

**CONCLUDING OBSERVATIONS AND RECOMMENDATIONS BY THE AFRICAN  
COMMITTEE OF EXPERTS ON THE RIGHTS AND WELFARE OF THE CHILD  
(ACERWC) ON THE COMBINED PERIOD REPORT OF THE STATE OF ERITREA  
ON THE STATUS OF IMPLEMENTATION OF THE AFRICAN CHARTER ON THE  
RIGHTS AND WELFARE OF THE CHILD**

**April 2022**

## **I. INTRODUCTION**

1. The African Committee of Experts on the Rights and Welfare of the Child (ACERWC/the Committee) extends its compliments to the Government of the State of Eritrea and wishes to acknowledge, with appreciation, receipt of the combined periodic report on the status of the implementation of the African Charter on the Rights and Welfare of the Child (the African Children's Charter/the Charter). The ACERWC, during its 39th Ordinary Session, which was held virtually from 21 March to 1 April 2022, considered the State of Eritrea's (SoE) combined periodic report which was submitted in accordance with the State Party's obligation under Article 43 of the African Children's Charter.
2. The Committee welcomes the constructive dialogue it held with the delegation of the State of Eritrea, led by the Minister of Labour and Social Welfare, H.E Leul Gebreab. The Committee also applauds the rich representation of the relevant Government organs among the delegation, including representatives of the Ministries of Health, Education, Justice, Foreign Affairs, the Embassy of Eritrea to Ethiopia, as well as the Ministry of Labour and Social Welfare- the line ministry primarily charged with overseeing children's issues- with a strong working relationship with the National Union of Eritrean Women. The dialogue enabled the Committee to better understand the measures that the State Party has undertaken towards the implementation of the African Children's Charter and the challenges it has faced in the process. After careful consideration of the facts in the State Party Report, the subsequent response to the list of issues, and the information provided during the constructive dialogue, the Committee has developed and adopted the following Concluding Observations and Recommendations which, in the Committee's view, provide guidance to better enhance the implementation of the provisions of the African Children's Charter.

## **II. PROGRESS IN THE IMPLEMENTATION OF THE CHARTER**

3. The Committee applauds the legislative and institutional measures that the State Party has undertaken to implement the Charter. Particularly, the Committee appreciates the Government for taking the following measures:
  - i. The efforts to establish peace between Eritrea and Ethiopia, culminating in the Joint Declaration on Peace and Friendship of 9 July 2018, and the Agreement on Peace, Friendship and Comprehensive Cooperation, signed on 16 September 2018, and the long-term benefit that this new development paradigm will ensure for Eritrea's children.
  - ii. The promulgation of the Civil, Penal, and Civil & Penal Procedure Codes, as well as the extensive efforts to facilitate ongoing public participation and awareness-raising to ensure the successful and democratic implementation of these legislative changes.
  - iii. The development of the Comprehensive National Policy on Children (2016) and the multisectoral approach being taken to its implementation.
  - iv. The extensive measures taken by the GoSE, in line with the National COVID-19 Preparedness and Response Plan, to mitigate the detrimental impacts of the COVID-19 pandemic on children in Eritrea.



4. The evidently active government in the State of Eritrea must be applauded for its consistent efforts which have led to the rapid increase in living standards in the State of Eritrea since independence, particularly pertaining to access to services and life expectancy. The Committee encourages the GoSE to continue this upward trend towards the wholesale fulfilment of the rights and welfare of the child.

### **III. AREAS OF CONCERN AND RECOMMENDATIONS**

#### **A. General measures of implementation**

5. The Committee notes with appreciation that bringing the Eritrean Constitution into force is a work in progress, and encourages the GoSE to continue this endeavour. The Committee recognises the consolidating impact a working Constitution will have in codifying Eritrea's commitment to advancing the rights of children, and effectively domesticating the Charter.
6. The Committee acknowledges the proven competence of the Ministry of Labour and Social Welfare (MoLSW) in fulfilling its broad mandate but takes cognizance of the observed practice among Member States to address the issues of women and children simultaneously presenting as an obstacle in addressing each groups' unique concerns comprehensively, and with the requisite resource allocation. The Committee recommends that resources-financial, human, or otherwise- are allocated in an intentional and issue-specific manner to ensure that no marginalised group is overlooked, particularly as this recommendation applies to children.
7. The Committee thanks the GoSE for signing the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa on 25 April 2012 and recommends the GoSE take the necessary steps to deposit their ratification of the Protocol, and to domesticate it, as a demonstration of its commitment to advancing the rights of the girl child.
8. Noting that Eritrea has neither signed nor ratified the Africa Continental Free Trade Agreement- making the SoE the only AU Member State yet to sign the agreement- and acknowledging that continent-wide economic prosperity and participation will be for the ultimate benefit of the child, the Committee recommends that the GoSE take measures to sign and ratify this agreement. Such commitment would also be in line with the GoSE's remarks on the necessity of multilateral participation for the elimination of children's issues such as trafficking and economic exploitation.
9. Appreciating the efforts already taken to provide up to date information on the resources allocated and expended by the GoSE towards children, the Committee requests for a more detailed and fully disaggregated account of resource allocation and actual expenditure by the relevant ministries to be included in the State Party's subsequent periodic reports.
10. Acknowledging the difficulty cited by the GoSE in providing social assistance to children and care-givers due to Eritrea's being a low-income country and the GoSE's recognition of the complementarity of non-state actors such as civil



society organisations in implementing the Charter, the Committee has observed that Article 9(1) of the *Eritrean Administration Proclamation No. 145/2005* prohibits international funding and the establishing of CSOs without government approval. Recognising the administrative and financial burden this degree of regulation imposes on government, the Committee encourages that legislative measures be taken to encourage a more conducive environment for CSOs to operate- in collaboration with government- for the ultimate benefit of children in the SoE.

## **B. Definition of a child and other age requirements**

11. The Committee commends the GoSE's efforts to sensitise and inform the population on the definition of the child and reiterates its previous recommendation calling for the harmonisation of all children's rights provisions under a single legislative instrument, to promote ease of understanding and a comprehensive approach to child-protection in the SoE.

## **C. General principles**

### ***Non-discrimination***

12. Appreciating the GoSE's reported promotion of the freedom of religion, the Committee acknowledges the rich diversity present in Eritrean society. However, the Committee notes with high concern that not all people in Eritrea are afforded this freedom, and that this- as it pertains to children- is a violation of the ACRWC. Noting that this was a matter that was highlighted in its previous Concluding Observations, the Committee recommends that the State Party take legislative and other measures to recognise and accommodate members of all faiths living in the SoE. Referring to the detention of members of minority faith groups, the Committee also urges the State Party to ensure that children are not separated from their caregivers unless it is absolutely necessary. The Committee reiterates that administrative measures of detention should be carefully regulated and processed through a court of law. Any stigmatisation of children of accused persons from faith groups outside of the nationally recognised four religions should be prevented through awareness-raising at schools and within the broader community.

### ***Best interests of the child***

13. Appreciating the many and wide legal remedies available to children whose rights have been violated, the Committee is concerned that this is not thoroughly outlined in law. It is recommended that legislative measures are taken to ensure that the views of the child are accommodated, and their best interests are ascertained and acknowledged in the adjudication of any alleged violation of their rights.
14. The Committee notes the position of the GoSE regarding the serious allegations of child military training at Sawa. While the Committee acknowledges the detrimental impact these allegations may have on the reputation of the GoSE, it is important that all alleged violations against children in the SoE are considered seriously and thoroughly investigated before they



are pronounced upon to ensure the best interests of the child are considered and ascertained in every matter concerning them. The Committee, thus, reiterates its request for the GoSE to authorise for the Committee to conduct a fact-finding mission to Sawa and determine what is happening on the ground.

### ***Right to life, survival, and development***

15. While acknowledging the GoSE's position on the prohibition of abortion as an issue implicating the child's right to life, the Committee would like the GoSE to take note of the AU's Africa Health Strategy 2016-2030's call for universal health coverage by 2030- that includes the provision of voluntary family planning for all persons- such as the access to safe abortion services. Further reference is made to the Committee's General Comment on Sexual Exploitation (Article 27) at paragraph 15, which speaks to the necessity of safe abortion services as a measure to assist victims of sexual exploitation:

'Restrictive laws that do not allow victims of violence to access safe abortions; put age-based restrictions for accessing reproductive health services; require parental consent to access to these services; and place reporting the sexual violence to law enforcement authorities as a requirement to accessing the health services and vice versa all contribute to the problem (of the sexual exploitation of children).'

### ***Child participation***

16. The Committee notes with concern that the 'Eritrean Zero Wastage Policy,' referred to on paragraph 76 of the State Party's Periodic Report, regulates the allocation of working roles children may play in society after school. Recognising the inherent value and dignity of all persons and the necessity for children to participate in making decisions which affect them, the Committee recommends that this policy be revised so that it no longer violates the principle of child participation and, rather, emphasises each child's freedom to make choices affecting their lives. Reference is made to the Committee's General Comment on Article 31 of the ACRWC:

By recognising the capacity of children to understand their own environment and world, child participation projects children as active participants in the promotion and protection of their rights and the fulfilment of their responsibilities <sup>1</sup> ... States must ensure that domestic laws placing responsibilities on the child include express provisions to the effect that children's rights are not to be limited or restricted on account of their responsibilities. <sup>2</sup>

## **D. Civil rights and freedoms**

### ***Right to name, nationality, and birth registration***

<sup>1</sup> ACERWC General Comment on the Responsibilities of the Child, para 19.

<sup>2</sup> ACERWC, General Comment on the Responsibilities of the Child, para 91.



17. Commending the State Party's efforts to ensure all children are registered in the SoE, the Committee notes that while the Ministry of Health registers all children born in clinics, birth registration falls under the mandate of the Ministry of Local Government. The Committee appreciates this multi-sectoral approach to the issue of birth registration in the SoE. While a specific estimate for the overall percentage of children being registered is not provided, the GoSE acknowledges in its report that the rate of birth registration remains low and requires further capacitation. The GoSE also mentions that child vaccination is at 90% in the State Party. Congratulating the GoSE on their good vaccination rate, the Committee recommends that further attention be given to the collaborative relationship already in place between the MoLG and the MoH, and that birth certificates be issued to children reporting for vaccination in addition to the Bcille Calmette-Guerin immunisation card where they do not already have one.
18. The Committee acknowledges the SoE's descent-based system for the acquisition of Eritrean nationality, and cautions that 'such a purely descent-based system leaves substantial numbers of children at risk of statelessness.'<sup>3</sup> It is recommended that the SoE develops safeguards to prevent children being stateless in Eritrea, using the General Comment of Article 6 of the ACRWC for guidance.
19. Acknowledging the State Party's efforts to ensure all children are registered, the Committee is concerned that criminalising non-registration, as per Art.141/142 of the TCCE and Art. 623 of the TPCE, is a disproportionate measure for the enforcement of civil registration and should be repealed as a matter of urgency. The Committee encourages the use of non-penal methods, such as the training of registration officials, awareness-raising and incentivisation, to ensure the rate of birth registration increases.

### ***Freedom of expression***

20. Appreciating the range of measures taken to ensure children can freely express themselves, the Committee is very concerned that local media platforms are still outlawed in the SoE. It is recommended that the law prohibiting independent local media platforms be revised to ensure the right to freedom of expression is functional with the State Party.

### ***Freedom of association and peaceful assembly***

21. Concerned that children are not able to freely assemble and associate in the State Party, the Committee recommends that children in the SoE are empowered to exercise their views and to be involved in the ongoing process of nation-building even where their views do not align with government policies. The Committee calls on the GoSE to ensure children are protected when exercising this right.

---

<sup>3</sup> ACERWC, General Comment of Article 6 of the ACRWC: Right to birth registration, name, and nationality, para 6.



### ***Freedom of thought, conscience, and religion***

22. Acknowledging that Article 9 of the ACRWC gives every child the right to freedom of thought, conscience, and religion, the Committee voices its concern regarding the GoSE's stance recognising only four of the country's religious affiliations. The Committee recommends this policy be revised so that it does not violate the ACRWC, by ensuring that children are enabled to make informed decisions regarding their own spiritual practices, without fear of any resulting disadvantage.

### ***Protection of privacy***

23. The Committee acknowledges that, as internet connectivity in the SoE increases, it is important that laws and policies are put in place safeguarding the privacy of children in the digital sphere. The Committee recommends that this issue be given attention by lawmakers in the country.

### ***Protection against abuse and torture***

24. Appreciating the GoSE's assertions that corporal punishment has been abolished in the SoE, the Committee takes note of Article 32 of the 2015 Penal Code, which allows for 'acts reasonably done in exercising the right of correction or discipline,' and that the MoE's prohibition of corporal punishment in schools is not grounded in legislation and is implemented solely through the publicization of a training manual. Recognising the importance of the measures already taken, the Committee recommends that further legislative measures be taken to explicitly outlaw the use of corporal punishment in all settings and that awareness-raising be continued for the promotion of positive alternatives for disciplining children. Monitoring campaigns to ascertain the situation on the ground with regard to children's lived experiences are encouraged.

## **E. Economic, social, and cultural rights**

### ***Education***

25. Acknowledging that Warsay-Yikealo Secondary School is located at Sawa Military Camp due to cost constraints, the Committee reiterates its concern regarding the education and housing of children being in the same facility as the military trainees. The Committee recommends that resources be set aside to ensure that children are not educated in a militaristic environment, which will disrupt their education at the crucial point directly before completing their secondary schooling and entering adulthood.
26. Citing the shift to online learning prompted by the pandemic, the Committee urges the GoSE to mobilise resources for the capacitation of internet services throughout the country in the coming years. Further reference should be made to the Committee's Guiding Note to AU Member States on Children's Rights during COVID-19.



27. The Committee, concerned that education is not truly free in the SoE, recommends that efforts be made to address the hidden costs of schooling to ensure that education is completely free of charge at all levels.
28. Regarding the cited persistent shortages of teachers- for which the GoSE has been recruiting teachers from colleges to improve- the Committee recommends reconsidering the requirement of mandatory conscription, as this directly impacts the rate of people entering colleges and the work force. An observed practice from other State Parties is the use of incentives to encourage teachers to work in what are regarded as less popular areas, such as through offering increased pay or benefits.
29. The Committee commends the efforts being made to accommodate children from marginalised communities through the CEE programme, but is concerned regarding the low rates of enrolment, and statistical data (Table 36 of the Periodic Report) that is difficult to decipher. The Committee observes the vital role that the CEE programme can play in empowering children through education and looks forward to hearing more on the programme in the future.
30. The Committee congratulates the GoSE on the success of the pilot sanitation facilities and looks forward to its further implementation.
31. The Committee is also eager to see the noted plans- to increase the number of schools built to accommodate children with disabilities- coming to fruition.

### ***Leisure, recreational, and cultural activities***

32. Recognising the unifying impact of the activities provided to children by the GoSE, the Committee recommends the Government ensure that these beneficial programmes reach children who are not in school, and who are completing the CEE programme.

### ***Health and welfare***

33. Commending the GoSE for establishing maternity waiting homes to increase skilled birth attendance in remote areas, the Committee would appreciate further investigation being made to understand why 40% of these waiting homes are not functional, and calls for localised, community-based interventions to address the shortage of food supplies in these facilities.
34. Citing that the majority of Eritrea is agrarian, the Committee observes the importance of the Minimum Integrated Household Agricultural Package (MIHAP), now being transformed into the Small and Medium Commercial Farmers Strategy (SMCFS) since May 2019; the Committee urges the GoSE to ensure children are considered at every step of this transition.
35. Referring to the Ministry of Land, Water, and Environment's water security policy and strategy- which has seen an increase to 80% access to safe water in rural areas in 2019 from 67.5% in 2012, and 95% in urban areas- and acknowledging the persisting 15% deficit reported by the GoSE alongside the concomitant success of the 'Make Eritrea Open Defecation Free by 2022'



strategy, the Committee commends the State Party's efforts thus far and looks forward to the complete actualisation of these necessary goals for advancing the health and welfare of children.

36. The Committee recognises the GoSE's robust health system-based responses to the COVID-19 pandemic and calls for further sensitisation measures to be taken to address any persisting stigmas surrounding the pandemic and for the provision of ration to be monitored to ensure each child benefitting from the service is well-fed and cared for.
37. The Committee recommends for the ongoing facilitation of the meaningful participation of children and communities in the planning and management of basic health service programmes, including the provision of comprehensive and accessible sexual and reproductive health services to children.

## **F. Family environment and alternative care**

### ***Protection of the family***

38. Where the requisite disaggregated data is currently unavailable, the Committee looks forward to the compilation and inclusion of such data in future reports submitted to it.

### ***Adoption***

39. The Committee notes the SoE's ratification of other pertinent international instruments and recommends for the accession by the GoSE to the Hague Convention on the Protection of Children and Cooperation in respect of Intercountry Adoption. This will further strengthen the State Party's international law commitments and monitoring capacities in this regard.

## **Children in most vulnerable situations**

### ***Children with disabilities***

40. With respect to the national review of the comprehensive Disability and National Child Policies, the Committee recommends that a plenary of relevant stakeholders is facilitated, on an ongoing basis, to discuss possible contributions by national partners and UN agencies in Eritrea. Such meaningful engagement will ensure the GoSE goes beyond mere printing and distribution of these policies, to serve the aim of conducting a substantive review thereon.
41. The Committee further recommends that the GoSE consider enacting a targeted piece of legislation and complementary implementing policy, with the participation of all relevant stakeholders, for the advancement of the rights of children with disabilities.
42. The Committee congratulates the GoSE on its efforts to ensure key messages surrounding the prevention and management of COVID-19 are accessible to CWDs, and further recommends that this approach be taken to all pertinent issues.



43. The Committee greatly appreciates the resources that have been invested in the implementation of the Initial Report's Concluding Observations, particularly as this pertains to compiling reliable statistical data on the realities of CWDs in the State Party.

***Child in situations of economic exploitation***

44. The Committee congratulates the GoSE for ratifying the ILO "Worst Forms of Child Labour Convention", 1999, (No. 182), in June 2019, and thereby completing its ratification of all ILO Core Conventions. However, the Labour Proclamation No. 118/2001 defines a 'young employee' as being a person above the age of fourteen and below the age of eighteen, where a child is allowed to work from the age of fourteen. The Committee calls on the GoSE to ensure that child labour laws are strictly enforced with due regard for the various age limits prescribed by these instruments- without overlooking the informal sector- and are scrutinised to ensure they are aligned with the ILO framework and the Palermo Protocol, respectively.
45. Adding to this, Aspiration 7 of Agenda 2040 stipulates that, by 2020, States should have set a minimum age for admission into employment at 15 years or higher; and that this minimum age should correspond to the minimum age for completing compulsory schooling. The Committee recommends that the GoSE ensure its laws pertaining to child labour reflect the full domestication of its international law commitments.

***Refugee children, children seeking asylum, and internally displaced children***

46. While the Committee notes the State Party's assertion that there are no refugee children, children seeking asylum, and internally displaced children in the SoE, it would appreciate that the GoSE's compliance with the reporting requirements of this section. This is particularly pertinent considering the Committee's previous recommendations pertaining to the situations of these groups of children both within the SoE, and for those children who are Eritrean nationals outside the SoE. The GoSE is explicit about the problems of child trafficking experienced in the SoE in its periodic report and speaks to the need for cross-continental collaboration for the protection of children on the move. This stance is out of alignment with the explicit denial of the existence of the children implicated in this reporting section.

***Children affected by armed conflict***

47. Acknowledging that the Eritrean military has been involved in the war in Ethiopia's Tigray region since it broke out in November 2020, the Committee acknowledges that children may be affected by the Eritrean presence in this armed conflict. The Committee would appreciate that the State Party bear this in mind and ensure that Eritrean soldiers do not harm children through conducting training and sensitisation, and that children are not unnecessarily separated from caregivers. The Committee encourages the demonstration of the obligation not to inflict harm on the SoE's neighbour, and for the children being harmed as a result of this ongoing conflict.



48. Expressing high concern for the allegations regarding the direct involvement of children in the armed forces in the SoE, the Committee requests that the GoSE thoroughly investigate this matter, and grant the Committee permission to conduct its own investigation mission on this issue.
49. Referring the GoSE to the Committee's General Comment on Article 22 of the Charter, it is reiterated that this provision foresees applicability in the context of conflict prevention and post-conflict reconstruction and peace building. The Committee refers this document to the GoSE, in the hope that it may prove useful for navigating the transition from conflict to a new developmental paradigm in the SoE.

### ***Children of imprisoned caregivers***

50. The Committee affirms that Article 30 of the Charter envisages that non-custodial sentences must always be the first consideration when convicting pregnant women and mothers of young children of a criminal offence. However, this Article, as interpreted in its accompanying General Comment, applies to the children of incarcerated and imprisoned parents and primary caregivers, and recognises the social and economic disadvantage that children of imprisoned caregivers face. The Committee takes note of the detention of people belonging to religious minorities in the SoE for an unstipulated time, and oftentimes before trial or conviction. Bearing this situation in mind, the Committee recommends that:
  - a) Preference be made for non-custodial sentencing, particularly as this relates to parents and caregivers.
  - b) The rules of criminal procedure are followed faithfully, and detention is only used as a correctional measure of last resort, and not for any reason prior to this being the case.
  - c) Law enforcement officials undergo training and sensitisation to ensure these recommendations are implemented on the ground.
  - d) The GoSE revisit its policy of religious recognition and ensure a more conducive environment for the practice of all faiths.
  - e) For more guidance on this issue, the Committee kindly refers the State Party to the General Comment on Article 30, available on the Committee's website.

### ***Children in situations of sexual exploitation***

51. The Committee takes note of the dual role of the police and the Office of the Attorney General (OAG) in investigating alleged sexual exploitation offences. The Committee has observed that sexual exploitation, particularly when involving children, is a sensitive issue. It is recommended that specialised procedures and personnel are assigned for the investigation of such offences-recognising that eliminating the sexual exploitation of children goes beyond the investigation of sexual assaults and is premised on the building of a strong child protection system. Further guidance can be found in the Committee's General Comment on Article 27 of the ACRWC.



52. As human society digitalises further, it is imperative that the rights and freedoms of children are protected in the digital environment. The Committee, thus, recommends that the GoSE exercises its commitment to this emerging issue by adopting the AU Convention on Cyber Security and Personal Data Protection.

### **G. Harmful practices**

53. Acknowledging the GoSE's firm stance affirming the value of children in society, the Committee notes that the statement made by the GoSE, that no harmful cultural and traditional practices exist in the SoE, does not align with its explicit acknowledgement of the presence of child marriage, FGM, 'and other harmful practices' in the State Party. While it is commendable that the rate of FGM has dropped from 95% to under 5% since Eritrea's independence, more needs to be done to ensure the practice is eliminated. The Committee recommends that a more comprehensive effort is made to collect and verify data on harmful practices in the SoE before conclusive findings are publicised and encourages the State Party to report on the elimination of harmful practices as part of its commemoration of the Day of the African Child 2022.
54. The Committee appreciates the State Party's openness to recommendations and looks forward to the establishment of systems for data collection regarding children subjected to harmful practices. The Committee, furthermore, encourages the SoE to participate in the Day of the African Child 2022, for which the theme is 'Eliminating harmful practices affecting children: Progress on policy and practice since 2013.' This is an important opportunity for the SoE to collaborate on a continental scale in the elimination of harmful practices affecting children, and to share challenges and achievements.
55. Citing that compulsory birth and marriage registration are important mechanisms for curtailing child marriage, the Committee recommends that the State Party reconsider the practice of requiring a negative HIV test for a marriage to be approved as this is unfairly discriminatory on HIV-positive people and does not in any way contribute to the goal of eliminating child marriage. The Committee recommends that more focus is given to capacitating the CRVS systems in all parts of the country, and that HIV-status is not considered a ground for denying the registration of a marriage between consenting adults.

### **H. Child justice**

56. Appreciating the comprehensive mechanisms in place for the ventilation of criminal matters against children, the Committee is concerned that children over fifteen but under eighteen years of age are considered adults and tried under the ordinary provisions of the TPCE. This does not align with the definition of the child. The Committee therefore strongly recommend that this legislative provision is reformed to align with the Charter.

## **IV. CONCLUSION**

57. The African Committee of Experts on the Rights and Welfare of the Child appreciates the efforts invested by the Government of the State of Eritrea to



implement the African Children's Charter and aspires for the implementation of these recommendations. The Committee would like to indicate that it will undertake a follow up Mission to assess the implementation of these recommendations in the foreseeable future. The Committee would also like to invite the State Party to submit its next periodic report in three years' time, by June 2025, as required under article 43 of the African Children's Charter.

58. The African Committee of Experts on the Rights and Welfare of the Child takes this opportunity to renew to the Government of the State of Eritrea the assurances of its highest consideration.