

AFRICAN UNION

**African Committee of Experts on the Rights
and Welfare of the Child**

الاتحاد الأفريقي



UNION AFRICAINE

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

UNIÃO AFRICANA

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**ACERWC'S REPORT ON THE ADVOCACY MISSION FOR THE RATIFICATION OF
THE AFRICAN CHARTER ON THE RIGHTS & WELFARE OF THE CHILD, 30-31
JULY 2018, MOGADISHU, SOMALIA**

August 2018

- I. **Purpose of the Mission:** To conduct an advocacy mission on the ratification of the African Charter on the Rights & Welfare of the Child in Somalia on 30-31 July 2018.
- II. **Objectives of the ACERWC in this Mission:** To engage the relevant Ministries as well as Civil Society on the possibility of expediting the process of ratification of the African Charter on the Rights & Welfare of the Child (ACERWC).
- III. **Expected outcomes/ outputs of the Mission:** To get commitment from the Government and Partners on the way forward as regards to ratification of the Charter and subsequent activities. This will enable the ACERWC to effectively monitor the status of children's rights in Somalia with a view to ensuring a Somalia which is for its children.
- IV. **List of Delegation:** The delegation is composed of Hon. Marie-Christine Bocoum Vice Chair Person of the ACERWC & Special Rapporteur on Ending Child Marriage in Africa; and Catherine Maina, Senior Social Worker, Ayalew Getachew Assefa, Senior Child Protection Officer, and Kameni Ngankam Communication Officer.
- V. **Others (Relevant Partners):** Doris Mpomou Director of the Save the Children Liaison Officer to the AU, Israel Tibebe, Child Rights, Policy & Advocacy Officer

VI. Methodology

- 30th July 2018-Meetings/Consultations with Government Officials- Minister for Women & Human Rights, meeting with AMISON Deputy Head of Delegation, and Meeting with CSOs.
- 31st July 2018, Workshop/Dialogue with Government of the Federal Republic of Somalia, INGOS, NGOs & CBOs and a Press conference with various media houses

VII. Summary of the mission

The Mission team included the Deputy Chair of the ACERWC, ACERWC Secretariat Staff and the SAVE the Children Liaison Office to the AU Staff. The mission activities consisted of the following:

- i. **30th July 2018. A meeting between the Delegation from AU & the Minister of Women & Human Rights Development of the Government of the Federal Republic of Somalia.**

Hon Mme Marie-Christine Bocoum Deputy Chair of the ACERWC and Head of the mission started by giving a brief background on the ACRWC. The Charter which complements the UN Convention on the Rights of the Child (UNCRC) was adopted in 1990 and came into force in 1999. The purpose of the ACRWC was to address the specific provisions on aspects peculiar to Africa were not sufficiently addressed in the UNCRC. She also informed that 48 Countries had ratified the ACRWC while 7, Somalia included, were yet to ratify.

H.E The Minister Deqa Yasin informed that the Government of the Federal Republic of Somalia had signed the ACRWC in 1991 despite the civil war but had not ratified yet. The signature, she said was a confirmation that Somalia cares for its children. However the Country ratified the UNCRC in 2015 and are preparing the Initial State Party Report. She appreciated that the ACRWC responds to African issues and the meeting on 31st July would assist the stakeholders to have a better understanding of the ACRWC and the way forward as pertains speeding up the ratification of the Charter.

She also mentioned the various steps that the Government had undertaken towards the improvement of the rights of children in the Country despite the non-ratification of the ACRWC. These include the pending draft bills and acts meant for the advancement of children include the Child Act, the sexual offence bill, Juvenile Justice Bill.

ii. **Meeting with AMISON**

Mr Simon Mulongo, Deputy Representation of the Chairperson of the Commission to AMISON welcomed the delegation and recalled that 48 Countries have ratified. Mme Bocoum explained that the delegation was in Somalia to advocate for the ratification of the ACERWC as Somalia was one of the 7 Countries who had not ratified. Full ratification would ensure the rights of children were promoted and protected in the Continent and thus help in the achievement of the AU Agenda 2063.

Mr Mulongo explained that Somalia being a conflict country, does not have “normal” reporting structures. He informed that AMISON has a Unit on the protection of children and has undertaken a holistic approach. He committed to working with the Federal Government of Somalia and partners to ratify as well as domesticate the ACRWC. However he noted that there are not enough Child Protection officers in AMISON.

iii. **Meeting with CSOs:**

Hon. Mme Bocoum gave a brief on the ACRWC and informed that the ACERWC works with both International and National CSOs hence it’s important to meet with the CSOS and learn about the situation on the ground.

The participants informed that Child rights coalitions in the Federal Republic of Somalia include: The GBV & CP cluster, CSO task force, CSO champions, CSO networks, Youth & Women organizations and religious network.

They informed that the formation of the National Human Rights Commission was in a process though they do not have budget hence are not operational. Regarding the Citizenship Bill, the CSOs informed that the Parliament of Somalia, shall enact a special law that shall define how to get, suspend or lose citizenship though it hasn't been enacted yet and hence here is still some unclarity about citizenship in general and when it applies to children.

On issues of Juvenile justice, the CSOs informed that, children come in contact with the law due to various reasons that include being captured while engaging in armed conflict and petty offenses among others. However, is no juvenile correction center in the whole Somalia so the juvenile offenders are kept in cells meant for adults. Further to this, there are few prosecutors equipped to effectively handle cases of children in conflict with the law and Police officers are not well trained and have limited knowledge on juvenile justice law. The CSOS recalled that the Federal Government of Somalia was the first to sign the African Charter on the rights and welfare of the children was yet to ratify as well as develop a comprehensive legal framework dealing with children.

There are no safe houses for vulnerable children including orphans, the separated and unaccompanied and those on the streets especially due to the recent drought, and it was also mentioned that radicalization of children is another problem in the Country.

The CSOs presented the following Recommendations. The Government to:

- Strengthen the mechanisms to enforce the GBV and Sexual offense bills as well as the capacities of Government agencies to implement the bills,
- Develop and implement targeted awareness raising programme in cooperation with CSOs and the media sector,
- Work with traditional and religious leaders to change the attitude of communities about the prohibition and elimination of harmful traditional practices such as GBV, FGM, sexual assault etc,
- Legislate the citizenship law of the Federal Republic of Somalia,
- Put in place alternative correction mechanisms and facilities for juvenile offenders, and
- Approve the draft bills and acts meant for the advancement of children. These include the Child Act, the sexual offence bill, Juvenile Justice Bill, Disability Bill and others.

VIII. Workshop on Ratification of and Reporting on the Charter on 31st July 2018

The workshop was opened by the Deputy Minister for Women and Human Development H.E. Samro Ibrahim Omar. After the official opening and presentations on the following:

i. The African Children's Charter (ACERWC/ACC) it's added values and why Somalia should ratify it

Discussing the general framework of human rights in Africa, Mr Ayalew indicated where the ACERWC fits in. In addition, he discussed why it was necessary to have a separate human rights mechanism with various treaties at the regional level when there is already one at the global level already. It was specifically noted that the regional mechanism benefits from an enforcement mechanism and in general complements the global mechanism.

ii. Procedures of Ratification of AU Treaties

Concerning ratification, a discussion on the procedures including reservations and the international legal environment in that regard. Here, a gap was noted that despite the fact that a state cannot make a reservation against the very essence of the treaty according to the Vienna Convention on Treaty, Botswana made a reservation on Art. 2 which is concerned with the definition of the child. The AU does not have a clear mechanism of reviewing such reservation with a view to accepting them as one. It was also highlighted that some time has passed since the adoption of the Charter and that some amendments might need to be made, maybe by the AUCIL, to bring it up to speed with the changes at present time. The presenter stressed the need to recognize the African peculiarity in the ACC and therefore the need to push for its ratification from that perspective. Further discussions was made on the cardinal principles of the ACC and how each play into the rights and welfare discussion and the overall monitoring mechanism of the ACERWC. Further to this the issue of exhaustion of local remedies and reservations on the communication and investigation process was also discussed.

iii. Reporting on the implementation of the ACRWC

The participants were taken through the steps of reporting on the implementation of the Charter. This should be done to the in line with the form and contents provided for within the guidelines. Considering the costly and lengthy nature of consultations and preparation of reports, the ACERWC is not very strict with regards to the formal shape/structure of the report, as it is with the content.

iv. AMISOM's work on child protection

Noted that the civilian component of AMISOM engages in child protection measures, including the CCTM (Civilian Casualty Tracking Mechanism)

ensuring that the forces comply with international child protection measures, in particular IHL.

Before each operation, AMISOM adopts a guidance operation meant to ensure child protection ahead of the operations. In addition, child protection, advisory service assists both before and during operations by AMISOM forces. Indicating that there have been incidents of children being involved in military activities, despite no such policy exists at government level, the child protection service, Omar stressed plays a crucial role in child protection.

In addition to the work in reducing and eradicating the involvement of children in conflicts, AMISOM also works on ensuring protection of children from all forms of exploitation both within AMISOM and in Somalia in general. As an indication of its strict policy on child protection, AMISOM's intervention mechanism has investigated allegations of rape by AMISOM forces. Considering the weak nature of institutions in terms of protecting children from engaging in armed conflict by being recruited and used as child soldiers, AMISOM conducts protection trainings to the police, military, and the civilian component.

On issues raised up regarding the rape of women and girls by the AMISON, the participants were informed AMISOM has jurisdiction in investigating child protection within itself, through a board set up for the same purpose. However, Troop Contributing Countries are in charge of criminal jurisdiction. A compliance mechanism has also been developed by the AU to follow up on the implementation of actions taken by the TCC, by the contributing country.

Highlighting the security challenges due to the over stretching of AMISOM, it was noted that in the transitional phase it is presently in would ensure smooth transition to the SNF that hopefully could maintain and capitalize gains made in the fight against Al-Shaabab.

The presenter also highlighted other challenges related to timely investigation of allegations of child rights violations/child protection issues due to the security situation; and repatriation and reintegration of former child soldiers rescued during operations as their families and communities are concerned of their own safety and that of the children.

After discussions, it was noted that there is progress made in ensuring the strengthening of government institutions through the success of the operations in securing certain areas, but still certain challenges remain to be addressed.

V. The status of child rights in Somalia: challenges and opportunities.

Noting the progress such as the Zero Tolerance FGM bill, legal aid policy and accession to the Geneva Convention on Prisoners of War, the presenter noted

the challenges that are still outstanding and that require the follow up and effort of Government and CSOs in addressing them through legislative measures. E.g. Health bill in relation to challenges of vaccination, SRH, nutrition, drought, and IDP/refugee issues.

Many social services, including birth registration and education, have been interrupted and have become weak due to the presence of Al-Shabaab. Child trafficking and sexual exploitation are also serious child protection issues that have not been properly researched. A discussion on the same was conducted noting that exploitation even by parents occurs both within and outside of Somalia. A call was made to CSOs to further study the draft Sexual Offences Bill with a view to identifying the gaps.

Lack of adequate facilities and resources to deal with children in conflict with the law; Lack of adequate record keeping; and legal aid were also noted. Children in Armed conflicts face many protection issues, including stigmatization by their communities which further pushes them to rejoining Al-Shabaab.

In addressing education and health related security challenges, CSOs mentioned efforts in participating in legislative processes to ensure that they address the local context. A participant noted that the overtaking of social services such as education and health by private business organizations is a challenge to ensure quality basic social services which is a responsibility of the Government. In conclusion, a general call was made for CSOs to collaborate in their child rights protection and advocacy efforts.

VI. Way forward: The prospect of ratification

Noting that Somalia has already ratified the CRC, the Deputy Minister of Women and Human Rights Development reiterated her appreciation to the ACERWC for the engaging the government and updating the FGS on the process. H.E also extended gratitude to various CSOs, NGOs and other stakeholders.

VII. Action points identified

- ✓ Government to develop action plans to conduct necessary activities towards the ratification of the African Children's Charter including the conduct of consultations, etc.
- ✓ CSOs to work with and support the Government technically and financially;
- ✓ CSOs to engage the Government in following up on the adoption of the various draft Bills including that of the sexual offences, etc.
- ✓ CSOs to work with Government in campaigning for the ratification of the ACC, including allocation of budget to assist government in the process;

- ✓ Request for Government to conduct inclusive consultations with CSOs and other stakeholders before ratifying the ACC;
- ✓ Government to develop action plans to conduct necessary activities towards the ratification of the ACC including the conduct of consultations, etc.

VIII. Closing Remarks

The Head of the AU delegation, Deputy Chairperson of the ACERWC, Mme Marie-Christine Bocoum, appreciating the productive consultations during the two days, expressed hope that Somalia will not only ratify but also implement the ACC to create an environment for Somali children to grow to become responsible and productive adults. She added that CSOs are there to implement the policies and strategies of the Government even in areas that are hard to reach. She also expressed hope that Somalia will have ratified the Charter and attend the ACERWC Session to be held in April/May 2019.