

AFRICAN UNION

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

الاتحاد الأفريقي



*"An Africa Fit for
Children"*

UNION AFRICAINE

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

UNIÃO AFRICANA

P. O. Box 3243 Roosevelt Street (Old Airport Area), W21K19, Addis Ababa, Ethiopia

Tel: (+251 1) 551 3522 Fax: (+251 1) 553 5716 Website : www.acerwc.org

**ACERWC'S REPORT ON THE FOLLOW-UP MISSION ON THE IMPLEMENTATION
OF ITS CONCLUDING OBSERVATIONS AND RECOMMENDATIONS ISSUED TO
THE REPUBLIC OF MOZAMBIQUE ON THE INITIAL REPORT OF MOZAMBIQUE**

December 2018

- I. **Purpose of the Mission:** The African Committee of Experts on the Rights and Welfare of the Child (ACERWC) undertook the mission to assess the implementation of its concluding observations and recommendations on the initial report of the Government of Mozambique which was forwarded to the Government in February 2015.
- II. **Objectives of the ACERWC in this Mission:** To undertake constructive dialogue with the Government of Mozambique to learn about the progress achieved, challenges faced, and opportunities that exist in the implementation of its concluding observations and recommendations. The ACERWC also intended to bring stakeholders together to boost collaboration between the Government, UN agencies, CSOs, and other stakeholders. Moreover the Committee intended for enhanced and accelerated implementation of its recommendations
- III. **Expected outcomes/ outputs of the Mission:** To give an opportunity to the Government of Mozambique to appreciate its progress in implementing the recommendations and thereby learn best practices that can be used by the ACERWC in its further engagement with other State Parties. Moreover, the ACERWC aimed at giving an opportunity to the Government to identify its challenges in implementing the recommendations so that the Committee and CSOs know better how to intervene and assist the Government. Finally, the ACERWC expected increased commitment from the Government of Mozambique to implement the recommendations and the Charter as well as to submit its periodic report on time.
- IV. **List of Delegation:** The Delegation of the ACERWC was composed of Hon. Goisteone Nanikie Nkwe, Chairperson of the ACERWC; Hon Marie Christine Bocoum, 1st Vice Chairperson of the ACERWC; Ms Catherine Wanjiru Maina, Senior Social Worker; Ms Adiam Zemenfes Tsighe, Legal Researcher.

V. **Methodology**

- 03 December 2018- Bilateral Meetings with Government and CSOs; and
- 04 December 2018- Workshop on the implementation of the concluding observations and recommendations of the ACERWC and selected thematic areas.

VI. **Mission activities**

The activities of the mission are as follows:

- Consultation between the Delegation of the ACERWC and Representatives from various Ministries of Mozambique led by the National Director of Children in the

Ministry of Gender, Children and Social Actions (MGCSA) in the presence of the Ministry of Education, Ministry of Justice, and Ministry of Interior.

- Meeting with UNICEF in the presence of the Country Representative, Deputy Representative, and Child Protection Specialist;
- Courtesy visit to Save the Children;
- Courtesy visit to World Vision;
- Courtesy visit to the National Human Rights Commission of Mozambique
- Workshop on the implementation of the concluding observations and recommendations of the ACERWC in the presence of the Permanent Secretary of the Ministry of Gender, Children, and Social Action (MGCSA). During the workshop, presentations were made by the Committee on the African Children's Charter and the Committee; as well as the concluding observations and recommendations forwarded in 2015. Presentations were also made on the situation of children in Mozambique by the MGCSA and the Child Rights Network of the Mozambique (RDC). A panel discussion on child marriage took place where UNICEF, ROSC, and World Vision were panelists. Finally, a presentation on child participation was made by Save the Children.

VII. Findings

General measures of implementation

The Committee noted that the budget allocation has increased in the past few years in the country from 200,313.2 in 2014 to 242,285.3 in 2017 mainly in the education sector. However, the Committee observed that the budget increment and spending is not effective especially in local districts. Mismanagement and inefficient use of funds remain to be challenges where there has not been much improvement. This is attested by the fact that the budget increment has not brought significant change on the indicators. Budget has also become very constraint in the State Party.

From an institutional point of view, the Committee noted the establishment of the National Directorate for Children within the Ministry of Gender, Children, and Social Action (MGCSA). The Committee however was informed that there is lack of capacity in Government institutions both at national and sub-national levels. There is knowledge gap in the institutions in terms of what the normative framework provides and its implementation. The capacity of institutions in rural areas is by far lower than that of the urban areas and this has led to an increased inequity in the State Party.

The Regulation for the Law on the Protection and Promotion of Child Rights is still not adopted despite the recommendation of the Committee. During the Mission, the Committee learned that following its recommendations, the Government has tried to move the Regulation forward and it is now on the final stage of consultations. Once adopted, the Regulation will determine the role of all stakeholders which facilitates more coordination and collaboration.

Lack of Inter-Ministerial coordination was brought to the attention of the Committee as a challenge as there are no clear rules on who coordinates, who budgets and how coordination functions. The adoption of the abovementioned Regulation might solve this challenge.

From its visit to the National Human Rights Commission of Mozambique as well as from its discussions, the Committee observed that there is lack of financial and human resource at the Commission. Even though the Commission has commenced a process to create child unit, this has not happened for several years. There are only 6 technical staff at the Commission which makes it difficult for it to execute its mandate. It is only in the past year that the State Party appointed all the Commissioners. And hence, so far the Commission has not been able to work on child rights.

There is lack of updated data that helps to measure progress and challenges. The National Demographic Health Survey that was scheduled for 2018 did not occur and hence there is lack of comprehensive and disaggregated data.

Definition of the child

While the Committee recommended for the revision of the Family Law to harmonize the age of marriage with the Charter, the Committee found that the same has not been done. The Family law has a clause which allows marriage of children by the age of 16 with parental consent. The Committee was informed that there is public consultation being undertaken for the adoption of a new law which outlaws child marriage. But from its conversation with various stakeholders, the adoption of this law alone does not address the challenge as there is an exception to child marriage in the Family law.

General principles

The Committee learned that there is no indicator which suggests that the rate of malnutrition which stood at 43% at the time the concluding observations were sent had dropped down. There is a multi-sectorial plan of action that has been adopted to reduce malnutrition which targets to reduce malnutrition to 35% by 2020. There is also a program for children under 2 years age which is also being used to fight malnutrition which was started in 2016 and runs up to 2024.

There are various platforms for child participation including child parliament at national, province and district level as well as media. However, the Government does not consider the views of children in its decision makings.

Even though the Committee had recommended for the State Party to ban corporal punishment in all settings including at home and in schools, there is no such initiative to ban corporal punishment including in the laws that are at draft stage. Yet, there is high level of corporal punishment which reportedly stands at 40%.

Civil rights and freedoms

The Committee was informed by the Government that birth registration posts have been established in maternity centers. Birth registration for children under five was 55% in 2015 while the rate is higher for children above 5 years age. Between 2014 and 2017, 3,523,343 children were registered.

There is new civil registration law aimed at boosting birth registration and certification but it is not adopted yet. The Government recently started initiative to digitalizing registration system which allows civil registration agents and health workers, and local leaders to digitally notify the vital event and then after the certified birth registration will be issued. The Committee was informed that the digital notification system has been established in more than half of the country. There is also a nationwide awareness raising on birth registration.

The Committee observed that there are some challenges concerning birth registration. Birth registration centers are not accessible in all parts of the Country. The Committee also learned that birth registration is free only in the first 120 days of birth and some families due to culture and naming ceremonies do not register their children within 120 days. The Committee was also informed that sometimes children born out of wedlock face challenges as the mother might be asked to bring the father at the registration time. Such a requirement is a challenge as fathers in rural areas work in farms in South Africa.

Family environment

The Committee noted that institutionalization of children is a last resort by law and priority is given to reunification, adoption and foster care. The Government provides social allowance for families who foster care children who are deprived of a family environment. Social allowance is also provided for child headed families.

Health and welfare

The Committee observed that there is a budget increment for the health sector, however, neonatal mortality, and under five mortality remain to be high. Malaria is the highest killing disease and there are efforts to address this challenge. However, the Committee was informed that intensified effort should be employed toward behavioral change as communities who have mosquito nets may not use them. Moreover, families do not take their children to health centers for treatment when children are affected and instead use traditional methods to cure the malaria.

Education and leisure

During the mission, the Committee noted that there has been an increase of budget allocated to the education sector. However, the Committee was informed that there is inefficient utilization of budget and corruption which is affecting the sector. Particularly, low pay or no pay of teachers in government schools induces corruption and absenteeism of teachers.

Moreover, the Committee observed that one out of 2 children who enroll in primary education do not complete and even those who progress do not get quality education and hence have poor performance. There are still a large number of children who are out of schools.

Sexual exploitation of students by teachers had been noted as a challenge previously and in this regard, the Government informed the Committee that there is now a legal instruments to punish teachers who abuse children and the Ministry of Education supervises schools. It was informed that 6 teachers who abused students have been expelled since the reporting time. However, the Committee was informed that there is still impunity of teachers in this regard.

In its concluding observations, the Committee noted that the rate of public preschool education is very low and during the mission the Committee learnt that the rate has not improved. One of the reasons indicated by the Government is that preschool education is under another sector. However, there is a draft law which attempts to integrate preprimary education into primary education.

In terms of access to education, the Committee was informed that birth registration is required to enroll in schools and that is why the rate of birth registration after 5 years of age increases significantly. However, the Government contested that lack of birth registration is not a ground to reject enrollment of children in schools. The Committee also noted that there is urban-rural disparity in terms of access to secondary education and secondary schools are available only in district capitals.

Furthermore, the Committee observed that there is strategy for inclusive education adopted by the Ministry of Education which commences in 2019. New schools built can accommodate children with disabilities. During the reporting time, 117000 children with disabilities have been reintegrated in main schools. In addition there are three special schools which accommodate 700 children with disabilities annually. The Committee was further informed that 3045 teachers have been trained with sign languages. The Government has introduced social protection programs for children with disabilities. In spite of these efforts, there are challenges in realizing inclusive education such as lack of materials; lack of skilled teachers; and stigma.

The Committee noted with concern Decree no 39 which prohibits pregnant girls from enrolling in day schools. Pregnant girls are only allowed to go to night schools.

Special measures of protection

There is a national strategy on child marriage and the Government of Mozambique has launched the AU Campaign to End Child Marriage. There is also a political will to change the minimum age of marriage, however the process has been prolonged. There are two options that are being discussed: either to follow the SADC model law and adopt specific law on child marriage or review of the existing laws. Based on the actions identified by the national strategy, assistance is being provided to poor families through

social welfare program. There is a new law that is being developed to outlaw child marriage but it is not still adopted. The Committee was informed that power imbalance and cultural identity are still causes of child marriage which need to be addressed in addition to the legal reforms. The Committee also observed with concern that there is no update date to measure the prevalence of child marriage and Government and all stakeholders rely on the data from 2011.

Based on its interaction with both the Government and other stakeholders, the Committee noted that cases of abuse of children has increased between the reporting periods. For instance, 2535 cases of abuse were reported to the Court in 2017 while 2734 cases have been reported between January and June 2018.

The Government has established 309 centers for victims of violence where it provides support for victims. The Committee was informed that there is an integrated care mechanism whereby victims receive legal aid, medical aid and psychosocial support at one spot. There is also an initiative to integrate the victims' support unit in the Ministry of Home Affairs so that it gets budget allocation. Challenges in relation to child protection include lack of child friendly service in the victims' unit as well as in courts; and lack of nexus between non-statutory and statutory services. The Committee was also informed that, in general terms, the child protection system is weak due to lack of workable administrative and survey data on violence against children. There is an initiative by the MGCSA to undertake survey on violence against, nonetheless, such survey will not address the lack of administrative data.

With regards to child labour, the Committee learnt that the Government of Mozambique has developed a multi-sectorial national plan against child labour (2017-2022) and introduced list of works which are worst forms of child labour and hence prohibited in December 2017. The Government also undertakes sensitization of communities, provides social assistance to parents, and gives direct support to elders taking care of the family, and child headed families. A Productive Social Action (PASP) has also been set up to integrate children in public services. The Committee noted that there is lack of supervision and inspection of child labour, especially in the informal sector. It was observed that poverty is the main cause which leads to child labour.

The Committee observed that there is concerted effort in fighting child trafficking. There is an inter-sectorial group organized by the Attorney General to prevent child trafficking which consists representatives from various governmental and non-governmental stakeholders. The role of the inter-sectorial group is to identify children at risk of trafficking and also support victims through cross border coordination. The victims' units also accommodate victims of child trafficking. The group has increased its mandate to include other violence against children.

In its concluding observations and recommendations, the Committee had noted that there is a practice of killings of children with albinism for ritual purposes. During the mission, the Committee was informed by the Government that the number of killing has

significantly reduced due to extensive sensitization undertaken. While there were 52 cases of killings of children with albinism between 2014 and 2015, the number reduced to 6 on 2016 and 2017.

Concerning the justice system, the Committee was informed that there is still only one child court in Maputo and the number has not increased despite the recommendations. However, the Committee was informed that specialized sections have been established in 5 provinces and judges and prosecutors were trained on children's rights. As there is financial constraint in the State Party, it was not possible to establish children's courts in all provinces.

VIII. Actions points

Considering the abovementioned findings, the Committee recommends that the State Party undertakes the following measures:

- a. Conduct monitoring and evaluation of the implementation of its laws, policies and programs to identify progress and challenges and to inform further planning and interventions;
- b. Conduct the planned Demographic Health Survey so that the State Party has disaggregated and systematic data on issues affecting and concerning children;
- c. Build the capacity of its institutions to ensure effective implementation of laws and policies;
- d. Avail the necessary financial and human resource to the National Human Rights Commission;
- e. Create systems of accountability and effective management of funds in various government organs both at national and sub-national level;
- f. Undertake urgent revision of the Family Code to outlaw any form of child marriage and remove the exception of child marriage with parental consent;
- g. Lift the fine on late birth registration and ensure that birth certificates are issued to those who have registered as birth certificate is a requirement to enroll in schools;
- h. Ban corporal punishment in all settings and train teachers and parents about positive disciplining methods;
- i. Undertake concrete measures to fight malnutrition by sensitizing communities about how to provide nutritious food for their infants with their available resource, and provide nutrition support to economically disadvantaged families;
- j. Sensitize communities about accessing health care services as well as strive towards behavioral change of communities in utilizing preventive equipment/medications and treatments;
- k. Amend Decree No 39/2003 which prohibits pregnant girls from enrolling in day schools and ensure that pregnant girls who wish to enroll in day schools do so as well as ensure that children do not face violence in schools;
- l. work towards the introduction of school feeding program as a strategy for retention of children in schools and make secondary schools more accessible; and
- m. Fight violence against children by adopting legislation and undertaking other measures such as sensitization and prosecution of perpetrators of any kind of violence.