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**15<sup>TH</sup> SESSION OF THE AFRICAN COMMITTEE  
OF EXPERTS ON THE RIGHTS  
AND WELFARE OF THE CHILD  
15-19 MARCH 2010  
ADDIS ABABA, ETHIOPIA**

**ACERWC/ Rpt. (XV)**

**REPORT**

## **I. INTRODUCTION**

1. The 15<sup>th</sup> Meeting of the African Committee of Experts on the Rights and Welfare of the Child (ACERWC) was held at the AU Conference Centre, Addis Ababa, Ethiopia, from 15 to 19 March 2010. Its main objective was to share experiences on the promotion of child rights in Africa, consider State Party Reports and agree on recommendations for more effective action to improve the welfare of children.

## **II. ATTENDANCE**

2. The meeting was attended by ten Committee Members, Representatives of the Ministry of Gender, Government of Uganda, Ministry of Internal Affairs, Kampala, Ministry of Justice & Constitutional Affairs-Kampala, Uganda, Child Rights NGO Network (UCRNN), National Council For Children-Kampala, ANPPCAN Uganda, Embassy of South Africa, UNICEF Liaison Office to the AU & UNECA, WHO at AU & ECA, UNOHCHR, Save the Children Alliance, Save the Children Sweden, Centre for Conflict Resolution, The African Child Policy Forum, Mouvement Africain des Enfants et Jeunes Travailleurs (MAEJT) World Vision International, Coalition Nationale des Associations et ONG en faveur de l'Enfant (CONAFE-SN) International Committee of the Red Cross (ICRC) to AU Delegation, IHRDA, Child Protection Alliance I.H.R.D.C., Inter-African Committee on Traditional Practices (IAC), Abiem Community Development Foundation (ACDF) South Sudan, CRIN-UK, NGO Group for the CRC, FODDET, CONAFE-Niger, Forum des ONG de Côte d'Ivoire, Community Law Centre, The Pan-African Parliament and the AU Commission.

### **ITEM 1: OPENING CEREMONY**

3. The Opening Ceremony was chaired by H.E. Adv. Bience Gawanas, Commissioner for Social Affairs, African Union Commission.

#### **(a) Opening Remarks by H.E. Adv. Bience Gawanas, Commissioner for Social Affairs, AU Commission:**

4. The Commissioner for Social Affairs welcomed all the participants and thanked them for finding time to participate in the 15<sup>th</sup> Session of the African Committee of the Experts on the Rights and the Welfare of Child. In her speech, she noted the good work performed by the Committee in carrying out its mandate as well as the significant progress made during the last Session.

5. The Commissioner commented on some agenda items, namely the special discussion on '*Violence against Children*' and the collaboration with the UN Committee on the Rights of the Child. She also mentioned the launch of the AU Campaign for Accelerated Reduction of Maternal Mortality in Africa (CARMMA).

6. In conclusion the Commissioner cited a number of activities related to the promotion of children rights that were currently undertaken by the Department of

Social Affairs and congratulated the outgoing committee members for their valuable contribution to the success of the activities of the Committee.

**(b) Statement by Ms. Diakhaté Seynabou, Chairperson of the Committee:**

7. For her part, the Chairperson of the Committee, on her own behalf and on behalf of Committee Members, thanked the African Union Commission for organizing the session and also the partners for honouring the invitation despite their numerous commitments.

8. She said a working session would be held between the African Committee and the United Nations Committee on the Rights of the Child. She noted that consideration of reports submitted by States parties should not be made to seem as if the States were being put on trial, but should be a framework for frank and fruitful exchanges for better implementation of the Charter. She further said she hoped that the recommendations and observations addressed to the States would be taken into account by Governments.

9. In the face of the numerous challenges to be addressed, the Chairperson expressed dismay that for the current year the African Union had scheduled only one session for the Committee, whereas the instruments governing the Committee provided for two sessions per year. She seeks the Commissioner's assistance for the organization of an extraordinary session.

10. The Chairperson presented a balance sheet of the Committee's activities for the past five years - which she said was impressive despite the many challenges - before congratulating and thanking the outgoing members and urge other Committee's Members to continue efforts to perfect the committee work.

**ITEM 2: CONSULTATION AMONG COMMITTEE MEMBERS**

11. Committee Members considered the draft agenda and work programme. After an extensive discussion of the agenda item relating to the election the bureau, Committee Members decided to postpone that election until the arrival of the new members. The current Chairperson, Ms. Diakhaté Seynabou, would remain in office up to the end of her term (as bureau member) at the end of May 2010. The current Vice-Chairperson, Ms. Kaboré Agnès, was designated Acting Chairperson, while Messrs. Andry Rasamoely and Cyprien Yanclo, respectively Vice-Chairperson and Rapporteur would keep their post until the election of a new bureau.

12. The Commissioner promised to see if the Department could organize an extraordinary session of the Committee before the end of the year to enable the members to elect a new bureau.

13. It was also decided that the item relating to consideration of Rwanda's report would be removed from the agenda given that the delegation of that country had not confirmed its participation.

**ITEM 3: PROCEDURAL MATTERS**

**(a) Adoption of the Agenda and the Programme of Work**

14. The agenda and the programme of the work were adopted as amended.

**(b) Organization of Work:**

15. The Committee agreed to conduct its deliberations in open and closed sessions according to the agenda.

**ITEM 4: BRIEF PRESENTATIONS BY PARTNERS**

16. The Chairperson of the ACERWC invited representatives of the partners involved in the promotion of the Rights and Welfare of the Child at national and regional levels to make brief presentations.

17. The Representative of **Pan African Parliament** stressed that PAP was keen to have working relations with the Committee and noted that her participation would help establish meaningful partnership between the Committee of Experts on Rights and Welfare of the Child with PAP.

18. The **Hon. Minister of State for Gender and Children's Affairs of Republic of Uganda** appreciated and recognised the work of the ACERWC on the continent and said she looked forward to sharing experiences at the meeting and engaging with the Organisations present.

19. The Representative of **UNICEF** stressed the importance of strengthening the capacity of the ACERWC and indicated that UNICEF regional and country offices had been consistently consulted on the status of the ratification of the Charter.

20. She also made reference to plans for marking the upcoming Day of the African Child in June organized by the AU in collaboration with the UNICEF Liaison Office.

21. The Representative of **Save the Children Alliance** mentioned that Save the Children had launched a 5-year campaign in 2009 – EVERY ONE Campaign focusing on New Born and Child Survival. He invited the Committee to submit a concrete statement on the right to health of African Children, and their mothers.

22. He further said that the Committee could use this year of Peace and Security to highlight the rights and plight of African Children as a priority area for engagement with the AU Peace and Security Department, especially children in conflict and emergency situations, as well as the challenge of child soldiers.

23. The Representative of **the African Child Policy Forum (ACPF)** informed the meeting of the ACPF's 2<sup>nd</sup> report on Child well-being in Africa dealing specifically

with the issue of child budgeting in line with the Committee's theme for the Day of the African Child in 2010. The ACPF also mentioned their upcoming international policy conference in 2010 to discuss the key recommendations of the Report and their completed publications for 2010.

24. The Representative of **Centre for Conflict Resolution (CCR)** talked about the work that CCR had been doing in the field of conflict resolution. She also stated that the Centre had been involved as various actors notably in the ACERWC Members training, seminars on conflict and governance AU and RECs. She added that CCR promoted Peace and Development as key themes and provided training for teachers in mediation of conflicts at schools.

25. The Representative of **Institute for Human Rights and Development (IHRD)** explained that his organisation offered technical assistance to the ACERWC by developing guidelines for helping the Committee to execute its mandate.

26. The Representative of **CONAFE-West Africa** urged that UNICEF and Plan International to offer more support to West African CSOs for promoting the Charter on the Rights and Welfare of the Child.

27. The Representative of **World Vision** explained that the World Vision had been taking initiative in a Global Child Health campaign with Save the Children focusing on supporting the grassroots and community health centres. She added that child protection and participation were also vital in their programmes.

28. The Representative of **Community Law Centre- University of Western Cape** indicated that the Centre was a research, advocacy and teaching organisation. He further mentioned some of the publications by the Centre such as the 'Coming of Age of the Charter' after 18 years and the 'Law Reform' guide.

29. The Representative of **South Sudan NGO** explained what the NGO had been doing in areas of support to women and youth at the grassroots level, as well as in the prevention of child labour, as well as the rehabilitation and reintegration of child soldiers. He urged the ACERWC to further engage CSOs in promoting children's rights.

30. The Representative of **African Movement of Working Child and Youth**, existing in 22 countries, stressed that experience-sharing on children's rights between CSOs African Governments, UN Agencies and other partners was very important.

31. The Representative of **Uganda Child Rights NGO Network** emphasised that working with CSOs was crucial and pointed out that the ACERWC should advise Member States to work more closely with CSOs because there could be better synergy between the work of the government and that of CSOs.

**ITEM 5: PRESENTATION OF THE NGO FORUM RECOMMENDATIONS TO THE ACERWC**

32. The Deputy Director of the Institute for Human Rights and Development in Africa, Representative of Civil Society forum, recognised the unique and privileged position of the child in African Society. Furthermore, she commended the AU for selecting maternal, infant and child health and development as the theme of the 16<sup>th</sup> African Heads of State and Government Summit Meeting scheduled for July 2010 and declaring 2010 as the Year of Peace and Security in Africa.

33. The following recommendations were made to the African Committee of Experts on the Rights and Welfare of the Child:

- (i) Stakeholders should use all available channels and means to ensure an effective implementation and monitoring of the African Children's Charter;
- (ii) Fix the dates and venue of its Ordinary Sessions at least one month in and hold two Ordinary Sessions a year;
- (iii) The Committee was encouraged to reinvigorate the issue of violence against children by commissioning a continent wide study, and further, work with the United Nations Special Rapporteur on Violence Against Children;
- (iv) Use all available channels and means to ensure that the African Children's Charter is ratified by all AU Member States and motivate more States to prepare and submit reports;
- (v) Communication guidelines should be amended to include a timeframe of six weeks for the Committee to acknowledge receipt of a communication, and to make decisions on admissibility and merits of the communication within a reasonable time to ensure that victims are not left without redress;
- (vi) Children should be involved in selecting the Theme of the Day of the African Child, in order to ensure their participation;
- (vii) There should be advocacy for State parties to allocate 15% of their GDP to public health and related services, to prioritise maternal, infant and child health in their national laws, policies and programmes and to continue to build on the momentum to achieve MDG 4 and 5.

**ITEM 6: PRESENTATION AND CONSIDERATION OF THE DRAFT REPORT ON THE EVALUATION OF THE ACERWC**

34. The Consultant presented the Committee's draft evaluation report to Members who appreciated the quality of the work done and, during a lengthy discussion, enriched the document with several comments and recommendations.

**ITEM 7: PRESENTATION AND CONSIDERATION OF THE DRAFT STRATEGIC PLAN OF THE ACERWC FOR 2010-2014**

35. The Consultant also presented the Committee's draft Strategic Plan for 2010-2014. The Committee Members, after careful consideration, made comments and recommendations to be incorporated in the document. At the end of the discussions, the Committee adopted the draft Strategic Plan to be submitted to the Department of Social Affairs for validation.

**ITEM 8: SPECIAL SESSION ON VIOLENCE AGAINST CHILDREN:**

- **Statement “*violence against children: Report on progress and challenges*” by Dr Martha Santos Pais, Special Representative of the UN Secretary-General, on violence against children**

36. The Report statement was presented by the Representative of UNICEF Liaison Office to the AUC on behalf of the UN SRSG who was unable to attend due to other commitments.

37. The UNSRSG mentioned that the Committee's debate was a golden opportunity to lay down a strategic agenda for achieving progress in preventing and combating violence against children within the African region.

38. She further mentioned that the UNSRSG mandate was framed by the UN study on Violence against Children and its strategic recommendations.

39. The UNSRSG mentioned the following as their priority focus areas:

- Promoting a Strategic Agenda derived from twelve overarching recommendations of the UN Study on Violence
  - The development in each state of a national comprehensive strategy to prevent and respond to all forms of violence,
  - Consolidating Strategic Partnership with certain identified alliances in favour of the protection of children from all forms of violence.

40. Concerning cooperating with key partners, she mentioned the following:

- Cooperation with intergovernmental and regional organisation and institutions.
- Cooperation with UN and regional human rights treaty bodies and mechanisms as well as with civil society organisations

41. In conclusion, the UNSRSG suggested in the message strategic ways for promoting the Committee's work, namely:

- Development of a strategic agenda of collaboration with the ACERWC to help consolidate an African environment fit for children where violence has no place;

- ACERWC should provide monitoring that focuses on the protection of children from all forms of violence;
- Collaboration in an advocacy campaign to call for explicit legal ban on all forms of violence against children, including corporal punishment;
- Collaboration with key partners (UNICEF and ACPF) to promote the development of an African report on national follow-up to the recommendation of the UN Study on Violence against Children.

- **Presentation on “violence against children in Africa: *the Challenges and priorities for Africa*” by the African Child Policy Forum**

42. The presenter informed the meeting that violence remained a pervasive problem hidden from the public view and almost absent from the political agenda. He provided statistical evidence on ACPF studies of children in Uganda, Kenya and Ethiopia suggesting that almost all children under the age of 15 experienced some form of violence at home, at school, in institutions, on the street or at the workplace. The girl child particularly were vulnerable with a huge proportion reporting to have been victims of one form of violence or another including physical, emotional sexual and psychological abuse.

43. He went on to cite the recommendation reached for the attention of the AECRWC as well as the African Union.

- i) Make violence against children a particular area of concern in national reporting;
- ii) Establish a programme of cooperation with the UN Special Representative on violence against children;
- iii) Embark on a major programme of advocacy and action;
- iv) Promote national policy and legal reforms;
- v) Put child well-being in general and violence against children, particular, on the political agenda.

44. After the two presentations the participants discussed and recommended that countries should be lobbied to become champions on combating violence against children and that it should be put on the Agenda of AU Head of State Summit.

**ITEM 9: PRESENTATION ON STATES PARTIES REPORT: Uganda**

45. The Chairperson of the Committee thanked the Uganda Delegation for having submitted its report and gave the floor to the team led by the Honourable Minister of State for Youth and Children Affairs who responded to list of issues sent by the Committee to the Ugandan Government. The discussions and explanation were made on the following:

- (i). **Implementation of the Charter and enjoyment of child rights:** on this matter the explanation was that a number of policies had been put in place, aimed at promoting the rights of children and equal opportunities including affirmative action in favour of the girl child in education

institutions. Various structures established for the implementation of the Child Act. Creation of family and children's courts and child protection units as well as the establishment of remand homes.

- (ii). **Measures taken on cultural values and Traditions:** Uganda had passed the Female Act which outlaws Female Genital Mutilation. Uganda was currently reviewing laws related to other negative cultures like ownership of property, marriage or inheritance.
- (iii). **Definition of the Child:** The Minister explained that in Uganda a child was any person below the age of 18, and that Uganda's legislation had set the age of employment to be lower than 18 years. However, working children were expected to engage in light duties as set out in the National Child Labour Policy 2006. The Government had also adopted laws and policies to regulate child labour.
- (iv). **Child Militarization:** Concern was raised over the militarization of children in Uganda. The Minister disputed any presence of child soldiers in Uganda and that the existing administrative and legal provisions effectively prohibited the recruitment and use of children in the armed forces.
- (v). **Non Discrimination:** The Government of Uganda had put in place a policy on disability which spelt out provisions that protect the rights of all persons with disabilities, including children. Measures had been put in place for advocacy and sensitization on the rights of disabled children
- (vi). **Abuse of children by Media:** The Minister acknowledged that some Journalists entered the profession with limited knowledge of the various laws on children. She however noted that a number of forums and workshops had been organized by government and CSOs to share information on reporting issues of children in the press.
- (vii). **Adoption of children by foreigners especially from the West:** The Minister stated that according to the Children Act, non Ugandans were allowed to adopt Ugandan children, but under stringent conditions. She pointed that Uganda was also currently in the process of ratifying the Hague Convention to ensure the effective monitoring of children adopted outside the country.
- (viii). **Protection of Privacy:** In Uganda under the legal provision, all persons and institutions are entitled to privacy and that there were legal provisions to cater for that such as:
  - The Constitution
  - Uganda Communication Act 1997
  - Uganda Human Rights Commission Act 1997
- (ix). **Protection from child Abuse and Torture:** A number of legislative measures had been put in place to protect children from abuse and

torture. The explanation also indicated that a number of cases on abuse and torture were reported and dealt with by appropriate institutions.

- (x). **Family Environment and Alternative Care:** Family Re-unification is part of intervention in favour of children in conflict situations. In that regard, the Minister explained that the Government was involving other stakeholders in providing care and support before the forwarding of children to non-state actors. Regarding Trafficking and Abduction, the Minister acknowledged the presence of child trafficking, especially internal child trafficking and added that the Government had put in place appropriate laws to combat the practice.
- (xi). **Health and Welfare:** The Minister reported that infant mortality rates (IMR) had improved over the years from 84 per 1,000 live births years in 2000 to 76 per 1,000 for 2006.
- (xii). **Orphans and other vulnerable children:** He said there were about 2.5 million orphans in Uganda and that about 362,500 orphans were not attending school.
- (xiii). **Education, leisure and cultural Activities:** It was reported that Universal Primary Education in Uganda was compulsory to all school going age. Early education and learning was not compulsory, however, efforts were being made to put in place a holistic policy framework.
- (xiv). **Special protection measures:** in collaboration with other stakeholders, measures have been put in place to establish child protection units as transit centres.
- (xv). **Participation of children in the preparation of the Report:** It was reported that children and children's organization were involved in the initial preparation of the Report.

46. **In conclusion, the Chairperson thanked the Ugandan Delegation for an elaborate** presentation and expressed her hope that the Ugandan child would achieve what the ACRWC demanded for the African Child.

#### **ITEM 10: FOLLOW-UP ON COMMUNICATIONS RECEIVED:**

47. The Committee deliberated on the request by the Centre for Human Rights, University of Pretoria sent on 23 February 2010 to postpone consideration of their communication until an improved translation of the document was made available. Committee Members expressed concern over the issue since the postponement of their consideration of the case had been pending for five (5) years now. It was also stressed that due to the lengthy delays, the Committee was lagging behind on addressing the allegations of serious challenges confronting the children, as conveyed by the Centre. Members of the Committee agreed that the Chairperson of the Committee would send a note to the Centre for Human Rights, University of Pretoria expressing their concern and requesting an expeditious treatment of matter, to enable their early consideration, accordingly.

48. The Committee also looked into the communication regarding Nubian Children sent by the Institute for Human Rights and Development in Africa (IHRDA) and the Open Society Justice Initiative (OSJI). After intense deliberations the Committee Members decided that this communication presented to them is admissible, given that according to the communication received, the case has been running for the past six (6) years and no bench has been constituted or date set for hearing. Efforts over the past 6 (six) years to ensure the start of the hearing had proved abortive, as reflected by the letter of 6 November 2009. The Committee also agreed that there was enough evidence before them that the opportunity for pursuing local remedies were exhausted in that the procedure followed by the court in Kenya was not effective or efficient. It was evident that both the IHRDA & OSJI were justified in conveying their dissatisfaction with the inefficient and dilatory process at domestic level. Committee Members also stressed that the Nubian children, who were voiceless and counted on good Samaritans to help them, were looking up to the Committee to protect their right to a name and an identity. Therefore, the Committee should address the case as a matter of urgency. To that effect a Working Group composed of three (3) Committee Members was set up. It was also agreed that the Working Group would count on the expertise of the Bureau (which would work until July 2010) in carrying out the crucial task.

**ITEM 11: CONSIDERATION OF OBSERVER STATUS APPLICATIONS:**

49. At the conclusion of deliberations, the Committee members decided as follows:

**(i) Save the Children, Sweden:**

Observer status application was granted subject to the submission of its host agreements with both Kenya and Senegal, as well as the submission of sufficient copies of the requisite documents in both French and English to the Committee.

**(ii) Institute of Human Rights and Development, Banjul, Gambia:**

Observer status application granted subject to the submission of sufficient copies of requisite documents in both French and English to the Committee.

**(iii) Botswana Centre for Human Rights:**

Observer status application rejected due to the failure to submit certain documents required for the purpose. Committee members agreed to convey to the applicant the documents required for the grant of the status, as provided in the Guidelines.

**(iv) African Child Policy Forum:**

Observer status granted, without reservation.

**ITEM 12: ADOPTION OF THE OBSERVATIONS AND RECOMMENDATIONS ON THE UGANDAN REPORT**

50. The Rapporteur on Ugandan Report summarized the highlights of the discussions held with the Uganda delegation, which comments were adopted by Committee members, after deliberations. The Rapporteur was requested to formalize the recommendations in writing and submit same to the Committee Members by email, within ten days of the conclusion of the 15<sup>th</sup> session.

51. Committee members also adopted a format for concluding recommendations to ensure uniformity and consistency in the recommendations sent to Member States after the consideration of the contents of their Reports.

**ITEM 13: ADOPTION OF THE THEME OF THE DAY OF AFRICAN CHILD FOR 2011:**

52. After lengthy discussions, members adopted the theme of the day of the African child as follows:

**'ALL TOGETHER FOR URGENT ACTIONS IN FAVOUR OF STREET CHILDREN'**

**ITEM 14: ANY OTHER BUSINESS**

53. After deliberations, Committee members decided that outgoing Committee members should continue supporting the activities of the Committee beyond the expiration of their tenure, given their experience and expertise.

54. A member expressed his concern on the absence of activity in between sessions of the Committee, being of the view that members should plan programmes for the protection of, and promotion of children's rights in their various countries with a view to presenting reports on these activities when they meet at slated Committee sessions.

55. Members also raised concerns on matters of logistics relating to travel, address and communication, which would be conveyed to the Secretariat for its information and action.

56. Another member spoke about the challenges that the Committee was facing relating to its lack of autonomy and requested that a resolution/declaration be passed by the Committee asserting its status as a treaty making body, as provided in the African Charter. Such a resolution should specifically mention the need for a separate and distinct budget or account, so that donor agencies and partners could be encouraged to support the activities of the Committee. If that was done, the bodies would be able to effectively determine that the funds they provide for the Committee's activities were being utilized for the purpose, thereby enabling a proper evaluation of the resultant impact of their contributions on the well-being of the children of Africa. The member also suggested that the Rules of Procedure be reviewed.

57. In the realization that the Committee would need to be hosted outside the auspices of the AU Headquarters for it to assume true independence, members agreed to informally request their governments to consider hosting the Committee Secretariat in their various countries. It was the consensus that material details relating to the implications for accepting to take on such a responsibility would be required, so they requested the Secretariat to provide them with the necessary information. Furthermore, members agreed to raise the request for hosting the Committee's Secretariat by a Member State in its Report to the Executive Council at the Summit of Heads of State in July 2010.

**ITEM 15: ADOPTION OF THE DRAFT REPORT**

58. The Report was adopted as amended.

**ITEM 16: CLOSING CEREMONY**

59. The Chairperson of the Committee congratulated the members for their active and constructive participation in the debates. She thanked them for their support during the term of her service. Her appreciation also went to the Social Affairs Department namely the Commissioner and her staff, the interpreters and translators who have worked hard for the success of the session. She then thanked the UN Committee on the Rights of the Child members who made the trip to formalize the collaboration between the two Committees, demonstrating their willingness and availability to work for a fruitful partnership.

60. The Secretary of the Committee, on behalf of the Department of Social Affairs, thanked all participants who despite their busy schedules created time to attend the session fully. She also assured members of the two Committees that the Department will provide its full support for collaboration to become formal and permanent.

61. The Vice-President of the UN Committee on the Rights of the Child, at the closing ceremony thanked the members of the African Committee and the Department of Social Affairs for their reception and commendable efforts for hosting the meeting of the two Committees. She also recalled the process that led to the encounter between the two Committees and reaffirmed the commitment of the UN Committee to formalize and build on this cooperation.