

**EXECUTIVE COUNCIL  
Twenty- fifth Ordinary Session  
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Kigali, Rwanda**

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

## **Introduction**

1. The African Committee of Experts on the Rights and Welfare of the Child (ACERWC) was established during the 37th Session of the Assembly of Heads of State and Government held in Lusaka in July 2001 in accordance with Article 32 of the African Charter on the Rights and Welfare of the Child (ACRWC). The Committee is mandated *inter alia*, to promote and protect the rights of the African child pursuant to the provisions of the Charter.
2. Currently, the Committee is composed of members from Ethiopia, Zambia, Burundi, Egypt, Tanzania, Nigeria, Botswana, Cote D'Ivoire, Niger, Togo and Mauritania.
3. Pursuant to its mandate under the Charter, the Committee has undertaken several activities including consideration of State Party reports on the implementation of the Charter, consideration of Communications (individual complaints), investigative missions, adoption of various documents and many other activities as stated in this Report.
4. This Report summarizes the Recommendations and Decisions of the 26<sup>th</sup> and 27<sup>th</sup> Ordinary Sessions of the Committee held on 16 to 19 November, 2015 and 02-06 May 2016 respectively, in Addis Ababa, Ethiopia as well as other activities undertaken within this timeframe.
5. The Report is hereby submitted for consideration by the Executive Council.

### **I. Decisions and Recommendations of the 26th and 27th Ordinary Sessions of the ACERWC**

#### **1. Decisions and Recommendation of the 26<sup>th</sup> Session**

##### **1.1. Consideration of the initial report of the Republic of Congo on the implementation of the African Children's Charter**

6. In accordance with Article 43 of the ACRWC the Committee received and considered the Initial Report of the Government of the Republic of Congo on the implementation of the African Children's Charter. After taking the floor, the delegation of the Republic of Congo gave a briefing on the implementation of the Charter in the State Party. Following the briefing, the Committee Members raised a number of issues for clarification including the low rate of birth registration and the situation of stateless children, participation of children in the celebration of the Day of the African Child (DAC), services available for children with disability, services available for unaccompanied migrant children, banning of corporeal punishment, challenges of children in the oil extraction industries, and the plights of children with albinism. The Committee further sought clarifications on provision

of health services, elimination of child marriage, access to education, prevention of diseases, juvenile justice systems, provision of free medical care for birth and infant care, recruitment of children to military services, internal displacement and services available for children of imprisoned mothers. At the end of the constructive dialogue, the Chairperson of the Committee commended the Government of the Republic of Congo for submitting the Initial Report, and for all the efforts that are being deployed on the ground to implement the African Children's Charter. The Chairperson also indicated that after careful consideration of the facts, the Committee will send its concluding observations and recommendations to the Government of Congo and undertake a mission to follow up the implementation of the recommendations.

## **1.2. Consideration of the initial report of the Republic of Gabon on the implementation of the African Children's Charter**

7. The Committee also received and considered the initial report of the Government of the Republic of Congo on the implementation of the African Children's Charter. After taking the floor, the delegation of the Republic of Gabon gave a briefing on what the Government has been undertaking in implementing the provisions of the African Children's Charter. Following the briefing, the Committee Members raised a number of issues for clarification. These include the level of participation of children in the celebration of the Day of the African Child (DAC), reasons for a reduced amount of budgets allocated for protection and promotions of children's rights, measures taken to end corporal punishment, access to birth registration to all children including children in rural areas, protection of children with albinism and the pigmies. The Committee further sought clarifications on how the Government selects families that need social security support, provision of free medical care for birth and infant care, the effort employed by the Government in raising the minimum age of marriage to 18 years both for boys and girls, and how the Government ensures that children with disabilities have full access to public services. Responding to the questions the Delegation of the Republic of Gabon mentioned that the NHRC is an independent administrative Organ established by a Decree. Hence it is up to the Commission to decide on matters concerning establishing sub-committees. Regarding the difference between the Observatory and the NHRC, it was mentioned that the Observatory is composed of public services in charge of children's rights while the NHRC is an independent body established in accordance with the Paris Principles. At the end of the constructive dialogue, the Chairperson of the Committee commended the Government of the Republic of Gabon for submitting the Initial Report, and for all the efforts that are being deployed on the ground to implement the African Children's Charter. The Chairperson also indicated that after careful consideration of the facts, the Committee will send its concluding observations and recommendations to the Government of Gabon and undertake a mission to follow up the implementation of the recommendations.

### **1.3. Consideration of the initial report of the Kingdom of Lesotho on the implementation of the African Children's Charter**

8. During the 26<sup>th</sup> Ordinary Session, the Committee also received and considered the initial report of the Government the Kingdom of Lesotho on the implementation of the African Children's Charter. After taking the floor, the delegation of the Kingdom of Lesotho gave a briefing on what the Government has been undertaking in implementing the provisions of the African Children's Charter. Following the briefing, the Committee Members raised a number of issues including the efforts employed by the Government in harmonizing the various laws in line with the Charter, access to birth registration, protection from employment that hamper the development of children, access to medical services to all children, the protection accorded to children born out of wedlock, the availability of children's courts in rural areas, the challenges of children with disability, school enrolment and completion rate, and facilities available for children within the juvenile justice system. In addition, the Committee sought clarification on the concerns of children of imprisoned mothers, extraterritorial application of anti-trafficking laws, the challenges in the applications of adoption laws, measures taken to address stunting problems, immunization coverage, protection for orphan and vulnerable children, and protection for children with albinism. At the end of the constructive dialogue, the Chairperson of the Committee commended the Government of the Kingdom of Lesotho for submitting the Initial Report, and for all the efforts that are being deployed on the ground to implement the African Children's Charter. The Chairperson also indicated that after careful consideration of the facts, the Committee will send its concluding observations and recommendations to the Government of Lesotho and undertake a mission to follow up the implementation of the recommendations.

### **1.4. Consideration and adoption of the report on the investigation mission on the situation of children with albinism in Tanzania**

9. In line with the ACERWC's investigation mandate, Under the Same Sun (UTSS), a non-governmental organisation based in Dar es Salaam, Tanzania, approached the Committee calling to investigate the situation of children with albinism hosted in Temporary Holding Shelters (THS) in the Lake Zone of Tanzania. The application was made in accordance article 45 of the African Children's Charter and paragraph 3 (1) (a) of the Guidelines on the Conduct of Investigations by the ACERWC.
10. At its 24<sup>th</sup> Ordinary Session held on 01-06 December 2014 in Addis Ababa, Ethiopia, the Committee considered the application and noted that the request falls within its mandate.

The Committee then decided to undertake an investigative mission to the State Party pursuant to Article 45 of the African Children's Charter. The Mission was undertaken on 10-14 August 2015.

11. From the visit, the Committee noted that in Tanzania there are 32 Holding Centres for children with albinism. Among the Centers, the Committee visited the Center with the largest population of children with albinism which is called the Buhangija Centre. By the time the Committee visited the Center, it was indicated that the Centre accommodates a total of 405 children out of which 301 are children with albinism. The age of the children with albinism varies, with the youngest being two years old. Although the Center serves as a refuge by shielding the children from further attacks, looking at the bleak situation of the children in the Center, the Committee is of the strongest view that Buhangija resembles more of a preventative detention facility than a safe house. From its visit, the delegation notes major challenges and interlinked child rights violations of the children with albinism in Tanzania, particularly of those who are kept in the Buhangija Temporary Holding Center.
12. The delegation noted, with strong concern that, due to very limited resources, teaching and learning materials are in short supply in the Center. Moreover, the delegation witnessed the deteriorating health conditions of the children to the extent that some are developing skin cancer at various stages, mainly due to the lack of sunscreens and basic health facilities. The delegation witnessed that most of the children with albinism in Buhangija Center have visual impairments, fungus, severe wounds on their skin and suffer from complicated health problems accompanied by high fever. It was also indicated that malaria is a major challenge. The situation clearly leaves the children in a situation where their health is severely endangered which could eventually result in a significant number of deaths.
13. The delegation was told that a large number of the children in Buhangija Centre arrived without birth registration documents. It was also noted that some parents simply abandon their children in the Centres, which in turn results in a number of children with no proper documentation and family linkages. There are no guidelines, rules and regulations for the regulation and establishment of the 'temporary' holding centers including Buhangija. Furthermore, there is no clear exit strategy in place to reunite the children back to their families.
14. The delegation realizes that people with albinism in general and children in particular are facing many challenges to enjoy the right to physical safety and the right to life in Tanzania. Regular and structural attacks, often with a view to trade in their body parts, are so rampant that children with albinism are not free to live out their daily lives in their areas of origin. Despite the frequent and grave violations against children with albinism, great concern has been expressed by the delegation that the attacks and killings of

children with albinism end with impunity. The Committee was told that there have been only 5 known convictions out of 139 attacks, including murders, mutilations and kidnappings.

15. The Committee concludes that though the Government of Tanzania established the Temporary Holding Centres with a view of protecting the children with albinism from further attacks and killings, the shelters are no longer temporary and they are not serving the best interest of the children. Stigma and discrimination against children with albinism are structurally embedded, and the marginalization and social exclusion of these children have to be reported as a worrying human rights problem in Tanzania.
16. Taking the findings into consideration, the Committee then provided a set of recommendations on key points primarily to the Government of Tanzania and other stakeholders with a view to producing effective mechanisms to protect the rights of children with albinism in Tanzania. The Committee would like to continue to count on the good will and commitment of the Government of Tanzania, and draw its attention to the following major recommendations:
  - ✓ A plan and strategy has to be in place for the Government to immediately stop institutionalization of children with albinism and instead assist them in reconnecting and reuniting the children in the centres with their parents, or close relatives; an integration plan back to the community should also be in place;
  - ✓ From the conversation it had with authorities, the Committee realizes most of the officials either don't properly understand the depth of the challenges or they live in denial. Therefore, it is the Committee's strongest view that the Government should sensitize its enforcement officials regarding the plight of the children with albinism;
  - ✓ With a view of preventing further complicated health problems, including skin cancer, the Government should come up with a short term plan to enhance the health facilities such as by providing of affordable sunscreen and other sun protective gear to children with albinism;
  - ✓ The Committee encourages the Government of Tanzania to take legislative and administrative measures, including reviewing legislative instruments and policies, and to adopt a comprehensive strategy to eliminate the attacks, killings and discrimination against children with albinism. Particularly, the Witchcraft Act should be amended in order to reflect the current situation on issues of superstitious beliefs;
  - ✓ The Government should ensure the victims' right to justice and redress, and provide medical, psychosocial and legal support to victims of the attacks;

- ✓ The Committee learned that the Government of Tanzania has established a strong Social Action Fund scheme, which the Committee appreciates, hence the Committee recommends for the inclusion of children with albinism as beneficiaries of this scheme; and
- ✓ As part of its long term plans, the Government of Tanzania should also work towards addressing the cross border aspect of the violations in collaboration with neighboring countries to combat the violations and prosecute perpetrators.

## **II. Recommendations and Decisions of the 27<sup>th</sup> Ordinary Session which was held on 02-06 May 2016**

### **2.1. Consideration of the draft Africa's Agenda for Children 2040: Fostering an Africa Fit for Children**

17. Commemorating the 25th anniversary of the adoption of the African Children's Charter, the ACERWC organized an international conference to assess the status of children's rights in the past 25 years. At the Conference, a number of papers, in line with the identified thematic areas were presented. The presentations and discussion mainly focused on the impact of the African Children's Charter on the protection of the rights of children as well as the challenges faced in the implementation of the Charter. Based on the findings and by taking stock looking back and prioritising future action, the ACERWC decided to develop a 25 year Agenda for children's rights in Africa. The Draft Agenda was presented during the 27<sup>th</sup> Ordinary Session. The Agenda aspires for, by 2040, the rights of Africa's children should be firmly protected, with full effect being given to the priorities in this Agenda. The Agenda elaborates on Paragraph 53 of AU-Agenda 2063 and presents measurable goals and priority areas to which the African Union and its Member States commit themselves for the coming 25 years. While implementing the Agenda, Africa will be in a position to nurture and nourish its children. It calls for collective efforts in relation to the priorities set; and enhances collaboration among stakeholders by identifying shared concerns.
18. The Agenda identifies the following being the ten aspirations that we all would like to see happen for all children of Africa:
- ✓ Aspiration 1: The African Children's Charter, as supervised by the African Children's Rights Committee, provides an effective continental framework for advancing children's rights;
  - ✓ Aspiration 2: A child-friendly national legislative, policy and institutional framework are in place in all Member States;
  - ✓ Aspiration 3: Every child's birth – and other vital statistics -- is registered;
  - ✓ Aspiration 4: Every child is born alive and grows up healthy;
  - ✓ Aspiration 5: Every child grows up as well-nourished and with access to the basic necessities of life;
  - ✓ Aspiration 6: Every child benefits fully from quality education;

- ✓ Aspiration 7: Every child is protected against violence, exploitation and abuse;
- ✓ Aspiration 8: A child friendly justice system is in place;
- ✓ Aspiration 9: Every child is free from the impact of armed conflicts; and
- ✓ Aspiration 10: African children's views matter

19. The Agenda currently is at its draft stage and once it is finalized the ACERWC will be presenting the document before the Executive Council for adoption of the Agenda as an African Union document. At this juncture, the Committee would like to kindly draw the attention of the Executive Council to call upon Member States and stakeholders to collaborate and join hands with the ACERWC in the finalizations of the Agenda.

## **2.2. Consideration of the findings of the continental study on the impact of conflicts and crises on children in Africa**

20. Among the activities during the 27<sup>th</sup> Ordinary Sessions was the presentation on the findings of the continental study on the impact of crises and conflicts on children in Africa. With regard to the study, the ACERWC would like to refer to the Decision of the Executive Council which requested the African Union Peace and Security Council (PSC) to take into account the rights of the child in its agenda and cooperate actively with the ACERWC (Decision EX.CL/Dec.712 (XXI)). In view of implementing such Decision, the ACERWC held a joint meeting with the PSC on 18 February 2014 where the Council suggested for the ACERWC to undertake a study which assesses the situation of children in armed conflict and its impact across the Continent. It was based on this suggestion that the ACERWC launched the continental study.

21. The study takes into consideration the fact that recent trends in armed conflict have resulted in new challenges for the protection of children's rights. It concentrates on conflicts and crises across Africa over the last 10 years and the measures by State and non-State actors to protect the rights of children during and in the aftermath of such situations. It addresses psychological impact, education, health and nutrition/food security, separation from parents/caregivers and sexual and gender-based violence. The study builds its analysis on the four cardinal principles of the African Children's Charter namely the best interest of the child; the right to life, survival and development; and respect for the views of the child as evidenced through children's voices.

22. Being the first of its kind at the African Union level, the study draws urgency towards Member States to address the challenges that children are facing in conflict situations and halt recruiting and using children for military purposes. Taking the new challenges into consideration, the study, particularly, urges for a high level commitment from Member States to establish effective and functioning mechanisms to address the impact of conflict and crises on children and provide for the care and protection of children affected by armed conflict. Once the report is finalized, the finding of the study will be submitted to the AU Executive Council, and widely disseminated among stakeholders.

### **2.3. Day of the African Child (DAC)**

23. As it a practice every year, the Committee decided on the theme of the 2017 Day of the African Child to be **'The 2030 Agenda for Sustainable Development for Children in Africa: Accelerating protection, empowerment and equal opportunity'**.

### **III. Other Activities**

#### **3.1. Open Session with the PSC on children and armed conflict**

24. Following the Decision of the Executive Council (Decision EX.CL/Dec.712 (XXI)) where it requested the Peace and Security Council of the African Union to take into account the rights of the child in its agenda, the PSC at its 434th meeting, on 8 May 2014 held an open session, exclusively devoted to the theme: "Children in Armed Conflicts in Africa". One year later, on 19 May 2015, it held its second Open Session jointly with the ACERWC on the same theme. The Peace and Security Council of the African Union has now regularized such sessions dedicated entirely to the protection of children's rights in the context of armed conflict. Accordingly, it held the third Open Session on 10 May 2016. During the Session the ACERWC briefed the Council on the findings of the continental study on the impact of conflict and crises on children in Africa and highlight the particular case of attack on education during armed conflict. The Committee specifically addressed the Council on the following issues:

- ✓ As education is an enabling right, there is a need for peace education in formal curriculum is an urgency;
- ✓ Establishing the best suited accountability mechanisms against perpetrators, particularly peace keepers, who happen to sexually abuse children in a conflict setting;
- ✓ The need to engage and include the ACERWC in Commissions of Inquiries and fact finding missions that the AU establishes and the Committee should be mainstreamed within the AU structures;
- ✓ With a view of addressing the awareness gap, the ACERWC suggested for the PSC to consider working towards a the declaration of a theme for the AU year with a focus on children in the context of armed conflict.

#### **3.2. Meeting with the African Commission on Human and Peoples' Rights (ACHPR) Special Rapporteur on Refugees, Asylum Seekers, Migrants and Internally Displaced Persons**

25. On 05 May 2016, the Chairperson of the Committee had a meeting with Commissioner Maya Sahli Fadel who is the Special Rapporteur on Refugees, Asylum Seekers, Migrants and Internally Displaced Persons at the ACHPR. The purpose of the meeting was to discuss the remaining steps and the way forward towards the adoption of the

draft Protocol on Nationality and Prevention of Statelessness. From the discussion, the Committee notes the potential role of the Protocol in eliminating one of the root causes of conflict and forced displacement on our continent by ensuring that all persons have a nationality and ending arbitrary deprivation of nationality. The Protocol also assists Member States to ensure that every child shall have a nationality from birth and be registered immediately after birth. The Committee therefore is convinced that it is necessary for the Protocol be adopted by the AU Policy Organs.

#### **IV. Challenges of the ACERWC**

26. The ACERWC would like to draw the attention of the Executive Council to the challenges it is facing in undertaking its activities. For the Committee to effectively deliver on its mandate, it requires a strong, well-staffed and competent Secretariat. As the Committee has now receiving and considering more State Party reports and complaints on violations of children's rights, the need for strengthening the Secretariat, in terms human and material resources is very critical. It was in due consideration of the capacity challenges that the ACERWC is facing that the Executive Council made a Decision (Doc.EX.CL/797 (XXIII)), where the Council requested the AUC to undertake an assessment on financing and human resource needed by the Committee with a view to adequately equipping the Committee to discharge its mandates effectively as envisaged in the African Charter.

27. The expanding scope of work and needs is daunting for a group of only 11 part time members with few Secretariat staffs and limited financial resources. The number of State Party and alternative reports and communications submitted has continued to increase at a higher rate than the corresponding capacity needed to manage them. Therefore, the ACERWC would like to bring to the attention of the Executive Council that the Secretariat of the Committee still faces a significant systemic capacity deficit and there is a need further strengthen its capacity.

#### **V. Recommendations**

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

- Seven Member States have not yet ratified the ACRWC, namely: Tunisia, Sao Tome and Principe, Democratic Republic of Congo, Saharawi Arab Democratic Republic, South Sudan, Central African Republic and Somalia. Therefore, the ACERWC would like the Executive Council to urge these countries to expedite the ratification of the Charter;
- To congratulate State Parties which have submitted their reports on the implementation of the African Children's Charter and to urge State Parties which have not yet reported to the Committee to comply with their reporting obligations;

- To urge the Executive Council to call up on the four State Parties, namely Botswana, Egypt, Mauritania and Sudan, that have placed reservations on the implementation of some of the provisions of the ACRWC to withdraw their reservations;
- The ACERWC would like the Executive Council to adopt the theme of the 2017 DAC, which is on **'The 2030 Agenda for Sustainable Development for Children in Africa: Accelerating protection, empowerment and equal opportunity'** as the theme for the Day of the African Child 2017';
- To urge the Government of Tanzania to take immediate measures to protect the children with albinism from further attacks; for the Government to be in compliance with its obligation under the African Children's Charter in protecting the health of children with albinism and to work towards reconnecting and reuniting the children with albinism in the Temporary Holding Centers with their parents or relatives; the Government should also ensure the victims' right to justice and redress.
- To welcome the ongoing continental study on the impact of conflicts and crises on children in Africa.
- To welcome the Africa's Agenda on Children 2040 and work towards the full implementations of the principles included in the Agenda.
- To thank the Special Rapporteur on Ending Child Marriage, Mme Fatema Sebaa, for her great contribution made in the ending child marriage in Africa during her mandate which comes to an end in October 2016 and take note that the African Committee will appoint among its members a new Special Rapporteur to start in November 2016
- To urge Member States to work towards adopting the Draft Protocol to the African Charter on Human and Peoples' Rights on Nationality and Prevention of Statelessness.