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**33<sup>rd</sup> SESSION OF THE AFRICAN  
COMMITTEE OF EXPERTS ON THE RIGHTS AND  
WELFARE OF THE CHILD (ACERWC)  
18 – 28 MARCH 2019  
ADDIS ABABA, ETHIOPIA**

**ACERWC/RPT (XXXIII)  
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**REPORT**

## **THIRTY-THIRD ORDINARY SESSION OF THE AFRICAN COMMITTEE OF EXPERTS ON THE RIGHTS AND WELFARE OF THE CHILD (ACERWC)**

### **I. INTRODUCTION**

1. The 33<sup>rd</sup> Session of the African Committee of Experts on the Rights and Welfare of the Child was held at African Union Headquarters in Addis Ababa, Ethiopia, from 18 to 28 March 2019.

### **II. ATTENDANCE**

#### **ITEM 1: CONSULTATIONS AMONG COMMITTEE MEMBERS AND APPOINTMENT OF RAPORTEURS FOR APPLICATIONS FOR OBSERVER STATUS RECEIVED**

2. The Members of the Committee received observer Status Applications from two organizations namely Internet Watch Foundation and Legal and Human Rights, . Rapporteurs were assigned for the observer status applications received and it was agreed that the Committee will decide on the applications following the examination by the designated rapporteurs.

#### **ITEM 2: ADOPTION OF AGENDA**

3. The Committee also considered the program for the session and adopted the same as amended.

#### **ITEM 3: OPENING CEREMONY**

##### **Statement by Child Focused Agencies Representative**

4. Ms. Doris Mpoumou, representing the Child Focused Agencies, expressed sincere condolences to the Committee and the family of Hon Mohamed Hmeyada who was a Member of the Committee and Special Rapporteur on health, welfare and development. Ms. Mpoumou informed that the Child Focused Agencies are currently composed of the following organizations; African Child Policy Forum, Child Fund, International Committee of the Red Cross, International Planned Parenthood, Norwegian Refugee Council, Plan International, Save the Children, SOS, UNICEF, VOS and World Vision International. Ms. Mpoumou recalled that the Child Focused Agencies have adopted an advocacy strategy two years ago, with specific priorities. Since the adoption of the strategy some key achievements have been recorded. Among them is the publication of "Stolen futures: the impact of corruption on children in Africa". It was stated that the Child Focused Agencies are working together with the Committee to advance children's rights. The focus areas of the Agencies for 2019 include; organizing a high-level dialogue on child marriage in humanitarian setting; mainstreaming child participation in the African Union, the situation of children in need of parental care in Africa and celebration of the 30th anniversary of the adoption of the African Charter on the Rights and Welfare of the Child. Ms. Mpoumou concluded by expressing the appreciation of the Child Focused Agencies for the work of the Committee and its continuous engagement with the Agencies.

##### **Statement by UN Agencies Representative**

5. Dr. Edward Addai, representing UNICEF, expressed sincere condolences for the passing on of Hon Mohamed Hmeyada. He remarked that his demise is a loss for the Committee and the children of Africa for whom he worked tirelessly. Dr. Addai commended the agenda of the 33rd Session of the Committee for including pertinent and timely issues such as children and armed conflict, children on the move and online sexual exploitation of children, among others. Dr. Addai urged the Committee to ensure alignment between the Day of the African Child themes and the African Union theme of the year.

6. While thanking the Committee for championing child rights in Africa, he noted that Africa's children are faced with various challenges and opportunities. Among the opportunities and advancements, prominent ones include increased enrolment in primary education, narrowing gender gap in primary and secondary education and improved access to drinking water. Dr. Addai noted the various lingering challenges of child protection in the continent. These include violence against children, Child marriage, FGM, the situation of children on the move, conflict and crisis, and online child sexual exploitation. He stated that 1 in 4 migrants in Africa is a child, more than twice the global average. He further noted that, the high rate of population growth is proving to be a challenge in the protection of children's rights and hence there is a need to accelerate efforts with the aim of keeping up with the rate of population growth. Moreover, he noted that in the second decade of life, Africa's children are not given enough attention, and recommended for the Committee to have a stronger focus on the various issues children face in the second decade of their life. Dr. Addai called upon the Committee to work on the following issues as a matter of priority; advocate for increased investment on young peoples' rights to catch up with population growth, advocate for the ratification of the Charter by the remaining African states and reporting on the Charter, collaborate with the AU Peace and Security Council to address the root causes of conflict, and update the Charter as needed using available tools such as General Comments.

### **Remarks by the Commissioner for Social Affairs**

7. H.E Amira Elfadil Mohamed Elfadil, Commissioner for the Department of Social Affairs of the African Union Commission, congratulated the ACERWC for holding its 17th Pre-session and 33rd Ordinary Session. H.E Congratulated Hon Hermine Kembo Takam Gatsing, who joined the Committee and expressed condolences for the sad demise of Hon Mohamed Hmeyada.

8. H.E noted that realizing children's rights needs coordination from all sectors and hence the Department of Social Affairs has been carrying out various activities in this regard. These include; the initiative to end Female Genital Mutilation, initiative to tackle malnutrition and the African Union Campaign on ending child marriage. She added that the Department is also working on creating awareness regarding online child sexual exploitation.

9. H.E noted with appreciation the increasingly growing work of the Committee and called on all stakeholders, especially partners of the Committee to increase the provision of technical and financial support to the Committee and to continue working in collaboration with the Committee. H.E concluded by expressing gratitude and appreciation to all the participants of the Session for their attendance and contribution.

### **Opening Statement by the Chairperson of the ACERWC**

10. Hon Nanike Nkewe, Chairperson of the ACERWC, welcomed participants to the 17th Pre-Session and 33rd Ordinary Session of the African Committee of Experts on the Rights and Welfare of the Child. She expressed her condolences for the passing on of Hon Mohamed Hmeyada and welcomed the latest member of the Committee Hon Hermine Kembo Takam Gatsing.

11. She noted that the Committee's work in delivering its mandate has grown through time including in the State Party reporting mechanism. She reminded participants that during this Session, the Committee will be considering the State Party reports of Benin, Eswatini, Nigeria, Rwanda, and Senegal. She added that the Committee will also undertake preliminary review of the reports of Guinea Bissau and Mauritania in preparation for the consideration of the report in the upcoming Session. Hon Nkwe stated that the Session will offer an opportunity to have discussions on emerging challenges against child rights in Africa. These include a panel discussion of AU's Response on Children Affected by Armed Conflict and a Day of General Discussion on Online Child Sexual Exploitation. Furthermore, she noted that the Committee will launch its Continental Study on Mapping Children on the Move which was adopted by the Committee during its 32nd Session. She added that the Study brings a positive addition on the way movement of children is perceived as it focuses on movements within Africa. She informed participants that in the inter-session period, the Committee, has undertaken various activities including its follow-up mission to Mozambique to assess the implementation of its concluding observations and recommendation. She also informed that the Committee had submitted its annual report to the Executive Council that adopted the theme for the 2020 Day of the African Child: 'Access to a Child Friendly Justice System in Africa'.

12. In conclusion, Hon Nkwe expressed her gratitude for those who have supported the Committee in convening this Session particularly Save the Children International and Plan International and declared the 17th pre-session and 33rd ordinary session of the African Committee of Experts on the Rights and Welfare of the Child officially open.

#### **Swearing in of the new Committee Member**

13. Hon Hermine Kembo Takam Gatsing was sworn in as a Member of the African Committee of Experts on the Rights and Welfare of the Child, by an Officer from the Office of the Legal Counsel of the African Union Commission.

#### **ITEM 4: BRIEF PRESENTATIONS BY PARTNERS**

14. Ms. Tinos Kebede, representative of International Planned Parenthood Federation Liaison office to African Union and UNECA (IPPF AULO), noted that IPPF is a member of the Children Focused Agencies and supports the committee's work as it's concerned with the promotion and protection of the rights and welfare of the child. IPPF is also in support of the joint General Comment on Ending Child Marriage that describes legislative, institutional and other measures that should be taken by States Parties to give effect to the prohibition of child marriage and to protect the rights of those at risk of or affected by child marriage. Ms. Tinos added that IPPF heavily invests in youth provision of comprehensive SRHR information and youth friendly services and promotes gender equality for children in all settings. In conclusion she stated that IPPF strongly collaborates in the African Union spaces to fight against child

marriage, and the challenges of sexual exploitation of children that contribute to the work of the committee at different levels.

15. Mr. Michael Gyan Nyarko, representative of the Centre for Human Rights (the Centre) of the University of Pretoria, conveyed the Centre's condolences on the passing on of Honourable Mohamed Hmeyada, and also welcomed the new Member of the Committee, Honourable Ms Hermine Kembo Takam Gatsing. The Centre urged the Committee to focus its attention to the plight of children accused of witchcraft in African countries, and to engage States Parties during the consideration of Reports. The Centre highlighted a number of upcoming initiatives that would contribute to the advancement of the rights of children on the continent. The first initiative is the development of a documentary on the Talibé case to highlight the process, potential and challenges of the use of the complaints mandate and processes of the Committee. Second, the Centre highlighted its human rights campaign for 2019, which focuses on the rights of migrants, refugees and displaced persons in Africa. Closely related to the foregoing, the Centre highlighted that it would be hosting the Africa Human Rights Moot Court Competition at the University of Botswana, on the topic of the rights of migrants, refugees and displaced persons. In light of the focus on child rights in the theme, the Centre extended an invitation to the Committee to participate in the Competition and Conference. The Centre further highlighted its efforts towards enhancing child participation, in particular through the development of a child friendly version of the African Children's Charter. The Centre reiterated its support to the Committee and its willingness to strengthen its partnership with the Committee for the advancement of the rights of children on the continent.

16. The Representative of Child Fund International informed the Committee that the organization is a child-focused agency, serving children for the past 80 years and working in over 25 countries, nine of which are in Africa. The organization's mission is "to help deprived, excluded and vulnerable children improve their lives and become adults who bring positive change to their communities, and to promote societies that value, protect, and advance the worth and right of children" will only be achieved if, individually and collectively, the organization is purposeful about strengthening protection outcomes across all its programs. It was noted that the focus of the organization is more on protection outcomes for children. Aligned with other organizations in the sector, the organization strives to be a "child safe organization," and to ensure that its staff and partners apply an understanding of children's vulnerability to violence to all of their interactions with program participants. The organization has strengthened the safeguarding policies that protect the children and youth it works with and introduced an updated code of conduct. The organization is also rolling out training to its staff and partners so that they better understand the risks children of different ages and genders face and feel confident applying child protection approaches to all interventions with children. The organization produced the 2018 Impact Report which examined how it is progressing on its journey to deepen child protection across its programs and which also indicates its achievement during the year, the report is found in [www.childfund.org](http://www.childfund.org).

17. Willy Buloso, Regional Coordinator of ECPAT International for Africa thanked the Committee for giving ECPAT International the privilege to participate in the Session. He specially appreciated the committee for dedicating a full Day of General Discussion on sexual exploitation of children. He noted that ECPAT international will continue to provide technical assistance to the African Union - specifically the Department of

Social Affairs and the African Committee of Experts on the Rights and Welfare of the Child- for the implementation of the on-going project aimed at combatting Online Child Sexual Exploitation in 19 countries in Africa. He concluded by affirming ECPAT's commitment to leverage on its vast network, experience and expertise, to support the efforts of the committee in ending violence against children, specifically in the area of sexual exploitation of children.

18. The Representative of Initiative for Social and Economic Rights' (ISER) Uganda, briefed the Committee on progress in the State of Uganda in the area of Social and Economic Rights. He noted that Uganda is implementing a liberalized policy in both the education and health sector. Specifically, the country's National Development Plan II is premised on a private sector led economy. This has given the private sector – both local and international individuals and companies, free will to open and run educational institutions and health facilities resulting into privately owned facilities outnumbering the government owned. He added that in the education sector, for the secondary sub sector, 2012 (65.54%) schools are privately owned while 1,058 (34.46%) schools are owned by government. This has led to increase in both high cost and low fee private schools – with some of the latter schools operating illegally and majority not meeting Basic Requirements and Minimum Standards and resulting into 35% school dropout by children who cannot afford the high school charges. It was noted that in health, of the 5,937 facilities, 55% of facilities are private including both private not for profit and private for profit. ISER's research has found this has resulted in limited affordability and discrimination among the poor, particularly where private facilities are the only option. Despite this, it was stated that the government has strengthened the private sector in health by channelling public funds in the form of Primary Health Care grants to private healthcare facilities under public private partnerships; provided loans; and planning to provide Medical Credit Fund. Furthermore, it was noted that in the extraction industry, companies extracting natural resources have consistently failed to secure free, prior and informed consent of affected communities and displacing them from their lands. The pro – private environment created by the State has however not been succeeded by a strong regulatory framework. The available regulation in terms of Public Private Partnership Act and other policies is not only piecemeal but also meagrely enforced. ISER urged the Committee to task the state of Uganda to regulate the private sector to ensure they do not violate human rights. ISER also re-echoed its previous call for the Committee to develop a strong regulatory framework on Business and Child Rights and encourage its implementation by State parties to ensure that private actors respect child rights.

19. The Representative of Institute for Human Rights and Development in Africa noted that since the outbreak of the Anglophone socio-political crisis in Cameroon in late 2016, schools have been systematically and deliberately targeted, either overtly or allegedly, by pro-independence fighters/separatists. He added that there have been numerous instances of school interruption, burning down of schools, invasion of schools by armed persons and sending pupil home, and more recently kidnapping of children in school by unidentified armed persons. In some instances, separatists and government have accused each other for being responsible, though government practically remains in control of these zones. He noted that many schools have practically shut down. In the French-speaking regions where thousands of children have relocated to pursue education, there is massive overcrowding in schools in many communities. It was stressed that whatever the motive, it is unacceptable for children

to be victimized and terrorized for simply wanting to go to school, and for children's education to be used for bargaining in armed conflicts. He expressed concern over the systematic violation of children's right to education. He concluded his statement by calling on the Committee to be mindful of the Cameroon situation in its current drive to address issues of children affected by armed conflicts on the continent.

20. The Representative of Dullah Omar Institute indicated that the Institute is a research organisation at the University of the Western Cape, and one of the partner organisations of the ACCP (African Children's Charter Project). Some of the activities of the institute include the preparation of the General Comment on Art 22 on Children and Armed Conflict, Preparation of Concept Notes on the commemoration of the Day of the African Child, and Collaboration with the ACCP partners and other stakeholders involved in the promotion and protection of children rights in Africa. The Institute called on the Committee and partners to create avenues to assess these activities. It was added that the Institute welcomes the conversation by the Committee at this session on the need to protect the child from abuse in this digital age.

21. Diane Misenga Kabeya, Deputy Head of Delegation, ICRC Delegation to the AU shared ICRC's perspective on recent trends witnessed in relation to children associated with armed forces and armed groups focusing on children recruited as foreign fighters and the vulnerability of children being separated from their families in this context. The briefing emphasized the risk of blanket categorization of children due to general assumptions about certain groups - based on the affiliation of their parents, their age, and presumed involvement in hostilities, nationality, or beliefs. ICRC further encouraged States to consider repatriating children with their parents; with full and informed consent, even in cases when judicial proceedings await upon return and with due respect for the principle of non-refoulement. The briefing also raised awareness on the protection needs of internally displaced children and called on all AU member states to address the specific vulnerabilities and risks faced by internally displaced children. The ICRC reiterated its commitment to support ACERWC's work towards better respect and safeguards of child rights enshrined in the Charter and international humanitarian law instruments to protect the safety and dignity of children in Africa including through supporting the development of a General Comment on Article 22 of the Charter, children and armed conflict.

22. Anteneh Bizuayehu, Representative of Plan International noted that Plan is pleased to know that the Committee will be considering 4 State Party reports and 1 CSO report from countries where Plan works and is keen to know how these countries are fulfilling their obligation towards the Children's Charter. He added that Plan also commends and recognizes the importance duly given by the Committee to the plights of children affected by armed conflict in the session. Plan is honored to announce the launching of a study "Stolen Futures: the Impact of Corruption on Children in Africa" in the afternoon of 19th March 2019. The study was commissioned by Plan International in collaboration with the AU and Child Focused Agencies working with the ACERWC. He further stated that, Plan commits among other things to dissemination and follow up of the study on the Impact of Corruption on Children in Africa; Support the ACERWC in implementation of activities geared to improve the situation of Children Affected by Armed Conflicts in line with its new focus on girls in crisis and Finalization of the concluding observation database initiated by Plan and the Committee. Finally, Plan called on the Committee for the following considerations: 1. Increased government resources to address challenges girls face in emergency situations

- 2.Continue to call for re-entry policy for girls who get pregnant to be adhered
- 3.Creating spaces and opportunities for girls in development discourse
- 4.Establishment of follow up mechanisms related to DAC commemorations.

23. Selome Argaw, Representative of Centre for Reproductive Rights, noted that the high rate of teenage pregnancy and preventable maternal mortality and morbidity among adolescents in the Africa region remains an issue of concern. She added that these negative health outcomes are due to the many challenges adolescents encounter in accessing sexual and reproductive health services and information. These include laws and policies that fail to recognize the evolving capacity of adolescents to make decisions on their reproductive health and restrict access to certain services, for example by requiring parental consent. Lack of access to comprehensive sexuality education and youth/adolescent friendly services are additional contributing factors. In addition to the impact on their health and life, lack of access to SRH information and services affect adolescent girls' future opportunities as many are expelled from school due to pregnancy and are not allowed to re-enroll after delivery, as required by the African Children's Charter. This is a violation of their right to health, education, equality and non-discrimination. She further noted that conflict and crisis have additional consequences on adolescents as those affected by conflict face an increased risk of violation of their reproductive rights including through sexual violence. As the Center's fact-finding mission in North Eastern Nigeria revealed, factors characterizing conflict and post-conflict settings, including disintegrating health infrastructure and judicial systems, unsafe environments, and fear of further violence for seeking out care, make it difficult for girls to access necessary SRH information and services and seek recourse for violations. As such, the Centre respectfully urged the Committee to elaborate on governments' obligation to ensure the full range of reproductive health information and services in conflict settings in the upcoming General Comment focusing on children affected by conflict. The Centre also urged the Committee to hold a General Day of Discussion on adolescent sexual and reproductive health and rights and develop a General Comment to elaborate on States' obligation on the same.

24. Solomon Belay Faris (PhD), representative of Baha'i International Community Addis Ababa Office, congratulated the ACERWC for strengthening its responsibilities in promoting the rights and welfare of the African child. He noted that the Baha'i International Community is always ready to promote the rights and welfare of children through its thousands of community schools, moral classes for children, Junior Youth Empowerment Program that are proving effective across Africa in helping children express themselves, curb the negative impacts of the media, and be at service for the community they live in. He concluded by stating that when children are offered proper education they transform not only themselves but also the society at large.

25. Caroline Makumbe representative of Graça Machel Trust, noted with great concern the 9 million out of school girls in Africa, which poses a serious threat to the Continent's social, economic and political development. She added that the Trust will continue to use its convening powers to contribute towards the reduction of the number of Out of School Children in Africa and also urged the Committee to ensure that Member States pay much attention to this emerging challenge. Malnutrition also remains a key concern in Africa, thus the Trust has initiated #3in3 Nutrition Campaign, primarily to ensure that African countries increase their respective National Nutrition Budget allocation by 3% in the next 3 years, notably 2018 – 2021. Ms Makumbe also

asked the Committee to offer support in monitoring the implementation of this commitment.

26. Awo Aidam Amenyah, Representative of Child Online Africa noted that, the organization partnered with World Vision Ghana last year by way of marking the AU Day of the African Child themed: 'Leave No Child Behind for Africa's Development' and hosted a 15 day continental hashtag campaign dubbed #OnlineSafety4Agenda2040 resulting in the outcome which can be found here. Child Online Africa and partners have also made the rallying call early this year for Safer Internet Day (#SIDAfrica), which recorded the participation of 12 African countries. The resources are available at the link here. COA assured the Committee that its team is committed to supporting the committee to deliver on the AU Executive Council Decision which says "the ACERWC to scale up its work in safeguarding and promoting the rights and welfare of children in the cyberspace, namely the protection of children's information, rights to safety, informed choices and digital literacy". COA reiterated the call to the committee to consider updating the Charter to include emerging issues concerning children and adopt an approach to tackling violence against children online.

27. Dr Violet Odala extended sincere condolences on behalf of ACPF, to the Committee, on the loss of Honourable Mohamed Hmeyada. She then congratulated the Committee for continuing to successfully carry out its mandate, and pledged ACPF's continued support and engagement with the AU and the Committee in promoting child rights and wellbeing in Africa. Dr Odala highlighted some of the major activities carried out and planned by ACPF since the 32nd Session of the Committee. As such, ACPF has finalised updating the Child Law Resources, a major resource that puts together child related laws and policies of every country in Africa, regional and international instruments on children, as well as thematic documents and summaries on the status of harmonisation of laws on children. In preparation for the 30th anniversary of the ACRWC next year, ACPF recognises the impact of gender on child rights, and in collaboration with Plan International, is undertaking a continental study on girls in law, policy and practice. In addition, ACPF will dedicate the 2020 edition of the African Report on Child Wellbeing Series to assessing the accountability of governments towards girls. As a follow up to the 2018 African Report on Child Wellbeing, which revealed that under nutrition is the biggest problem facing Africa's children as up to half of all deaths in under-fives are associated with it, ACPF has dedicated the theme of the International Policy Conference on the African Child (IPC) for 2019 to child hunger. The IPC will be held in May this year and ACPF counts on the support of the Committee, partners, governments and CSOs to make it a success. As part of the African Children's Charter Project II, ACPF has developed a child rights implementation framework for use at national level by CSOs and other institutions and will provide training on its application and use in promoting greater compliance and accountability to children at national level. ACPF takes note of this year's theme of the Day of the African Child, *Humanitarian Action in Africa: Children's Rights First* and she said that her organisation will support the committee in the commemoration of this important day.

28. The following organizations also briefed the Committee; Save the Children International, EACH Rights, and Equality Now.

#### **ITEM 5: BRIEFING BY THE CSO FORUM**

29. Mr. Musa Chibwana, Representative of the CSO Forum, briefed the Committee regarding the 14th CSO Forum on the African Charter on the Rights and Welfare of the Child that took place from 15 – 17 March 2019 in Addis Ababa, Ethiopia. He commenced by expressing sincere condolences for the sad demise of Hon. Mohammed Hmeyada and welcomed Hon. Hermine Kembo Takam Gatsing to the Committee.

30. Mr. Chibwana noted that the CSO Forum is made up of 113 participants from National Human Rights Institutions, Civil society organizations from the five regions in Africa, Pan-African Institutions and International Non- Governmental Organizations. He informed the Committee about the various issues raised by the Forum regarding child rights protection in the Continent. He noted with concern that Africa is on the verge of a serious human development crisis. In little more than 30 years' time, Africa will be home to One Billion children. Yet, nearly half of all children in sub-Saharan Africa are living in extreme poverty, 30% of children in Africa are stunted. 60% of 15 to 17-year old' are out of school and those in school are not properly schooled, 3 out of 5 girls in Africa get married before the age of 18 years and child pregnancies are on the rise. In this regard the Forum urged the Committee to recommend State Parties to; harness the demographic bulge by public investment on children, increase budgetary allocation for child focused sectors and develop multi-sectorial policies and integrated programs that utilize a holistic and life-cycle approach to early childhood development, including enhanced monitoring of early childhood development policies and programs. The Forum further urged the Committee to hold a Day of General Discussion on Africa's looming human development crisis in the context of child rights and to work closely with the recently established African Union Continental Education Strategy for Africa's Early Childhood Education and Development (ECED) Cluster.

31. Mr. Chibwana noted the shrinking civic space, and recognized that NHRIs are primary actors in the national human rights systems, playing a critical role in ensuring that States Parties take all the appropriate action in fulfilment of their obligations under the African Charter on the Rights and Welfare of the Child (ACRWC). The Forum therefore urged the Committee to expedite the finalization of the Guidelines for engagement of NHRIs.

32. The Forum expressed concern that violence against children still remains as one of the biggest challenges in the realization of child rights and wellbeing in Africa. As such, the Forum called on the Committee to urge States Parties to put in place mechanisms to end violence against children, inter alia; ensure data availability; ensure retention of pregnant first and young mothers in school; make use of media in child protection; Providing psychosocial and legal support for survivors of violence, Improving access to sexual and reproductive health rights information and services and Promoting the role of traditional and religious leaders in protecting the rights of children.

33. Mr. Chibwana noted that the Forum welcomes the Committee's initiative of promulgating General Comment N° 5 on Article 1 of the ACRWC. Going forward, the Forum urges the Committee to call upon State Parties to adopt 116 as a toll-free child helpline number, to finalize the Guidelines on child participation and request States

Parties to specifically report on the status of coordination of different government agencies at different levels within their reporting process of the progress achieved in strengthening, child protection systems.

34. He further noted that while welcoming the new report on children on the move, the Forum urges the Committee to develop an implementation framework to address the findings of the mapping on children on the move.

35. A final issue raised was the role of the media as the gatekeepers of human rights on one hand and on the other hand as putting the child in harm by its depiction of children in Africa. In this regard the Forum called upon the Committee to issues guidelines on media and children in Africa; hold a day of general discussions on media and children and urge State Parties to have mechanisms to monitor the accountability of media towards children.

36. Mr. Chibwana in conclusion stressed that as the CSO Forum marks 10 years since its establishment in 2009, its members pledge their commitment and support to the Committee in the execution of its mandate.

## **ITEM 6: PANEL DISCUSSION ON CHILDREN AFFECTED BY ARMED CONFLICT**

37. The Panel Discussion was chaired by the ACERWC's Special Rapporteur on Children and Armed Conflict, Hon Benyam Dawit Mezmur and the Panelists included the Ambassador of the Federal Republic of Nigeria to Ethiopia and Permanent Representative to the AU and the UNECA, H.E. Amb. Bankole Adeoye, Representative from Peace and Security Department of the AU, Mr Simon Badza, and, Head of Advocacy and Campaign, Save the Children Somalia, Ms Jamillah Mwanjisi.

38. The Panel Discussion started with remarks from Hon Mezmur highlighting the aim of the Panel Discussion which is to assess the measures taken to address the situation of children affected by armed conflicts and to identify the gaps. He indicated that article 22 of the African Children's Charter takes into account the aspect of prevention of conflict and International Humanitarian Law principles. Hon Mezmur informed that before the ACERWC was established, there was an ad hoc committee for CAAC and when the Committee was inaugurated, its mandate culminated and become part of the Committee's mandate. He also informed that the Committee is developing General Comment on Article 22 and State Parties will be given the opportunity to contribute to the draft. Hon Mezmur alluded that the number of grave violations reported in 2017, as confirmed by the UN Special Representative of the Secretary General on Children and Armed Conflict, indicate that there is rise in the grave violations and the report includes African countries. He stressed that issues of rape and other sexual violence, detention of children, denial of humanitarian aid and the six grave violations in general in the context of conflict need depth of reflections.

39. H.E. Amb Adeoye started his remarks by sharing his passion on the issue of children affected by armed conflict which was ignited when he came across the violations against children affected by armed conflict in various parts of Africa who suffered from sexual violence and who are out of schools. H.E. stressed that there is a need for real action needed for issues of CAAC indicating that there are over 350 million children in conflict; and that conflict poses significant psychological impact on children. He indicated that the AU, as a collective including the AUC, Member States and the Committee, has responded to the scourge but more action is needed beyond

the normative and institutional frameworks. He stated that the safe school initiative remains pivotal to CAAC and accountability of States in this regard should be established.

40. Being cognizant that there is a need to contribute their little quarters, H.E. Amb Adeoye informed that some ambassadors in Addis Ababa came together in the form of Group of Friends of CAAC along with Save the Children and other stakeholders. The Group was launched last year and has a TOR and an action plan. It is an informal Group and engages with the AU collectively including the Peace and Security Council, the Department of Political Affairs, Department of Social Affairs and the Office of the Chairperson. H.E. indicated that the Group has been on the forefront to push for the appointment of the Special Envoy on CAAC which has been endorsed by the Assembly of the AU but the appointment is yet to be effected. H.E. Amb Adeoye stressed that the Group is committed to push for action and accountability of States and reminded that the AUC Chairperson should, as soon as possible, appoint the Special Envoy on CAAC.

41. The Representative of the Peace and Security Council (PSC) Secretariat, Mr Badza, informed participants about the response of the AUC through the PSC. He informed that the AUC has mobilized both human and financial resources for issues of CAAC including the establishment of the position of 'child protection officer' in PSD to provide technical advice. The AUC further provides training on child rights for Peace Support Operations (PSOs) and deployment of child protection advisors in PSOs. Mr Badza stated the key priorities of the AU through the PSC which are ensuring better coordination, coherence and complementarity of AU efforts; ensuring standardized capacity building and training on child protection in contexts of armed conflicts; developing a credible compliance monitoring and reporting mechanism; and developing a knowledge management system and tools on child protection. PSC sustained efforts in 2014 when it decided to have a consultative session with the Committee pursuant to the decision of the Executive Council which requested the PSC to work with the Committee. Since then there is one annual open session on CAAC at the PSC to push States to ratify and implement normative frameworks. Moreover, Mr Badza indicated that all the reports of the PSC to the Assembly have a section devoted to CAAC. He suggested for a comprehensive child protection architecture to avoid duplication of efforts.

42. Subsequently, Ms Mwanjisi from Save the Children Somalia started by indicating that in Africa 1 in 4 child lives in Conflict while globally 1 in 5 child lives in conflict. She stressed that the increase in the number of children affected by conflict is due to the violation of the international rules of engagements which prescribe that children and schools should not be targeted. She informed that conflict has a lifelong implication including psychosocial impact in addition to pushing children out of schools. In Somalia, Ms Mwanjisi informed that, over 2 million people are IDPs among which 60% are children and get very little social protection. Recruitment of children by all actors, marginalization of recruited children, rape and sexual exploitation, deprivation of education, child labour, and family separation are common challenges faced by children in Somalia. She also indicated that among the 21,000 children recruited in Africa, 3423 are in Somalia. While boys are trained to use arms, girls are trafficked. Ms Mwanjisi stated that there is some progress and increasing commitment from the Government of Somalia as it has agreed to stop recruiting children despite the fact that implementation takes time. There is an effort to create strong community

protection structures, and the Government has started a campaign 'Give them a pen not a gun' to retain children in school. The Government has also shown commitment to ratify the African Children's Charter; has signed the Safe School Declaration, and is also developing an implementation plan for the Declaration. Furthermore, Ms Mwanjisi informed some of the challenges, among others, lack of CSO voice as they may face reprisals, and conflicting laws and policies that are also not in line with the Charter on protection of CAAC and definition of the child. While indicating that Save the Children continues to support the various efforts including community protection structures to increase safe space and access to education, Ms Mwanjisi stressed the importance of the involvement of other Member States in such issues as CSOs have limited power.

43. Following the remarks of the Panellists, various interventions were made including the remarks from the Deputy Ambassador of Sierra Leone to the AU and UNECA, Ambassador of Zimbabwe to the AU and UNECA. Members of the Committee and participants commended the Group of Friends and the political will expressed by the Amb of Nigeria as well as the Group to push for the protection of CAAC and the Committee further indicated that it counts on the Group to champion the cause.

44. During the discussions, the following points and call for actions were raised:

- The PRC and the Group of Friends of CAAC to continue pushing for time frames for the implementation of various initiatives such as the appointment of the Special Envoy on CAAC;
- The PRC to push for the domestication of the normative frameworks on CAAC particularly article 22 of the African Children's Charter;
- The Group of Friends to lobby among States for the Committee to be given access by Member States to look into the matter of CAAC in their jurisdictions;
- Efforts should be made on prevention of the root causes of conflict and prevention mechanisms should be included in the overall strategy on CAAC;
- The PSC to become proactive and train militaries on child rights;
- There is a need to design mechanisms to make all actors to be accountable to children;
- Capacity of States, particularly specialized capacity on CAAC should be strengthened through experience sharing and other mechanisms as States are the main duty bearers and actors to address the challenges faced by CAAC including rehabilitation and reintegration of children;
- Strengthening of emergency budgeting by States to provide emergency services;
- Children involved in conflict should be treated as victims instead of perpetrators; and provision of emergency education should be carried out as education is essential for the development of a State; and one center approach should be established to assist children in conflict situations;
- Sense of urgency should be put on the establishment of the sub-Committee on Human rights, Democracy and Good Governance in the PSC;
- Strategic advocacy may commence now to push for the AU theme to focus on CAAC in the coming years;

- There is a need to have coordination system among the multiple actors on the protection of CAAC and including enhanced coordination between the Committee and the PSC becomes crucial;
- There is a merit to having the mandate of the Special Rapporteur on Children and Armed Conflict in translating regional policy at national level using country visits as well as there is a need to ensure synergy between the Special Rapporteur which has technical role and the Special Envoy, once appointed, which has political role.

45. Moreover, there was a strong call to the Committee to undertake a thorough assessment of AU's responses, to examine if the responses including the decisions on CAAC are effective, sufficiently address the issues, and are being implemented.

46. Finally, the Hon Mezmur underlined that the AU has come a long way in anchoring issues of CAAC as opposed to before 2014 where the discussion on the discourse of conflict focused on women only. He stressed that more aspects of CAAC beyond the six grave violations such as child marriage in conflict, mental health of children in conflict and education in conflict need to be dealt with. He concluded by flagging the possibility of organizing a Day of General Discussion on CAAC and concurring with the need to assess the gaps and successes of the AU's responses to issues of CAAC.

#### **ITEM 7: PRESENTATION ON THE AU-UNICEF ENGAGEMENT STRATEGY**

47. Mr Jephthe Mve Mvondo, from UNICEF presented on the AU-UNICEF engagement strategy highlighting the main priorities of UNICEF in Africa and its engagement with the AU. He recalled that high level delegation of UNICEF led by the Global Deputy Executive Director came to the AU and met with the AUC including some members of the Committee to identify priority areas of engagement.

48. He mentioned that 47% of children of the world live in Africa and that they bear disproportionate share of the global burdens, and hence the mandate of the Committee to promote and protect child rights becomes crucial. Mr Mvondo mentioned that UNICEF believes that Africa has numerous emerging issues that call on protection of children such as large and increasing number of child population which requires scaled up child protection; high levels of poverty and gender inequality; as well as globalization, urbanization, technology, and conflict. He highlighted that UNICEF'S work in Africa is guided by the Strategic Plan 2018-2021 which is aligned with Agenda 2063, Agenda 2040 and the African Youth Charter. It was indicated that UNICEF has presence in 51 African countries and it prioritizes its work in Africa which consumes 53% of the total budget of UNICEF.

49. With a view to accelerating results for children, UNICEF in Africa engages with Governments, AU and its Organs, Partners and Communities. In its engagement with the AU, UNICEF strives towards scaling up innovative approaches such as technologies & tools, bridging the policy and service delivery gap, linking humanitarian and development, strengthening governance and public spending, forging strategic and innovative partnerships, and strengthening monitoring and accountability. Mr Mvondo described the objectives of UNICEF in engaging the AU, among others, agreeing on common priorities, generating evidence and advocacy for child protection in AU's agendas, strengthening partnership, collaborating with other partners, and mobilizing one UNICEF. To this end, UNICEF has identified three specific approaches

of engagement which are relationship and partnership building, technical engagement, and political engagement. Mr Mvondo further indicated that in selecting priority areas, UNICEF ensures that there is consensus between AU and UNICEF, a continental approach adds value, comparative advantage for UNICEF, and added value that comes along with UNICEF's engagement. UNICEF has four pillars for areas of engagement namely catalyzing young people's agenda in Africa otherwise referred as harnessing demographic dividend, advancing child rights and protection, strengthening humanitarian support in line with AU's theme for 2019, and leveraging partnerships.

50. In addition, Mr Mvondo expressed that UNICEF wishes to work with the Committee and the Department of Social Affairs particularly to produce the report on the status of children's rights in 2020. UNICEF would like to utilize key momentums of the AU Summit, meetings of the STCs and sessions of the Committee to push for issues of child protection. It was underlined that UNICEF is working with the AUC to design the strategy on youth development which is an initiative globally known as 'generation unlimited'. UNICEF is committed to work towards supporting its delivery to the AU through high level and technical engagement, as well as responding to emerging issues. Mr Mvondo assured that the Committee can count on UNICEF to push children's agenda at various levels under the guidance of the Committee on areas of advocacy.

51. Based on the request from the CSO Forum during the discussion, Mr Mvondo also assured that UNICEF is ready to work with the CSO Forum as partnership is one of its engagement strategies.

52. It was finally indicated that UNICEF and the Committee need to identify the concrete activities and time frames for the AU-UNICEF engagement strategy of 2019-2021.

## **ITEM 8: DAY OF GENERAL DISCUSSION ON ONLINE CHILD SEXUAL EXPLOITATION**

### **I. Presentation of the objective of the theme of the General Discussion**

53. The Chairperson of the ACERWC, Hon Nanike Nkwe, opened the discussion by introducing the theme of the Day of General Discussion (DGD); i.e., 'Online Child Sexual Exploitation' (OCSE), and why it becomes the focus of ACERWC's general discussion during its 33<sup>rd</sup> ordinary session. The Chairperson noted that internet usage in the African continent has increased significantly. This increase in internet usage comes however with a bigger risk of children being susceptible and sexually exploited online, she said.

54. Speaking during the opening, Hon Nkwe also remarked: article 27 of the African Charter on the Rights and Welfare of the Child, obliges State Parties to protect the child from all forms of sexual exploitation and sexual abuse and shall in particular take measures to prevent; the inducement, coercion or encouragement of a child to engage in any sexual activity; the use of children in prostitution or other sexual practices; and the use of children in pornographic activities, performances and materials. The Chairperson, however, noted that OCSE was not known during the drafting of the Charter in 1991; and hence not specifically addressed under article 27. She then

stated that it is against this backdrop that the ACERWC organised this general discussion as one component of the 33th Ordinary Session of the ACERWC. She also briefed the participants on the aims of the discussion which include: to better understand OCSE and raise awareness of OCSE in Africa; to provide a platform that facilitates exchange of information among participants from different countries; to understand both the impact to victims and the wider societal impact of OCSE; to identify challenges in dealing with OCSE in the continent and thereby shaping the work of the Committee in dealing with OCSE; and to enable member states in making domestic and international decisions or investments to addresses OCSE.

55. The Chairperson concluded her opening by extending sincere gratitude to various sponsors. She specifically recalled that the discussion on combatting OCSE is part of the project run by the Department of Social Affairs to reinforce regional and national capacity and action against OCSE in the continent, which has been executed with financial support from the UK Home Office through the Commonwealth Grant, and applauded the UK Home Office in this regard. She further extended special thanks to UNICEF, INTERPOL, WPGA, ECPAT and other stakeholders.

## **II. Children in a digital world: Findings from 2017 State of the world's children report by UNICEF**

56. Ms Afrooz Kaviani Johnson, representing UNICEF Malawi, begun her presentation by shedding lighting that UNICEF works to protect children from all forms of violence, exploitation and abuse, including in the online environment, in every region of the world.' She said that the ultimate mission of UNICEF is to promote the rights of every child, everywhere.

57. She noted that her presentation extracts some significant findings from UNICEF's 2017 State of the World's Children Report, which specifically targeted children in a digital world. Noting that the lives of children are mediated by the digital environment in ways that impact how they can enjoy their rights and how their rights may be improved or transgressed, she reiterated that the effect of the digital environment for children needs to be considered in the context of rights set forth under the UN Convention on the Rights of the Child and the African Charter on the Rights and Welfare of the Child. In this regard, she averred that the relevant rights include not only children's rights to protection from all forms of violence, but also their rights to participation and provision.

58. While underlining the role of internet for innovation, education, and economic growth in the continent, specifically its role for learning, entertainment, social inclusion and civic engagement for children in Africa, for example when they use their mobile phones and life changing applications such as the Internet of Good Things, she underscored the development of internet has also led to greater risk of children being sexually exploited online. In the absence of proper mechanisms of protections, thus, children will be susceptible to greater online risks of harm, she said. Elaborating on the online risks and harms, she recommended that the law makers and policy designer's needs to identify the good experiences they can build upon, and what should be their priorities as they address these new challenges such as OCSE.

59. Ms Johnson pronounced that OCSE does not appear in a vacuum. What happened/ what is happening/ what will happen in the online environment is a mirror of society at large. OCSE reflected the dangers that children have been facing in their homes, schools, communities and the society at large. Research also indicated that 'children who are more vulnerable offline, are girls, children with disabilities and children from marginalized groups, said Johnson. She stressed that any measures to tackle OCSE should be part of nationwide policies to tackle violence and exploitation of children in general. Moreover, she explained the key action points identified by the UNICEF's 2017 State of the World's Children Report.

60. Finally, Ms Johnson concluded her presentation by emphasizing that OCSE reflects the dangers that children face in their homes, schools, communities and the society at large, and called for measures that address OCSE to be part of nationwide policies that tackle violence and exploitation. She also emphasized the need to use a multi-stakeholder and multi-sectorial approach to address OCSE, which among others involves collaboration with governments, civil society, academia, parliamentarians and the private sector.

### **III. Global trends: profile of victims and offenders on child abuse images: ICARE 2018 report- ECPAT & INTERPOL**

61. Ms Marie Laure Lemineur, representing ECPAT International, presented the snapshot of the findings on profile of victims and offenders on child abuse images. She noted that her presentation relies on a study called 'Towards a global indicator on unidentified victims in child sexual exploitation', carried out by ECPAT International and INTERPOL between 2016 and 2018. The study was commissioned by European Commission.

62. Ms Marie Laure noted that the objectives of the study were to develop a descriptive profile of unidentified children depicted in child sexual abuse material (CSAM) and child sexual exploitation material (CSEM) in the International Child Sexual Exploitation (ICSE) Database, a specific tool for use by qualified law enforcement officers and other personnel to investigate CSAM and CSEM.; and provides insight into the usage and content of the ICSE Database. She recalled that the study was based on quantitative and qualitative analysis and conducted in two parts: an analysis of samples from INTERPOL ICSE database extracted in June and August 2017; and interviews conducted in November 2017. She also stressed the legal, institutional and ethical considerations involved in the study where largely illegal and extremely sensitive material were considered. As she noted the information source for the study can be broadly categorized in to three: victim information; offender information and the nature and severe of the offence as depicted in the picture.

63. She then briefed the findings, which is based on analysis of the data in the ICSE database, as follows:

- Among the 72.5% of cases where victims of gender exploitation were documented, 64.8 percent of unidentified victims were girls, and 31.1% depicted male children. She highlighted that while noting that most victims of sexual abuse and exploitation are girls, the substantial proportion of boys depicted in unidentified images and videos in the ICSE Database calls closer attention to this group.

- She also expressed that when boys were depicted in the abuse, it was more likely to be severe.
- In terms of ethnicity of the victim, 76.6 % of analysed series featured white children, whereas only 2.1 percent depicted black victims. It is worth noting, however, that the ethnicity of the victims in the ICSE does not necessarily indicate an exact representation of the ethnicity of victims worldwide as many countries, including all countries in Africa, do not yet connect to the ICSE Database. She thus called upon African states to connect to the database to generate a more understanding of victims' ethnic profiles.
- The age profile of victims in the ICSE database (in case where the unidentified victim's age could be determined) shows that 56.2% of cases depicted prepubescent children, 25.4 % were pubescent children, and 4.3% were very young children. She also stressed the link between the age of the victim and the severity of abuse; stating that the abuse was more likely to be severe when victims were younger. She further noted that very young children were subjected to abuse and exploitation more likely than pubescent victims.
- Ms. Marie Laure also underlined that the vast majority of online CSAM is made by those in the victim's circle of trust. She recalled that ethnicity of the offender actually matches with ethnicity of the victim.

64. Finally, she concluded her presentation by emphasizing the need for innovative partnership among stakeholders to effectively address OCSE.

#### **IV. OCSE Trends in Africa – Types of OCSE manifestations specifically arising out of Africa**

65. Mr. Nirmal Busgopaul, representing Halley Movement / ECPAT Mauritius, presented on OCSE Trends in Africa. Mr. Nirmal noted that an estimated 51.2% of world population will be using the Internet by end of December 2018. He further stressed that, in Africa continent alone, internet users increased from 2.1% in 2005 to 24.4% in 2018.

66. While relying only on cases reported, he identified four manifestations of OCSE in Africa. First is child sexual abuse material. Included in this category are: using nude or semi-nude photos of young girls and boys; using mobile phone with a camera to discretely capture picture and video; and storing and distributing pictures online in return for money or other similar pictures. He recalled reported abuse took place in orphanages for children in Uganda. Second is online grooming. Mr. Nirmal elaborated on the different stages in grooming which are: relationship-forming stage; risk assessment stage; the exclusivity stage; and the sexual stage. In South Africa, he said, strangers talked to students online about sex against their will - at school through social networking sites. He also recalled the 'Badoo experience' in Mauritius, where the underage victim talked with the offender for about 6 months, and later while she reached the age of maturity and in need of job, she was requested by the offender to meet him with a view for a job interview. Unfortunately, offender threatened to cause bodily harm/kidnap her. Third is sexting that is sending messages of a sexual nature by a child to another or between adults or a combination. In this regard, Mr Nirmal noted that cases have been regularly reported in Mauritius, South Africa and many other African countries. Fourth is live streaming.

67. In concluding his point, he identified anonymity, that is offenders use proxy or other ways to hide their identity or IP, transnational nature of some of the offences and slow investigation as a challenge to effectively deal with OCSE in Africa.

## **V. Presentation on establishment of a specialized unit to tackle OCSE**

68. Mr. Roy Godding, representing, UNODC, shared the experience of Kenya in tackling OCSE. He averred that child exploitation is an awful crime but an inescapable fact. He further noted that the online element is added following the development of technology. The negative effect of internet on children who are more vulnerable than others is crucial, and hence they should be protected from the negative impacts of this phenomenon. Thus, the need to have specialized units in the law enforcement offices to tackle child sex abuse was underscored by Mr. Roy. However, he noted that law enforcement intervention is not an exclusive response to OCSE, but it is just one component of the measures to deal with OCSE.

69. He recalled the establishment of the Anti-Human Trafficking and Child Protection Unit in Kenya with the support of British funding. The unit enables Kenyan authorities to access data on abuse to ensure perpetrators can be brought to justice. The unit has over 100 live investigations ongoing and since March 2016 has protected around 400 children and supported the arrest of around 40 suspects. In December 2017, there was an operation that rescued 93 children, Roy noted. He finally called up on African states to transplant Kenyan model.

70. Following the three presentations, discussions were made on the following issues:

- On the major actors to work with and the ways for national and international institutions to harmonize their work
- The role of communication service providers in identifying perpetrators
- On capacity building programs are there to enable law enforcement officials to undertake investigation effectively and sufficiently
- On mechanisms of improved reporting, and
- On the role parents to deal with OCSE.

## **VI. Panel discussion on responses to OCSE**

### **Presentation from UNICEF**

71. Dr. Edward Addai, from UNICEF, commenced the presentation by congratulating the Committee for taking up the Executive council recommendation to tackle child exploitation on cyber space. He noted that WeProtect's model response for preventing and tackling child sexual exploitation and abuse helps countries to better protect children. The framework has 6 elements/pillars; policy and governance, criminal justice system, victim, societal, industry, media and communications. The model sets out what constitutes a comprehensive national response to the crime of online sexual exploitation of children.

72. Dr. Addai noted that the Policy and Governance pillar has three elements; leadership, research monitoring and analysis component, and legislation which is

comprehensive and effective to ensure protection to victims. The criminal justice pillar incorporates four elements. Dedicated law enforcement is one of the elements, which incorporates national remit, trained officers, proactive and reactive investigations. Victim protection pillar also has various elements; including end to end support, child protection task force, compensation, remedies and complaints arrangements and child helpline. The Societal pillar is geared towards prevention of sexual exploitation and abuse. It includes creation of children sexual exploitation and abuse hotline, establishing education programs for children/youth, parents/caregivers, practitioners and faith representatives, creating child participation mechanisms and offering support systems such as medical, psychological and self-help. It was added that the industry pillar is geared towards creating solutions in the relevant industries. As such it incorporates notice and take down procedure of online child sexual exploitation and abuse content, reporting procedures, innovative solution development and corporate social responsibility. The last pillar mentioned is Media and Communications. It was noted that the pillar focuses on ethical and informed media reporting as well as usage of universal terminology.

### **Presentation on African Union Cyber Security and Data Protection Convention**

73. Mr. Auguste Yankey, from the Department of Energy and Infrastructure of the African Union Commission, commenced by expressing the serious risk posed by cyber security on economic and social stability of Africa and indeed the world. He noted that there is a terrifyingly large amount of data that can be analysed computationally to reveal patterns, trends and associations relating to human behavior and interaction, commonly referred to as 'Big data'. On the other hand, the Internet of things, he noted, is a system of interrelated computing devices and digital machines that are provided with unique identifiers and the ability to transfer data over a network without requiring human-to-human or human-to-computer interaction. He added that the Internet of things comprises of 40 billion devices with a value of 9000 billion USD. He stressed that with the increase of cyber space, insecurity threat increases. Mr. Yankey explained that the cyber space has three components; the Internet industry, the vendor and the Internet user. As Internet users, people are not clients in this circle, but rather, the products. That is because Internet users provide information to the Internet that the vendors sell, and the information is personal data. There is a mass of data that is available on cyber space, which is gathered from people's everyday interaction with technology. The aim of collecting this data is to sell it to companies, which will then customize their products to sell back to people. This is the objective of 'big data', collecting data from individuals to sell it back to them in another form.

74. Mr. Yankey noted that the world is in the 4th industrial revolution, which is the digital revolution. This revolution could enable Africa to transform itself and to reach its development objectives and goals; hence there is a need to reinforce confidence in the cyber space. ICT offers undeniable opportunity to children. It allows facilitating access to information and communication, it narrows digital divide between regions and communities. ICT can also help combat issues such as trafficking. For example hotlines can be used by children to report abuse, other ICT products can be used by parents to track the movements of children and protect them from any harm. It was noted that children have always been exposed to violence, exploitation and abuse, what changed today in the digital era is the scale, scope, opportunity and forms.

Moreover, one of the unique features of Internet is that it is difficult to know who is on the other end of the web, only Internet Protocol (IP) address is needed to utilize the Internet. A person does not need to disclose personal identity to be able to access and use the Internet. As such when children use Internet, they may encounter any type of person on the other end, which can unfortunately be at times a pedophile.

75. It was stated that, taking in to account the negative sides of the Internet, the African Union is working towards ensuring safety and security on the cyber space. Accordingly the African Union has developed the Convention on Cyber Security and Personal Data Protection (Malabo Convention) on 2014. The Malabo Convention spells out the options for an African wide cyber security policy. It has 4 chapters, chapter 3 deals with promoting cyber security and combating cybercrime. Under this chapter there are provisions that are aimed at the protection of children from online exploitation and abuse. Chapter 3 Section 2 article 29 (3) is an important provision for the discussion at hand. It deals with content related offences committed on the cyber space concerning children and calls upon state parties to criminalize them.

### **Presentation on ACERWC response to OCSE**

76. Hon Nanike Nkwe, Chairperson of the African Committee of Experts on the Rights and Welfare of the Child, briefed the plenary on the response of the Committee to OCSE. She recalled that the Executive Council, during its 33rd Ordinary Session, urged the Committee to scale up its work in safeguarding the right of children in Cyber spaces. Following this development, the African Union Commission Department of Social Affairs has commenced a project to address OCSE with the support of the Common Wealth fund, from the Government of the United Kingdom. Hon Nkwe noted with appreciation that in December 2019, a few Department of Social Affairs staff and three Members of the ACERWC were trained on OCSE with the support of partners and the Government of the United Kingdom

77. Hon Nkwe noted that the Committee has a mandate, under the African Charter on the Rights and Welfare of the Child, to promote and protect the rights and welfare of the child in Africa. When the Charter on the Rights and Welfare of the Child was drafted the problem of OCSE did not exist, hence it was not envisaged. However, she stressed that the Committee will have to adapt to current realities and address the issue of OCSE. As such there is a need to look in to various mechanisms to ensure protection of children in the cyber space. She added that so far there is no clear framework on this, which is one of the reasons for dedicating the Day of General Discussion on this issue.

78. The Hon Chairperson noted that the Committee needs to have multiple responses by leveraging on existing research and mechanisms. Among the responses, the Committee will consider drafting a General Comment on article 27 of the Charter, protection of children from sexual exploitation. She stressed the need for a multi-sectorial approach and mobilizing political will from Member States in going forward. She concluded by informing the plenary that the African Union will host a Global Summit on Online child sexual exploitation in December 2019, in collaboration with WeProtect Global Alliance.

79. Following the presentation by the panel, comments and questions were raised by participants. It was agreed that collective and multi-sectorial approach is the best approach on the issue. The Representative of Nigeria noted that there is a cybercrime Act in Nigeria, with a specific section addressing sexual exploitation of children on the cyber space and that it can be taken as a good practice. It was also highlighted that the use of the terminology pornography in the Malabo Convention should be reconsidered as the matter is seen as a criminal offence committed against a child, hence the usage of the term 'child pornography' is not conducive to the protection of the child. It was recommended that the Malabo convention be amended to this effect. It was noted that data available on cloud is not controlled by Africa, and it is not possible to control the Internet provider organizations that are keeping the data. There is a need to find a way to make them accountable. It was remarked that based on the Executive Council's decision the committee is requested to protect children on the cyber space. Hence the Committee should look at child protection in the digital space in its entirety, with OCSE being one of the issues.

80. Following the Comments and questions from participants, the panel addressed some of the concerns raised in the following manner. It was explained that child pornography is included in the Malabo convention following continental consultation. The definition on the Convention is broad and neutral. However, the convention is open for amendments if necessary. Regarding where data is stored, it was noted that there are no data centers in Africa, all the data centers are in non-African countries, and as such African countries cannot control them. To counter this, African countries should ratify and implement the Malabo convention. Currently it is ratified by only 4 countries, while 15 ratifications are needed to enable it to come in to force. It was also added that African Countries should also build their own data centers; there is a need to invest on ICT infrastructure to make that a reality.

81. Furthermore, it was noted that general discussion on the issue is good but it needs to be complemented with action on the ground. The first stage is the analytic stage in which the foundation is built by giving MS information and tools to tackle the issues; secondly capacity building programs need to be implemented in the social work force and the justice system. Informed and capable action will follow these steps. It was added that article 27 of the African Charter on the Rights and Welfare of the Child talks about sexual exploitation in its totality, hence the Committee will address the issue of sexual exploitation holistically.

## **VII. Panel discussion on Gaps in response to OCSE and sexual exploitation of children**

82. Ms. Saba Lishan, Representative of African Child Policy Forum, noted that there is a persistent problem of lack of visibility of certain types of violence against children in Africa. Some abuses are least recorded and undocumented. She stated that one of such forms of violence is child sexual exploitation. Ms. Saba discussed the various challenges and gaps that exist in the understanding of child sexual exploitation and measures to tackle it. She noted that there is a problem with the prevailing understanding of what is meant by child sexual exploitation, as there is a lack of definitional and terminology clarity. She stated that child sexual exploitation is not the same thing as child sexual abuse. Sexual exploitation has an element of power

imbalance; there is a perception that the child gets something out of it, an aspect of exchange. The other challenge mentioned relates to data, there is very limited data on the issue. It was noted that there is secrecy around the issues due to stigma. As a matter of culture, there is lack of open discussion regarding sex and sexuality in most African countries. Another challenge discussed relates to circumstances (social and economic instability) that render certain children more vulnerable to exploitation. This includes, poverty, armed conflict, social unrest and forced migration. Another issue that was highlighted was the challenge of adverse childhood experiences. Children with adverse childhood experience have higher risk of exposure to sexual exploitation.

83. Another important challenge in Africa is the lack legal framework that specifically addresses the issue of sexual exploitation; unusually the issue is subsumed under sexual violence. Unless the different issues/crimes are specifically named and defined, their perpetrators cannot be held accountable. There is also a challenge of the limited focus on prevention. Furthermore professionals may not always identify or register concerns around child sexual exploitation. Finally it was noted that there is a dearth of good practices that reduces the risks associated with being a victim and perpetrator of child sexual exploitation.

84. Ms Beatrice Gacengo from ECPAT gave an overview of identified gaps in domestic legal framework on OCSE in selected African countries. She noted that nine African countries were assessed by ECPAT to analyze the issues of gaps in legal frameworks. Among the identified gaps, the first one relates to lack of ratification of the relevant international treaties. It was noted that various countries have not ratified the UNCRC Optional Protocol on the sale of children, child prostitution and child pornography and the AU Convention on Cyber Security and Personal Data Protection. It was noted that there is a gap in holding internet service providers accountable, as some countries have no specific obligation to report child pornography to authorities for investigation. Furthermore not all countries have set up cybercrime law enforcement units and criminalize OCSE. Moreover, if and when such units are established, it was noted that the personnel should be well trained. Based on some of the gaps identified, recommendations were made to Member States to; ratify relevant treaties and ensure full compliance with their international obligations, explicitly criminalize emerging forms of OCSE, provide mandatory reporting of ISP, establish specialized law enforcement units with mandates on OCSE and include clear procedures to facilitate the investigation and prosecution of OCSE.

85. Mr. Auguste Yankey, from the Department of Energy and Infrastructure of the African Union Commission elaborated on gaps in tackling OCSE. He stressed on the problem of extra-territorial jurisdiction that arises when one tries to apply national legislation to a crime that is committed in another country. It was noted that criminal investigation requires being able to identify the potential perpetrator of the crime in another country; hence one needs to seize authorities in that country. At times abuse is related to domain name systems, and it is challenging when a domain is based in another country. In this regard the biggest problem is lack of cooperation. The data of the children available online needs to be accessed and analyzed and that requires extraterritorial cooperation. In order to regulate the digital space, global laws are needed. There is a law governing cyber space enacted by Europe, however this is not

agreed up on by countries outside of Europe. It was noted that in this regard the UN needs to respond to the gap.

86. Mr. Yankey explained that there are three divergent objectives that stakeholders of the cyber space are trying to achieve; combat abuses and crimes, promote human rights and activate and boost the digital economy and these objectives can collide and contradict. Mr. Yankey noted that the African cyber space is particularly vulnerable for the following reasons. There is a very poor culture of cyber security. There are few states who have enacted laws to protect themselves from cyber insecurity and do not implement them unless they face cyber-attacks; they are reactive rather than proactive. There are also 30 states in Africa who have no law or policy on cyber security, not even a draft. This also poses more challenges on extraterritorial implementation. It was noted that there are various measures that could be taken to combat some of these challenges. It is important to increase the capacity of stakeholders in this regard. There is a strong need to facilitate mutual judicial/legal assistance and cooperation to solve the issues of extraterritorial jurisdiction. Information sharing is also critical. He added that the Malabo convention can be used to tackle the challenge of extraterritorial jurisdiction – chapter 3 article 28 deals with this issue (international cooperation and extra-territorial jurisdictions).

87. Following the panel discussion various questions were posed including; questions around measures being taken to make sure Member States ratify the Malabo convention, and measures being taken to standardize policies and laws on cyber security to ensure that they are comprehensive. Participants also asked what could be done to safeguard children against harmful materials while moving towards digital literacy. Questions were also posed on the principles of double jeopardy and universal territoriality of certain crimes.

88. In response, members of the Panel noted that model national responses should be comprehensive and inclusive of societal factors and focus should be given to prevention strategies and open discussion on issues of sex and sexuality. It was noted that the Malabo convention is unique because it includes cyber criminality, online transactions and protection of personal data. There were a lot of awareness creation activities and various missions conducted. However, ratification needs a political will and that is currently lacking when it comes to the Convention. Issues of double jeopardy, extraterritorial jurisdiction and the likes are incorporated in the Convention, what is remaining are the 15 ratifications needed to put the convention in force. It was noted that harmonization of laws can be done based on the convention once Member States ratify it.

#### **VIII. Panel discussion on challenges in the implementation of the OCSE initiatives at the Member States Level**

89. Ms Freda Mwanza, representing the Republic of Kenya, discussed the challenges of implementation of OCSE initiatives in Kenya. It was noted that Kenya has entrenched all international conventions ratified as part of domestic law. Furthermore, Kenya has a sexual offences act that criminalizes online sexual exposure to children and other related offences. The Kenyan child protection unit has been established at the directorate of criminal investigations. In that unit more than 10000 reports of sexual

exploitation including online sexual exploitation, have been received and are being investigated. Furthermore, Kenya has a specialized force on online child protection, which rescues children and pulls down materials. It was stated that there is a plan to start prosecution on these cases starting from April this year. Additionally child online protection material has been developed to guide parents and children on safe online navigation. It was noted that a toll-free child helpline has been established and awareness creation is being done so that children know about the helpline. Moreover, challenges in the implementation of OCSE initiatives exist in relation to lack of unified OCSE laws across the continent and lack of OCSE dedicated units across the country.

90. Mr Amadou Ndiaye representative of the Republic of Senegal informed the plenary that Senegal has signed the Budapest convention on Cyber Crime UN Protocol against organized crime and convention against trafficking. Senegal also signed the Malabo Convention and is the first country to ratify it. It was noted that at the national level, Senegal has a law against human trafficking, online transactions, protection of personal data and cryptology. Additionally there are units to fight against cyber criminality. Furthermore, it was stated that there is a unit within the Ministry of Interior that fights against cybercrime and a free hotline that works 24/7 with counselors who attend to calls from children who are victims of abuse.

91. However, he noted various challenges in the implementation of the above-mentioned initiatives and laws. There is a challenge of hacking of personal and public data and child pornography and online prostitution continues to prevail. To respond to this and other challenges, it was noted that measures are being taken to build the capacity of authorities, promote a culture of cyber security and share experience with regional counterparts. Furthermore, it was noted that there is a national action plan to protect children from OCSE. The aim is to build a safe cyberspace for all and it is based on the pillars of political and governance, justice, society, media and communication and victim protection among others. He added that Senegal reformed its penal code to take into account evolving aspects of cyber security. There are also crimes linked to child pornography and new types of exploitation of children.

92. Following the presentations by representatives of Kenya and Senegal, questions were asked from the plenary. Inquiries were made on the level of implementation of OCSE related legislation in Kenya; the level of child friendliness of the justice system in Kenya and the availability of protection to those who report OCSE crimes.

93. In response, the panelists noted that there is a working witness protection program in Kenya that provides protection to whistle blowers and those that report crimes. Furthermore, psychosocial support is given to children who are victims and who have to go through the justice system to ensure that they do not face secondary victimization. Additionally most cases involving children are heard in camera.

## **IX. Plenary deliberations/proposal on the way forward**

94. A draft declaration of the ACERWC on OCSE was discussed by the plenary for possible adoption by the Committee.

**ITEM 9: CONSIDERATION OF STATE PARTY REPORT: BENIN**

95. The Delegation of Benin led by H.E. Mr Severin Maxime QUENUM, Minister of Justice, Legislation and Human Rights, introduced to the Committee the measures the State Party has taken to implement the Charter as well as the challenges faced. H.E. Mr QUENUM highlighted the commitment of the State Party in the protection of the rights of children given their vulnerability and being the future of the State Party. He alluded that the development of the Initial Report took a consultative approach where all stakeholders including children were consulted in data collection and analysis. In underlining the measures undertaken, H.E. QUENUM informed the Committee that the Republic of Benin adopted a new Penal Code in December 2018, ratified the International Convention on the Rights of all Migrants in March 2018, developed a National Policy against Trafficking (2019-2023), crafted an action plan on the fight against harmful work and forced labour, and efforts are being made to adopt the Hague Convention. In December 2018, the State Party put in place the National Human Rights Institute which has started operating since its establishment. He also mentioned that in November 2017, the Republic of Benin presented its third national report at the Human Rights Council (HRC) and the Government developed an action plan on the implementation of the recommendations of the HRC.

96. H.E. QUENUM indicated that the State Party has embarked on school feeding program where 2 warm meals are given to retrain students in schools. He stated that the State Party prosecutes perpetrators of child prostitution and sexual abuse and that there is legislation that protects the girl child from violence. So far 133 perpetrators have been prosecuted for having committed crimes such as trafficking, imprisoning of children, and illegal displacement of children. Furthermore, in order to address cross border trafficking of children, the State Party has signed a cooperation agreement with the Republic of Gabon. At regions where many children are found in the situation of prostitution, the State Party undertakes sensitization and builds social and economic services. He also underlined that, in 2018 the Government conducted national census which revealed that 2.5 million persons do not have IDs and 1 million have lost birth certificates. It was indicated that specialized child friendly courts have been setup in all regions of the State Party. Moreover, in December 2018 the State Party organized a workshop on juvenile justice which brought together 60 actors to undertake a situational analysis to identify gaps and strengths. H.E. QUENUM recognized the support of partners particularly UNICEF in compiling the report and implementation of the Charter, and reassured the commitment of the State Party to further advance the implementation of the Charter and the recommendations of the Committee.

97. After the brief presentation of the State Party, Members of the Committee reflected on the State Party report. Members of the Committee commended the Republic of Benin for submitting its report even if late; for the consultative approach used in compiling the report; establishing 85 centers for social promotion; banning corporal punishment in all settings; and for their achievement in becoming a polio free country. The Committee sought clarification on the following issues: the reason for the delay in submitting the initial Report; the status of the Child Code and its date of enactment as there is contradictory information in the report; which Ministry is in charge of child rights and if there is multi-sectorial coordination among line Ministries as well as within Departments; coordination and separation of mandates of the Commission on the Rights of the Child, the Departmental Committee on the Rights of the Child, and the

National Advisory Council for Children; and age of marriage as well as the exceptions thereto. The Committee, while noting that Child Parliaments no more exist, requested what measures are being undertaken to re-establish child Parliaments that have the true representation of children. The Committee also sought clarification on the status of the Charter in the hierarchy of laws in the State Party and its application in decisions.

98. Moreover, Members of the Committee raised concerns and requested for further elaboration on measures taken with regards to lack of updated data in the report; budgeting for child rights issues; low birth registration rate as well as the fiscal charges for birth certification; proportion of children who have lost birth certificates; prevalence of corporal punishment despite the law which bans the same accompanied by the new Child Code which gives room for parents to discipline their children; low vaccination rate which stands at 46% in rural areas and 56% in urban areas; prevalence of malnutrition and under five mortality; high level of teenage pregnancies; low enrolment rate (29%) of girls especially in secondary education; high incidence of child labour in Benin as it is the second country in Africa with highest rate of child labour; situation of children born in prisons; regulation of adoption; accessibility of schools to children with disabilities; and the issue of illegitimate children in the Family Law resulting in discrimination. While commending the establishment of child courts, the Committee expressed concern on the child friendliness of the procedures and training of personnel including judges and law enforcement. The Committee also wanted to know the measures undertaken to provide rehabilitation, reintegration and reunification services for child victims of abuse and trafficking; implement continental campaigns to end FGM/C (Salima Campaign) and child marriage; end sexual abuse of children in schools; fight against internal trafficking of children; education in Social Promotion Centers; reduce the teacher to pupil ratio; address the issue of poverty; prevent relapse of polio as in the case in 2008; and measures taken to ensure the Voodoo religion does not affect children.

99. Responding to the issues raised by Members of the Committee, the Delegation indicated that the delay in submitting the report is due to the various internal challenges Benin was facing in the past years and it was assured that the State Party will provide updated data in its next report. The Delegation informed that the Child Code was voted in January 2015 and the enactment took place on 8th December 2018. It was explained that the Ministry of Justice, Legislation, and Human Rights is the lead Ministry in dealing with child rights and there are other line Ministries such as the Ministry of Education, Ministry of Health, Ministry of Interior, and Ministry of Family Social Affairs, National Solidarity, Disabled and Elderly. The National Commission on Child Rights is the umbrella organization that brings all actors together and is in charge of developing laws and actions on child protection. The Delegation stated that the State Party is working towards establishing a more vivid multi-sectorial coordination mechanism. On the issue of the status of the Charter, the Delegation informed that the Charter is domesticated and it is an integral part of the national legislation. In cases where there is disparity between national law and the Charter, the Charter takes precedence. It was also alluded that the Charter has direct application particularly where a national legislation does not exist or is adopted before the ratification of the Charter.

100. The Delegation stated that civil registry is also a concern for the State Party as all of the programs depend on the reliability of the civil registry. It was highlighted that during the recent census, the Government discovered that 1.8 million children do not have IDs and the State Party has established a special program of free registration as well as an online program where parents can announce the birth of their children to address the low birth registration.

101. The Delegation further stated that the vaccination rate has improved since 2014, for instance BCG vaccination has 93% coverage, the State Party achieved to be polio free and the vaccination for chicken pox increased. In addition, there are two annual vaccination campaigns.

102. In relation to corporal punishment, the Delegation acknowledged that article 39 of the Child Code allows for parental disciplining and that in most cultures disciplining takes the form of corporal punishment. It was also informed that in cases of excessive violence, parents could be prosecuted. In addressing the concern of the Committee on the threshold of excessive violence, it was explained that the injury sustained by the child is the reference. The Delegation further informed that there is no mechanism to monitor families and hence violence comes to the attention of the State Party only if the child or neighbours inform law authorities. It was also indicated that the State Party is undertaking sensitizations and dialogues among communities.

103. Addressing the issue of the management of adoption, the Delegation underlined that there is legislation and central authority for adoption which is in charge of following-up each adoption. However, it was stated that there is lack of data on issues of adoption and that the State Party intends to stop international adoption.

104. The Delegation, on concerns raised on teenage pregnancies, indicated that data shows that there were more than 8000 unwanted pregnancies over the past two years. With the support of partners and donors, the State Party has put in place a program on this.

105. Regarding the procedures of child friendly courts, the Delegation explained that in each child friendly court, there is a committee tasked to follow-up the procedure which is composed of the special judge for the child, prosecutors, doctors, social workers, and representative of CSOs.

106. In elaborating the management of victims of abuse, the Delegation highlighted that once the victims are identified, they will be transferred to Social Promotion Centers. These centers operate in various parts of the State Party and there is an intention to open more centers in areas where they do not exist. The Delegation also informed that sensitization of the personnel of tourism sector to identify abuse of children is carried out. The Delegation further mentioned that the State Party launched a report which identified the gaps in the Social Promotion Centers such as financing. Accordingly, the State Party raised the budget from 800,000 to 4 million CFA franc in 2015 and employed more human resource. Social workers are trained and the centers provide rehabilitation, reintegration and reunification services. It also works closely with law enforcement and ensure prosecution of perpetrators. Internal trafficking of children is also covered under these centers and perpetrators are prosecuted.

107. Concerning children with disabilities, it was informed that the Ministry of Social Affairs has created a specialized department dealing with persons with disabilities; and there is a policy paper accompanied by action plan for children with disabilities. The Delegation underlined that the State Party is building various infrastructures, like ramps in schools and is incorporating disability friendly installations in new schools.

108. Responding to the concerns expressed on education, the Delegation acknowledged that there has not been an increase on girls' enrolment in secondary schools and to address this challenge, the State Party has launched a program to provide free education for girls up to 10th grade at least. It was underscored that the State Party, being cognizant of the poor quality of education, is undertaking deep reforms and intends to focus on education programs, training and assessment of teachers, and building more classrooms. The State Party will soon establish a national council for education to work on all levels of education. TVET programs are established and the State Party is also working on jobs creation to the graduates.

109. Concerning the protection of children born in prisons, the Delegation indicated that the child can stay with the mother up to three years but after that the child will be sent to the family outside the prison. Mothers who give birth in prison will be taken out of prison for 12 weeks and they will return afterwards.

110. The Delegation noted that child labor has elevated and in collaboration with CSOs, police, and other government organs work together to remove children from hazardous works and ensure that they continue education.

111. With regards to harmful practices, the Delegation informed the Committee that the Government launched a zero tolerance campaign on child marriage as well as the Decade for Education which is being linked to curb child marriage. On concerns flagged on the practice of Voodoo religion, the Delegation highlighted that the State Party is raising awareness among traditional and religious leaders and in some places there is success where the voodoo trainings/internships are shortened to ensure that children attend schools and parents started paying certain amount so that their children are not scarred.

112. In addressing the issues raised in relation to the Child Parliament, the Delegation informed that they stopped operation after child associations rejected them for not being representative of children. It was shared that the Ministry of Social Affairs is undertaking efforts to bring together all child associations to renew the composition of the Child Parliament and re-establish it soon. Moreover, it was stressed that children from various regions are engaged in decision makings on issues that concern them and elect their own representatives to represent them at the National Advisory Council on Child Rights at all levels.

113. The Session was concluded by the remarks of the Chairperson of the Committee who expressed her appreciation for the commitment of the State Party and the milestones achieved. The Chairperson further reminded that the intention of the Committee in such exercise is constructive geared towards identifying progress and challenges. She indicated that the Committee will adopt concluding observations and

recommendations which will be forwarded to the State Party in due course and the Committee will visit the State Party to undertake a follow-up mission to assess the implementation of the concluding observations and recommendations. The Chairperson called on the Delegation to ensure that concluding observations and recommendations are shared with all stakeholders upon receipt of the same.

#### **ITEM 10: CONSIDERATION OF STATE PARTY REPORT: THE KINGDOM OF ESWATINI**

114. The Delegation of the Kingdom of Eswatini led by H.E. Senator Themba N. Masuku, the Deputy Prime Minister, introduced the Committee to the measures the State Party has taken to implement the Charter as well as the challenges faced. The Deputy Prime Minister of the Kingdom began his report by apologising to the Committee for the unavoidable delay to submit reports due to technical and capacity issues; and assured that the Kingdom is open for any suggestions and guidance in this regard. The Deputy Prime Minister then explained the Kingdom's commitments to the welfare of the child saying that the Government has given priority to the issues of children since 2008; engaging in the design and implementation of various policies, laws and programs aimed at guaranteeing the welfare of the child within the kingdom. He averred that the Kingdom of Eswatini has been taking legislative and policy measures, including the adoption and enactment of; the Constitution of the Kingdom of Eswatini in 2005, which sets a robust basis for children's rights through an advanced bill of rights and further guarantees citizenship and family rights of children; the National Children's Policy in 2009; the Children's Protection and Welfare Act (CPWA) in 2012; the National plan of action for children, 2011-2015 and the Sexual Offences and Domestic Violence Act in 2018. The delegation also mentioned that the Kingdom of Eswatini has ratified all human rights instruments that concern children; including the UN Convention on the Rights of the Child (CRC). In line with this, the kingdom has been engaging in massive review of subsidiary laws, such as the Citizenship Act, 1992 and Births, Marriages and Deaths Registration Act, 1983, to bring them in accordance with the kingdom's constitution and its treaties' obligations. The Deputy Prime Minister also avowed that the kingdom now has a child- friendly court established to protect the rights of children and serve justice on their behalf.

115. The Deputy Prime Minister further noted that the Kingdom is working hard to protect children from harmful traditional practices and religious beliefs; exemplifying that the Government has been rescuing children from under age marriage; a measure that resulted in a drastic decline within a year. Moreover, he underlined that the Kingdom has also been focused on health, education and social protection since these have a direct bearing on child development. While the Deputy Prime Minister underscored that section 25 (2) of the Constitution allows reasonable chastisement of children, this does not, however, promote any form of abuse. It solely aims to discipline children. He also emphasized that the Kingdom of Eswatini is working to control abusive corporal punishment at school. Moreover, it was asserted that the Government of Eswatini is working to ensure all children have nationality and identity cards without any discrimination and with no cost; so that they can get social services provided by the Government. However, the Delegation submitted that the treatment accorded to refugee children in the kingdom is still a lingering challenge; requesting the Committee's suggestions in this regard.

116. While stressing the Government's efforts to comply with its obligation with regard to children, the delegation, however, accentuated that climate change, HIV/AIDS pandemic, noting that Eswatini is a country worst-affected by HIV worldwide, poverty, budget deficit had, and continue to have, negative effects on the condition of children and impede the full realization of the rights and welfare of the child in the Kingdom. The Deputy Prime Minister further asserted that drought and the associated lack of food security also unfavourably affect the rights and welfare of children and urged for serious support.

117. Following the presentation of the Delegation, the Committee expressed its views on the State Party report. The Committee appreciated the high-level multi-sectorial delegation that included the Deputy Prime Minister and Director of Children Affairs. The Committee also applauded the Kingdom of Eswatini for enacting the Sexual Offences and Domestic Violence Act.

118. The Committee then sought clarification on various issues, including the reasons for low level of birth registration rate; the status of the Commission on Human Rights and Public Administration; as a dualist country, what measures are taken to implement international treaties; the actual budget allocated for child related program; repugnancy tests in customary laws in the absence of clear standards in determining repugnancy; and the measures taken to address the particular need of vulnerable children, such as children affected by HIV/AIDS, children with disabilities, children born out of wedlock, children in foster care and geographically marginalized children. Members of the Committee further requested clarification on the measures in place to promote and ensure meaningful child participation and to encourage children to express their views including the existence of children's parliament; on availability and accessibility of birth registration; on the impact of corruption on children's rights; on the measures undertaken to tackle trafficking, smuggling and online child sexual exploitation; on ratification of the Malabo protocol; the measures in place to eradicate child statelessness including discriminatory laws in the Constitution regarding acquisition of nationality; ensuring inclusive education for children with disabilities; and opportunities for migrant children to access education in the kingdom.

119. Moreover, the Committee sought clarification on marriageable age for both men and women and the discriminatory provisions in the Marriages Act; and on the provision of the 2005 Constitution which allows the use of 'moderate chastisement' of children; and asked how the Kingdom measures whether a particular chastisement is moderate or not.

120. Responding to the questions and concerns raised by the Committee, the Delegation stressed that measurements of social issues are subjective, so does the measurement for moderate corporal chastisement. Accordingly, the Government has some guidelines, for instance, any discipline must be age appropriate; and its application must be understood by the child, the delegation informed. The Delegation admitted that they did not have information about the Malabo Protocol, but promised to go through it and determine whether the Kingdom should ratify it or not. Concerning the time span to revise laws, the Delegation underlined that the process to enact laws in the Kingdom undertakes very stringent procedures, such as consultation, deliberations by committees, acceptance by the two chambers and approval by the

king; and hence it can take a long time. To get rid of such anomalies, the Kingdom prefers to adopt a policy so that the people in the Kingdom will be familiar with the content of the bill pending its enactment, said the Deputy Prime Minister.

121. The delegation also underscored that the Kingdom has been reviewing the National Plan of Action for Children, 2011-2015, which among others will inculcate early childhood care and development, and they promised to finish the revision before the next State Party Report. To make sure that all laws are compatible with the Constitution and the ACERWC, the Delegation recalled that the Government called up on all Ministers to submit all piece of legislation for debates and amendments.

122. In relation to budget allocation, the Delegation succumbed that they do not have the exact figure of the budget allocated to address children's issues as the Kingdom allocates budget at ministerial level, which is then implemented in various sectors under the supervision of the concerned Minister. However, the Delegation assured to make sure appropriate budget is allocated for children of the Kingdom.

123. The Delegation recalled that an independent Commission on Human Rights and Public Administration has been established in 2009. However, according to the Delegation, lack of human and financial resources affect its effectiveness in dealing with children issues. To tackle this problem, the Government has been undertaking various efforts to strengthen the Commission with the necessary tools to deliver on its programs.

124. On the issue of dissemination and implementation of international treaties, the Delegation asserted that the Kingdom has taken robust and systemic actions to guarantee the dissemination of information about treaties ratified by the kingdom, such as the ACRWC and the UNCRC, for instance, the Government has developed and distributed information, education and communication materials, like posters and radio broadcasts, on the rights, principles and provisions of the two instruments. While the Delegation noted that the ACRWC is yet to be translated in to local languages, the CPWA, which advances the rights in the ACRWC and the UNCRC, have been developed and distributed in collaboration with civil society.

125. In relation to marriageable age, the Delegation averred that the minimum age of marriage pursuant to the Marriage Act is deemed to be 18 years for both boys and girls. However, they submitted that permission may be acquired from parents and the Minister of Justice for girls between 16 and 18 to marry. Nevertheless, the Delegation recalled to the Committee that any child has the right to oppose to uphold any custom or traditional practice, such as early marriage which is likely to adversely affect them according to the CPWA. The Delegation admitted however that early marriages are still concluded despite the protection provided by the CPWA. This indicates that there is a need for advocacy to improve the implementation of the CPWA, said the Delegation.

126. The Delegation stressed that geographically marginalised children, who are living in a countryside, are at a very great risk of poverty and other sources of susceptibility. It noted that more than 90 %of the country's poor and extremely poor children resides in rural areas where limited access to social services such as clean water and sanitation exacerbate the adverse effect of poverty on their welfare and development.

The situation is alarming, said the Delegation, given that more than 88 % of orphans live in countryside. To this effect, the Kingdom has launched serious programs to address the issues of these children, for instance, educational support is provided in the form of free primary education as well as a school nutrition programme. The Delegation further noted that girl children are supported in their access to education as well as programmes run by various NGOs that focus on girl's empowerment within schools.

127. Regarding children with disabilities, the Delegation underscored that children with disabilities bear a disproportionate burden of poverty and inequality. Recognising this reality, the Kingdom's National Disability Plan of Action, 2015 – 2020, identified poverty as both a cause and consequence of disability. Accordingly, children with disabilities are guaranteed with a range of social security, educational and health support measures in accordance with the policy, according to the delegates.

128. The Delegation also affirmed that children's rights to a name and nationality are protected by the Constitution and the CPWA. It was remarked that sections 5 and 6 of the CPWCA stipulate, not only that a child is entitled to acquire nationality, but also that he or she has the right to be registered within three months of birth. While nothing in the Constitution provides that a child can gain citizenship from either parent, the Delegation stressed that a child born to a married couple does not automatically obtain nationality from his or her mother, but the father. The Delegation informed that the law will, however, be reviewed under the new bill on citizenship. It was further underscored that the Kingdom has been facing challenges related with geographically marginalised children. To tackle such challenges, the kingdom, with the support of UNICEF and other stakeholders, expanded its geographical reach to provide birth registration services in the areas where people live. Unfortunately, the Delegation underlined that the rate of registration is still not at optimal levels because of the following reasons: many parents do not have their identity documents; lack of understanding about the value in getting an identity document on the part of many caregivers; and time taking traditional naming practices that necessitate family consultation before they register the child's birth. To remedy these challenges, the Kingdom embarked on advocacy and communications campaign that uses multiple media platforms to create awareness regarding the value of identification documents and birth certificates, children's rights and parental responsibilities, and the availability of mobile and outreach services.

129. In relation to abuse and ill treatment of children, the Delegation emphasized that the legal framework has been reinforced to guarantee the rights of children. Included in legislative measures are the adoption of the National Children Policy 2009, the Education Sector Policy of 2011, the CPWA and the Sexual Offences and Domestic Violence Act 2018, said the Delegation. The Delegation also stressed that the Deputy Prime Minister's office engaged in advocacy and administrative restructuring to merge the country's efforts to combat violence against children. The office now combined three departments that previously were in separate Ministries that is, the Gender and Family Unit, the Department of Social Welfare and the National Children's Coordination Unit. The Delegation further stressed that harmonization of the multifaceted-sectorial measures has been complemented through a number of structures, such as committees, stakeholders' groups, and task forces. The

establishment of the Domestic Violence and Children Unit, which specializes in the investigation of child abuse and ill-treatment, within the Royal Police Service and the specialized Sexual Offence Units, which are in charge of the prosecution of abuse and neglect against children, established within the Ministry of Justice, further indicates the Kingdom's commitment to seriously eradicate child abuse. However, the Delegation admitted that the protection of children against abuse and neglect is still a lingering problem in the country due to: low rate of reporting because of social and economic pressures; limited coordination between the various state agencies; and lack of therapeutic services.

130. In the end, the delegation emphasised that the objective of the Kingdom is to create an excellent environment for Eswatini children since they are the future of the country and it is not possible to attain sustainable levels of growth and development unless the kingdom invests in the younger generation.

131. The Session was concluded by the remarks of the Chairperson of the Committee who expressed her appreciation for the commitment of the State Party and the milestones achieved. The Chairperson further reminded that the intention of the Committee in such an exercise is constructive geared towards identifying progress and challenges. She indicated that the Committee will adopt concluding observations and recommendations which will be forwarded to the State Party in due course and the Committee will visit the State Party to undertake a follow-up mission to assess the implementation of the concluding observations and recommendations. The Chairperson called on the Delegation to ensure that concluding observations and recommendations are shared with all stakeholders upon receipt of the same.

#### **ITEM 11: CONSIDERATION OF STATE PARTY REPORT: RWANDA**

132. The Delegation of Rwanda was led by Dr. Claudine Uwera Kanyamanza, Executive Secretary of the National Commission for Children and accompanied by H.E Hope Tumukunde, Ambassador of Rwanda to Ethiopia and Permanent Representative to the AU and UNECA. Dr Kanyamanza introduced to the Committee the measures the State Party has taken to implement the Charter. Dr. Kanyamanza recalled with appreciation the 2017 follow up mission of the Committee on the implementation of Concluding Observations and Recommendations issued to Rwanda in 2015. It was stated that since 2015 various progress has been achieved in the implementation of the Charter. The legislative measures taken include revision of the Constitution in 2015 reaffirming the rights of the child, adoption of the following acts; 2018 Child Protection Act, Act Governing Persons and Family, DNA and Paternity Test Act and Act Governing Matrimonial Relations and Succession. Dr. Kanyamanza added that the State Party has taken measures to ensure free and immediate birth registration. The Act Governing Persons and Family extended the birth registration period from 15 to 30 days. The act also includes the prohibition of names that affect the dignity of the child and all provisions on penalty for failure to register children have been removed. It was noted that there is a mechanism in place to ensure child participation such as the children's parliament with a budget allocated to this end. In this regard it was mentioned that the 2018 law relating to protection of the child enables children to express their views in civil matters that affect them such as custody cases. With regards to corporal punishment, Dr. Kanyamanza noted that the Civil Code of 1988, which provides parents the right to punish children, is repealed by the new family

law. She added that corporal punishment and any kind of mal treatment of children are prohibited.

133. With regards to nutrition, it was stated that a 7 year program (2017–2024) was adopted and the National Strategy for Transformation (NST1) is based primarily on human development, anchoring the issue of nutrition at the heart of Government’s plan. With the aim of improving the situation of malnutrition and to ensure healthy and holistic development of children, the Early Childhood Development Policy has been revised in 2016. Furthermore, it was noted that the health system has been strengthened to ensure equitable access, especially in rural and remote areas. Dr. Kanyamanza noted that article 20 of the Constitution of Rwanda speaks to children’s right to education. There is a school feeding program and efforts are being made to prevent school dropout. The Government has adopted an Inclusive and Special Needs Education Policy in 2019 along with its implementation plan.

134. It was noted that despite the continuous progresses made in the implementation of the Charter there are still remaining challenges and the Government is working to address them. In this regard, it was noted that the Government pledges to have an open and mindful engagement with all partners.

135. Following the introduction of the report by the Delegation, Members of the Committee commended the positive stride of the Government in the implementation of the Charter and posed questions in areas of concern. The concerns raised include; dissemination of the concluding observations of the Committee among public and children, the issue of coordination of various mechanisms that work on child protection, how the data collected by the National Statistics Institute is used for programing of children’s rights, the high dependence on volunteers for the work of the National Human Rights Institute and the level of independence of the Commission, the issue of sexual exploitation of children, civil society space, how identification of vulnerable families is done for the purpose of intervention, the type of support given to children’s parliament and its manner of work, the commemoration of the Day of the Africa Child, measures to increase access to water, the time it takes for issuance of birth certificates after registration is done, registration of birth and other protection issues in refugee camps, physical accessibility of birth registration centers, measures to address malnutrition, overcrowding of classrooms in schools, doctor to population ratio which was noted to be 6 to one hundred thousand, adolescent maternal health and access to reproductive and sexual information and services, including safe abortion to adolescents and measures to end corporal punishment in all settings. The Committee Members also inquired on whether the Government intends to ratify the third Optional Protocol to the UNCRC on Communications Procedure and the African Convention on Cyber Security and Personal Data Protection in an effort to tackle the emerging issue of online child sexual exploitation.

136. In response to the issues raised the Delegation noted that, in addition to being circulated in Government offices, the Concluding Observation and Recommendations of the Committee have been made available on the Ministry of Gender and Family Promotion’s website. Furthermore, in accordance with the Integrated Child Rights Policy, trainings have been given to various stakeholders on the rights of the child. In order to avoid duplication in the Ministry of Gender and Family Promotion and the

National Commission for Children, activities have been divided in clusters and the ministerial level is the final responsible for Children's affairs. Furthermore, it was noted that regular meetings are held with the Ministry and the Children's Commission to report and follow up on activities under every cluster. It was explained that the additional budgetary allocation for children's rights issues is spent on development of children; as such the money is being invested on nutrition, health and education to make sure that the child has a healthy and holistic development. It was noted that the Government is trying to ensure responsible parenting and is working on the mind-set of the population to ensure the needs of children are met. In this regard, it was noted that social workers are equipped with skills to service the child protection sector. It was noted that the data collected by the statistics agency on thematic issues such as nutrition is used for interventions and annual planning. The Government is working with civil society and other stakeholders to combat traditional practices that result in child marriage. With regards to children with disability, the delegation noted that there are instances of discrimination at community level. In January this year the Government adopted a policy to work on this issue. Furthermore, measures have been taken to mobilize community representatives to work with the Government on prevention of abuses and discrimination. On the issue of child participation it was noted that the Government works with partners at district level and supports local authorities to give technical support in assisting child participation forums. Similar strategy is utilized at the national level. The children's parliament representatives are children elected by children, the summit is held in the parliament and the recommendations of the children are sent to the relevant people in Government for necessary action. The Delegation noted that Rwanda annually commemorates the Day of the African Child by adopting the theme to the reality of the country and also celebrates the International Day of the Girl Child to especially empower girls and prevent challenges relating to the girl child.

137. The delegation added that there is no discrimination of children in refugee camps, social services are provided in camps and there are mechanisms to protect children from abuse. There are six refugee camps in the country and there are two child representatives from each camp who are members of the children's parliament. With regard to questions raised around access to water, it was noted that all the strategies on nutrition include access to water as nutrition has the aspect of access to water for drinking and sanitation. On the issue of birth registration, it was stated that the Government is striving to ensure immediate issuance of birth certificates. For women who do not give birth at health centers, health social workers are sent to different parts of the country, to vaccinate mothers and children, and to identify non-registered birth for the purpose of follow up. It was added that in order to ensure that the 30 days period is adequate for registration, the Government is digitalizing the system and trying to establish health centers close to remote villages. It was noted that more schools are being built to reduce over population in classes. Education is also used as a tool to lower the doctor to population ratio.

138. The Delegation stressed that health, education and security takes the largest proportion of the national budget. Especially early childhood development is given the highest priority in Government spending and efforts, as it affects the rest of the life of the person. It was noted that the National Human Rights Institute operates in accordance with the Paris Principle and it is independent in operation and budget, and

reports directly to the Parliament. It was further noted that, in an effort to combat sexual exploitation of children, in the year 2015 – 2016 the office of prosecutor received more than 1000 cases of child defilement, most of them have been transmitted to court with a conviction rate of 81%. It was added that Rwanda has a draft policy on online child exploitation. The delegation noted the Government is not considering the ratification of Optional Protocol 3 of the UNCRC, as there are sufficient mechanisms nationally to ensure compliance with UNCRC. However it was noted that the Government is considering ratifying the Malabo Convention on Cyber Security and Personal Data Protection. With regards to corporal punishment, it was noted that measures are being taken to install positive parenting and punish those that undertake corporal punishment. Rwanda Investigation Board has a child protection unit that works on corporal punishment. With regards to sexual and reproductive health and rights information and services, it was noted that the Government is deliberating on the issue of abortion and appropriate age for allowing the use of contraceptives.

139. In conclusion it was noted that the Government of Rwanda has embarked on the journey of safeguarding the rights of the Child. The Delegation stressed that the Government highly values its interaction with the Committee and takes all efforts to implement the recommendations that come out of the constructive dialogue. The delegation assured the Committee that the Government of Rwanda prioritizes the rights of the child and remains ever committed to work in close collaboration with the Committee.

140. The Session was concluded by the remarks of the Chairperson of the Committee who expressed her appreciation for the commitment of the State Party and the milestones achieved. The Chairperson further reminded that the intention of the Committee in such exercise is constructive geared towards identifying progress and challenges. She indicated that the Committee will adopt concluding observations and recommendations which will be forwarded to the State Party in due course and the Committee will visit the State Party to undertake a follow-up mission to assess the implementation of the concluding observations and recommendations. The Chairperson called on the Delegation to ensure that concluding observations and recommendations are shared with all stakeholders upon receipt of the same.

## **ITEM 12: CONSIDERATION OF STATE PARTY REPORT: NIGERIA**

141. Dr. MacJohn Nwaobiala, Co-Chairperson of the National Child Rights Implementation Committee and Head of Delegation started his remarks by assuring that the Government of the Federal Republic of Nigeria is committed to the promotion and protection of children's rights and apologizing for Nigeria's inability to honor the Committee's invitation to present the Periodic Report during the 32nd Ordinary Session. Underlining the legislative measures undertaken by the State Party, Dr Nwaobiala indicated that Nigeria has adopted the Child Rights Act, National Agency for the prohibition of Trafficking in Persons (NAPTIP) Act, Violence against Persons Prohibition Act, Disability Rights Act, and Cybercrime Act. In addition, the State Party has adopted policies and programs including the National Child Policy, National Priority Agenda for Vulnerable Children, National Social Investment Program, Program on Ending Violence Against Children, and launched a campaign on ending violence against children in 2015. Dr Nwaobiala informed the Committee that the State Party has launched the AU campaign on ending child marriage in 2016 and developed a

national strategy on ending child marriage. Based on its efforts, Nigeria has been accorded as a 'Pathfinder Country' on ending violence against children.

142. Dr Nwaobiala further pointed out the institutional frameworks set in place for children's issues among others, Federal and State Ministries of Women Affairs, Education, Health, and Justice; Ministry of Labour and Employment; Ministry of Interior; the Nigeria Police Force; the judiciary; the National Human Rights Commission; the National Agency for the Prohibition of Trafficking In Persons; the Legal Aid Council, National Population Commission; and National Bureau of Statistics. The Committee was also informed that Nigeria is committed to fulfilling regional obligations and hence has endorsed the ECOWAS Child Policy; the ECOWAS Strategy on Ending Child Marriage; and the ECOWAS Strategic Framework on Child Protection. Nigeria also implements the decision by ECOWAS to introduce child protection as a strategy to assist children on the move and to enable them obtain appropriate assistance. Dr. Nwaobiala further informed that recently the State Party launched the reports of two studies; namely, Financial Benchmarking on Child Protection and the Economic Burden of Violence Against Children which provide basis for improving public financing on child protection.

143. During his remarks, Dr. Nwaobiala highlighted some of the challenges faced by the State Party in implementing the Charter such as child marriage, child justice administration, child abuse, child labour and female genital mutilation in some states. It was stressed that the major challenge is a constitutional one whereby issues of children are on the residual list, and hence only states have the right to legislate on them. At present, 24 states have adopted the Child Rights Act with 12 states remaining.

144. He however informed that the National Child Right's Implementation Committee (NCRIC) which was dormant for several years was revived in May, 2018 and it is hoped that this multi-sectorial Committee will facilitate a holistic monitoring and coordination of Child Right's issues in Nigeria inducing coordination of data collection. Dr. Nwaobiala thanked UNICEF for supporting the Government and indicated that the State Party looks forward to learning from the Committee's knowledge and best practices.

145. Following the presentation of the Delegation of Nigeria, Members of the Committee commended the State Party for measures taken since the initial report; and requested the State Party to send updated information since 2014 when the periodic report was compiled. Members of the Committee raised issues pertaining to, among others, the intention to ratify the Hague Convention on Inter-Country Adoption; efforts undertaken to ensure the remaining 12 states adopt the Child Rights Act; coordination of the implementation of the Charter in federal and state governments; conflict of laws among federal and regional laws; intention to raise the minimum age of criminal responsibility which is set at 7 years; harmonization of the definition of the child in various laws; birth registration of all children including children born out of wedlock and refugee children; statelessness of the Bakasi children; and contradiction of laws on fees of birth registration between the Child Rights Act and the National Population Commission. Concerns were also raised in relation to gender inequality and gender disparity in school enrolment; hidden fees in schools; involvement of traditional and

religious leaders on ending child marriage who sometimes aggravate the scourge; efforts exerted to tackle harmful practices such as FGM and accusation of children with witchcrafts; the institutional setup to protect, rehabilitate and reintegrate victims who were freed from abduction as sometimes they are kept in hostels; measures undertaken to inspect orphanages and rehabilitation centers to ensure they do not violate the rights of children or engage in trafficking of children; steps taken to withdraw and reintegrate children from child labour, prosecute perpetrators; and the existence of child helplines to report abuses.

146. Moreover, additional information was sought on measures taken to increase access to sexual reproductive services including in emergency situations; reduce poverty; address the high level of dropouts from schools; prevent abduction of children; utilize media and nollywood to create awareness on child rights; enforce the Violence Against Persons Act; make family courts accessible to all children; train teachers on positive disciplining of children; train police to deal with abuse to increase reporting; ensure inclusive education; and protect children from sexual exploitation particularly in travel and tourism. On the justice system, Committee members wished to know if there is a child friendly justice system and if children who are subjected to customary or religious laws also obtain child friendly justice. Concerns were raised on children in armed conflict in relation to recruitment of children and children born during abductions as it relates to their rehabilitation and reintegration including measures taken in the military. With regards to adoption, a concern was raised on the age restriction put on to be able to adopt and its negative impact on ensuring alternative care for children.

147. Additionally, questions were raised in relation to the measures undertaken to protect children born in abduction who are referred as 'bad blood'; to redress the fear to go to schools in areas of Boko Haram operations; to prevent radicalization of children and ensure that children recruited in hostilities are treated as victims, not perpetrators.

148. The Delegation made an effort to address the issues and concerns raised by the Committee and indicated that the adoption of the Child Rights Act by the 12 states is its priority and in states where a separate child law is being developed, the Federal Government is closely monitoring that the draft laws comply with the Charter. Regarding precedence of laws, the Delegation asserted that the Child Rights Act is higher than other laws and hence the definition of the child in the Act prevails. Explaining the issue of conflict of laws between federal and state laws, it was indicated that in cases of conflict, the law of the one that has the power to legislate on that specific matter, according to the constitution, overrides.

149. The Delegation informed that the Hague Convention on Inter-Country adoption has not been ratified yet, but the Government is considering to ratify it. Currently inter-country adoption is administered at a Ministerial level through certification, otherwise it is administered by states. The Delegation also promised to push for the reconsideration of the age restriction of adoptive parents to promote adoption.

150. The Delegation responded to the questions raised on birth registration and assured that birth registration and certification is provided for children in IDPs and

refugee camps. Moreover, it was highlighted that section 10 of the Child Rights Act prohibits discrimination on the grounds of the situation of birth of the child and hence children born out of wedlock do not face any challenge in accessing birth registration and getting birth certificates. It was also alluded that birth certificate is required to enrol in schools to encourage registration of birth, however, children without birth certificates are still allowed to enroll and commence the process of registration. The Delegation also promised that it will draw the attention of the National Population Commission to remove the fees on birth registration as prescribed in the Child Rights Act.

151. The Violence against Persons Prohibition Act is adopted in 5 states and there are multi-sectorial technical working groups to monitor implementation. Concerning child trafficking and abduction, the Delegation informed that the National Agency for the prohibition of trafficking in persons coordinates efforts. Particularly on the Chibok girls, The Delegation reported that they were hosted in the hostels for women development centers for security reasons. They were sent to universities after 6 month of rehabilitation; and reintegrated with their families. Orphanages and shelters are registered with the Child Development Department and are closely monitored to make sure they do not engage in trafficking. Regarding corporal punishment, the Delegation highlighted that it is prohibited in school setting by the National Education Policy as a crime and teachers are enlightened in workshops on disciplining and what constitutes violence.

152. Responding on the issue of 'bad blood' the Delegation stressed that the Government hears about it but has not observed it in practice to the best of its knowledge and the children get services. Children who have been recruited initially were held by the military but now they are treated as victims and efforts are made to provide them with psychosocial support in separate centers.

153. The Delegation, on reporting of abuses, highlighted that the Government is sensitizing children to break the silence; train the police; and has established gender and child desks in all police station which are child friendly. The Delegation also underlined that there is a toll free child helpline, and a child protection group for emergency cases. Such efforts have increased instances of reports of abuses by children.

154. The Delegation, while reporting, that it does not have accurate information on the training of the military, highlighted that there are legal advisors on human rights issues in the army. The Delegation assured that it will take up the issue of training of the military to the attention of the concerned Ministry.

155. With regards to harmful practices, the Delegation indicated that the Government is working with religious and traditional leaders both at states and federal level to end child marriage; is sensitizing on FGM and so far 5 states have enacted laws on FGM as lobbying continues for more states to adopt laws; and is soliciting champions on ending FGM in communities. Furthermore, to address the accusations of children of witchcraft, some states have adopted laws and sensitization is underway.

156. The Delegation highlighted that it has developed a comprehensive sexual education policy since 2018 which has been integrated in the education system and is

undertaking sensitization on the issue. On the participation of children, it was informed that the State Party Commemorates national child day, day of the girl child, universal day of the Child; has established children parliaments at all levels, as well as child rights clubs and human rights clubs in schools.

157. The Delegation reflected that it will take back home the issue raised by the Committee on the use of nollywood for child rights issues and informed that so far NAPTIP has commissioned documentaries and in 2016 Federal Ministry of Women Affairs along with UN women signed MOU with the film industry whereby 3 movies have been produced.

158. In relation to the justice system, it was underlined that there are Family Courts at federal and state level and in some states where family courts are not formally created, judges are being designated as family code judges. The Delegation alluded that the federal government has developed a child rights procedural model and efforts are ongoing to lobby states to adopt it.

159. The Delegation informed that basic education is free according to the law even if there are residual payments attached. The State Party is aware about hidden fees imposed by head masters and teachers and when such acts are identified, action is taken. The Delegation stressed that there has been progress on gender parity in education and informed that school enrolment of girls rose from 79% to 92.3% and completion rate rose from 64.1% to 68.9% between 2008 and 2013. It was further explained that the State Party deliberately recruits female teachers to motivate girls to stay in schools and school feeding programs are put in place. The Government also has programs for safe schools which are being implemented to encourage children to go to schools in Boko Haram affected areas.

160. Pertaining to children with Disabilities, the Delegation underlined that the State Party has ratified the Convention on the Rights of Persons with Disabilities; recently adopted a Disability bill; and attended the global summit on disability where it committed to strengthen inclusive education and inclusive social protection. Furthermore, it was indicated that a national policy on children with albinism has been developed and their needs of health and other services are catered for.

161. The Head of the Delegation concluded by stressing that the Government remains committed to initiate new laws, implement the existing once, and take institutional measures and assured that it will seriously look into the issues of harmonization of law, children's courts, sexual exploitation, statelessness of Bakasi children, and sex tourism, among others. He also promised that updated information will be submitted in writing.

162. The Chairperson of the Committee closed the session by thanking the delegation and informing that the Committee looks forward to receiving the updated information within reasonable time and will send its concluding observations and recommendations as well as undertake field visit in 2 years' time to assess the implementation of the recommendations.

**ITEM 13: CONSIDERATION OF STATE PARTY REPORT: SENEGAL**

163. The Delegation of the Republic of Senegal, led by the Minister of Good Governance and Child Protection, S.E. Ndèye Ramatoulaye Gueye and included the Ambassador of Senegal to Ethiopia and Permanent Representative to the AU and UNECA, H.E Baye Moctar Diop. The Delegation briefed the Committee on the measures the Government has taken to implement the African Charter on the Rights and Welfare of the Child (ACRWC).

164. The Head of the Delegation mentioned that subsequent to the review of the initial report in 2011, the Senegalese Government has taken different measures to improve the situation of children. The Government commissioned a study on the mapping and analysis of protection systems in Senegal. On the basis of the conclusions and recommendations of the study, a National Child Protection Strategy (SNPE), which articulates its general vision as: 'Offering to all children in Senegal, to their families and communities a political, institutional and legal environment protective against all forms of maltreatment, neglect, abuse, exploitation and violence, through an integrated protection system', was adopted in 2013. The strategy was followed by the establishment of the National Intersectoral Committee for Child Protection (CINPE) in 2014, which aims to strengthen the institutional mechanism for coordinating and monitoring measures to improve children rights and welfare. The institutional mechanism was further strengthened by the establishment, in 2017, of a new Ministerial Department of Good Governance and Child Protection, as well as the establishment of new State structures in charge of improving the life of vulnerable children, such as geographically marginalized children, children with disabilities, children in street situation, children in conflict and children exposed to drug abuse. H.E Ms Gueye brought to the attention of the Committee that the establishment of the various structures is accompanied by the staffing of qualified personnel consisting of specialized educators and social workers.

165. While stressing the Government's efforts to comply with its obligation with regard to children, the Minister, however, noted that the Government continued to face various challenges, typically because of the perseverance of harmful traditional practices, such as child begging, failure to register births and early marriages.

166. Following the presentation of the report by the Head of the Delegation, the Committee applauded the positive efforts of the Government in the execution of the ACRWC and posed questions in areas of concerns. Included in the area of concerns were: the adequacy of measures taken by the government to prevent forced begging, which mostly affects the talibés children; rate of prosecutions and convictions of those responsible for the exploitation and mistreatment of children, including Quranic teachers; measures to end child marriage; harmonisation of national laws with the ACRWC; factors that delay the adoption of the draft Children's Code; minimum marriageable age for girls; issue of children in street situations; accessibility of child registration center; the status of the family Code (bill) and its date of enactment; protection of children in cyberspace; the absence of a full and explicit prohibition of corporal punishment in the home, in schools, like daaras, in penal institutions and in alternative care settings; and the slow progress in the abandonment of female genital mutilation , which remains highly prevalent in certain regions.

167. The Committee also expressed its concern regarding the unclear and overlapping mandates of State institutions working on the rights of the child, and the lack of clear procedures of coordination between such institutions. The Committee further noted with concern that landmines from the previous conflict are still a threat to children's welfare in Senegal.

168. Addressing the questions and concerns raised by the Committee, the Delegation asserted that the Government has embarked on a process of reform aimed at harmonizing domestic laws with international human rights treaties, such as the ACRWC and the CRC. The delegation also noted that the draft Children's code, which aims to address challenges that prevent Senegalese children from exercising their rights and to control harmful practices that affect the realization of their rights and welfare such as child marriage, has been finalized and is to be submitted for adoption.

169. On children in the streets situation, the Delegation stressed that the Government showed eloquent political will by introducing a program that involves various stakeholders, including police, religious leaders and social workers, to remove them from the streets. To date, the Government has carried out two operations that picked up a high number of children found begging. The children were taken to shelters pending their families or caregivers being traced and legislation on banning forced child begging and exploitation were developed. The Delegation specifically noted that talibé's presence on the streets has significantly reduced because of the integrated program of the Government that involves the community, the civil society, local authorities and Quranic teachers. The Delegation further noted that investigations and prosecutions are underway against suspects such as Quranic teachers involved in forced begging and other abuses.

170. The Delegation further noted that the amended Penal Code of the Country criminalises and sets out severe punishments for performing, procuring, and aiding and abetting the practice of FGM in the country. It also stated that the Government, together with civil societies, has engaged in raising the level of awareness of all stakeholders, such as families, traditional and religious leaders, teachers, police officers and the general public, specifically in rural communities, about the adverse consequences of FGM. The Delegation also assured that the Government is working to ensure that all victims of FGM have access to social, medical, psychological and rehabilitative services and legal redress.

171. The Delegation also underlined that the Government has led significant efforts to tackle child marriage. According to the Delegation Senegal is in the process of developing an Action Plan for implementing the African Union Campaign to End Child Marriage in Africa. Noting that the minimum legal age of marriage is 16 years for girls and 18 years for boys pursuant to the existing law, the draft children's code has planned to increase the age of marriage of the girl to 18 years, the Delegation informed. It was also recalled that intensive measures have been taken by the Government and Civil Society Organizations to sensitize communities on the adverse effects of child marriage. Moreover, the Delegation submitted that corporal chastisement is banned in both State and private schools, including Quranic schools, and teachers employing corporal punishment were prosecuted and convicted. The

Delegation however noted that the law that allows corporal punishment in families is yet to be repealed.

172. Regarding de-mining of landmines, the Delegation mentioned that the Government has managed to de-mine 1 million square meters of land. Noting that there are still 1.5 million hectares contaminated with land mines, the Delegation underscored that efforts are underway to fully de-mine former conflict areas by improving the implementation of the humanitarian de-mining programme and offering sufficient human, technical and financial resources to the National Anti-Mine Centre. The Delegation stated that the Government has made an astonishing effort to upsurge the figure of civil status centers, advance their functioning and provide birth certificates to already-born children. The computerization of civil status centers and the digitization of civil status records are also cited as prospects by the delegates. Further, the Delegation highlighted that the Senegalese Government, with the aim of protecting children in the cyber space, has developed and implemented a National Strategy for Online Child Protection and a program for the protection of children on the internet.

173. On the issue of children with disabilities, the Delegation underscored that the legislative framework on disability has changed for the better since 2010, when the Senegalese Government ratified the International Convention on the Rights of Persons with Disabilities. It was noted that the Senegalese Government, as part of the general strategy for social inclusion of person with disabilities, introduced the Equal Opportunity Card and its implementing mechanism as well as the law that addresses inclusive education. Accordingly, children with disabilities are provided with the rights to free access to school and transportation, receive family cash grants and have equal opportunity cards.

174. As for the coordination, the Delegation noted that there are no overlapping and duplicative interventions. While the National Intersectorial Child Protection Committee is mandated to develop and direct the national policy, departmental child protection committees across multifarious departments, which are extended to village and neighbourhood levels, facilitate the implementation of the policy and raise community awareness on the need to prevent child maltreatment, neglect, abuse, exploitation and violence.

175. As a final remark, the Chairperson of the Committee expressed her appreciation and concerns. While the Chair applauded the State party for the translation of the texts of laws against FGM into local languages, she urged the Government to adopt the draft Children's Code and harmonise domestic law with its treaty commitments, for instance, raising the minimum age for marriage to 18 for girls, banning any marriage or customary union involving a child, and amending discriminatory provisions. She indicated that the Committee will adopt concluding observations and recommendations which will be forwarded to the State Party in due course and the Committee will visit the State Party to undertake a follow-up mission to assess the implementation of the concluding observations and recommendations. The Chairperson called on the Delegation to ensure that concluding observations and recommendations are shared with all stakeholders upon receipt of the same.

**ITEM 14:PRESENTATION OF THE STUDY ON HARMONIZATION OF LAWS**

176. Dr Violet Odala from the African Child Policy Forum (ACPF) commenced by explaining the scope and objective of the inception report of the Study on Harmonization of Laws with International and Regional Child rights Instruments in Africa. She noted that the main objectives of the study include; to audit and review the level of alignment of national laws with international and regional standards, to assess the status of ratification and domestication of child rights instruments in all African States and to evaluate the implementation of the recommendations of the ACERWC on law reform and harmonization of laws with the ACRWC, among others. She added that the rationale for conducting the study is to build the evidence base for ACERWC and CSOs on measures taken by countries to timely enact and continuously review their national legislation in line with international norms and related standards. She noted that the Study is a joint undertaking of ACPF and ACERWC.

177. The Consultant undertaking the Study, Prof. Cephas Lumina, continued by explaining the preliminary findings of the inception report. He gave an overview of the ratification of various instruments related to children in Africa including African Union Instruments, UN Instruments, ILO instruments and Hague Conventions related to children. He explained that there is progress in terms of adopting comprehensive laws on children. With regards to the definition of the child, it is analyzed broadly including minimum ages on specific areas and progress is noted in harmonising minimum ages of marriage, criminal responsibility and admission to employment in line with international and regional standards. In relation to minimum age of marriage it was noted that 36 countries have set the minimum age of marriage at 18 years or above, equally for both girls and boys. Algeria, Lesotho and Rwanda have a higher minimum age with no gender discrimination. While in Burundi, Republic of Congo, Côte d'Ivoire and Togo it is 18 years or above for girls but higher for boys. It was noted that the remaining countries either have a minimum age of marriage that is below 18 years for both girls and boys, or a discriminatory minimum age of marriage with that of girls being below 18 years. In some countries it was noted that there are conflicting minimum ages for marriage and sexual consent. For instance in Sudan the minimum age of sexual consent for a girl is 18 years, but girls as young as 10 years are legally allowed to marry.

178. With regards to minimum age of employment and recruitment into the Army, it was noted that the ILO Convention 138 sets the general minimum age of employment at 15 years, but allows for developing countries to set it at 14 years (13 years for light work). Accordingly, all African countries except Kenya, Sierra Leone and Uganda have laws in line with the ILO Convention and 29 of them set the minimum age of employment higher than 14 years. It was noted that all African countries have set 18 years for minimum age of compulsory recruitment into the army. Additional preliminary data was given on Minimum age of criminal responsibility; free compulsory, and inclusive education; and special protection measures including corporal punishment, sexual exploitation and abuse, Female Genital Mutilation and child trafficking.

179. It was noted that there is an encouraging trend with regard to the role of courts with good case practices recorded in Zimbabwe and South Africa. It was also highlighted that the Communications procedure of the Committee has become a tool for legal change. The Communication against Malawi, brought before the Committee regarding the definition of the Child, has become an example of using international

and regional mechanisms for Governments to effect child law reform. Following the Communication, through an amicable settlement, the Malawian Government amended its Constitution in February 2017 to raise the age of minority from 16 to 18 yrs.

180. In conclusion, Prof. Lumina shared key issues and observations of the preliminary findings. It was noted that most African States have made progress towards harmonization of laws with international & regional standards, but gaps remain to exist. He added that Constitutionalisation of children's rights is increasingly the norm and there are commendable efforts of using courts. There are questions lingering regarding emerging issues such as child migration, and children and the digital world. Furthermore, there are also a number of factors impeding the realization of children's rights such as; customary & religious laws & practices, conflicts & civil strife, inadequate legislative provisions and insufficient budgetary allocations.

181. Following the presentation Members of the Committee noted that the document should further look in to jurisprudence and resources from the African Commission on Human and Peoples' Rights and it should highlight best practices. It was also added that the issue of Federal Government such as arrangements of states/regions within federations and its impact on harmonization should be studied. Committee Members added that the study should look in to hierarchy of laws and how they interplay, especially general laws and specific laws. Additionally, when it comes to states that refuse to ratify some instruments, it was recommended to look at whether or not they actually have adequate mechanisms nationally. Furthermore, it was noted that as harmonization can be affected or influenced by various factors, it would be useful to document case practices of what triggered harmonization as well as a case study of factors that hinder harmonization.

182. Dr Violet Odala noted that the next steps of the study are research analysis and report finalization, validation workshop which is scheduled in June and adoption by the Committee and dissemination. She added that the study is mainly desk based; moreover questioners will be used to cover any information gaps in the desk review and to engage States.

#### **ITEM 15: THE ROLE OF SOCIAL WORKERS IN THE IMPLEMENTATION OF THE CHARTER & OVERALL PROTECTION OF CHILDREN'S RIGHTS**

183. Dr. Nkatha Murungi, Ambassador of The Global Social Service Workforce Alliance, informed that social service workers play a significant role in the implementation of children's rights at national level. As such it is important for the Committee to systematically engage State Parties to strengthen the social service task force in their respective countries. Dr. Murungi recalled that the ACERWC, in General Comment N° 5 on General Measures of Implementation and Systems Strengthening, has recognized the role of social workers in the implementation of the Charter.

184. It was noted that the social work task force refers to paid and unpaid, governmental and nongovernmental professionals and paraprofessionals working to ensure the healthy development and well-being of children and families. The social service workforce focuses on preventative, responsive and promotive programs that support families and children in our communities by alleviating poverty, reducing

discrimination, facilitating access to needed services, promoting social justice and preventing and responding to violence, abuse, exploitation, neglect and family separation. These professionals include: social workers, paraprofessionals, child care workers, children's officers, community workers and the likes.

185. Dr. Murungi noted that the Global Social Service Workforce Alliance (GSSWFA) was launched in June 2013 as a network; on the basis of recommendation of participants from 18 countries at June 2010 conference in Cape Town. It acts as a multi-sectorial convener to share good practices, advance knowledge and advocate for workforce improvements that will lead to better outcomes for children, families, communities and vulnerable groups.

186. It was noted that even though the Charter is a legal instrument, it captures views and aspirations of communities, which can be expressed in various ways. The preamble of the Charter recognizes the multi-disciplinary nature of the needs of the child. In addition, it refers to the social fabric, values with in which children exist in society. Furthermore, the specific provisions of the Charter involve social conversation with community workers and those at the forefront of community engagement. Thus implementing the Charter requires a multi-disciplinary approach. In order to achieve this, there is a need for bridging the gap between different professions. The Committee as a legal body deals with purely legal matters when it comes to issues of communication, however in its other mandates such as State Party Report consideration, it is important to appreciate issues from multi-disciplinary points of view. She noted that, taking the above-mentioned in to account, the GSSWFA thus calls up on the Committee to purposively engage with the social service workforce, integrate a multidisciplinary approach in its work and during State Party reporting, recommend State Parties to take measures to strengthen the social service workforce at national level, and to report on their engagement with the social service workforce.

187. Following the presentation, Members of the Committee concurred with the suggestion to purposively engage with the social service task force and with State Parties with regard to the role of the social workers in the implementation of the Charter. It was also noted that there is a need to set standards and principles for the profession and take in to account regional peculiarities by indigenizing African curriculum in the training of social workers.

#### **ITEM 16: CONSULTATIONS ON THE EU SUPPORT PROJECT 2020 - 2023**

188. The Committee deliberated on the 2<sup>nd</sup> Phase of the EU Support to the ACERWC project that will run from 2020-2023.

#### **ITEM 17: PRESENTATION AND DISCUSSION ON THE ACCP (SIDA PROJECT)**

189. The Committee deliberated on activities conducted under African Children Charter Project Phase II (ACCP II), during 2019 and on accelerated implementation of future activities.

#### **ITEM 18: CONSIDERATION OF COMMUNICATION RECEIVED**

190. The Committee considered a Communication submitted by Project Expedite Justice, The Al Khatim Adlan Centre for Enlightenment and Human Development, The International Refugee Rights Initiative, African Centre for Justice and Peace Studies,

Horn of Africa Civil Society Forum National Human Rights Monitors Organization against The Government of the Republic of the Sudan; which is also registered as *Project Expedite Justice et al vs The Government of the Republic of the Sudan* and declared it admissible.

#### **ITEM 19: INTERSESSION AND UPCOMING ACTIVITIES**

191. The Committee discussed about its activities for 2019 and the time frame for each activities. The Committee also deliberated on activities for the celebration of the 30th anniversary of the adoption of the African Charter on the Rights and Welfare of the Child, Charter at 30, and decided that the Secretariat finalizes the full-fledged concept note and share it with the Committee.

192. Moreover, Members of the Committee shared about their intersession activities and missions including the follow-up mission to Mozambique to assess the implementation of the Committee's concluding Observations and Recommendations on 03-04 December 2018.

#### **ITEM 20: DISCUSSIONS ON THE PROJECT: STRENGTHENING REGIONAL AND NATIONAL CAPACITY AND ACTION AGAINST ONLINE CHILD SEXUAL EXPLOITATION PROJECT**

193. Dr Abel Basutu, from the Department of Social Affairs of the AU, briefed the Committee on the background, objectives, as well as the pillars of the project on 'Strengthening regional national capacity and action against online child sexual exploitation' which is supported by the Government of the United Kingdom. The Committee stressed that, as it is a joint project, it should be involved and consulted on actions and activities undertaken under the project so that the Committee owns the initiatives and further forwards them to countries in its engagement with State Parties.

#### **ITEM 21: REVISION OF WORKING DOCUMENTS OF THE COMMITTEE**

194. The Committee deliberated on points of revision on its various working documents and decided that the Secretariat revises the documents according to the deliberations and submits same for adoption.

#### **ITEM 22: ADOPTION OF DECISIONS**

195. The Committee decided that brief presentations by partners at the opening of Sessions should be done by organizations with observer status only. The list of organisations who presented should be reflected in the report.

196. The Committee decided to conduct a Day of General Discussions on CAAC during its 34th Session and to undertake assessment of impact of the response of the African Union on CAAC including the impact of Open Sessions of the Peace and Security Council on CAAC and the resulting communiqués.

197. The Committee decided to pursue its previous decision to conduct an investigation mission to the Republic of the Sudan on the situation of children in South Kordofan and Blue Nile Regions.

198. The Committee considered applications for observer status and granted observer status to Legal and Human Rights Center and reject the application of Internet Watch Foundation for lacking registration in any African Country as required by its Criteria on Granting Observer Status.

199. The Committee adopted a Declaration on Online Child Sexual Exploitation.

200. The Committee considered the dates and venue for the upcoming session and decided to make a final decision after considering the Note Verbal from the Arab Republic of Egypt on its offer to host the Session.

### **ITEM 23: PRESENTATION ON 2018 BUDGET EXECUTION RATE AND 2019 BUDGET**

201. The Secretariat of ACERWC presented the 2018 budget absorption rate and the proposed budget of 2019. The Committee deliberated on the proposal and adopted the 2019 budget.

### **ITEM 24: CLOSING REMARKS**

202. Hon Nanike Nkwe, Chairperson of the African Committee of Experts on the Rights and Welfare of the Child thanked all the participants of the 33<sup>rd</sup> Session and 17<sup>th</sup> Pre- Session for their attendance and their invaluable contribution to advancing children's rights in Africa. She specifically thanked the partners of the ACERWC, including UNICEF, EU, Save the Children, Plan international and GIZ for the continuous support to the Committee in the best interest of the African child. Hon Nkwe further congratulated the Governments of Benin, Eswatini, Nigeria, Rwanda and Senegal for presenting their State Party reports on the implementation of the African Charter on the Rights and Welfare of the Child.

203. Hon Nkwe commended the attendance and participation of five Ambassadors of Members states and Members of the PRC, at the Session and pleaded for their continued support to the Committee's work. She further extended sincere gratitude to the Ambassador of Nigeria for the initiative, passion, and unwavering support he has revealed to the Committee's work related to CAAC. She noted that the Panel discussion on CAAC resulted in important recommendations, among which, is to fast track the appointment of an AU special envoy on CAAC. In addition, she highlighted the declaration adopted by the Committee on children affected by online sexual exploitation in Africa, following the Day of General Discussion on Online Child Sexual Exploitation.

204. Hon Nkwe also extended sincere gratitude and appreciation to the African Union Commission Chairperson, H.E Moussa Faki Mahamat for graciously welcoming the Members of the Committee for a courtesy meeting in his office and thanked him for

appreciating the nature and mandate of the Committee and pledging his support to advance children's rights in Africa.

205. Finally, Hon Nkwe concluded by thanking all the Members of the African Committee of Experts on the Rights and Welfare of the Child, staff of the Secretariat of the Committee and all those involved in the organization of the Session, and declared the Session officially closed.