

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 REPUBLIC OF MOZAMBIQUE 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 Mozambique 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 on 6-11 October, considered Mozambique'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 takes note of the written replies to its list of issues and commends the State Party for its delegation led by H.E Manuel Goncalves, Ambassador of the Republic of Mozambique to Ethiopia, Permanent Representative to the AU and UNECA, for the open and constructive dialogue.
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 after considerable delay, which prevented the Committee from reviewing the implementation of the Charter by Mozambique for some years after the ratification.

II. PROGRESS IN THE IMPLEMENTATION OF THE CHARTER

4. The Committee commends the State Party on the following achievements;
 - a. The ratification of various regional and international human rights instruments.
 - b. The adoption of Basic Law on the Protection of the Child, no. 7/2008, 9/7/2008; Law of Organisational Guardianship of Minors, no. 8/2008, 9/7/2008; and Law on Trafficking of Persons especially Women and Children no. 6/2008, 9/7/2008.
 - c. The development of various national policies and plans of action including the National Plan of Action for the Child - PNAC I (2006-2011), PNAC II (2013-19), and Plan of Action for Orphans and Vulnerable Children (PACOV) - parallel to PNAC I and integrated in PNAC II.

III. AREAS OF CONCERN AND RECOMMENDATIONS

A. General measures of implementation

5. The Committee congratulates the State Party for the dynamic economic growth it has attained and hopes that this growth will positively contribute to address major economic challenges faced by children.
6. Taking note of the fact that the State has broad range of legislation and policies which are protective of the rights of children, the Committee is still concerned that the context of Mozambique, particularly the prevalence of corruption, poverty and inequality, is affecting the implementation of these laws and policies for the advantage of children. The Committee urges the Government to fill this gap by increasing the allocation of budgets for the implementation of the African Charter on the Rights and Welfare of the Child and by addressing challenges related to the allocation of budgets such as mismanagement of funds, corruption and uneven development that exists between rural and urban areas. Further the Committee recommends the State Party to strengthen its child protection system along with increased attention to the training of social workers.
7. During the constructive dialogue with the delegates of the State Party, it was noted that Mozambique has been in the process of coming up with regulations for the Basic Law on the Protection of the Child no. 7/2008. Thus the Committee calls upon the State Party to expedite the finalization of this regulation to improve the situation of children in Mozambique.
8. The Committee further urges the State Party to put in place a comprehensive data collection and record keeping system and to incorporate a disaggregated statistical data set in its next report to be submitted to the ACERWC.
9. The ACERWC welcomes the creation of the National Human Rights Institution and look forward to having a continued engagement with it. The Committee advises the State Party to strengthen the National Human Rights Institution to cater for the wellbeing of children, to create a focal point for children to allege violations of their rights and to ensure that the National Human Rights Institution is accorded the resources to follow up on complaints received.
10. The Committee commends the State Party for celebrating the Day of the African Child (DAC) and encourages the State Party to continue commemorating and celebrating the same with the objective of bringing impact to the lives of children.

B. Definition of a child

11. The Committee applauds the State Party for the definition of the child it has adopted under its Constitution, the Family Law and Basic Law on the Protection of the Child. The Committee, however, is concerned about the various remaining laws which provide for a definition of the child which is not in agreement with the Charter.
12. The Committee recognizes that the minimum age for marriage in the country is below 18 in some circumstances, which is in clear contradiction with the Charter as it provides for the minimum age of marriage to be 18 with no exception. The Committee thus requests the State Party to harmonize its customary and religious laws, policies and practices and to 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 mechanisms in place to reduce the incidence of child marriage.

C. General principles

Non-discrimination

13. The Committee urges the State Party to improve and promote laws and policies that promote equality of children in general and particularly in relation to girls, children with disabilities, and children from marginalized groups.

The best interests of the Child

14. The Committee appreciates the inclusion of the principle of the best interests of the child in its Constitution and recommends the State Party to fully apply this principle in accordance with the provisions of the Charter. There should be a clear provision which prioritizes the best interest of the child as overriding other interests in all matters that affect the lives of children.

Survival and Development

15. It has been reported that malnutrition among children reached 44% in Mozambique. The Committee calls upon the State Party to take appropriate measures such as providing and promoting adequate nutrition like exclusive and continued breastfeeding, and providing nutrient-dense, complementary foods for children starting at the age of six months.
16. The Committee also recommends the State Party to put in place all the necessary measures in all settings to protect children from violence that affects their right to life, survival and development.

17. In the State Party report, the State Party admitted the prevalence of deaths of children due to road accidents. The Committee appreciates the measures taken by the State Party to reduce accidents involving children. The Committee calls upon the State Party to strengthen its measures and to develop more rigorous safety standards for drivers as a way of protecting children's right to life.

Child Participation

18. The Committee commends the State Party for recognizing children's right to freely express their opinion on issues that affect them and calls upon the Government of Mozambique to give due consideration to children in general and to a children's parliament in particular by allocating the necessary budgets. The Committee further recommends the Government of Mozambique to take all the necessary measures to ensure the proper representation of children in court proceedings.

D. Civil rights and freedoms

The right to a name and a nationality

19. The Committee encourages the State Party to implement the African Children's Charter by registering every child immediately after birth. The Government should harmonize its laws on birth registration in light of the provisions of the Charter and the principles included in the Committee's General Comment No 2 on the scope of application of Article 6 of the Charter.

E. Family Environment and Alternative Care

Alternative care

20. During the constructive dialogue between the Committee and the delegation of the State Party, it was mentioned that there is a challenge in administering and regulating orphanages and child care centres. Thus the Committee urges the State Party to develop and effectively implement norms and standards to cater for those children that are deprived of a family environment and to this effect the Committee urges the State Party to consult the UN Guidelines for the Alternative Care of Children (2009).

Adoption

21. The Committee commends the State Party for introducing domestic adoption under Decree 5/89. However, it is noted that this law is ambiguous in relation to inter-country adoption. Thus, the Committee recommends the State Party to make clarifications in the law in relation to inter-country adoption and to this

effect to ratify the Hague Convention on Protection of Children and Co-Operation in Respect of Inter-country Adoption (1983) and also to consult the Guidelines for Action on Inter-country Adoption in Africa.

F. Health and Welfare

22. The Committee commends the State Party for giving priority to the health of children through the implementation of vaccination programs and advises the State Party to scale up its vaccination program, including expanding access to antiretroviral medication for HIV to reduce the prevalence of HIV and its effect on children.
23. There are reported cases of corruption and lack of necessary skills by health workers which affects the quality and equal distribution of health services. Thus the Committee calls upon the Government of Mozambique to train health workers in order to conduct health services in a child friendly manner and to take appropriate measures against unethical workers.

G. Education

24. The Committee, appreciating the efforts of the government of Mozambique to improve the quality and access education, calls upon the State Party to further strengthen and continue improving access and quality of education for all children. The Committee also recommends that the State Party ensures that no child is left uneducated by lifting barriers such as the requirement of identity cards for refugee and stateless children and guaranteeing access to education for pregnant girls.
25. The Committee appreciates efforts made by the State Party to improve completion rate in schools and recommends the State Party to address particular issues that lead to school dropouts. In addition, it is reported that pre-schooling coverage in Mozambique is only 5%. The Committee therefore urges the Government of Mozambique to take all appropriate measures to scale up pre-school education to an acceptable level.
26. The Committee recommends the State Party to hold teachers who sexually abuse children accountable for their actions. Further, the Committee urges the State Party to closely monitor, regulate and assess the potential negative impact of privatization of schools on access to education and to supervise all religious, private and public schools to safeguard the wellbeing of children in these schools.
27. Moreover the Committee calls up on the State Party to ensure the realization of inclusive education by taking all the necessary measures to accommodate

children with disabilities. The manner and form of inclusive education must be dictated by the individual educational needs of the child. The State Party should not apply inclusive education by simply integrating children with disabilities into the regular system regardless of their challenges and needs. Rather, it should cater for the children's specific needs by re-evaluating its education curriculum to address challenges faced by children with disability, incorporating special needs education training for teachers and other personnel involved in the education system, and providing and improving basic infrastructures suitable to children with disability.

H. Special Protection Measures

Child Labour

28. The Committee acknowledges the commitment made by the State Party to address the challenges related to child labour and calls upon the Government of Mozambique to further strengthen its capacity to inspect industries that are engaged in hazardous activities and employ children between the ages of 15-18. The Government should regulate and supervise both the formal and the informal sector, and implement with due diligence Article 15 of the Charter and the ILO Convention on Worst Forms of Child Labour.

Protection against Child Abuse and Torture

29. The Committee appreciates the prohibition of corporal punishment as a sentence and recommends the State Party to explicitly ban corporal punishment in all settings including in school, the home and in alternative care centres. The State Party should ensure the respect of children's right to be protected from violence. The Committee also calls upon the State Party to encourage positive discipline and to support families through awareness raising and training for those who are working for and with children such as teachers and care givers.

Children in Conflict with the Law

30. The Committee appreciates the establishment of children's court in Maputo and the 2012 pilot project on community service to avoid imprisonment of children in conflict with the law. However, there is a need to strengthen and expand these efforts throughout the country to ensure the wellbeing of children in conflict with the law. Therefore, the Committee recommends the State Party to make its juvenile justice system a child friendly system by consulting the Guidelines on Action for Children in the Justice System in Africa, to expand the children courts in other provinces and to continue implementing alternative discipline

measures. Diversion of children away from formal court proceedings should be introduced to ensure that detention remains an option of last resort.

Harmful Traditional Practices

31. From the State Party report and during the constructive dialogue it was noted that there are some communities, including refugees and migrants, who still perform some harmful traditional practices. Thus, the Committee recommends the State Party undertake appropriate legislative and administrative measures, including awareness creation, against the damaging effects of such harmful traditional practices which include child marriage and killing of children with albinism for their body parts.

Sale, Trafficking and Abduction

32. It has been reported that internal and external trafficking of children for purposes of sexual exploitation, and high rate of child prostitution exist in cities like Maputo, Beira and Napula. It is also reported that children who drop out of school engage in begging and are exposed to sexual exploitation. It is indicated that their situation is aggravated due to cross-border trade, and that children from Malawi, Zambia and Zimbabwe, are being trafficked to Mozambique for sexual exploitation. Hence, the Committee recommends the State Party to strengthen the capacity and mechanisms through inspection of formal and informal tourist destinations and hotels, public disclosure of information about the perpetrators and holding them accountable, sensitization of families, communities, private sector and the general public to protect children against any form of sale, trafficking and exploitation.

Children of Imprisoned Mothers

33. Appreciating the special treatment for expectant mothers and mothers with children as indicated in the State Party report, the Committee further urges 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. The Committee recommends for the Government to extend the special treatment for mothers beginning from arrest, up to the ultimate conviction, sentencing, imprisonment and reintegration phase of the criminal justice process.

Responsibility of the Child

34. The Committee appreciates the State Party for dedicating a specific provision on child responsibility under its Law on the Promotion and Protection of Children's

Rights as well as for encouraging children to carry out solidarity activities through the Children's Parliament, school councils, girls' clubs and community-based Child Protection Committees. With this, the Committee calls upon the State Party to continue its efforts in promoting the responsibility of the child as it contributes towards the provision of a forum of participation for children and allows them to be involved in matters which might affect their interests.

Conclusion

35. The African Committee of Experts on the Rights and Welfare of the Child appreciates with satisfaction the efforts invested by the Government of Mozambique 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 recommendations 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 Mozambique the assurances of its highest consideration.