

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 OBSERVATIONS AND RECOMMENDATIONS BY THE AFRICAN
COMMITTEE OF EXPERTS ON THE RIGHTS AND WELFARE OF THE CHILD
(ACERWC) ON THE REPUBLIC OF GABON REPORT ON THE STATUS OF
IMPLIMENTATION OF THE AFRICAN CAHRTER 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/ Committee) extends its compliments to the Government of the Republic of Gabon and wishes to acknowledge with thanks receipt of the initial 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 26th Ordinary Session, considered the Republic of Gabon'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.
2. The Committee commends the State Party for its delegation led by H.E. Dr. Seraphin MOUNDOUNGA, 2nd Vice-Prime Minister of the Gabonese Republic in charge of Justice and Human Rights, Keeper of the Seals, for the open and constructive dialogue.
3. The Committee notes with appreciation the fact that the State Party ratified the African Children's Charter 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 the Republic of Gabon for some years after the ratification.

II. PROGRESS IN THE IMPLEMENTATION OF THE CHARTER

4. The Committee commends the State Party among others on the following achievements;
 - a. Ratifying a number of international and regional human rights instruments;
 - b. Adopting various national laws such as Law No.39/2010 Legal Protection of Juveniles, and Decree No.0031/PR/ MTEEP on the fight against child labour;
 - c. Establishing various institutions such as the National Observatory of Children's Rights, the National Human Rights Commission, and the National Human Rights Reports Drafting Committee;
 - d. Progress in reducing maternal and infant mortality; and
 - e. Abolishing death penalty;

III. AREAS OF CONCERN AND RECOMMENDATIONS

A. General Measures of Implementation

5. The Committee commends the Government of Gabon for committing itself to international and regional human rights instruments in general and to the African Children's Charter in particular. The Committee recommends the Government of Gabon to reinforce its commitment to protect children through the harmonization of

national laws in line with the principles and provisions of the African Children's Charter. Furthermore, the Committee encourages the State Party to adopt a comprehensive children's rights law.

6. Appreciating the establishment of the National Human Rights Commission, the Committee recommends the State Party to ensure that the Commission functions independently and to allocate sufficient budget. The Committee further recommends the State Party to ensure that the Commission is accessible to all children.
7. The Committee recommends the State Party to establish an operational and effective coordination and monitoring mechanisms for the various ministries working with and for children. Furthermore, the Committee recommends the State Party to create conducive environment to Civil Society Organizations (CSOs) and to collaborate with CSOs in the implementation of the African Children's Charter.
8. The Committee recommends the Government of Gabon to allocate sufficient budget for all sectors particularly to health and education sector.
9. Furthermore, the Committee is concerned of the continuous raise in cost of living and its implication on children. Hence, the Committee recommends the Government of Gabon to take action to ease the wrestle with living costs.
10. Commending the existing data collection system, the Committee recommends the State Party to strengthen it and press for a comprehensive data collection and keeping system to better reflect the situation of children on the ground and to include disaggregated statistical data for all clusters in its next report to be submitted for the Committee.
11. Commending the State Party for the legislative measures it has taken to discourage customary practices and cultures that undermine the rights of children, the Committee calls upon the State Party to continue its efforts to discourage the practice of any custom, tradition, culture and religion that are inconsistent with the African Children's Charter and to promote positive cultural values and traditions that protect children's rights.
12. The Committee encourages the State Party to commemorate and celebrate the Day of the African Child (DAC) in each region every year with the objective of bringing impact on the life of children. To this effect, the Committee recommends the State Party to refer to the Concept Note on DAC which the Committee circulates to State Parties every year on different themes. Furthermore, the Committee recommends the Government of the Republic of Gabon to regularly submit a report to the Committee on the commemoration of the DAC.
13. The Committee encourages the State Party to continue promoting the rights of children through the dissemination of the African Children's Charter in local languages. In addition, the Committee recommends the State Party to ensure the availability of its report to the Committee on the implementation of the African Children's Charter to the general public.

B. Definition of the child

14. The Committee is highly concerned by the variation that exists in national laws on the definition of the child. Though the Civil Law defines a child as a person aged between 0 and 18 years, the same law provides that the girl child aged 15 or above can marry. The Committee also noted that under the same law a guardian can give a girl who reached age of puberty for marriage while age of puberty is set at 14 years old. Moreover, the State Party report indicates that the age of majority varies from one situation to another and states that the social majority is set at the age of 16 years. The Committee is convinced that the provision on 'age of majority' can be broadly interpreted prejudicing the best interest of children. Therefore, the Committee urges the Government of Gabon to harmonize the Civil Law and other laws in line with the definition of the child under article 2 of the Charter.
15. Furthermore, the Committee urges the State Party to comply with article 21 (2) of the African Children's Charter which set the minimum age of marriage for both boys and girls at the age of 18 years.

C. General principles

Non-discrimination

16. The Committee regrets that the provisions of the Civil Law which set the minimum age of marriage for the girl child is at the age of 15 years discriminating the girl child from the boy child. Therefore, the Committee urges the State Party to ensure through legislative action and implementation of the African Children's Charter that the girl child is not discriminated on the basis of sex or any other status.
17. Moreover, commending previous efforts, the Committee recommends the State Party to ensure the application of the principle of non-discrimination in all administrative and judicial actions to all children irrespective of their parents' or guardians' origin, ethnic group, color, sex, language, religion, political or other opinion, national or social origin, fortune, birth or other status.

The Best Interest of the Child

18. Commending existing legal and administrative frameworks to respect, protect and promote, the best interest of the child, the Committee recommends the State Party to supervise and monitor the full application of this principle as paramount principle in all administrative and judicial decisions that affect children and particularly in case of issuing maintenance and custody.

The Right to Life, Survival and Development

19. The Committee is concerned about 'ritual crimes' that pose danger on children's rights to life, survival and development. Therefore, the Committee urges the State Party to take action to ensure that the children are not endangered under the guise of rituals. In this regard the Committee recommends the State Party to improve the technical and financial capacity of institutions that works for children, to closely work with community and religious leaders in raising awareness, and to bring to justice the perpetrators of the acts.
20. The Committee recommends the State Party to ensure universal access for pre natal and neonatal health services throughout the country; promote exclusive breast feeding for the first six months and strictly regulate commercials of supplementary products; and in collaboration with CSOs to ensure the provision of micronutrient products in regions where there is moderate and acute malnutrition. To this effect, the Committee recommends the State Party to make reference to the African Union Regional Nutrition Strategy (2015-2025).

Child Participation

21. The Committee appreciates the State Party for establishing the children parliament and recommends the State Party to ensure that the children parliament is a platform for children to express and disseminate their opinion freely in all matters. In this regard, the Committee recommends the State Party to ensure that all children from all parts of the country are represented in the parliament, to allocate sufficient budget, and to take into account in decision making process the resolution of the children parliament.
22. In addition, the Committee recommends the State Party to promote respect for the views of the child in the family, in schools, and before administrative authorities and courts.

D. Civil Rights and Freedoms

Name, Nationality, Identity and registration at birth

23. The Committee commends the State Party for the provision of the civil code which ensure children's rights to birth registration immediately after birth and for the establishment of registration centers at municipality and district levels. However, the Committee is concerned that the 30 days period might end up to be a barrier for parents or caregivers not to register children after the lapse of the 30 days period. Therefore, the Committee recommends the State Party to lift all barriers that are cumbersome on birth registration. In this regard, the Committee recommends the State Party to refer to the Committee's General Comment on article 6 of the African Children's Charter.

Freedom of Expression, Conscience, Thought and Religion

24. The Committee recommends the State Party to continue its efforts in promoting children's freedom of expression, conscience, thought and religion and create awareness among parents or caregivers and in schools.

Protection of Privacy

25. The Committee recommends the Government of Gabon to safeguard that the privacy of children in the juvenile justice system, child witnesses and child victims is protected. Furthermore, the Committee recommends the State Party to ensure that remedies are available whenever children's privacy is intruded.

Protection from abuse and torture

26. The Committee welcomes the enactment of the 2008 Law on Sexual Violence and Female Genital Mutilation. However, it is noted that violence and abuse against children is predominant within the family. Therefore, the Committee recommends the State Party to ban corporeal punishment in all settings. Moreover, the Committee recommends the State Party to put in place a child friendly and accessible reporting and rehabilitation mechanism for child victims.

E. Family Environment

Parental Guidance and Responsibilities

27. While commending the legislative measure taken by the State Party to protect the family, the Committee recommends the State Party to set in place a mechanism to support single parents and child headed households. In addition, the Committee recommends the State Party to ensure the enforcement of maintenance orders for all children in general and particularly to children born out of wedlock.
28. The Committee noted that the polygamy is not a prohibited act in Gabon. Therefore, the Committee recommends the State Party to ensure that the practice of polygamy does not affect the upbringing and development of children in a polygamous family.

Family reunification and children deprived of the family environment

29. The Committee recommends the State Party to set in place child tracking and reunification system for children separated from their families.
30. The Committee recommends the State Party to ensure that alternative care in a family setting is exhausted before placing a child in an institutional care.
31. The State Party report indicates the existence of a child care facility in Libreville for children deprived of family environment while being silent on the availability of child care facilities in other parts of the country. Henceforth, the Committee recommends the State Party to establish child care facilities in all regions, to improve the service

in already existing facilities, and to regularly monitor and supervise institutional facilities.

Adoption

32. The Committee noted that there is no law in the State Party which regulates inter-country adoption and that Gabon has not yet ratified the 1993 Hague Convention on Inter-Country Adoption. Therefore, the Committee recommends the State Party to resort to international adoption after exhausting the possibility of in-country adoption that is in the best interest of the child and to adopt a law to regulate inter-country adoption. Furthermore, the Committee recommends the State Party to consult the Guidelines for Action on Inter-country Adoption in Africa in dealing with domestic and international adoption and to ratify the 1993 Hague Convention on Protection of Children and Co-Operation in Respect of Inter-country Adoption.

F. Basic Health and Welfare

Children with Disabilities

33. Appreciating the State Party for adopting Law No.19/95 to cater for the needs of people with disability, the Committee calls upon the Government of Gabon to ensure that children with disability have access public facilities such as medical centers, sport fields and playgrounds. Moreover, the Committee recommends the State Party to establish orthopedic services and where services are available to ensure that the services are more accessible, and flexible.

34. The Committee also recommends the State Party to adopt a standard definition of disability in statistical data gathering within government ministries and across the country.

35. The Committee recommends the Government of Gabon to exert effort to prevent disabilities and disabling diseases before and after birth. In this regard, the Committee recommends the Government of Gabon to expand immunization coverage and post-natal health care services.

Health and Health Services

36. The Committee commends the State Party for the progress it has made in reducing maternal and child mortality. However, the Committee noted that infant mortality remains to be high. Therefore, the Committee recommends the State Party to improve the quality of health care services and to make interventions to prevent and treat diarrhea, pneumonia, and malaria which are the main causes of infant and child mortality. In addition, the Committee recommends the State Party to improve pediatric HIV diagnosis, care and treatment and to provide counseling for caregivers. The Committee also recommends the State Party to strengthen its efforts in providing adequate access to antenatal care and delivery in health facilities.

37. Commending the launch of Food Security Program and the establishment of the National Nutrition Centre, the Committee recommends the State Party to explore solutions for children at risk of under-nutrition through the provision of iron-folate, promotion of exclusive breast feeding for the first six months after birth, and of complimentary feeding.
38. Furthermore, the Committee recommends the State Party to ensure that provision of public health services particularly the provision of primary health care services is evenly distributed in urban and rural areas. In this regard, the Committee calls upon the State Party to ensure that vulnerable children have access to basic health services and nutrition programs. In addition, the Committee recommends the State Party to take action to increase the number of health workers and professionals and to ensure their deployment in all regions.
39. The Committee recommends the State Party to ensure that adolescent children have access to reproductive health information, services and care. In this regard, the Committee recommends the State Party to particularly reach children who drop-out of school, living in the streets, in refugee camps, and who are in other hazardous conditions.

G. Education, leisure and cultural activities

40. The Committee recommends the State Party to establish early childhood education centers for children in rural and remote areas and to regularly monitor and supervise those centers owned by private entities.
41. The Committee appreciates the constitutional guarantee accorded to the right to education. However, the Committee is concerned by the high rate of school dropout. Therefore, the Committee recommends the State Party to address the problem through various actions such as comprehensive school reforms, reducing class size, and launching family support and school feeding programs.
42. The Committee recommends the State Party to ensure inclusive education for children with disability. In this regard the Committee recommends the State Party to continue its efforts in campaigning for children with disability to enroll in schools and to ensure that a favorable physical and epistemic environment is created. Moreover, the Committee recommends the State Party to provide teachers trained in special needs education in order to minimize barriers in the learning process.
43. In respecting children's have the right to play, leisure, and have cultural life as central to their health and development, the Committee recommends the State Party to ensure that all children have an environment sufficiently free from waste, pollution, traffic and other physical hazards to allow them to circulate freely and safely within their local neighborhood; have resting time appropriate to their age and

development; have leisure time free from other demands; and space and opportunities to play outdoors.

H. Special protection measures

Refugee, Migrant and Displaced Children

44. Appreciating the adoption of Act No. 005/98 to regulate the status of refugees, the Committee recommends the Government of Gabon to continue its efforts to enhance protection for asylum seeking, abandoned and unaccompanied children and to provide such children with basic education, health care and other services.
45. Furthermore, the Committee recommends the State Party to collaborate with CSOs to trace and unify unaccompanied children, to explore durable solutions, and to provide psychosocial assistance.

Children in Conflict with the Law

46. The Committee appreciates the efforts of the State Party in protecting and respecting the rights of children in conflict with the law. However, the Committee is concerned by the fact that children are detained with adults and a quarter for minors is available only in Libreville Central Prison and in Franceville. Therefore, the Committee recommends the State Party to provide mechanisms and structures outside the prison to take care of minors in conflict with the law. In instances where detention is inevitable, the Committee recommends the State Party to ensure that minors are detained separate from adults in all correction facilities in the country.
47. Moreover, the Committee recommends the State Party to establish child friendly courts across the country and to increase the working pool of psychologists and social workers in the juvenile justice system. To this effect, the Committee recommends the State Party to refer to the Guidelines on Action for Children in the Justice System in Africa.

Children of Imprisoned Mothers

48. The Committee recommends the State Party to avoid detention of mothers and primary care givers and when detention deems to be inevitable to extend special treatment for throughout conviction, sentencing, imprisonment and reintegration phases of the criminal justice process. To this effect, the Committee recommends the State Party to consult General Comment No.1 of the ACERWC on article 30 of the African Charter on the Rights and Welfare of the Child

Sexual Exploitation and abuse

49. The Committee noted that close to 42% of girls who are between the ages of 16 to 17 years are sexually exploited as commercial sex workers. Therefore, the Committee urges the State Party to prevent and combat the crime of commercial sexual exploitation of children, to prosecute the perpetrators, and to set in place

rehabilitation and reintegration mechanisms for victims. In addition, the Committee recommends the State Party to cooperate with neighboring countries to stop the trafficking and smuggling of children.

50. Furthermore, the Committee calls upon the State Party to address factors such as poverty, social exclusion, absence of legal identity or lack of citizenship, child labour, and organized crimes which makes children vulnerable to commercial and non-commercial sexual exploitation.

Harmful Traditional Practices

51. The Committee is highly concerned by the fact that the girl child can marry at the age of 15 years. Therefore, the Committee recommends the State Party to harmonize its law in line with article 21(2) of the African Children's Charter setting the minimum age of marriage for both boys and girls at the age of 18 years old.
52. Moreover, the Committee recommends the State Party to sensitize families, community and religious leaders on the damaging effect of harmful traditional practices on the physical, psychological and mental development of children.

Children from Minority Groups

53. The Committee welcomes the Plan of Indigenous People in which the Government assumes responsibility for indigenous people. In implementing the Plan, the Committee recommends the State Party to take concrete measures to ensure that children of minority groups such as pygmy children have access to basic social services

I. Responsibilities of the Child

54. The Committee calls upon the State Party to create awareness among children regarding their responsibility towards their family, the society and the State and to ensure that children are given responsibilities taking into account their age, maturity and ability. Moreover, the Committee recommends the State Party to ensure that the provision of the Charter on the responsibilities of the child is interpreted and applied in compatibility with the contents of other provisions of the Charter and by any means does not derogates the rights enshrined therein

Conclusion

55. The African Committee of Experts on the Rights and Welfare of the Child appreciates with satisfaction the efforts by the Government of the Republic of Gabon to promote and respect the rights of children 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 first, second and third periodic reports by September 2019 and to

include in it information on the implementation of the present Concluding Observations and Recommendations. 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 Gabon, the assurances of its highest consideration.