

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
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**CONCLUDING OBSERVATIONS AND RECOMMENDATIONS OF THE AFRICAN
COMMITTEE OF EXPERTS ON THE RIGHTS AND WELFARE OF THE CHILD
(ACERWC) ON THE INITIAL REPORT OF THE REPUBLIC OF BENIN ON THE
STATUS OF THE IMPLEMENTATION OF THE AFRICAN CHARTER ON THE
RIGHTS AND WELFARE OF THE CHILD**

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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 Benin and wishes to acknowledge with thanks the receipt of its 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) which was submitted in accordance with the State Party's obligation under article 43 of the Charter. The ACERWC considered the Initial Report of the Republic of Benin during its 33rd Ordinary Session, which was held on 18-28 March 2019 in Addis Ababa, Ethiopia.
2. The Committee also congratulates and appreciates the Government of Benin for sending its Delegation which was led by H.E. Mr Severin Maxime QUENUM, Minister of Justice, Legislation and Human Rights with whom the Members of the ACERWC had a productive discussion with. The dialogue indeed helped the Committee to better understand the measures that the State Party has undertaken towards the implementation of the Charter as well as the challenges it is facing. After a careful consideration of the facts in the Report and the information provided during the constructive dialogue, the Committee has developed and adopted the following concluding observations and recommendations which, in the Committee's view, provide guidance for the State Party to better enhance the implementation of the provisions of the African Children's Charter.

II. PROGRESS IN THE IMPLEMENTATION OF THE CHARTER

3. The Committee commends the State Party for the various measures it has undertaken towards the implementation of the provisions of the African Children's Charter, among others:
 - The ratification of various international and regional instruments in relation to children's rights including The Hague Convention on Protection of Children and Co-operation in Respect of Inter-country Adoption;
 - The adoption of the Children's Code which is a comprehensive child rights law that provides for children's rights in various circumstances;
 - The total prohibition of corporal punishment in all settings by law;
 - Setting up an independent monitoring through the Benin National Human Rights Commission;
 - Provision of free and compulsory education and introducing school feeding program;
 - Outlawing Female Genital Mutilation by law; and
 - Undertaking bilateral agreement to address the scourge of child trafficking.

III. FURTHER DEVELOPMENTS, AREAS OF CONCERN AND RECOMMENDATIONS

A. General measures of implementation

Reporting

4. The Committee, while commending the State Party for submitting its initial report, notes that the report is submitted after long delay; hence the Committee would like to urge the State Party to comply with its reporting obligation under the Charter by sending its periodic reports in due time. The Committee commends the State Party for the consultative process employed while developing the initial report and encourages the State Party to further enhance the meaningful participation of children, CSOs, and other stakeholders in the preparation of the subsequent State Party Reports. Building on the consultative process, the Committee recommends that the State Party work towards widely disseminating the contents of these concluding observations among children and all stakeholders, and to develop an action plan on implementation of the recommendations in collaboration with all stakeholders.

Legislative measures

5. The Committee commends the State Party for the legislative measures it has undertaken including the recent ratification of The Hague Convention on Protection of Children and Co-operation in Respect of Inter-Country Adoption and enactment of the Child Code. The Committee also commends the development of the National Child Protection Policy as well as the ongoing revision of various laws to harmonize them with the Charter. The Committee recommends that the State Party allocates sufficient human and financial resource for the implementation of the Child Code as well as the National Child Protection Policy and encourages to fast-track the revision of laws indicated in the State Party Report.

Institutional setup and budgetary allocation

6. The Committee notes that the Ministry of Family, Social Affairs, National Solidarity, Disabled and Elderly is the main ministry that deals with child rights issues and also deals with numerous other issues. The Committee recommends that the State Party ensures that child rights issues are not overshadowed and the Directorate dealing with child rights in the Ministry receives sufficient budgetary allocation for the implementation of the Charter. Furthermore, the Committee encourages the State Party to apply a child friendly budgeting as well as consumption of budget including on funds from donors. Considering the fact that investment on health and social protection of children remains low in Benin, the Committee recommends the State Party to give priority to children and increase the allocated budget to sectors that work on children's rights and welfare.

Coordination

7. From the State Party report and the deliberation during the consideration of the State Party report, the Committee observes that the Ministry of Family, Social Affairs, National Solidarity, Disabled and Elderly is tasked with child rights issues and has the National Monitoring and Coordination Unit for Child Protection; while the Ministry of

Justice, Legislation, and Human Rights also deals with child rights issues mainly from legislation and policy point of view and hosts the National Commission on the Rights of the Child. Other various Ministries also deal with the rights of children enshrined in the Charter. In such cases, the Committee believes that strong coordination and collaboration is needed. Hence, the Committee encourages the State Party to ensure that there is no overlap on the tasks performed by the abovementioned two Ministries and between the National Monitoring and Coordination Unit for Child Protection and National Commission for the Rights of the Child. As the National Monitoring and Coordination Unit for Child Protection assumes the responsibility and mandate of coordination, the Committee recommends that the office is provided with the necessary human and financial resource to enable it discharge its mandate and effectively coordinate the work of children's rights among various Government Ministries and organs. In addition, the Committee recommends that the State Party coordinates with other stakeholders such as UN Agencies, CSOs and other stakeholders so that all stakeholders work towards the same priority and goals.

Data

8. The Committee commends the State Party for undertaking census in 2018 to gather updated data. However, the Committee, as indicated during the consideration of the report, notes that the State Party report contains outdated data. Therefore, Committee recommends that the State Party analyses the census in a disaggregated manner and includes updated data in its next report to the ACERWC.

Independent monitoring

9. The Committee appreciates that the Government has exerted an effort to establish an independent monitoring mainly through the creation of the Benin Human Rights Commission. The accreditation of the Commission, however, shows that it does not comply with the Paris Principles and hence the Committee recommends that the State Party considers re-structuring the Commission to ensure its independence. The Committee also recommends that unit which deals with child rights issues is established within the Commission. Moreover, the Committee encourages the State Party to enable its Human Rights Commission receive complaint from children.

Popularization of the African Children's Charter

10. From the State Party report, the Committee notes that the Government has undertaken some activities to popularize the Charter using some platforms, such as regional and international meetings. However, the Committee notes that most of the activities listed are not linked to child rights or are not able to reach population of Benin. As it is also stated in the report, much attention is not given to popularise the contents of the African Children's Charter. In this regard, the Committee recommends that the State Party intensifies its efforts to popularize the contents of the Charter, including by translating the Charter to local languages, incorporating the Charter in the education system at all level, undertaking popularization events among government officials working on child rights issues as well as other stakeholders, and increasing the meaningful participation of children in the celebration of the Day of African Child (DAC).

B. Definition of a child and other age requirements

11. The Committee notes with appreciation that most of the laws of Benin are in line with the African Children's Charter and other accepted international standards in terms of the definition of the child, the age of marriage, age of employment, and minimum age for criminal responsibility. However, the Committee notes that there is a loophole on the age of marriage where children can get married through either parental or judicial consent under articles 119 and 123 of the Person's and Family Code. The Committee also notes that the newly promulgated Child Code does not provide remedy for such consent that exists in the Person's and Family Code. The Committee, therefore, recommends that the State Party provides clear provisions to set the minimum age of marriage at 18 with no exceptions whatsoever, and ensure accountability against individuals who are responsible for getting children into the practice of child marriage. In addition, the Committee recommends the State Party to ensure that definition of the child as prescribed in the Charter and the Child Code take precedence over existing practices and customary laws.

C. General principles

Non-discrimination

12. The Committee notes with appreciation the Constitutional and legislative measures undertaken to introduce prohibited grounds on discrimination against children. However, the State Party report and other reports highlight that there are practices, particularly in family and public settings, which discriminate against girls and children with disabilities. The Committee recommends that the State Party establishes strong law enforcement mechanism to ensure that the principle of non-discrimination is adhered by all actors by providing guidelines and code of conduct for service providers, prosecuting perpetrators of discriminatory acts, and sensitizing families and other stakeholders on the equality of the girl child and children with disabilities.
13. Moreover, reports from UNICEF and other stakeholders provide that there is unequal allocation of funding and resources and lack of provision of services to under-privileged communities which has increased their vulnerability, particularly in relation to their right to life and survival. The Committee recommends that the State Party revises the process of budget allocation for children to ensure that children from underprivileged communities get a fair share of the Country's resource and that their peculiar needs are catered for.

Best interest of the child

14. The Committee commends that the State Party has incorporated the principle of the best interest of the child in its laws and that the judiciary uses the principle in dealing with cases that concern children such as adoption, custody and violence against children. The Committee highlights that the best interest of the child has wide spectrum and should be upheld in all processes and practices such as in formulating laws and policies, budget allocation, and setting child friendly procedures at administrative levels. Moreover, the best interest of the child shall be considered in law enforcement, family setting, schools and in providing other services. The

Committee, therefore, encourages the State Party to train judges, the police, social workers, teachers, and health care personnel on how to implement the best interest of the child in their respective sectors; and create platforms to inform parents, families, traditional and religious leaders, and the community on how to apply the best interest of the child test in all settings.

The right to life, survival and development

15. The Committee notes with appreciation that the State Party has put in place laws that protect the right to life and prohibit infanticide. The Committee, however, notes that there are still practices within the community which result in children to suffer from physical attacks and killings for ritual purposes as well as accused of being witchcrafts. The Committee recommends that the State Party strives towards prevention, investigation, and redress of such attacks against children through continuous sensitization, investigation with due diligence, and prosecution of perpetrators.
16. The Committee commends the State Party for the measures it has undertaken as well as the milestones achieved in reducing child mortality and addressing malnutrition. Nevertheless, the Committee notes that the rate of malnutrition and child mortality is still high with indicators showing that over 30% of children under five are malnourished and 98 children die per 1000 life. The Committee notes that poverty, among others, significantly contributes for malnutrition and child mortality. It is also noted that measles immunization coverage is not satisfactory where only 74% of children obtain the vaccination. The Committee is also concerned about access to safe and improved drinking water by large portion of the population. While appreciating what has been done so far, the Committee recommends that the State Party:
 - Improves the living condition of the economically disadvantaged communities by formulating safety net programmes that can benefit families and households;
 - Undertakes measures to ensure that children are nourished properly from food products that can be available at household level through sensitization of communities about the minimum necessary diet children should get;
 - Provides food supplements to children, and train families and farmers on how to use supplements in producing food to overcome under-nutrition and ensure that foods have the necessary micro-nutrients that are needed for children's development;
 - Increases the coverage of immunization, such as measles, by decentralizing immunization centres or by reaching out to communities through mobile immunization or frequent immunization campaigns;
 - Increases access to improved drinking water by building more water reserve dams in all regions with specific focus on provinces and districts with no access to potable water; and
 - Undertakes measures other than immunization to prevent and treat preventable deadly diseases such as through awareness creation programs, provision of sanitation facilities, and provision of accessible and affordable medical services.
17. In this regard, the Committee encourages the State Party to consult the African Union Regional Nutrition Strategy (2015-2025) for further reference.

Participation of the child

18. Appreciating the fact that the right to participation of children is legally prescribed in the State Party, the Committee regrets that there are no structures and mechanisms through which children can meaningfully participate and ensure that their views are considered on matters which affect them. As indicated in the State Party report, which is also confirmed during the constructive dialogue, the Committee learns that the children's parliament does not exist anymore, due to the alleged lack of proper representation of children. The Committee further notes that children's groups lack proper structures; the community discourages participation of children; girls and children with disabilities are particularly excluded in all sectors; and the lack of consultation of children in decision making processes. In this regard, the Committee recommends that the State Party takes concrete steps towards re-establishing the children's parliaments where all groups of children are represented through. The Committee also encourages the State Party to design structures and provide support for the various children's groups to ensure that their participation in the groups allows them to express their views in a way that can reach to the appropriate forum. Moreover, the Committee recommends that the State Party undertakes continuous sensitization to change the perspective of families and communities on child participation as well as on the importance of engaging children on matters affecting them. Sensitization is also imperative to have an inclusive participation of all groups of children. The Committee recommends that the State Party creates a platform to consult children in decision making such as in development of laws and policies as well as administrative measure that concern and affect children.

D. Civil rights and freedoms

Name, nationality, identity and registration at birth

19. The Committee commends the State party for the various measures it has undertaken to upscale the level of birth registration in the Country, including the mapping exercise conducted by the State Party to identify, among others, the status of birth registration. During the constructive dialogue, the Committee was informed that the mapping revealed that 1.8 million children have no registration document and Government launched free birth registration and certification campaigns to register those found with no documents. The Committee commends the State Party for taking such measures as well as for providing online platform to announce birth and the institutional setup established for this purpose, namely the National Civil Status Directorate within the Ministry of Interior. While appreciating such efforts, the Committee notes with concern the delay in delivering birth certificates; the stamp fees charged for birth certificates despite the legal provision for free registration and certification; lack of awareness on birth registration; and the disparity between the status registration among the rich and the underprivileged.

20. The Committee stresses that up-scaling birth registration system and enhancing the rate of birth registration requires a timely action as civil registry documents are required to access various social services. In addition, the Committee highlights that an efficient civil registry system is essential for effective planning, efficient use of resources and aid, as well as for accurate monitoring of progress in various sectors.

Therefore, the Committee recommends that the State Party takes concrete measures to ensure that all children born in its territory have birth certificates through enhancing the human and financial capacity of the National Civil Status Directorate, make sure that birth registration service is available for all, and ensure that birth certification is issued immediately after registration. The Committee also recommends that the birth registration and certification services are integrated to address the delay. Moreover, the Committee recommends that the State Party complements the online announcement procedure with measures that can ensure registration and certification so that the announcement is documented. The Committee recommends that the State Party undertakes continuous sensitization programs about the importance of birth registration as well as the procedures to be followed for registration; takes measures to simplify registration and certification procedures; ensures that the system is accessible by all communities; and launches mobile registration centres.

21. Moreover, the Committee encourages the State Party to make use of the ACERWC's General Comment No 2 on article 6 of the Charter on the right to name, nationality, and birth registration for further reference and actions.

Freedom of expression, conscience, thought, religion, assembly, and protection of privacy

22. The Committee notes with appreciation the constitutional and legislative measures that the State Party has undertaken to ensure that children enjoy their fundamental freedoms. While legislative measures are paramount on guaranteeing fundamental freedoms, it is also the view of the Committee that the State Party needs to undertake various positive measures given the fact that the right holders are children. Children need to be supported and empowered to exercise their freedoms. Accordingly, the Committee encourages the State Party to inform children about their rights through the education system; and empower children to be able to exercise their freedoms in a reasonable and useful manner. Moreover, the Committee notes, from various reports, that family pressure, social and cultural influences limit children's ability to enjoy their fundamental freedoms and hence the Committee encourages the State Party to sensitize families and communities on creating platforms where children can express their views and thoughts. The Committee further recommends that children's parliaments is re-established and other child groups and clubs are strengthened and well decentralized.

Protection against abuse and torture

23. The Committee strongly commends with appreciation the legislative measures undertaken through the Child Code to ban corporal punishment in all settings and that Benin is among the 7 countries that have done the same in the continent. While this is an exemplary action, the Committee encourages the State Party to also be exemplary in taking other measures to ensure that children live free of corporal punishment in practice. The Committee notes that, despite the legal prohibition, corporal punishment remains high in the State Party, particularly in the family and school settings. The Committee recommends that the State Party undertakes trainings and sensitizations to families, teachers, and law enforcement officials on prohibition of corporal punishment and on positive disciplining mechanisms. The Committee also

encourages the State Party to prosecute teachers and law enforcement officials who inflict abuse while treating and disciplining children. Additionally, the Committee recommends that the State Party empowers children through education about their right to be free from any form of abuse and procedures for reporting corporal punishment and abuse when they occur.

24. The Committee also notes with appreciation the establishment of 85 Social Promotion Centres, referral tools, and transit centres for children who suffer from abuse. The Committee encourages the State Party to provide these institutional setups with sufficient human and financial resources for the rehabilitation and reintegration of child victims. The Committee recommends that the State Party should ensure that the procedures in such setups as well as in the police and the judiciary are child friendly to avoid secondary victimization.

E. Family environment and alternative care

25. The Committee notes with appreciation the legislative measures undertaken through the Person's and Family Code as well as the Children's Code to protect the family unit and to provide that children have the right to family environment.

Parental responsibility and family support

26. The Committee appreciates the normative frameworks available for family support such as the 2013-2017 strategic plan on family strengthening and the establishment of national assistance programs and social nets for families that are economically disadvantaged. However, reports indicate that there are not sufficient funds allocated for the social protection schemes hence the benefits are practically unavailable. It is also reported that the micro-credit support comes from non-state actors for income generating activities. The Committee recommends that the State Party allocates sufficient budget for the operationalization and sustainability of the social protection benefit for children of underprivileged families. Moreover, the Committee recommends that the State Party supports non-state actors in their endeavours to provide social protection services.

Abuse and neglect

27. The Committee notes that, while various laws are put in place to preserve the family unit, there are a large number of children in the street as well as in vulnerable situations. Moreover, some parents abandon their children due to severe poverty. Various reports highlight about *vidomegon* where children are placed in a wealthier family by their parents to get payments; and in some cases, these children are not provided with the minimum care they deserve. The Committee encourages the State Party to sensitize communities about parental responsibilities and the legal consequence of neglecting ones child. The Committee recommends that the State Party identifies children exchanged for payments and assess their situations at their placement; and crafts mechanisms through which such placement of children does not lead to sale of children, child labour, and slavery. In addition, the Committee

recommends for the State Party to prosecute perpetrators of any form of abuse and neglect against children.

Alternative care

28. On institutional care of children who have been temporarily or permanently deprived of their family environment, the Committee is concerned that the actual number of such institutions are not known and that some institutions do not fulfil the minimum requirements such as declaring children or ensuring the legal status for the children they are hosting as well as provision of minimum care. The Committee recommends that the State Party undertakes baseline survey of institutional care to identify their actual number and their status in fulfilling the requirements set forth by law. The Committee recommends that regular assessment and monitoring of such institutions are carried out and that the assessments are followed by targeted actions to address the challenges such as availing basic services, supporting the institutions, developing monitoring and evaluation guidelines/tools. The Committee, highlighting that institutional care is meant to be temporal, recommends that the State Party continues with due diligence on family reunification or finding permanent alternative care for the children.
29. In relation to foster care and kinship care, the Committee is informed that there is no comprehensive data and the organized foster care family selection with proper follow-up tool is undertaken by non-state actors. Reports also show that the habit of taking children in foster care and kinship care has reduced due to economic challenges. The Committee recommends that the State Party identifies, through research, trends in foster and kinship care, as well as the behaviour of the community towards such alternative cares. It is also encouraged that the State Party strengthens the support it provides for non- state actors who participate in the identification of foster families and follow-up of children thereafter.
30. With regards to adoption, the Committee commends the establishment of central authority for adoption and measures undertaken to enhance monitoring of the situation of adopted children. The Committee, however, notes that the authority lacks finance and human resource which makes its operation impossible. The Committee is concerned that there is no available data on the rate and follow-up of adoption and observed from the constructive dialogue that the State Party intends to prohibit international adoption again. The Committee recommends that the State Party fully and tangibly operationalizes the central authority for adoption; and ensures that any action taken by the authority is commenced by collecting data followed by undertaking post adoption follow-up activities. The Committee reiterates what has been forwarded by the UN Child Rights Committee that adoption, particularly international adoption of children, has been used as a mechanism to sale children and hence recommends that the State Party promotes domestic adoption and introduces a stringent requirements and follow-up system for both domestic and international adoption.

F. Basic health and welfare

Children with disabilities

31. The Committee commends the State Party for ratifying the Convention on the Rights of Persons with Disabilities; adopting the Act on the Protection and Promotion of the Rights of Persons with Disabilities; and establishing community based rehabilitation program for children with disabilities. However, the Committee has concerns in relation to the discrimination faced by children with disabilities in accessing basic services partly due to inaccessibility of the services for these children; the low number of public centres for children with disabilities accompanied by lack of financial, material, and human resources to cater for their special needs; and the lack of early identification mechanisms such as testing hearing disorder; lack of personnel and resource to treat children with disabilities.
32. The Committee recommends that the State Party increases its efforts to strengthen its preventive measures to address preventable disabilities before they occur. In this regard, the Committee recommends that immunization of polio and other vaccinations reach all children including children with disabilities. The prevention should be accompanied by early identification of disabilities to ensure that children with disabilities get the appropriate treatment and care on time to reduce further damages. The State Party is also encouraged to sensitize and education families and the community on early reporting of disabilities among children; provide training for all health workers to enable them identify disabilities and provide appropriate care; provide treatment and rehabilitation services for children with disabilities; establish more public centres for the rehabilitation and care of children with disabilities; and provide sufficient financial, human and material reassurances for the centres.
33. In addition, the Committee recommends that the State Party considers to ratify the African Union's Protocol to the African Charter on Human and Peoples' Rights on the Rights of Persons with Disabilities.

Health and health services

34. The Committee commends that health services are decentralized in the State Party in various layers; free caesarean is provided; and efforts are exerted to increase vaccination coverage. While progresses achieved through these efforts are praiseworthy, the Committee notes some concerns in relation to health including the increasing number of children who have not obtained any vaccination between 2006 and 2012 as indicated in the State Party Report; urban-rural disparity in accessing immunization services; increasing number of child pregnancy; the low rate of exclusive breast feeding which is reported to be 33%; the high rate of malaria, acute respiratory diseases and diarrhoea among children. Taking these challenges and the right of children to health and health services, the Committee recommends that the State Party:
- Further decentralizes health services and ensures that health centres in all layers have the necessary facilities and human resources;
 - Assesses the rate of immunization including the regional and economic disparities and if the coverage is not improving, crafts a different approach to enhance

vaccination coverage to all children by addressing the identified factors that have led to lower rates;

- Provides sanitary and hygiene facilities and educate communities about how to maintain personal and communal hygiene with the resources available at their disposal;
- Increase the number of health extension workers who can sensitize and follow-up communities;
- Distribute mosquito nets in highly affected areas and educate communities on the symptoms so that they can get treatment at an early stage;
- Provides for sexual reproductive education for adolescent girls in schools and at the community level to prevent teenage pregnancy; and
- Provides contraceptive services for free and sensitize communities about the relevance and advantages of utilizing various forms of contraception.

35. In relation to HIV/AIDS, the Committee, while noting with appreciation the increased number of children who are receiving ARV treatment, is concerned that the prevalence rate has increased between 2012 and 2013. The Committee also notes with concern that only 49% of mothers were provided with prevention of mother to child HIV/AIDS transmission and that there were children who did not get early diagnosis after birth. The Committee recommends that the State Party intensifies its efforts to raise awareness on HIV/AIDS with no complacency including by providing HIV/AIDS prevention education in schools. The Committee further recommends that the State Party ensures that health workers are trained and health facilities have the necessary facilities to undertake early identification including at prenatal and antenatal stages.

G. Education, leisure and cultural activities

Education

36. The Committee notes with appreciation that the State Party provides for free and compulsory primary education for children; built more schools and classrooms; trained teachers and inspectors; and introduced the accelerated coursed program for children who dropped out of school or repeated classes. The Committee strongly commends the progress the State Party achieved in primary education enrolment and completion rate between 2002 and 2014 and for introducing school feeding programs. The Committee, however, has concerns in relation to the very low pre-primary education enrolment rate which stands at 23.9%; the gender and regional disparity on education enrolment rate; increasing rate of school dropout which has increased from 8.3% to 13.39% between 2003 and 2012 as indicated in the State Party report; low completion rate of primary education caused by repetition in addition to dropout; and the high incidence of sexual exploitation of girls in schools. The Committee recommends for the State Party to:

- Further increases its budgetary allocation for the education sector to build more schools in remote areas, increase the number of classrooms in schools for a less crowded classes, hire more teachers to have a well-managed class with better contact hours;
- Addresses issues of gender disparity in education enrolment and completion rates. While the Committee notes with appreciation that the Government provides free

education for girls up to 10th grade, the Committee recommends that the State Party addresses factors that force children not to enrol or complete education such as sexual violence in schools, teenage pregnancy and harmful practices. The Committee encourages the State Party to make schools safe for children and prosecute perpetrators of sexual abuse against girls in schools and to provide sexual reproductive services for adolescent girls in schools;

- Identities factors that have led for an increased rate of dropout of children from schools, such as child labour and poverty, and introduce measures towards retention of students by expanding the school feeding program in various areas, providing bursaries for vulnerable and underprivileged children, addressing child labour, provision of alternative hours for schooling for working children;
- Continuously train teachers and inspectors to ensure that education meets the minimum accepted standards; and
- Intensifies its efforts to establish more public pre-primary schools and to create awareness about the importance of pre-primary education with a view to increasing the rate of pre-primary education enrolment in the State party.

37. With regards to the right to education of children with disabilities, the Committee is highly concerned that only 37% of children with disabilities are in schools and that there is no public school for children with mental disabilities. The Committee recommends that the State Party strives for inclusive education by ensuring that schools have trained special needs teachers and the necessary facilities and infrastructure to cater for the needs of children with disabilities. In addition, the Committee recommends that the State Party collaborates with partners and establishes education centres for children with mental disabilities. Moreover, the Committee recommends that the State Party sensitizes communities so that parents send their children with disabilities to schools.

Leisure

38. The Committee commends that the State Party, under the Child Code, provides play and leisure as a right of children and that various measure have been adopted to provide leisure, cultural activities, and play for children including various celebrations, festivals and games. The Committee, however, notes from various reports that leisure activities are provided in private schools and that public schools lack the necessary facilities for play and that there is a negative attitude for leisure by communities. If this happens to be true, the Committee recommends that the State Party refurbishes schools to make sure that they have sufficient play grounds and to sensitize communities to allow children to play at community level. The Committee also recommends that sports and play become part of the learning curriculum.

H. Special protection measures

Refugee and displaced Children

39. The Committee appreciates that the State Party has established a National Coordination for Refugee Assistance and for introducing integration of refugee children since 2015. The Committee recommends that the State Party establishes a clear normative framework on the protection and care of refugee children. The Committee notes that refugees and asylum seekers are entering the State Party

feeling the ongoing conflict in Central African Republic; hence recommends that the State Party increases its efforts to provide quality case management which has a child friendly procedure for documentation, registration, transmission and referral. The Committee encourages the State Party to enhance efforts towards integration of refugee children and integrate them in mainstream education, health, and child protection services. The Committee recommends that the State Party identifies unaccompanied minors and ensures that they are provided with psychosocial support and alternative care.

Children in conflict with the law

40. The Committee commends that the State Party has undertaken legislative measures towards the protection of children in conflict with the law under the Criminal Procedure Code and the Child Code which provide for special courts, separate detention, rehabilitation, and social assistance for children in conflict with the law. Nevertheless, the Committee notes that in practice there are only two juvenile courts in Abomey and Abomey-Calavi and that children are being detained in prisons with adults. Reports also indicate that there is lack of basic services for children while they are in detention. The Committee recommends that the State Party considers:

- Adopting pre-trial diversion programs to ensure that children in conflict with the law are not subjected to the regular justice administration procedure;
- Allocating additional budget for the juvenile justice administration and thereby establish additional juvenile courts in more regions, and train more juvenile judges;
- Alternatively, placing children in conflict with the law in other public centres that already exist such as the Social Promotion Centres or create separate cells for children in prisons so that they are separated; and
- Exerting more efforts to ensure that children in conflict with the law are provided with services such as education, health, protection, participation and leisure.

Children in armed conflict

41. The Committee notes that there is no armed conflict in the State Party currently and that some measures are undertaken to prevent conflict. The Committee would like to encourage the State Party to strengthen its preventive efforts considering the sensitivity of the geo-political situation of the region. The Committee recommends that the border security is strengthened, education and awareness raising is provided for children to prevent conflict and radicalization of children.

Children of imprisoned parents and caregivers

42. The Committee notes with appreciation that the Child Code provides for the rights of pregnant women as well as children of incarcerated mothers. The Committee, during the constructive dialogue, was informed that mothers who give birth in prison will be taken out from prison for 12 weeks and that children can stay in prison with mothers up to 3 years. From the State Party report, the Committee further notes that there are 3057 children in prison as of 2015. The Committee would like to highlight that according to the Charter, the primary consideration should be non-custodial sentence for mothers who have children or who give birth in prisons, hence recommends that the State Party provides such provisions in its laws. Moreover, in cases where

detention is indispensable, the Committee recommends that children are not imprisoned with their mothers; rather an alternative is sought for them. In events where the detention of children with their mothers becomes mandatory, the Committee strongly recommends that a separate facility is provided for them outside of the prison where children have access to education, health, leisure and other basic services. The Committee recommends for the State Party to ensure that children of imprisoned care givers do not end up imprisoned or subjected to confinement based on the status of their care givers and that they should be provided with all of their needs as other children. The Committee further guides the State Party to make reference to its General Comment No 1 on article 30 on children of imprisoned caregivers for additional measures.

Child labor

43. While the Committee notes that the legal frameworks prohibit child marriage and that the State Party is in the process of establishing a Directorate that works on child labor within the Ministry of Labor the Committee regrets to note that the rate of child labor in the State Party stands at 53% which makes it the second highest in the continent. The Committee observes from the report that child labor is deep rooted in the family and communities and that it has a huge impact on the education and health of children as close to half of children in child labor do not go to schools. In this regard, the Committee recommends that the State Party:

- Prosecutes perpetrators who engage in child labour;
- Increases the number of labour inspectors and build their capacity to identify child labour and withdraw children from situations of child labour;
- Expedites the establishment of the Directorate for child labour and provide it with the necessary human and financial resources;
- Integrates child labour eradication efforts with education enrolment and school retention efforts to prevent child labour and also to ensure that working children do not dropout of schools;
- Undertakes intensive sensitization of communities and families on child labour, its consequences, and how parents can prevent it;
- Puts in place new National Action Plan to Eliminate the Worst Forms of Child Labour;
- Targets regions with high incidence of child labour such as Donga and the Hills in devising programs and actions against child labour; and
- Addresses other factors that lead to child labour such as poverty, lack of access to education; harmful practices against girls and so forth.

44. The Committee is also concerned with the case of children forced to beg which in most cases relates with the large number of Koranic schools in the north part of the State Party where the *talibés* exist. The Committee strongly recommends that the State Party monitors the situation in the Koranic schools and ensures that children are not forced to beg or earn a certain amount of money to stay in the schools; Koranic schools fulfil the minimum requirements of education such skilled teachers, education materials, contact hours, and other basic facilities. The Committee further recommends that the State Party ensures that children are not forced to beg or

undertake any child labour while enrolled in Koranic schools. In addition to supervision of the Koranic schools, the Committee recommends that the State Party provides rehabilitation and reintegration of *talibés* children.

Drug abuse

45. The Committee notes with appreciation that the State Party is undertaking awareness raising programs against drug abuse and changing areas used for drug abuse to parks to prevent the challenge. However, as indicated in the State Party report there are still challenges as children as young as 15 and below are caught up in using alcoholic drinks in various communities, and some reports indicate that drug abuse among children is still on increase even in schools. Hence, the Committee recommends that the State Party intensifies its awareness raising efforts in schools and media; regulates consumption of alcohol through legislation; ensure that school areas are free from drug providers and shops which sale alcohol.

Sexual Exploitation

46. The Committee observes that the State Party Report and other reports that sexual exploitation of children remains one the biggest challenge in Benin. It has been noted that girls are the main victims and are being exploited by teachers, family members, and engaged in commercial sexual exploitation. The Committee notes that there is lack of reporting of cases of sexual exploitation and such cases are settled outside court due to lack of child friendly reporting procedures and fear of reprisal. The Committee also recognizes that the data provided in the State Party reports dates back to the year 2002 assessment undertaken by UNICEF.

47. The Committee recommends that the State Party conducts an assessment on the prevalence of sexual exploitation of children in all settings; the rate of reporting of cases of exploitation; and rate of prosecution and conviction. The Committee recommends that the State Party undertakes intensive campaign on sexual exploitation by engaging traditional and religious leaders as well as schools; and establishes child friendly, one-stop centres for reporting where children can report without being victimized again and where they can get medical and psycho-social support at the time of reporting. The Committee recommends that the State Party trains law enforcement and the judiciary on child friendly procedures for reporting cases of sexual exploitation and establish child friendly courts for victims in all parts of the Country. Moreover, the Committee recommends that the State Party ensures that there is prosecution and conviction of perpetrators thorough investigation and administrative measures are taken until investigation is finalized in cases where the perpetrators are teachers.

48. Concerning commercial sexual exploitation, the Committee recommends that the State Party provides regulations and code of conducts for the tourism sector and other private sectors that can contribute towards prevention.

Sale, abduction and trafficking of children

49. The Committee notes with appreciation the adoption of a national policy to fight trafficking in and the increased prosecution rate of perpetrators of trafficking in children and the cross-border cooperation Benin has with Gabon through a bilateral agreement. Considering the fact that the State Party is still facing challenges relating to trafficking in of children, coming from both within its borders and abroad, the Committee recommends that the State Party engages in prevention of child trafficking by identifying and addressing the root causes that lead to trafficking, setting up early identification and reporting mechanisms, and strengthening border security. The Committee finds it important that the State Party conducts study to identify the prevalence and trend of the scourge as well as the routes and networks used for child trafficking to devise informed redress mechanism. The Committee highly recommends that the State Party strengthens its law enforcement to identify and prosecute cases of trafficking; and sets up coordination mechanism among border and local security and other Government sectors working on child rights issues along with clear referral mechanism to ensure that victims are identified at early stage and get the necessary psycho-social and other services towards their rehabilitation and reintegration. The Committee recommends that the Social Promotion Centres are provided with the required human and financial resources to cater for victims of trafficking. Moreover, the Committee encourages the State Party to ensure that children are reintegrated to safe space so that there is no relapse to trafficking by including parents or caregivers in the rehabilitation program or by facilitating alternative care for the children depending on the situation and the best interest of the child.

Harmful social and cultural practices

50. The Committee notes that female genital mutilation (FGM), child marriage, and Voodoo are the main practices that affect children in Benin. The Committee commends the State Party for adopting Law No 2003-03 on the suspension of FGM and Law No 2015-08 on Violence against Women which criminalizes FGM; and the reportedly declining rate of FGM. However, some reports indicate that the FGM is remains to be practiced underground within the Country, as well as beyond the territory in cross borders areas, such as in Niger, Nigeria, Togo, and Burkina Faso. The Committee recommends that the State Party assess the scourge considering the hidden practice and conduct sensitizations in regions like Borgou where the practice is prevalent. The Committee also recommends that perpetrators of FGM are criminalized and sentenced to the punishment prescribed by law.

51. According to the State Party report, the rate of child marriage stands at 37%, which, in the Committee's view, is high. The Committee reiterates its recommendation on the age of marriage to address the legal gap and explicitly set 18 years as the minimum age with no exceptions. In addition, the State Party is encouraged to adopt national strategy on child marriage, undertake sensitization involving religious and community leaders, and prosecute perpetrators.

52. With regards to the practice of Voodoo, the Committee notes during the constructive dialogue that the State Party has achieved progress by negotiating for shortened Voodoo internship to ensure that children do not miss schools and for alternative ritual for scaring. The Committee recommends that such efforts are sustained and replicated in other affected areas.

I. Responsibilities of the child

53. The Committee commends the State Party for incorporating provisions on the duties of child in the Child Code and for further elaborating the elements in the context of the State Party. The Committee recommends that the duties enumerated under the Child Code do not lead to child labor, child marriage, or other exploitations; rather ensure the full development as well as participation of children in issues that concern/affect them.

J. Conclusion

54. The African Committee of Experts on the Rights and Welfare of the Child appreciates the measures undertaken and efforts invested by the Government of Benin towards the implementation of the African Children's Charter. The Committee aspires for the implementation of these recommendations. The Committee would like to indicate that it will undertake a follow up mission to assess the implementation of these recommendations in a foreseeable future. The Committee would also like to invite the State Party to submit its first periodic report in September 2022 according to article 43 of the African Children's Charter.

55. 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 Benin, the assurances of its highest consideration.

Done in September 2019