

AFRICAN UNION

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



UNION AFRICAINE

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

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
SECOND AND THIRD PERIODIC REPORT OF THE REPUBLIC OF RWANDA 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/the Committee) extends its compliments to the Government of the Republic of Rwanda and wishes to acknowledge with thanks receipt of the second and third periodic report on the status of the implementation of the African Charter on the Rights and Welfare of the Child (the African Children's Charter/the Charter). The ACERWC, during its 25th Ordinary Session, which was held from 20 to 24 April, 2015, considered the Republic of Rwanda's periodic report which was submitted in accordance with the State Party's obligation under Article 43 of the African Children's Charter.
2. The Committee extends its compliments to the Government of Rwanda for ratifying the Charter and submitting its periodic report in due time.
3. The Committee also welcomes the productive discussion with the delegation of Rwanda led by Mrs. Zaina NYIRAMATAMA, Executive Secretary of the National Commission for Children (NCC). The dialogue informed the Committee about the measures the State Party has taken towards the implementation of the African Children's Charter. However, the Committee regrets that the delegation was not comprised of representatives from a wider range of sectors.

II. PROGRESS IN THE IMPLEMENTATION OF THE CHARTER

4. The Committee commends the efforts that the State Party has put to implement the Charter and its recommendations on the initial report of the State Party including:
 - i. The adoption of Law N°54/2011 of 14/12/2011 on the rights and protection of the child as well as the Integrated Child Rights Policy ;
 - ii. The ratification of various international human rights instruments such as the Convention on the Protection of Children and Cooperation in respect of Inter-country Adoption and the Hague Convention on the Civil Aspects of International Child Abduction;
 - iii. The establishment of the National Commission for Children for the coordination and monitoring of the protection of the rights of children;
 - iv. The high rate of enrolment of girls and boys to schools and the provision of free and compulsory primary and secondary education;
 - v. The formulation of the Integrated Management of Childhood Illnesses (IMCI) and the Community Based Health Insurance (CBHI) systems which aims at reducing child mortality;

- vi. The provision of a minimum package of services for orphans and other vulnerable children;
- vii. The level of decentralization of child protection services; and
- viii. The enhanced participation of children in various aspects of social and political processes particularly their participation in the National Children's Summit.

III. AREAS OF CONCERN AND RECOMMENDATIONS

A. General measures of implementation

5. The Committee appreciates the comprehensive law reform the State Party has embarked on and the establishment of the National Law Reform Commission to this end. The Committee encourages the State Party to speed-up the law reform process and to put a collective effort to fully implementing the laws.
6. The Committee notes with appreciation the establishment of the National Human Rights Commission and encourages the State Party to provide technical and adequate budgetary support for its operation, particularly the Observatory of Children's Rights in the National Human Rights Commission.
7. With regard to availability of statistics and data, the Committee notes that the statistics available are only until the year 2010. Accordingly, the Committee urges the State Party to collect data and provide disaggregated statistics on the rights of children in all sectors which will then direct the objectives of the policies and strategies that will be adopted.
8. The Committee commends the State Party for increasing the budget allocated for the implementation of the rights of children from 29.88% in 2010 to 31.73% in 2012. However, the Committee is concerned that this increment is insignificant compared with the population growth and the growing needs of children. Therefore, the Committee recommends that the State Party align its budget increment with the high rate of inflation, the growing needs of children and the population growth.

B. Definition of a child

9. The Committee appreciates the development of the Family and Persons Law which is being drafted following the Committee's recommendation which requested the State Party to harmonize its laws on the definition of the child as it is prescribed in the African Children's Charter. The Committee encourages the State Party to fast-track the adoption process of the Family and Persons Law and to incorporate the

definition of the child as it applies for all boys and girls who are under the age of 18 years without any exception.

10. The Committee commends that the minimum age of employment is 16 years; the minimum age for recruitment in the military is 18 years; and the minimum age of criminal responsibility is 14 years. However, during the constructive dialogue the Committee learned that even though the minimum age of marriage is 21 years, there are circumstances where a girl below the age of 18 could get married by a special waiver of the Ministry of Gender and Family Promotion. The Committee is of the view that this is against the best interest of the child and therefore recommends for the State Party to forbid child marriage with no exceptions in accordance with Article 21 of African Children's Charter.

C. General principles

Non-discrimination

11. The Committee notes with appreciation the legislative measures the State Party has taken to ensure the principle of equality and non-discrimination applicable to children. The Committee would also like to call upon the State Party to take practical and tangible measures to ensure that children from minority groups, children with disabilities, children in rural areas, children in vulnerable situations, and those children who are historically marginalized are not discriminated against by all sectors of society and all organs including the private sector.

Best interests of the child

12. Following the Committee's recommendations, the State Party has incorporated the protection of the best interests of the child under Article 6 of Law n°54/2011 on child rights and protection. While appreciating this initiative, the Committee encourages the State Party to establish a systematic mechanism whereby the best interest of the child is given priority in all matters concerning children. Such measures may include giving training for the executive and judiciary to sensitize them about children's rights.

Right to life, survival and development

13. The Committee welcomes the various measures that the State Party is taking to ensure the right to life, survival and development of children including the abolishment of death penalty; efforts to reduce infant and child mortality; and reduction of neonatal and postnatal mortality. The Committee further encourages the State Party to extensively promote, mainly through campaigns and media, exclusive breast feeding at least for the first six months after birth to reduce child mortality.

14. The Committee observed some indications that access to clean water in rural areas is limited and that the water systems in rural areas are not functioning properly. Therefore, the Committee recommends that the State Party intensifies its efforts in rural areas to reduce the urban-rural disparity in access to clean water.

The views of the child

15. While applauding the State Party's engagement in relation to child participation, the Committee encourages the State Party to facilitate the participation of all children including children living in rural and remote areas; children with disabilities and marginalized children. Moreover, the Committee recommends for the State Party to give due consideration to the views of children in decision making processes.

D. Civil rights and freedoms

Right to name, nationality and birth registration

16. The Committee commends the State Party for adopting Law N°30/2008 of 25/07/2008 concerning Rwandan Nationality. The Committee also notes that Article 16 of the law on the rights and protection of the child states that a certificate shall be issued after registration of birth. However, there are indications that certificates are not issued immediately after registration. Furthermore, during the constructive dialogue, the Committee observed that there is a penalty imposed upon late registration; and that the State Party intends to adopt a new birth registration law which will lift the penalty. The Committee also learned that the State Party has the plan to establish a digital registration system in health care centers. Therefore the Committee recommends for the State Party to:

- a. expedite the adoption of the new birth registration law and remove the penalty imposed on late registration;
- b. fast-track the establishment of digital birth registration systems in health care centers;
- c. immediately issue birth certificates after registration;
- d. remove any kind of restriction and barrier to the registration of children born out of wedlock including the requirement of consent of the other parent where registration is sought by only one of the parents; and
- e. take measures to increase birth registration especially in rural and remote areas.

17. The Committee also encourages the State Party to refer to and implement its General Comment No. 2 on Article 6 of the African Children's Charter in this regard.

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

18. The Committee notes with appreciation that the State Party's Constitution and the law on the rights and protection of the child incorporate provisions that ensure the child's rights to freedom of expression; freedom of thought, conscience and religion; and freedom of association and peaceful assembly. While commending the legislative framework and the various forums available to exercise freedom of expression, the Committee encourages the State Party to sensitize the society about the positive values of child participation; and to empower children to exercise their rights by providing them with training and technical support. Furthermore, the Committee encourages the State Party to ensure the protection of the right to privacy of child victims and child witnesses.

Protection against abuse and torture

19. The Committee notes with satisfaction the adoption of the Integrated Child Rights Policy which prohibits corporal punishment in all settings and Law N° 01/2012 of 02/05/2012 which penalizes the act of inflicting severe suffering on the child. However, the Committee is concerned that corporal punishment is still used to discipline children in schools and at home. Moreover, parents' right to correction of children that is included in the Civil Code has not been repealed yet. Thus, the Committee urges the State Party to fortify its efforts in sensitizing the society in eliminating corporal punishment as well as take measures to repeal all laws and practices that are in contradiction with the Integrated Child Rights Policy.

20. During the Constructive dialogue, the Committee has observed that the State Party has started to adopt a ministerial decree on disciplining the child without corporal punishment. Therefore, the Committee calls upon the State Party to expedite the process and introduce alternative positive discipline mechanisms in schools and at home.

E. Family environment and alternative care

Parental guidance and parental responsibilities

21. The Committee notes that the State Party is in the process of developing a comprehensive family law for better protection of the family. Accordingly, the Committee encourages the State Party to expedite the process and adopt the new family law.

22. The Committee notes with appreciation the legal obligations imposed upon parents with regard to ensuring the full development of the capacities of the child and the

maintenance of the child as well as the legal sanctions attached to the failure to discharge these obligations. The Committee wishes to further encourage the State Party to provide assistance and support to the family unit in accordance with Article 18(1) and Article 20(2) of the African Children's Charter in order to ensure that parents are capable of protecting their child. In this regard, the Committee recommends for the State Party to fully implement the National Policy for Family Promotion and the Early Childhood Development (ECD) Policy.

Separation of children and family reunification

23. The Committee commends the State Party for providing for the legal entitlement of the child to family environment. It is also notable that the Government takes alternative protection care measures where children are deprived of their family environment. The Committee recommends that the State Party gives priority to prevention of separation of children from their parents through identification of the causes of separation and by taking measures to rectify the causes. Further, the Committee strongly encourages the State Party to work towards family reunification and reintegration for separated children. Finally, the Committee recommends for the State Party to standardize and closely monitor foster care and social welfare institutions to ensure that children are provided with their basic needs as enshrined in the African Children's Charter.

Alternative care and adoption

24. The ratification of the Convention on Protection of Children and Cooperation in respect of Inter-Country Adoption by the State Party is praiseworthy. However, the Committee notes that inter-country adoptions are suspended until appropriate mechanisms are set in place. Though the Committee encourages the State Party to intensify its efforts to concentrate on and promote domestic adoptions as a priority, the Committee also calls upon the State Party to expedite the process of the development of appropriate implementation tools and mechanisms for inter-country adoptions. In addition, the Committee encourages the State Party to formulate mechanisms by which it monitors and evaluates adoption procedures and post-adoption situations for both international and domestic adoptions.

F. Basic health and welfare

25. The Committee applauds the efforts of the Government of Rwanda in improving its health care services by taking various measures including the establishment of the Community Health Program; the Community Based Health Insurance; and the Expanded Programme of Immunization. The Committee also commends the State Party for increasing its budget for the health sector and becoming one of the few

African Countries who have complied with the Abuja Declaration. Nevertheless, the Committee remains concerned about the high rate of chronic malnutrition of children which is 44% as provided in the State Party Report. Even though child mortality rate has declined in the past years, the rate is still high especially with regard to neonatal mortality. The Committee also learned that more than 25% of the population does not have access to improved drinking water. In addition, there are indications that primary health care services are generally poor, which can be inferred from the fact that primary health care centers are not physically accessible; the number of physicians and midwives is not proportional to the population's need; and the quality of health care service provided is low.

26. Therefore the Committee urges the State Party to put together collective efforts to fight malnutrition through promotion of improved feeding practice in the community; integrating nutrition objectives into agricultural programmes; providing school feeding programs for the most vulnerable children; promoting exclusive breastfeeding for the first six month after birth; and improving the nutrient content of foods through regulatory frameworks. The State Party is also encouraged to train more physicians and midwives as well as ensure that health care centers are well equipped. Furthermore, the Committee recommends that the State Party continues its efforts to construct water reservoirs to increase the coverage of improved drinking water in rural areas of the country.

G. Education, leisure and cultural activities

27. The Committee notes with appreciation that the Government provides free and compulsory primary and secondary education. The Committee also commends the high enrolment rate in primary education, the gender parity therein as well as the budget allocated for the education sector. However, the Committee has concerns about the high dropout rate; the low rate of enrolment to secondary education; the quality of education; and the qualification of teachers. There are also indications that there are disparities in the urban and rural areas regarding access to and quality of education. Hence, the Committee recommends for the State Party to;

- a) identify and address causes of dropouts and the low level of enrolment in secondary education;
- b) take measures to support vulnerable students by providing sanitary materials in schools, by setting in place school feeding programs; and providing teaching materials with a view to increasing school completion rate;
- c) train teachers, both at the primary and secondary schools, with a view of enhancing their capacity which in effect escalates the quality of education;

- d) fully implement the ECD policy and take measure to increase availability and accessibility of pre-primary education;
- e) ensure equity in education through enhancing accessibility of education for all with no distinction among children, this includes children with disabilities, children living in rural areas, and others who are especially vulnerable; and integrate an inclusive education system in the National Policy on Education.

H. Special Protection Measures

Refugee children

28. While appreciating the adoption of the National Refugee Policy and the collaboration of the Government with UN agencies and other CSOs, the Committee is concerned about the services provided for refugee children; sexual exploitation of children in refugee camps; early pregnancies in refugee camps; and the unacceptable standard of living conditions in the refugee camps. There are also indications that refugee children are not properly registered and provided with birth certificates.
29. Therefore, the Committee calls upon the State Party to take concrete steps to enrol refugee children in the local health care services. The State Party is encouraged to combat sexual exploitation and early pregnancies in refugee camps by prosecuting perpetrators of sexual abuse. The Committee also recommends that the State Party fortifies its efforts to register and issue birth certificate for refugee children. In addition, the State Party is encouraged to evaluate the conditions in place for the reunification of children with their parents and to ensure that these conditions do not result in multiple violations of the rights of children.
30. Moreover, the Committee urges the State Party to take vigorous steps to prevent soil erosion and landslides in all refugee camps; to provide sufficient water in the camps; to provide sanitation and hygiene facilities; and to build latrines in refugee camps. To this end, the Committee urges the State Party to collaborate with UN agencies and other international as well as national organizations.

Children in armed conflicts

31. The Committee commends the efforts that the Government has exerted for the physical and psychological rehabilitation as well as social reintegration of children affected by armed conflicts and ex-combatant children. Nevertheless, studies and reports show that military groups operating in neighbouring countries, particularly in Democratic Republic of Congo, recruit children from Rwanda as soldiers. The Committee recommends that the State Party enters into bilateral or multilateral agreements to prevent recruitment of children by armed groups in other countries and facilitate the return of children who are already recruited. The Committee also encourages the State Party to strengthen its border security and its immigration policy on travel with children. Finally, the Committee calls upon the State Party to

introduce a proportionate sanction against those who recruit children in armed conflicts.

Children in conflict with the law

32. The Committee welcomes the various measures taken by the Government following its recommendations on the initial report; the measures include providing special proceedings and chambers for minors in conflict with the law; and providing free legal aid services for children in conflict with the law. However, despite the legal framework which entails the establishment of Juvenile Chamber in each Intermediate Court, the Committee regrets that the practice deviates from the law. The Committee also notes with dissatisfaction that the number of judges specialized in juvenile justice are very limited.
33. Therefore, the Committee recommends that the State Party allocates sufficient budget to establish specialized juvenile chambers in all intermediate courts pursuant to Article 9 Law N° 51/2008. The Committee further recommends that the State Party trains more judges on juvenile justice and assign them in each specialized juvenile chamber.
34. In relation to separation of children from adults in detention places, the Committee appreciates the initiatives taken to establish a rehabilitation center in Nyagatare district. However, the Committee is of the view that such centers should be established in all regions to ensure that children are not detained with adults. Furthermore, the Committee urges the State Party to comply with the U.N. Rules for the Protection of Juveniles Deprived of their Liberty, and the U.N. Standard Minimum Rules for the Treatment of Prisoners with regard to the standards of detention of children and to take into account the Guidelines on Children in the Justice System in Africa.

Children of imprisoned parents or care-givers

35. The Committee commends the establishment of ECD centers for children under three years of age whose mothers are imprisoned. The Committee however has strong concerns about children above the age of 3 years whose mothers or care-givers are imprisoned. Accordingly, the Committee urges the State Party to extend the protections accorded to children under the age of three to young children as enshrined in the Charter and also to children whose primary care givers are found criminally liable. The Committee highly encourages the State Party to make reference to its General Comment No. 1 on Article 30 of the African Children's Charter for detailed implementation strategies of the provision.

Children in situation of exploitation and abuse

36. On issues of child labour, the Committee appreciates the adoption of a new Labour Law N°13/2009 which defines the minimum age of employment as 16 years as well

as the National Policy for the Elimination of Child Labour and the 5-year Action Plan to Combat Child Labour. It is also notable that there are labour inspectors in all districts and that a National Consultative Committee on Child Labour has been established. Despite these measures, the Committee regrets that children are still forced to engage in agricultural works and worst forms of domestic labour; which leads to a high rate of child labour. Therefore the Committee recommends for accelerated complementary measures to be taken towards the implementation of the laws and policies in this regard. To this end, the Committee encourages the State Party to investigate and prosecute those who employ children below the age of 16. The Committee also recommends that the State Party sensitizes the society about the negative consequences of worst forms of domestic labour and intensifies its support to financially disadvantaged families such as through 'one cow to one family program', program to provide small animals to poor families and fertilizer subsidies. Moreover, the Committee encourages the State Party to give vocational training to poor parents and assist them to generate income to avert the use of their children as domestic workers to earn income.

37. While the Committee appreciates the positive measures that are being taken to fight sexual abuse especially gender based violence against children, sources highlight that children are trafficked to neighbouring countries like Tanzania, Uganda and Democratic Republic of Congo for the purpose of commercial sexual exploitation. The Committee recommends for the State Party to take concrete steps to prosecute perpetrators; and to provide rehabilitation and reintegration services for victims. Moreover, the Committee recommends that the State Party collaborates with neighbouring countries to prevent trafficking of children; prosecute perpetrators and facilitate the return of the trafficked children. The Committee also encourages the Government to formulate a multi-sectorial prevention and redress mechanism for this menace.

I. Responsibility of the child

38. The Committee is pleased to learn from the State Party's report that responsibilities of the child are incorporated in its legislation and that the State Party recognizes the right to participation as a tool to make children responsible. The Committee would also like to encourage the State Party to sensitize the society as well as government organs that the responsibilities of the child in no way lead to violations of their rights. The Committee calls upon the State Party to adopt a right based implementation approach in this regard.

J. Conclusion

39. The African Committee of Experts on the Rights and Welfare of the Child appreciates with satisfaction the efforts invested by the Government of Rwanda 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 report in May 2018, which the Committee considers as the second periodic report.
40. The African Committee of Experts on the Rights and Welfare of the Child takes this opportunity to renew to the Government of the Republic of Rwanda the assurances of its highest consideration.