

AFRICAN UNION

African Committee of Experts on the Rights
and Welfare of the Child (ACERWC)



UNION AFRICAINE

Comité Africain d'Experts sur les Droits et le
Bien-être de l'Enfant (CAEDBE)

الاتحاد الأفريقي

"An Africa Fit for Children"

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RESOLUTION ON THE APPOINTMENT OF A SPECIAL RAPPORTEUR ON CHILDREN IN CONFLICT WITH THE LAW

The African Committee of Experts on the Rights and Welfare of the Child (ACERWC), meeting at its 30th Ordinary Session, held from 6 to 16 December 2017, in Khartoum, Sudan:

Considering its mandate on the promotion of the rights and welfare of the child in Africa pursuant to the African Charter on the Rights and Welfare of the Child;

Recalling Article 38(1) of the African Children's Charter that authorises the ACERWC to establish its own Rules of Procedures, which the ACERWC developed and revised in 2013 and 2015 respectively;

Considering Rule 58 of the Revised Rules of Procedure, which allows the ACERWC to establish special mechanisms and assign specific tasks or mandates to either an individual member or group of members concerning the preparation of its sessions or the execution of special programs, studies and projects;

Mindful of the fact that the preamble of the Revised Rules of Procedure provides that "Special mechanisms" shall be understood to mean either special rapporteur, working group, study group, sub-committee or other subsidiary body established by the Committee with a specific mandate;

Considering the ACERWC's decision on the establishment of country and thematic based rapporteurs, adopted at its 28th ordinary Session held on 21 October – 1 November 2016 in Banjul, The Gambia;

Realizing that structured and properly managed justice system is vital for the rehabilitation and reintegration of children in conflict with the law;

Concerned that the minimum age of criminal responsibility is below the internationally accepted standards in some countries and that there are no appropriate diversion

programmes to provide children accelerated procedures than the regular court proceedings;

Concerned by the fact that children are being detained with adults in regular prisons, which do not offer rehabilitation programmes that fit child offenders;

Noting that the main goal of prosecuting and detaining children should be to rehabilitate and reintegrate them without depriving them of their right to basic services such as education and health care services;

Recognizing that there is need to undertake legal, policy, and structural reforms in many African countries to ensure that children in conflict with the law enjoy the rights enshrined under article 17 of the African Children's Charter;

Being cognizant that the ACERWC can play a significant role in issues of children in conflict with the law through the mechanism of Special Rapporteur as it is a significant mandate;

Decides to appoint Dr. Clement Mashamba as Special Rapporteur on children in conflict with the law, with effect from December 2017. The mandate calls on the Special Rapporteur to:

- a. Undertake investigation in State Parties on issues pertaining to the rights of children in conflict with the law;
- b. Collect and receive information on the normative and practical situation of children in conflict with the law in the continent;
- c. Assess and document the major challenges in State Parties in the area of administration of justice for children in conflict with the law including the availability of free legal aid services, accelerated proceedings of trials and separate detention facilities;
- d. Identify legislative gaps that exist in the administration of justice for children in conflict with the law including minimum age of criminal responsibility;
- e. Bring to the attention of the Committee serious violations against the rights of children in conflict with the law for the Committee's consideration;
- f. Engage with State Parties, National Human Rights Institutes, UN agencies, regional and international organs, CSOs and other stakeholders on issues of children in conflict with the law;
- g. Provide recommendations to State Parties, CSOs and other stakeholders on the legislative and administrative measures needed to be taken to improve justice administration for children in conflict with the law;

- h. Conduct sensitization and promotional activities to inform the police, enforcement officers and judiciary on the rights of children who are in conflict with the law;
- i. Take the lead in the development of the ACERWC's various principles and norms such as general comments, resolutions, and studies as well as in missions undertaken by the ACERWC in relation to children in conflict with the law; and
- j. Report to the African Committee of Experts on the Rights and Welfare of the Child annually on the activities undertaken under the mandate.

Done in Khartoum, Sudan, December 2017.