report followed a consultative approach where children and other stakeholders were consulted and that children's views are included in the report.

91. The Permanent Secretary informed that the Government has adopted various legislation including the Gender Based Violence Act, Education Act, Persons with Disabilities Act, Anti-Trafficking Act, Gender Equality and Equity act, and the National Child Policy. He also stated that the Government is in the process of adopting a consolidated Child Code which will domesticate the African Children's Charter and the Convention on the Rights of the Child. During the reporting period, the Government, he said, was able to reduce under five and infant mortality significantly. The Government has increased investment in the health sector through installation of modern equipment in hospitals, construction of 38 new district hospitals, employment of 3000 health personnel every year, and construction of accommodation of health personnel in health facilities. In relation to education. Mr Kapembwa underlined that there is an improvement where by 1400 Early Childhood Centres were established including in rural areas. Highlighting some of the challenges, the Permanent Secretary mentioned that there is limited access to education facilities especially in rural areas, long distance to health centres, as well as financial challenges leading to non-implementation of laws and policies.

92. Following the presentation, Members of Committee commended the Government of Zambia for submitting its report, though the reporting time was long overdue, and for the efforts it employed for the protection and promotion of children's rights in Zambia.

93. Members of the Committee then raised questions and concerns in relation to the lack of statistical data in the report; the delay in the adoption of the Child Code; implementation, coordination and monitoring of action plans and policies specifically the National Strategy on Ending Child Marriage; coordination among various

Government organs; the vague definition of the child under the Constitution; the low age for criminal responsibility which is set at 8 years of age; and the age of marriage pertaining to the exception to get married at 16 years of age with parental consent. Clarification was also sought on the implication of the adoption of the Ratification of International Agreements Act on submission of report to the Committee. The Committee further asked the percentage of child beneficiaries of the social cash transfer; data on stateless children; lead poisoning due to mining as well as accountability of the private sector; the existence of child parliaments; and training of the judiciary and police. With regards to birth registration and nationality, the Committee expressed its concern on the very low birth registration rate which stands below 20% and raised question on measures undertaken to decentralize and operationalize birth registration services in all districts; on the issue of limited granting of nationality to children below the age of 8 whose nationality or parents are unknown. Furthermore, the Committee noted with concern that Zambia's investment in education is low at 1.1% and that gender disparity has increased in secondary education. Pertaining to issues of health, the Committee raised issues in relation to under five mortality, as well as adolescent mortality due to teenage pregnancy, unsafe abortion, and HIV. On special measures of protection, the Committee flagged concerns on the prevalence of child labour which affects 1.3 million children; high rate of gender based violence and sexual abuse of children; abuse and torture of children including corporal punishment; legal aid for children in contact with the law; services provided for refugee children; availability of child friendly courts in all districts; rehabilitation service for children in conflict with the law; protection of children whose parents have been convicted on non-petty offence; situation of children on the street; harmful practices such as FGM and sexual cleansing; and child trafficking.

94. In response to the issues raised by the Committee, the Delegation acknowledged the lack of data on the report and pledged to include data in its periodic report. Being mindful that the adoption of the Child Code is taking long time, it was indicated that it will be submitted to Parliament in June 2019. The Delegation further informed that it is undertaking reform of various Acts to harmonize them with the Charter. In addition, it was underlined that the Government also notes the ambiguity in the definition of the child in the Constitution and hence the Constitutional Review Commission has been requested to look at the matter. In explaining the meaning of the Ratification of International Treaties Act on reporting, the Delegation highlighted that the Ministry of Youth, Sport and Child Development is now tasked with coordinating the preparation of the report to the Committee and consulting all concerned government organs and stakeholders. The Delegation reported that coordination child rights efforts among various sectors is undertaken by the National Coordination Committee for Children.

95. With regards to abuse and torture, the Delegation underscored that in addition to the legal prohibition of corporal punishment in schools and detention facilities,

there is a land mark decision by the High Court which bans corporal punishment in other settings as well. It was shared that judiciary and police are given training on child rights; one stop centers have been established and child protection and victim's unit are made available throughout the country. Victims of gender based violence and trafficking are provided with shelter, rehabilitation, reintegration, and repatriation as well as reintegration in regular schools or skills training. Additionally, victims of child marriage are provided with bursary. Government carried out survey on child marriage in 2014 and noted that the practice has reduced from 42 to 31%. In addition, the Delegation alluded that Government is strengthening the coordination and monitoring mechanisms of its strategy on child marriage through the district child protection committees.

96. In relation to birth registration and nationality, the Delegation mentioned that Government has planned to fully decentralize the service by 2020 and is undertaking sensitization. The Delegation further informed that it accepts the concern of the Committee on the issue of giving nationality to children only below age of 8 whose nationality and parents are unknown and will consult on the same. While noting lack of data on stateless children, the Delegation highlighted that it will gather information through the joint committees that deal with inter-country issues.

97. The Delegation underlined that the 41% of the beneficiaries of social cash transfer programs are children including child headed families.

98. On the issue of lead poisoning, the Delegation noted that the Government facilitated a study and one of the recommendation of the study was the setting up of an authority to make private sector accountable and accordingly the Zambia Environmental Management Agency has been established. It was also mentioned that there are instances where companies have been warned and suspended and that Government has acted on the relocation of families in poisoned areas.

99. The Delegation also stated that there is no child parliament in Zambia, but children are consulted through various platforms including children's summit.

100. Addressing the issues raised on juvenile justice, the Delegation highlighted that there are diversion programs; rehabilitation, training and reintegration services; free legal aid series; and 3 centers to cater for children in conflict with the law. The Delegation further informed that there is a proposal to raise the age of criminal responsibility to 12 years.

101. To address child labour, the Delegation stated, the Government has adopted the Child Labour Policy; established child labour committees; undertaken sensitization, and withdrawn children from Child labour and placed them in schools. Concerning children on the Street, the Government has identified push and pull factors and has embarked on identification, rehabilitation and reintegration of children on the street.

102. Finally, the Delegation of Zambia reiterated the Government's commitment for the protection and promotion of child rights and further assured that it will submit its periodic report on time and consider the recommendations of the Committee.

103. The session was concluded after the Committee thanked the Delegation and informed that it will communicate its concluding observations and recommendations, and will undertake a follow-up mission to examine the implementation of its recommendations in two years.

ITEM 25: BRIEFINGS ON THE JOINT MONITORING FRAMEWORK ON IMPLEMENTATION OF DECISIONS

104. The Committee was briefed about the ongoing process of formulating a joint monitoring framework on the implementation of Decisions of the ACERWC, the African Commission on Human and Peoples' Rights, and the African Court. It was mentioned that a study was carried out in order to investigate the cause of non-compliance with the decisions of human rights bodies. The findings revealed that all systems face this challenge- including the European Union, Inter-American Commission, the African Union and sub-regional bodies. The study identifies three follow-up mechanisms, namely, the European method which relies on political organs, the Inter-American method whereby the human rights bodies themselves carry out follow-ups and the ECOWAS method which employ sanctions where there is non-compliance. With regard to the African system, the study suggests for a harmonised approach to be established to monitor implementation of decisions of the three Organs of the Union. It was noted that there was a proposed date for validation of the report this past October; however, due to lack of funds, it was proposed to be moved to the 5th of February 2019.

ITEM 26: PRESENTATION ON THE COMMUNICATION/ LITIGATION WORKSHOP AND RETREAT

105. The Secretariat of the ACERWC presented the proposed activities around the litigation workshop and the retreat of the Committee which will be held in December 2018. Accordingly, it was mentioned that the litigation workshop aimed at enhancing the ACERWC and its Secretariat's capacity and knowledge in recent development and trends of international standards on litigation and jurisprudence related to Child Rights matters; synthesizing the Committee and Secretariat about child rights jurisprudence from different regions and from other treaty bodies; identifying monitoring mechanism and good practices that can be translated into practice for the ACERWC while taking and following up on decisions, and identifying more platforms/ networks and how to raise awareness about the ACERWC and the communication mechanism. It was also mentioned that the retreat will create a platform for the Committee and the Secretariat to discuss various outstanding issues

such as operationalization of Special Mechanisms, revision of working documents and elements of the upcoming strategic plan of the Committee. Proposals were also made for the Committee, through the EU funds, to hire a consultant who will be facilitating the litigation workshop.

ITEM 27: GUIDELINES TO GRANT AFFILIATED STATUS TO NHRIs

106. It was indicated that, the Committee discussed this issue at length in Mali; however, then the Committee resolved that it is in support of the initiative, but changes would have to be made to the document, under the guidance of the assigned Member of the ACERWC. Having discussed the matter, the Committee suggested to convene on the issue once all members have seen the changes.

ITEM 28: THE AFRICAN REPORT ON CHILD WELLBEING 2018: PROGRESS IN THE CHILD-FRIENDLINESS OF AFRICAN GOVERNMENTS

107. Mr. Yehualashet Mekonen, representative of the African Child Policy Forum (ACPF), briefed the Committee on the 2018 African Report on Child Wellbeing, that ACPF has just released. He stated that the report is a policy advocacy tool that provides an independent African voice for state accountability in child protection.

108. The report indicates significant progresses and lingering challenges in the child protection systems in Africa. Among the progresses measured, a significant one is the decline in child mortality, infant Mortality rate dropped by half in the last 15 years. There is also increased access to healthcare, education and other basic services. Furthermore, it was noted that child poverty has been continuously declining even though it is still widespread.

109. On the contrary, one of the main predictions, resulting from the findings of the report is that African's human capital might be in crisis in the coming years; this is due to under nutrition of children and poor quality of education. It was noted that a third of Africa's children are not adequately nourished, this is limiting their cognitive development and their potential. Stunting level is unacceptably high at 30.4%. The study also uncovered a worrying data that only 9% of children in Africa receive minimum acceptable diet. The other element of the challenge is quality of education, the report indicates that children are going to school but they are not learning. Furthermore, pre-primary education is not adequately available.

110. While some positive efforts are witnessed with regard to harmonization of laws, there are still significant gaps in harmonization and implementation. According to report, one indication is that several countries did not comply with minimum age of criminal responsibilities. Moreover, Mr Yehualashet mentioned that the report identified challenges related to birth registration, child marriage, and low level of

budgetary commitment to child rights issues. Furthermore, the report shows that the least child-friendly countries are concentrated in central Africa region, signalling the need for stronger intervention.

111. Finally, it was noted that six priority areas for action have been identified by the report; Combat child under-nutrition, enhance the quality of education at all levels, support and empower child protection systems, underpin economic growth with human development, ensure that every child matters and put children at the heart of the budget.

112. Following the presentation, the Committee congratulated the African Child Policy Forum for the report, indicated that it is very informative, and can be used as an advocacy tool for various stakeholders. The Committee further recommended the translation of the report into various languages and engagement with Governments, RECSs and CSOs for its popularization.

ITEM 29: PRESENTATION BY THE AFRICAN MOVEMENT FOR CHILDREN AND YOUNG WORKERS

113. Mr. Boyou James Suru and Ms. Sjouwerafou Arouna, representatives of the African Movement for Children and Young Workers, briefed the Committee about the African Children's Forum, which was held in September 2018 in Niamey, Niger. The presenters noted that the Movement that organized the Children's Forum operates in 27 African countries and has over 1 million members who are within the children and youth age group. The Forum was initiated by children who felt that the various programs and initiatives directed towards child protection were not having an impact in their lives. Hence, it was aimed at discussing issues around implementation of programs designated for children. It was noted that over 300 children participated in the Forum, 56% were girls while the remaining 44% were boys. The children who took part in the Forum come from diverse backgrounds including, children from the street, vendors, unaccompanied migrant children and the likes, from the age group of 11-17 years.

114. The discussions in the Forum highlighted the major concerns of children and their calls to various stakeholders in the child protection system. Among other things, the children spoke in one voice to denounce wars and political crisis, poverty and corruption and called up on African states to ensure the climate of peace and put in place protection, prevention and response mechanisms for situations of abuse and violence. They further stressed that they should participate in development areas and all matters affecting them. Moreover, they deplore that despite all the actions and initiatives, they are subjects of violence, early marriage, child begging and other harmful practices.

115. The outcome of the forum was a declaration by the Children in a form of a call to various stakeholders in the child protection system. The children called up on authorities to effectively protect children without discrimination, respect fundamental rights with full participation of children, enact laws addressing the challenges of children in conflict with the law, effectively implement existing child right laws, effectively address the situation of children on the street and provide vocational education to children in correctional centers. The children called upon community actors to work towards awareness creation regarding the rights of children and to break taboos disabling children from participating in community life. Furthermore, the children called up on stakeholders in the development and humanitarian sector to enhance response mechanisms for children in humanitarian crisis.

116. Following the presentation, Members of the Committee expressed appreciation for the Movement for providing a platform for children to express their view on critical issues that affect them. Furthermore, Committee Members noted the concerns raised by the children and encouraged the Movement to popularize the Charter and continue their engagement with the Committee.

ITEM 30: MISSION REPORTS

117. **Mission to Madagascar:** Hon. Joseph Ndayisenga, who led the follow up mission on implementation of the concluding observations and recommendations which was sent to Madagascar following the presentation of the State Party report in 2016, made a presentation on the outcome of the mission. He indicated that the Mission was held on 10 – 14 September 2018. He indicated that the mission was carried out in close collaboration with, the Department of Justice, national human rights commission, civil society organisations and independent lawyers. During the Mission, he stated that consultations were made with government officials and partners, and field visits were also conducted.

118. The delegation notes that Madagascar still has faces challenges on areas related to sexual tourism, access to clean water, birth registration and early child pregnancy. It was also noted that there is a lack of coordination between all of the bodies which safeguard the rights of the child. Furthermore, mostly attributable to the recent cabinet reshuffle, there was lack of knowledge within the Executive about the recommendations of the Committee. Thus, Hon. Ndayisenga advised that the recommendations should be (further) shared with all relevant stakeholders.

119. **Mission to Ethiopia:** The follow up mission to Ethiopia on implementation of the concluding observation and recommendations following the presentation of the state party report in 2015, was led by Hon. Gaver. The mission was carried out on 16 – 17 October 2018. Hon. Gaver mentioned that on the first day of the mission, the Delegation met with the Ministries of Women and Children Affairs, Social Affairs and

Justice as well as partners such as UNICEF Plan International and Save the Children; where achievements and future work plans were discussed. On the second day, workshops were held with partners, the government and UN agencies.

120. It was mentioned that Ethiopia exhibited some notable positive changes including, the increase in access to education, the drop in the number of child marriages as well as the establishment of the Children's Legal Protection Centre and increase in number of child-friendly courtrooms around the country. Added to this, the recommendations given by the Committee have been translated to Amharic and shared with different Ministries. However, Hon. Gaver noted that this effort should also extend to other stakeholders too. Also, worth noting is the Government's legal reforms which include the consideration to include diversion in the Criminal Code as well as the current talks about repealing the current CSO law as well as enacting a harmonised single law dealing with child rights.

121. While there were a number of positive changes noted, some challenges were also identified. It was noted that the amount of budget set aside for child rights issues is still insufficient to make a tangible change. Furthermore, there is still a lack of coordination between the stakeholders and their efforts in the field of children's rights. The ongoing conflict and drought have also increased the number of internally displaced persons, child marriage is also still an issue and the dropout rates for girls are still staggering. Furthermore, issues of low birth registration, children in street situation, low level of quality education and high rates of child labour and trafficking are also alarming. Finally, the detention of children with adults and age of criminal responsibility set at nine years were also a cause for concern. The Committee hopes that these issues will also be tabled and resolved.

ITEM 32: DECISIONS OF THE COMMITTEE

122. **Observer status applications:** The Committee has considered applications for observer status and has granted observer status to SOS Esclaves, Amnesty International and Center for Reproductive Rights. An application by Internet Foundation has been granted on the condition that the organization furnishes a valid certificate which confirms that it is registered in an African Country.

123. **Adoption of the DAC 2019 Concept Note:** The Committee decided that the Secretariat submits the revised version of the concept note incorporating the inputs in two weeks-time, the Committee will then consider to adopt the document.

124. **Continental Study on children on the move:** The Committee decided that the Secretariat submits the revised version of the study incorporating the inputs in in a week time, the Committee will then consider to adopt the document.

125. **Application of Amnesty International:** The Committee considered the application submitted by Amnesty International which requested the ACERWC to

publically express concern over the worrying situation of children's rights in Kasai Region of the DRC and carry out a fact-finding mission to the country. After deliberation on the request, the Committee decided to send a letter of urgent appeal to the Government and work towards undertaking a fact-finding mission in the year 2019.

ITEM 31: INTERNAL MATTERS

126. The Committee was informed about the activities around the Campaign to End FGM which was launched in Burkina and it was further indicated that a declaration was adopted on ending FGM called the Ouagadougou Declaration.

127. Members of the Committee who attended the meeting with the Reform Unit update the Committee about their discussions and the decisions pertaining the reform. In this regard, it was mentioned that the other organs have submitted the changes they wish to see in the reform and accordingly, the Committee is invited to submit its suggestions in 10 days. The Secretariat was tasked to work on the reform and share with Committee. Moreover, it was informed that the Reform Unit suggested for th Committee to hold retreat with the PRC.

128. Moreover, the Committee discussed about the tenure of the Special Rapporteur which will end in February 2019 as well as assignment of duties and responsibilities among Members. The Committee decided to deliberate on these issues in detail in the upcoming retreat in December. The Committee requested the Secretariat to prepare a document highlighting the existing duties and responsibilities of all Members of the Committee which will guide the discussion during the retreat.

ITEM 32: ADOPTION OF THE REPORT

129. The report was adopted as amended.

ITEM 33:CLOSING CEREMONY

130. Hon Goitseone Nanikie Nkwe, the Chairperson of the Committee made a closing remark and in her speech informed that the Committee considered two State Party and three CSO reports during the session, and that the findings of the continental study on Mapping Children on the Move was adopted. She recognized that the Committee was able to have presentation from the CSO forum after resolving its previous disputes and she hoped that this engagement is sustained. The Chairperson appreciated that the participation of CSOs particularly in submitting a complementary report and noted that engagement has improved and collaboration of CSOs with State Parties is increasing, yet she noted that the space of CSOs is still restricted and in this regard she called for partners to lobby for space for CSOs at national level. Moreover, Hon Nkwe indicated that the evaluation of the Committee's Strategic Plan is ongoing and that the outcome of the evaluation will be considered for the development of the next strategic plan. She called for the participation and support of Partners in the process of the evaluation and development of the new plan.

131. In concluding her remarks, the Chairperson recognized and appreciated Members of the Committee, the work of the Secretariat, interpreters, and partners. She particularly expressed gratitude for UNICEF, Save the Children, Plan International and ICRC for their contribution to the successful organization of the Session.

132. Finally, the Chairperson declared that the session is officially closed.