

AFRICAN UNION

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



UNION AFRICAINE

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

الاتحاد الأفريقي

"An Africa Fit for Children"

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**CONCLUDING RECOMMENDATIONS BY THE AFRICAN COMMITTEE OF
EXPERTS ON THE RIGHTS AND WELFARE OF THE CHILD (ACERWC) ON THE
FEDERAL DEMOCRATIC REPUBLIC OF ETHIOPIA COMBINED INITIAL, FIRST,
SECOND AND THIRD PERIODIC REPORT ON THE STATUS OF IMPLEMENTATION
OF THE AFRICAN CHARTER ON THE RIGHTS AND WELFARE OF THE CHILD**

I. INTRODUCTION

1. The African Committee of Experts on the Rights and Welfare of the Child (ACERWC) extends its compliments to the Government of Federal Democratic Republic of Ethiopia and wishes to acknowledge with thanks receipt of the combined initial, first, second and third periodic report on the status of implementation of the African Charter on the Rights and Welfare of the Child. The ACERWC, during in its 1st Extra Ordinary Session which was held in 6-11 October, considered Ethiopia's initial report which was submitted in accordance with the State Parties obligation under Article 43 of the African Charter on the Rights and Welfare of the Child (ACRWC).
2. The Committee extends its compliments to the Government of Ethiopia for its ratification of the Charter; however, the Committee regrets that the State Party submitted its report lately than the due date.
3. The Committee welcomes the productive discussion with the delegation of Ethiopia led by H.E. Zenebu Tadesse, Minister of Women, Children and Youth Affairs. The dialogue enlightened the Committee about the measures the State Party has taken in the implementation of the Charter.

II. PROGRESS IN THE IMPLEMENTATION OF THE CHARTER

4. The Committee notes with appreciation, *inter alia*, the following positive measures the State has taken;
 - a. The National Children Policy
 - b. The National Plan of Action for Children
 - c. The adoption of Guidelines on Alternative Care for Children
 - d. The adoption of the twenty-year Education Sector Plan and the Education Sector Development Programs (ESDP)
 - e. The establishment of children's court
 - f. The health extension program
 - g. The provision of free legal aid for child right issues

III. AREAS OF CONCERN AND RECOMMENDATIONS

A. General measures of implementation

5. The Committee welcomes the revision and adoption of the Family Law and other laws which ensure the protection of children's rights. However, the Committee notes with concern that there is no separate, comprehensive child law and thus recommends the adoption of such law by the State Party. Though the family Laws try to cover a number of issues, the Committee would like to bring to the attention of the State Party the fact that all children are not in a family setting; the Family Laws therefore cannot fully address the concerns of all children in different settings. The Committee is convinced that the elaboration of a comprehensive children's law, complemented by detailed regulations, which has the implementation of children's rights and the protection of their welfare as its primary concern will contribute to child protection systems' strengthening.

6. The Committee notes with appreciation the legal and institutional framework available for children. The Committee however encourages the Government of Ethiopia to work on the implementation of the laws and policies through training and capacity building of the executive arm of the Government, increasing the budget for child rights issues and establish a functioning and strong monitoring and evaluation mechanism.

7. The Committee notes with concern that there is no social protection policy for children who are abandoned or cannot be supported by parents. The Committee urges the State Party to adopt such policy in order to ensure that children who are under parental or family support receive assistance from the State.

8. The Committee encourages the State Party to collect a disaggregated data in terms of gender, age, geographical settlement, family status, education, and so forth to make an informed decision in law making and policy designing.

9. With regard to the institutional set up, the Committee appreciates the effort taken by the Ministry of Women, Children and Youth Affairs. The Committee encourages the State Party to further strengthen the effectiveness and efficiency of the National Human Right Commission and the Ombudsman.

10. Moreover, the Committee calls upon the State Party to create a smooth environment in which CSOs and NGOs can collaborate with the Government for the better protection of children's rights. Government is encouraged to involve CSO in preparation of the subsequent reports and in implementation of these concluding recommendations. The recent law governing Charitable Organisations should be carefully reviewed to ensure

that it does provide any impediment to the optimal functioning of CSOs that are providing services to children, bearing in mind that CSO are critical to the fulfilment of children's rights in all African countries.

B. Definition of a child

11. The Committee appreciates that definition of the child in the State Party is in line with the Charter. However, the Committee notes with concern the emancipation provision which is provided under the Revised Federal Family Code for marriage at the age of 16 by the approval of the Ministry of Justice. This is in clear contradiction with articles 2 and 21 of the Charter, and hence the Committee strongly urges the Government of Ethiopia to revise this provision.

12. The age of criminal responsibility is another concern for the Committee as it is set at the age of 9 and children of ages 15-18 are treated as adults. The Committee recommends the revision of this criminal law provision and raise the age of criminal responsibility to 12. Children between the age of 15 and 18 should also not be treated as adults since they fall within the definition of the Child under the Charter.

C. General principles

Non-discrimination

13. The Committee notes that there is disparity in the services available in urban and rural areas to children. The health care and education services in rural areas are not accessible and well equipped. The Committee urges the Government of Ethiopia to address this disparity by giving differentiated treatment to rural areas. Furthermore, children with disabilities are discriminated in accessing these services as the services are not provided in a manner suitable to the particular needs to children with disabilities. Thus the Committee encourages the State Party to fulfil the special needs of children with disabilities to ensure that they are not discriminated.

14. The Committee remains concerned about the position of the girl child and gender disparity in accessing education and other services. The State Party is recommended to intensify efforts to reduce discrimination on account of gender.

Best interests of the child

15. The Committee applauds that the Constitution and the Revised Family Code of the State Party ensure the best interests of the child. The Committee encourages the

government to consider the best interests of the child in all circumstances by implementing these laws. Particularly, the best interests of the child should be given due consideration in the case of adoption and inter-country- adoption.

Right to life, survival and development

16. While the Committee appreciates the measures taken by the State Party to realise the right to life and development of children, the Committee has concerns in relation to the infant mortality rate, diseases, nutrition, and children on the street. The Committee urges the State Party to control preventable diseases causing death, to provide children with the appropriate nutrition for better survival, to increase accessibility of health care services to further lower mortality rate and to protect children on the street. The Committee further encourages the State Party to strengthen its effort in providing the necessary care of children living with HIV/AIDS to ensure their right to live the maximum possible.

17. The Committee recommends the State Party to increase efforts to ensure that antenatal services are available to all expectant mothers and that births are assisted by skilled and trained birth attendants.

The views of the child

18. The Committee commends the Government of Ethiopia for the children's parliament. The Committee calls on the State Party to develop an action plan for participation to involve the children's parliaments in decision making and policy devising. The State should additionally ensure that all children participate in different forums apart from those in the children's parliament. The Committee encourages the Government to build the capacity of children's parliament and educate the community on child participation to enable children partake in a meaningful manner. The Government is further encouraged to consult children in the formulation of plans, policies and laws that have a bearing on their interest, and to ensure that child participation in governance is devolved to regional and district level. Government should ensure that children's voices are reflected in reporting to treaty bodies, including to this Committee.

19. The Committee emphasizes that particular attention should be paid to hearing children's voices in judicial proceedings throughout the Federal Republic, and government should implement the African Guidelines on Child Friendly Justice (2011) to the fullest extent possible.

D. Civil rights and freedoms

Right to name, nationality and birth registration

20. The Committee encourages the Government to enforce birth registration within 90 days as provided under the law and to ensure that registration documents are accessible. The Government should sensitise the society and make registration accessible in rural areas where illiteracy and poverty are prevalent. The Committee appreciates the adoption of the Proclamation on Ethiopian Nationality and recommends that the State Party prevents of statelessness and grants nationality for abandoned children whose nationality is not known. The Committee refers to its General Comment N°. 2 on Article 6 of the Charter for the better implementation of the right to name, nationality and birth registration.

Freedom of expression, access to appropriate information, freedom of thought, conscience and religion

21. The Committee welcomes the children's parliaments as a forum for expression, however, doubts their effectiveness. It encourages the State Party to build the capacity of the parliaments, consider their view in policy making and involve them in the execution process. In addition, children should be accorded with the opportunity to access information in their own language. Specifically, children in rural areas do not have access to information in their own language. The Committee thus calls upon the State Party to provide the necessary information, including information relating to their rights under this Charter, to children in all areas in their own language using all feasible mediums of communication.

22. The Committee recommends that children be provided with freedom of thought and religion. The Government should create a balance between parental responsibility and freedom of children to thought, conscience and religion.

Protection against abuse and torture

23. The Committee is concerned that there are some forms of corporal punishment not prohibited by the law. This exposes children to abuse as it is difficult to assess and monitor the level of violence that corporal punishment causes. Hence, the Committee encourages the State Party to prohibit corporal punishment within the family, school and other alternative care institutions. The Committee encourages the Government to explicitly outlaw corporal punishment in the Criminal Code. To this end the Government needs to create awareness on positive parenting and disciplining of children.

24. The Committee urges the State Party to intensify efforts to combat all forms of violence against children, especially girls. Perpetrators should not be met with impunity, and the State Party is encouraged to continue to develop the capacity of specialised police units to investigate and follow up on incidents of abuse and violence against children.

E. Family environment and alternative care

Protection of the family

25. The Committee notes with appreciation that family rights and family protection are provided under the Constitution. The Committee insists the Government take further measures to practically and effectively protect the family since it is the basic unit in which children can be protected. The government should protect the family by reducing family poverty, extending the reach of cash transfer schemes, and prevent separation of children from their families.

Family reunification and adoption

26. The Committee appreciates the effort of the State in facilitating an increase in domestic adoption. It calls on the State Party to adopt monitoring mechanisms to ensure that adoption is on the best interest of the child. The Committee recommends that the State Party strives towards a continued reduction of international adoption and sensitising society on inter-country adoption. The Committee notes that the State Party is in the process of ratifying the Hague Convention on Protection of Children and Cooperation in Respect of Inter-country Adoption and encourages the government to accelerate the ratification of this international instrument. The State Party is further encouraged to take the measures necessary to combat illicit practice in inter-country adoption, including through appropriate regulation of private actors involved in inter-country adoption.

27. The Committee welcomes the adoption of National Plan of Action on Orphans and Vulnerable Children (2004-2006). The Committee encourages the implementation of this action plan to protect orphans. The Committee recommends a strong family reunification program as a priority and when this is not possible to provide them with the necessary care until an alternative family environment is found for such children.

Maintenance of the child

28. The Committee has concerns about the prolonged court proceedings to get maintenance orders and the small amount of maintenance granted to children. The Committee recommends that the State Party fast-tracks the court proceeding for maintenance orders and increases the amount granted by taking into account the basic needs of the child.

Abuse, neglect and exploitation

29. The Committee is concerned by the high level of child abuses in the family setting. Children are mostly sexually abused and exposed to exploitation by their family members. Families in the rural area send their children to urban cities where they are subjected to exploitative labour practice and denied an education. The Committee urges the State Party to effectually prosecute perpetrators of abuse in the family, to alert the society on the dangers of child labour and to address the root causes of such abuse and exploitations.

F. Basic health and welfare

30. The Committee takes note that the health sector has shown improvement and that the Government has put different mechanisms, such as the health extension program, to escalate the health care services. The Committee encourages the Government to intensify the reach of vaccination in all regions of the country, increase the number of physicians and medical personnel especially in rural areas, to increase the quality of health care provided, provide medical facilities in health care services, and grow the number of and the accessibility of health centres. The Committee, moreover, encourages the State Party to give special attention to children with disabilities in the provision of health services to enable them access health care centres.

G. Education, leisure and cultural activities

31. The Committee commends the State Party for the provision of free primary education in public schools, the increasing number of schools especially in rural areas, and the incentive provided for the girl child to attend school. Nevertheless, despite the increase in the number of schools, the quality of education is declining and dropout rate is still high. The Committee, therefore, strongly urges the State Party to:

- a. Reinforce the compulsory aspect of education and push children to go to school;
- b. Enhance the quality of education and budget allocated for this sector;

- c. Train teachers to build their capacity;
- d. Increase success rate of students;
- e. Monitor pre-schooling for better early childhood development;
- f. Improve foreign language teaching in schools;
- g. Take measures to reduce the illiteracy rate which remains high even in a situation where primary education is free;
- h. Address the causes of high dropout rate; and
- i. Show efforts to make secondary education freely available to all on progressive basis.

32. The Committee further urges the State Party to adopt an inclusive education system where children with disabilities can be able to attend school in the formal education system. The State Party should provide the necessary educational materials, infrastructure facilities and seemly environment for children with disabilities in schools.

H. Special Protection Measures

Children in situations of emergency

33. The Committee notes that State Party hosts a large number of refugees from different countries. The Committee henceforth calls the State Party to ensure the protection of refugee children. Refugee children should be provided with food, health care service, education, and the maximum humanitarian assistance the State can offer. The State should accord nationality to those unaccompanied children whose nationality cannot be traced to another country.

Children in conflict with the law

34. The Committee commends the State Party for the establishment of child friendly courts and provision of education in prisons for children. However, the Committee notes with concern that these child are imprisoned with adults. This situation compromises their rehabilitation and development. The Committee thus urges the State Party to establish a separate detention centre for children. The case of juvenile delinquents should also be dealt with in closed court sessions. The Committee encourages the Government to put in place a rehabilitation system for children in the prison, to investigate measures to deal with children outside of formal court proceedings (“diversion”), and responses to offending which comprise alternative non- custodial sanctions as a first resort. The State party is encouraged to develop laws, policies, and practices which see all forms of detention of children being used as a last resort and for the shortest appropriate period of time.

Children of imprisoned parents

35. The Committee calls the State party to assure that children of imprisoned caregivers are protected and provided with appropriate services. The Committee encourages the State Party to consider the Committee's General Comment No. 1 on article 30 of the Charter to be guided on the protection of children whose parents or caregivers are imprisoned. The State Party is encouraged to popularise the contents of General Comment N°. 1 amongst duty bearers, including those involved in justice processes, judicial officials, and prison authorities.

Children in situation of exploitation and abuse

36. The Committee welcomes the adoption of National Action Plan on Sexual Abuse and Exploitation (2006-2010) and the recent National Plan of Action for the Elimination of the Worst Form of Child Labour 2010 -2014. However, the Committee has concerns on the issue of sex tourism, the prevalence of child labour even in urban areas, children living or working on the street and child trafficking and therefore recommends:

- a. Aneffective implementation of the laws, policies and action plans for the protection of vulnerable children;
- b. Adoption of a law or guideline on sex tourism to monitor hotels and tour guides;
- c. Programmes aimed at the prevention and combatting of child labour and measure against those who employ children both in the informal and formal sector being taken;
- d. Prevention of begging by children in the street by giving the social protection service and reunifying them with their parents, and prevention of children being used by adults who beg;
- e. Protectionof children from becoming migrant workers and prosecutionof those who facilitate such activities

37. In addition, the State should rehabilitate and reintegrate victims of sexual or any other abuse to ensure their wellbeing. They should be provided with psycho-social assistance.

Children victims of harmful traditional practices

38. The Committee recognises that FGM and child marriage are prevalent in some regions of the Country. The Committee thus urges the Government to take necessary

measures to combat these practices. The Committee recommends that the State Party adopts practical strategies towards the reduction and elimination of all forms of harmful traditional practices, particularly of child marriage and FGM, such as prosecution of perpetrators, and sensitizing the community in these issues.

I. Responsibility of the child

39. The Committee calls upon the State Party to assist children become responsible citizens who work to safeguard the integrity of their nation and continent. They should be educated about their responsibilities in the family and their community so that they can develop a spirit of accountability.

J. Conclusion

40. The African Committee of Experts on the Rights and Welfare of the Child appreciates with satisfaction the efforts invested by the Government of Ethiopia and aspires to the implementation of these recommendations. The Committee would like to indicate that it will undertake a follow up Mission to ascertain the implementation of these recommendations in the foreseeable future. The Committee would also like to invite the State Party to submit its combined fourth and fifth periodic reports by 27 December 2019 and to include in it information on the implementation of the present concluding observations.

41. The African Committee of Experts on the Rights and Welfare of the Child takes this opportunity to renew to the Government of the Federal Democratic Republic of Ethiopia, the assurances of its highest consideration.