

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**

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I. INTRODUCTION

1. The African Committee of Experts on the Rights and Welfare of the Child (ACERWC) extends its compliments to the Government of Guinea and wishes to acknowledge with thanks receipt of the initial 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, considered Guinea'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 welcomes the productive discussion with the delegates of Guinea which enlightened the Committee in monitoring the implementation of the Charter in the State Party.
3. The Committee perceives with appreciation that the State Party ratified the African Charter on the Rights and Welfare of the Child and took various initiatives to implement the rights and duties enshrined in the Charter. However, the Committee regrets that the report was submitted with considerable delay, which prevented the Committee from reviewing the implementation of the Charter by Guinea for some years after the ratification.

II. PROGRESS IN THE IMPLEMENTATION OF THE CHARTER

4. The Committee welcomes among others the following positive measures the Government has taken;
 - a. The adoption of the Code of the Child
 - b. The adoption of the Law on Sale of Children, Child Prostitution and Child Pornography
 - c. The establishment of children's parliament
 - d. The establishment of children's court in Conakry
 - e. The setting up of Local Protection Committees (LPC)
 - f. The creation of a committee to combat trafficking of persons, especially children
 - g. The formation of a National Birth Registration Support Commission (NBRC)

III. AREAS OF CONCERN AND RECOMMENDATIONS

A. General measures of implementation

5. The Committee appreciates the effort the State has shown in harmonizing its legislation with the Charter. The Committee, however, notes with concern some provisions of the Civil Code which are actually discriminatory. The Committee recommends the harmonization of domestic laws including the Civil Code with the provisions of the Charter.
6. The Committee recognizes that there are different action plans and policies to protect children. However, the Committee recommends that necessary measures be taken and sufficient resource be allocated for the implementation of the action plans.
7. The Committee deeply sympathises the challenge the State is facing due to the Ebola epidemic and appreciates the effort of the government in addressing the issue. The Committee encourages the State Party to take all measures possible to protect those who have become orphan children due to Ebola.
8. The Committee recommends the establishment of an effective data gathering and documentation mechanism which can provide for efficient statistics. The Committee expects such statistics to be included in the Periodic Report.
9. The Committee notes with appreciation the establishment of the Guinea Committee on Monitoring the Protection of the Rights of the Child to follow up on children and encourages the government to strengthen the capacity of the Committee and provide it with adequate budgeting for its effective operation.
10. The Committee commends the State Party on the celebration of the Day of the African Child and appreciates that the month June is dedicated for children's rights advocacy.
11. The Committee encourages the strengthening of National Human Rights Institutions and the operation of CSOs for a better protection of children's rights and creating a participatory environment.

B. Definition of a child

12. The Committee is concerned about the various laws which provide for definition of the child in contradiction with the Charter. The Committee recognizes that minimum age for marriage is below 18, this contravenes the Charter which provides for the minimum age of marriage to be 18 with no exception. The Committee thus impels the State Party to amend its laws and set the minimum age of marriage to be 18 in all circumstances in accordance with articles 2 and 21 of the Charter and also to put mechanism in place to reduce child marriage such as an effective registration of marriage.

C. General principles

On non-discrimination

13. While the Committee appreciates the efforts of the Government in providing equal protection to all children, the Committee regrets that children are discriminated on the basis of gender, birth out of wedlock and incest and urges the State Party to review its laws, particularly the Civil Code which has discriminatory provisions in this regard.
14. The Committee further recommends the protection of marginalized and vulnerable groups of children such as girls, children with albinism, and children with other disabilities against any form of discrimination. Particularly, such children are discriminated in education and health care services. The Committee urges the Government to ensure that vulnerable children have equal access to education and health care services by providing the necessary infrastructure and assistance.

On best interest of the child

15. The Committee notes with appreciation the inclusion of the best interest of the child in the Civil Code as well as in the Code of the Child. The Committee recommends for the implementation of the law and the consideration of the best interest of all children up to the age of 18 in all matters including in cases of custody and special protection measures.

On the right to life, survival and development

16. The Committee recognizes that there is a high rate of infant mortality. The Committee recommends the Government to deliver an effective training for health workers, to provide the necessary materials in health centres and to take other appropriate measures. The Committee calls the State Party to intensify its effort in providing health care services and provide adequate number of health professionals in rural areas where mothers give birth outside of hospital.
17. Children aged from 0-3 years should be given all the necessary care to safeguard their lives, good health and early childhood development. Specifically, the Government must provide them with sanitation, safe drinking water and nutrition. Attention should also be given to functional maternity leave as it is important to ensure infant health.
18. The Committee notes with concern the situation of children with albinism being killed for their body parts. The Committee urges the State Party to urgently take appropriate measures to ensure the right to life of children with albinism and protect them from harmful practices endangering their lives.

On child participation

19. The Committee congratulates the State Party in establishing the children's parliament and the activities therein. The Committee commends the commemoration of the Day of the African Child by children themselves.
20. The Committee advises the State Party to equip the children's parliament through training and providing facilities. The Committee further encourages the Government to strengthen the participation of children by involving them in planning and executing government programs. The Government has to facilitate the participation of children and NGOs in advocating for children's rights. The

Committee recommends for allowing children to form associations and to make their views heard.

D. Civil rights and freedoms

On right to name, nationality and birth registration

21. The Committee commends the Government on the birth registration campaign and the improved rate of birth registration. However, the Committee notes that the Government has not attained the 70% registration rate it was aiming for. The Committee is of the view that the remote settlement of the people and the fee imposed up on registration contribute to the low birth registration rate. The Committee thus recommends the following measures to be taken to increase the rate of birth registration:

- a. Remove any cost associated with birth registration such as fees and penalties to ensure that birth registration is entirely free,
- b. Strengthen the campaign to reach all parts of the country, and
- c. Establish mobile registration units to reach remote areas.

22. Moreover, the Committee urges the State Party to ensure that abandoned children are entitled to nationality and that mothers can transfer their nationality to children whose fathers are not known in order to prevent statelessness. The Committee recommends for the consultation of its General Comment No. 2 on article 6 of the African Charter on the Rights and Welfare of the Child for further guidance on implementation of the right to name, nationality and birth registration.

On freedom of expression, freedom of association, freedom of conscience and religion, protection of privacy

23. The Committee notes with sincere concern that children in the State Party are not entrusted with freedom of expression, association, conscience and religion because of the belief that they have a lower level of their discernment. The Committee urges the State Party to grant children in its territory freedom of expression, association and conscience in accordance with articles 7-10 of the Charter and to sensitise the society on the need to accord children these rights. The State additionally needs to assure the protection of the right to privacy of children.

On protection against abuse and torture

24. The Committee notes with appreciation that corporal punishment is prohibited by law. The Committee nonetheless has concerns on the implementation of the law. The Committee encourages the State Party to explicitly ban corporal punishment in all settings and to adopt a positive discipline as an alternative. The Committee suggests awareness raising, training and sensitisation of the parents, youth, communities and those working with children as well as the proper monitoring of

schools and day-cares to ensure that children are free from any kind of abuse and torture.

E. Family environment and alternative care

25. The Committee applauds the ratification of the Hague Convention No. 5 on Cooperation in Respect of Inter-country Adoption by the State Party. The Committee calls on the government of Guinea to monitor the development and effective implementation of norms and standards for those deprived of family environment. The Committee in addition refers the UN Guidelines for the Alternative Care of Children and the Guidelines for Action on Inter-country Adoption of Children in Africa to the State Party. The Committee advises the government to support the family in their care giving role through strengthening the family unit, preventing separation and cash transfer. The Committee calls the government to provide an alternative care mechanism for those children whose families can't give them the necessary care even with the support of the State.
26. While noting with appreciation the training of trainers to address the negative impact of Ebola, the Committee encourages the State Party to fortify such efforts to protect children whose family environment is affected by the Ebola epidemic.
27. The Committee inspires the State Party to provide mothers with sufficient maternity leave and prevent separation of children from their mothers especially during the early age of children to ensure the development and wellbeing of children. The Committee recommends that the State Party puts a mechanism in place to assist children separated from their parents due to socio-political and other reasons by firming up the human and financial resource available to address this situation.

F. Basic health and welfare

28. The Committee extends its sympathy on the current outbreak of the Ebola epidemic and the challenge the government is facing in that regard. The Committee recommends strengthening and seeking financial and technical support in the frame work of international cooperation.
29. The Committee notes with concern the non-ratification of the Convention on the Rights of People with Disabilities and solicits the government to ratify this international instrument urgently. The Committee urges the government to facilitate the accessibility of health service to children with disabilities.
30. While the Committee appreciates the effort of the government in providing vaccination, the Committee encourages the State Party to intensify the vaccination for polio. The Committee recommends the provision of vaccination in all parts of the country, sensitisation and campaign on vaccination. It also notes that there is high rate of infant mortality due to HIV and Malaria. Hence the Committee encourages the distribution of mosquito nets in a broader coverage with great accessibility and reduced cost; and raising awareness on HIV.
31. The Committee notes that the quality of personnel in the health sector is not efficient and thus recommends training the health personnel to provide them with

the appropriate knowledge and skill. The Committee urges the government to establish health centres accessible to all people in all regions.

32. In addition, the Committee calls the government to encourage and promote exclusive breast feeding for the first 6 months to ensure the wellbeing of children and their survival.

G. Education, leisure and cultural activities

33. The Committee notes with appreciation the measures the Government has taken to improve education and the increase enrolment of children in primary schools. However, the Committee is worried about the great disparity in education between urban and rural areas as well as between boys and girls. The Committee, therefore, recommends the State Party to take all the necessary measures to avoid the disparity in the enrolment of urban and rural children by making schools accessible to rural children. The Committee refers the State Party to Article 11(3)(e) of the African Children's Charter which requires taking special measures to ensure that girls, gifted and disadvantaged children have equal access to education. The Committee recommends the Government to encourage girls to attend schools by providing the necessary equipment for hygiene, sanitary pad and by giving them incentives to attend schools such as scholarships and low entry level.
34. The other concerns of the Committee with regard to education relate to the quality of education, low enrolment and the high dropout of children in secondary education. The Committee recommends that the quality of education be escalated in order to provide education directed towards the promotion and development of the children's personality. The Committee recommends for training and recruiting more teachers to bring the teacher-pupil ratio to an acceptable level and ensure the attendance of teachers. The Committee encourages the Government to address the cause of the low enrolment in and high dropout from secondary education.
35. The Committee notes there is only one primary school and no secondary school which accommodates children with disabilities. The Committee, therefore, urges the State Party to introduce an inclusive education system which allows children with disabilities to be mainstreamed in the education system. The Government to this effect may accelerate giving training for teachers, providing basic infrastructures and teaching materials to address the particular needs of children with disabilities. Moreover, the Government should realise the right of children with disabilities to play and leisure by assuring that they have the necessary materials suitable for their particular needs.

H. Special Protection Measures

On children in situation of exploitation and abuse

36. The Committee welcomes the establishment of victims' centre in Conakry and encourages the State Party to establish such centres in all regions of the country. Taking note of this and other efforts of the Government in addressing issues of violence, the Committee still regrets that there is abuse in the Qur'anic schools which the Government has condoned. As it was highlighted in the constructive dialogue with the State Party, the Government admitted the violence

and the long hours they are subjected to in those schools. The Government does not also provide financial support to the Qur'anic schools. The Committee is aware that these schools are being transitioned to Arabic and French schools. However, the Committee recommends the development of minimum standards to be followed in such schools, with close monitoring and supervision by the Government, and reform the schools to assert the realization, among others, of the right to be free from violence, begging and the right to free and compulsory education. The Committee further recommends the inclusion of begging in the Qur'anic Schools as one of the worst form of child labour.

37. There are reported incidents where victims of sexual abuse were forced to marry the perpetrators as a way of reparation. The Committee insists the Government to give closer attention to this practice and address it in the legal and institutional frameworks. The Committee encourages the State Party to render psychosocial and material assistance as well as differential treatment for victims of sexual abuse and to focus on prevention, investigation and conviction of perpetrators.
38. The Committee congratulates the State Party for decreasing the high level of child labour. The Committee recommends for strong prosecution and follow up against those who employ children especially in the informal sector and address the root cause of child labour by supporting the family.

On children affected by harmful traditional practices

39. The Committee gives the State Party credit for introducing help line and prosecuting one woman for committing excision. Nevertheless, the Committee notes with great concern the high rate of FGM which stands at 97% prevalence in the country. The Committee recommends that the elimination of FGM becomes one of the priority areas of the Government and take the following measures to urgently address this violation:
 - a. Effectively enforce the law which forbids FGM,
 - b. Conducts aggressive awareness raising campaigns involving the media and traditional leaders and assess the impact of the awareness raising results to assert that it is efficient,
 - c. Thoroughly investigate, prosecute and convict perpetrators,
 - d. Puts an obligation on Government officials and public servants to report FGM cases, and
 - e. Establishes an alternative income generating activities for those who perpetrate the act for income purpose.
40. The Committee, in the State Party's next periodic report, would like to receive information about the detailed indications of the legal and practical measures taken by the Government against such practices. The information, among others, should include the number of reported cases and convictions, number of campaigns and follow up actions as well as the impact of the measures taken.
41. Furthermore, the Committee notes that there is child marriage in the State Party due to custom. The Committee advises the State Party to undertake an

aggressive awareness raising about the negative consequence of child marriage and ensure that all children are enrolled in school until the age of 18.

On children in conflict with the law

42. Appreciating the establishment of the special court for children in Conakry, the Committee further encourages the establishment of these courts in all regions. The Committee recommends the consideration of juvenile cases in camera, separation of children in both pre-trial and post-trial proceeding, and a noncustodial sentence for children. The Committee recommends the separation of children from adults in prisons and the supply of necessary facilities to prisons accommodating children. The Government should ensure that children are not subjected to abuse and torture in prisons. The Committee recommends for the State Party to refer to the Guidelines on Action for Children in the Justice System in Africa in taking the necessary measure to make the justice system suitable to children and their wellbeing.
43. The Committee has learns from the report of the State Party that there has been one instance where a child was sentenced to death penalty. The Committee urges the State Party to reform its Penal laws to avert sentencing children to death penalty. The Charter does not only prohibit execution of death penalty but also sentencing children to death penalty. Therefore, the Committee recommends the harmonization of the Penal Code with the Charter.

On Children of incarcerated parents or care givers

44. In relation to children incarcerated with their mothers, the Committee refers the State Party to its General Comment No. 1 on Article 30 of the Charter. The Committee recommends for a non-custodial sentence both in pre-trial and trial in accordance with article 30 of the Charter.

I. Responsibility of the child

45. The Committee notes with appreciation Article 7 of the Code of the Child which incorporates responsibility of the child. The Committee further encourages the State party to give due consideration to Article 30 of the Charter and sensitise the society to make children responsible within the limits of their capacity so that they could learn on how to be responsible citizens in schools, family setting and in the community.

J. Conclusion

46. The African Committee of Experts on the Rights and Welfare of the Child appreciates with satisfaction the efforts invested by the Government Guinea and aspires for the implementation of these recommendations. The Committee would also like to indicate that it will undertake a follow up Mission to ascertain the implementation of the recommendation in the foreseeable future. The African Committee of Experts on the Rights and Welfare of the Child takes this opportunity to renew to the Government of Guinea, the assurances of its highest consideration.