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**19TH SESSION OF THE AFRICAN COMMITTEE
OF EXPERTS ON THE RIGHTS & WELFARE OF
THE CHILD (ACERWC)
26- 30 MARCH, 2012
ADDIS ABABA (ETHIOPIA)**

**ACERWC/RPT (XIX)
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REPORT

**DRAFT REPORT OF THE 19TH SESSION OF THE AFRICAN
COMMITTEE OF EXPERTS ON THE RIGHTS AND
WELFARE OF THE CHILD (ACERWC)**

I. INTRODUCTION

1. The 19th Ordinary Session of the African Committee of Experts on the Rights and Welfare of the Child (ACERWC) was held at the African Union Commission in Addis Ababa, Ethiopia, from 26 to 30 March 2012.

II. PARTICIPATION

2. The Meeting was attended by all the eleven Members of the ACERWC, the AUC Representatives, the Representative of the African Commission on Human and People Rights, UNICEF, UNCHR, the UN OHCHR, GIZ, Plan International, Save the Children, ICRC ChildFund International, Penal Reform International, Community Law Centre, African Child Policy Forum, Institute for Human Rights and Development in Africa, the Open Civil Society, Chachi International and Wings Education and Media, Movement Children and Youth Workers (MEJT), Retrak, Sudan Child Rights Institute, ANPPCAN, Humane Africa, Child Helpline international.

ITEM 1: OPENING CEREMONY

3. Two statements were made during the opening ceremony.

Statement by the Commissioner for Social Affairs, African Union Commission

4. In her speech, the Commissioner for Social Affairs commended the Committee for the work done for the children in the Continent. She highlighted the consideration of fifteen Reports on the implementation of the Charter and the important Decision taken in 2011 by the ACERWC on the Right to Nationality of Children of Nubian Descent in Kenya.

5. She expressed her satisfaction to the Committee for choosing, as a subject of discussion during the 19th Session, Article 21 of the African Charter on the Rights and Welfare of the Child (ACRWC) on Protection against Harmful and Traditional Practices (HTPs) as a follow up to the recommendation from the AUC Conference on HTPs.

6. She also reflected on the theme of the coming 2012 Day of African Child, "Rights of Children with Disability: The Duty to Protect, to Respect, to Promote and to Fulfil" which reinforces the AUC activities on disability. She then emphasized the priorities of the Department of Social Affairs on child-related issues.

7. Finally, she expressed her gratitude to GIZ and Plan International for the financial support for the organization of the 19th Session of the ACERWC and showed her appreciation towards all Partners who are supporting the work of the Committee.

Opening Statement by the Chairperson of the ACERWC

8. Taking the floor, the Chairperson of the Committee welcomed all the Partners and thanked the Commissioner for Social Affairs and her team for their constant support to the Committee. She also thanked GIZ and Plan International for their support to the 19th Session.

9. Explaining the rationale behind the general theme of the 19th Session of ACERWC devoted to a debate on Article 21 of the African Charter on the Rights and Welfare of the Child relating to “Protection against Harmful Social and Cultural Practices”, she called on all the stakeholders to reflect on the traumatic experiences girls and women go through as a result of female genital mutilation (FGM), adding that there was need to mobilise and sensitise communities, religious leaders, traditional rulers, men and women in order to change attitudes and mentality and ensure the effective participation of the actors in the fight against this harmful practice.

10. The Chairperson recalled the world campaign for the eradication of harmful traditional practices (HTP), notably female genital mutilation (FGM) which, she said, has been in the increase in the recent past, with the attendant health risks and human rights violations. She called on the African Committee of Experts on the Rights and Welfare of the Child to deepen reflection on the subject.

11. On the theme of the 2012 Day of the African Child “Rights of Children with Disability: Duty to Protect, to Respect, to Promote and to Fulfil”, she hailed the decision of the Forum of NGOs which focused the deliberations of its 6th Session on the subject. This unity of purpose, she said, will contribute to a synergy of actions at all levels for the wellbeing of African children.

12. She welcomed the opportunity offered by the celebration of the Day of the African Child to every country to take stock of the progress made and the difficulties encountered in the protection of children with disability, more so as most States have not yet adopted policies relating specifically to children with disability.

13. Continuing, the Chairperson reiterated the need for African States to reflect on the activities they intend to carry out to mark the African Decade for Persons with Disability, adding that such activities could be envisaged in terms of concrete and urgent measures in favour of children with disability. She said that the previous Decade was a decade of theoretical rights and that the coming Decade should make it possible, in practice, for persons with disability in general, and children with disability in particular, to enjoy those rights.

14. She referred to the other items on the Agenda including the item relating to the presentation of 2012-2013 Work Plan of the Committee to Partners and the choice of the Theme of the 2013 Day of the African Child.

15. Before concluding her statement, the Chairperson welcomed the new members of the Secretariat and declared the 19th Session of the African Committee of Experts on the Rights and Welfare of the Child open.

ITEM 2: CONSULTATION AMONG COMMITTEE MEMBERS (CLOSED SESSION)

16. Committee Members made several amendments to the Agenda in order to effectively gain sufficient time to discuss additional and significant items. After rearranging the program the following items were included: Working Session with the SIDA Project Partners, Discussion on the Implementation of the African Human Rights Strategy, Adoption of the Theme of the General Comment, Review of the 2012 Work Plan and Adoption of the Speech of the DAC 2012.

ITEM 3: PROCEDURAL MATTERS

A. Adoption of the Agenda and Program of Work

17. The Agenda and Program of Work were adopted as amended.

B. Organisation of work

18. The Committee agreed to conduct its deliberations in open and closed sessions according to the Agenda.

ITEM 4: BRIEF PRESENTATIONS BY PARTNERS

19. **The Representative from UNICEF** highlighted the nutrition disaster in the Sahel Region directly affecting more than one million children aged below five years. With the 2015 MDGs deadline drawing to a close, UNICEF noted that the next MDGs dispensation should see a faster realization of the rights and welfare of children on the Continent, in which the loss of the lives of millions of children across Africa would not be tolerated. He also highlighted the immense opportunity offered by the DAC to promote the rights of children with disability in Africa, pointing out that birth registration was central to a child's existence and enjoyment of rights as enshrined in the Charter. He ended by affirming UNICEF's support to the Committee in these and other areas.

20. **The Representative of the UNHCR** focused on birth registration and the unfortunate link between birth registration and nationality and pointed out the discriminatory practices that are taking place as far as birth registration of refugee children is concerned. The number of reservations that are registered during the process of ratification of Conventions and Treaties by Member States concerning refugees and children is not geared towards the promotion and protection of child's rights. In addition, there is an erroneous belief that there is a link between birth registration and

nationalities, which discourages States to register the births of refugee children. She invited the ACERWC to emphasise and de-link the concept of birth registration and nationality so that it is in future clear that birth registration and the nationality of refugee children are perceived as separate and distinct issues. Where this is done, it would be understood that it is the duty of every Member State to register birth of children within its jurisdiction.

21. The Representative of the African Commission on Human and Peoples' Rights reiterated the collaboration between the two Institutions. She highlighted the situation of children living with disability in poor conditions, especially in situations of armed conflicts. She stressed that poverty, illiteracy and lack of realisation of socio-economic rights have negative consequences on the promotion and protection of the child's rights. The Commission has expressed its desire for more collaboration between the Commission and the ACERWC to work in areas of health care, education, forced marriage and the vulnerability of girls, in general.

22. The Representative of Plan International announced the opening of their regional office in Addis Ababa. He highlighted the importance his Organization attaches to HTP related issues and announced the launching of their campaign called "Because I am a girl" to fight harmful practices.

23. The Representative of Save the Children underscored the close collaboration with the ACERWC and echoed the importance of the right to birth registration as it is the foundation of all the other rights that a child is entitled to. The Representative was critical about the fact that some African States do not have birth registration systems.

24. The Representative of the International Committee of the Red Cross announced their intention to organize training on International Humanitarian Law and on child soldiers for Committee members to better appreciate the situation of children trapped in armed conflicts and issues such as child soldiers.

25. The Representative of the African Movement for the Child and Young Workers painted a picture of how food crises and political crises adversely affect the wellbeing of the child. The Representative said that the Movement had found out on the ground that many children and young person leave their locality, village or region in search of a better life. By so doing, they often fall victims to hard labour and forced labour, all in an effort to earn a living. This is detrimental to the health and development of the child.

26. The Representative of ChildFund International introduced their Organization and the work it does with children from 0 to 24 years old. It works on child protection and their mode of action is both formal with Governmental Organizations and Informal interactions with local Communities.

27. The Representative from the Community Law Centre introduced his Organization's work in the field of human rights in South Africa. He emphasized the work that the centre does in the area of research, advocacy and training. The organization

reiterated its desire and commitment to continue working and collaborating with the ACERWC.

28. The Representative of Penal Reform International informed the Meeting that his Organization works for the promotion of penal reform worldwide. It deals with issues such as torture in prisons, incarceration of children and advocates against deprivation of liberty as a measure of last resort and for the elimination of discrimination in children sentencing. He highlighted the need to work towards supporting social integration of children who have been imprisoned.

29. The Representative of Retrak explained that their main area of focus is on street children. She noticed that street children face stigmatization and discrimination. She was of the view that capacity building towards identification and registration of birth of children is pivotal to promote and protect the rights of the child.

30. The Representative of the African Child Policy Forum informed the Meeting that they are planning to organize their 5th International Policy Conference in May on the theme 'Inter-Country Adoption Alternatives and Controversies. He called on CSOs and Governmental Organizations to reflect on whether In-Country Adoption, Foster Care or other alternative care options are the answer to the problem of children that are deprived of their family environment in Africa.

31. The Representative of Child Helpline International introduced the Organization as a helpline organization which received over 800, 000 calls in 2011 thus making it possible to collect data on the various kinds of abuse and violence that children suffer. He informed the meeting that birth registration is another matter on which the Organization is solicited by way of its helpline.

32. The Representative of Sudan Child Rights Institute informed the Meeting that his Organization has been working towards the ratification of the Charter and harmonization of Sudanese legislations with the Charter. He also mentioned that the discussion on Article 21 and Article 30 (concerning children with imprisoned mothers) is critical to Sudan He requested that the ACERWC comes up with clear definitions and comments on those two Articles so that State Parties may have a reference point to better harmonize their legislations with the Charter.

ITEM 5: PRESENTATION OF THE CSO FORUM RECOMMENDATIONS TO ACERWC

33. The Recommendations of the 6th Forum of Civil Society Organizations (CSOs), held in Addis-Ababa from the 21 to 23 March 2012, were presented by Mr. David Mugawe, on behalf of M. Sidikou Moussa, Chair of the CSO Forum. He recalled that the discussions dealt with issues relating to the theme of the Day of the African Child 2012: "The Rights of Children with Disability: The Duty to Protect, to Respect, to Promote and to Fulfil".

34. The Forum thus made five (5) key Recommendations:

- **Data base and information on children with disability:** the Forum recommended that data bases relating to the condition of children with disability be developed by African Governments and the CSOs; it should include the range and the degree of vulnerability; access to basic social services as well as the good practices in order to promote the rights of these children;
- **Legislation, Policies and Resources:** the Forum of CSOs recommended that African Governments and CSOs work on revision of the laws protecting children with disability and adopt national legislations in conformity with international legal instruments relating to the protection of the rights of the disabled child;
- **Education and sensitization:** In order to combat ignorance concerning the status of the disabled child, the Forum of CSOs recommended that African Governments and CSOs take measures to educate and sensitize the public in order to achieve better awareness of the needs of these children;
- **Programs and access to basic social services:** the Forum of CSOs recommended to African Governments and CSOs a wider scope of action that would target prevention, early diagnosis of the disability as well as access of children with disability to basic social services such as education and health;
- **Participation, integration and visibility:** the Forum of CSOs recommended to African Governments and CSOs to take initiatives that would increase visibility, integration and the participation of children with disability and their parents/tutors in fora where their situation is addressed.

35. After the presentation, questions were asked and answers provided.

ITEM 6: PRESENTATION: GUIDELINES ON ACTION FOR CHILDREN IN THE JUSTICE SYSTEM IN AFRICA

36. This Presentation was made by Mr. David Mugawe, Executive Director, ACPF, who informed the meeting that on November 7 and 8, 2011, ACPF, in collaboration with Defence for Children International, DCI, organised a global conference on Child Justice in Kampala, Uganda. A research on child justice in Africa and a documentary on children in prisons in Africa were presented at the Conference along with presentations of technical papers and country-specific case studies and examples of best practices from African and across the world.

37. The presenter explained that in order to translate good practices from other regions and to set a pace for the implementation of reforms in the child justice systems in Africa, the Kampala Conference adopted draft guidelines for child-friendly justice in

Africa, entitled “**Guidelines on Action for Children in the Justice System in Africa**”. This will contribute to improved treatment of children in all circumstances, brought into contact with civil, administrative or criminal justice. These guidelines are aimed at supporting African States in protecting children’s rights at all stages of judicial and extrajudicial procedures and promote the rights of information, representation and participation of children.

38. The Presenter stated that the Guidelines have been widely circulated and consultations carried out extensively. The Guidelines have also been circulated to the African Committee Members and can also be accessed online through ACPF websites as well as the CSO Forum website in three different languages mainly English, Arabic and French. ACPF called on the African Committee of Experts to adopt the guidelines and on African Governments to ensure child friendly justice.

39. After the presentation the floor was opened for discussion and the following issues were raised:

- The issue of children with disability needs to be included on the Agenda. In addition the participants agreed that systems need to be put in place to protect children with disability and in so doing give them a voice;
- For the children exposed to Inter Country Adoption: The 5th International Conference of ACPF will present an opportunity to discuss issues of Inter Country Adoption;
- The development of friendly cities for children with disability.

ITEM 7: SUBMISSION: THE BEST INTERESTS OF THE CHILD AND CHILDREN OF INCARCERATED PARENTS: GUIDANCE FOR STATE PARTIES ON THE IMPLEMENTATION OF ARTICLE 30 OF THE ACERWC

40. Penal Reform International made a submission on the implementation of Article 30 of the Charter. According to Presenter, Ms. Frances Sheahan, it is of prime importance to consider the best interests of the child and the relationship of children with incarcerated parents. It is the responsibility of State Parties to take care of children of incarcerated mothers/primary caregivers. Millions of children have parents in prison and thousands are in prison with their mothers. The children in prison fall through the cracks and they are not acknowledged or catered for.

41. The Presenter cited the numerous articles in the African Charter which could be used to protect children in Africa whose caregivers are in prison. These articles were studied to see how they could be used to protect children of incarcerated parents, from discrimination, violence and abuse. It was pointed out that children’s rights are affected at the point of arrest of their parents, during pre-trial detention, if the parent is pregnant and even at the time of release.

42. Penal Reform International also made some recommendations for the attention of the ACERWC. A coordinated response by all relevant agencies and a culture change which elevates their rights and status so that they are no longer the invisible victims of the criminal justice system was proposed. The ACERWC was also invited to make Article 30 of the Charter a subject of deeper and broader analysis, especially through a general comment.

43. It was proposed to consider how children's rights are affected when their parents come into conflict with the law; to examine States Parties' obligations under Article 30 and other relevant provisions of the ACERWC; and to respectfully make some recommendations for the Committee in relation to this issue. Education and rights based policies were among them.

44. After the presentation the discussions focused on:

- The importance of data management in Prison;
- The difficulty of getting statistics from prison Administration;
- Children born in prison;
- Children of executed parents;
- Children left stateless when mothers are imprisoned for immigration offences;
- Need to have a working group on the issue;
- The ACERWC to collect data through Organization and State Party reports;
- ACERWC to encourage Member States to develop programs for children of parents in prison and post imprisonment program.

ITEM 8: PRESENTATION OF 2012–2013 ACERWC ACTIVITIES TO PARTNERS

45. The First Vice-Chairperson of ACERWC presented the 2012-2013 Work Plan of ACERWC centred around fourteen (14) activities:

- Lobbying the remaining Member States for the ratification of the Charter;
- Follow-up of the Observations and Recommendations of the ACERWC on the Reports of State Parties regarding the implementation of the Charter;
- Follow-up of Communications on the violations of the rights of the child;
- Prepare and follow-up of the Commemoration of the Day of the African Child (DAC);

- Improve the Communication Strategy of ACERWC;
- Develop and update a Data base on the rights of the child;
- Improve working procedures and the Guidelines of ACERWC;
- Organize ACERWC sessions and take an active part in the 3rd Pan African Forum on children;
- Attend AU Summits;
- Strengthen Collaboration with other AU organs;
- Develop Collaboration with Regional Economic Communities (REC);
- Strengthen Collaboration with the UN Committee on the Rights of Child (UNCRC);
- Strengthen Collaboration with Civil Society Organizations;
- Develop and strengthen the Capacities of the Committee and its Secretariat.

46. Following the presentation, Partners took turns to make observations on the activities and expressed their interest to contribute to the implementation of these activities. Thus:

- UNICEF expressed the wish to take part in the advocacy missions together with the Committee at the country level for the ratification of the Charter; it informed the Meeting of its readiness to present a report on the Day of the African Child; to provide links and key child rights databases, as well as its assistance for collaboration with the UN Committee on the Rights of the Child. UNICEF is also willing to assist the Committee in the drafting of general comments and in the implementation of concluding observations at country level;
- The Representative of the UNHCR gave her firm commitment to assist the Committee regarding the mission to Kenya to follow-up on the implementation of the Decision of the Committee on the Right to Nationality of Children of Nubian Descent;
- Plan International gave assurances of its willingness to assist the Committee for field missions and suggested to the Committee to work out a strategy to mobilize resources and a strategy for communication with Universities to gain their support;
- Save the Children offered to support the Committee in the development of a resource mobilization strategy and expressed the wish to work with the Committee for the advocacy missions regarding ratification of the Charter in Swaziland and in DRC;

- ACPF gave its firm commitment to assist the Committee in the mission to Uganda to follow up communication on the violation of the rights of the child in the north of the country, and said it was willing to assist the Committee in research and advocacy regarding the registration of births and collaboration with the PRC;
- The Institute of Human Rights and Democracy in Africa expressed its constant readiness to support the Committee;
- The Community Law Centre offered its assistance in the updating of the Web site of the Committee;
- The ICRC proposed to train Members of the Committee in International Humanitarian Law, child soldiers and other topics which are of relevance to the Committee and fall within the mandate of the ICRC. It also proposed to give its support for the Data base;
- The Representative of Chachi International and Wing and Education and Media expressed their intention to commemorate the Day of 16 June and their desire to fully involve the Committee in their activity;
- Open Society Justice Initiative informed the Committee of certain positive results obtained on the questions of civil status, following the Decision on Children of Nubian Descent in Kenya.

47. At the end of the discussions, the Committee and Partners agreed to hold bilateral meetings to deepen reflections and concretize commitments.

ITEM 9: INTRODUCTION TO THE OBJECTIVES AND FORMAT OF THE DISCUSSION

48. The Second Vice-Chairperson of the Committee presented the Objectives and the Format of the discussion on Article 21 of the Charter, "Protection against Harmful Social and Cultural Practices". It was clear from his presentation that the general objective of the discussion is to find strategies to sensitize State Parties on their obligations to protect children against the harmful social and cultural practices. He then presented the Specific Objectives which are, inter alia:

- To take stock of the harmful social and cultural practices on the Continent;
- To identify the difficulties encountered by States Parties in attempts to prevent or reduce these practices; and
- To share the Good Practices and Experiences that may help eliminate harmful practices against children.

49. In conclusion, the Committee decided to make presentations followed by debates. To this end he invited the presenters and the various speakers to make concrete interventions while respecting time, so that each one could make their contribution.

ITEM 10: PRESENTATION AND DISCUSSION ON ARTICLE 21 OF THE CHARTER: “PROTECTION AGAINST HARMFUL SOCIAL & CULTURAL PRACTICES”

50. Prof Julia Slot-Nielson, an ACERWC Member, made a presentation titled “Custom, Tradition, Cultural and Religious Practices” The first part of the Presentation defined custom, tradition, cultural and religious practices. She then summarized legal provisions emanating from the UN Convention on the Rights of the Child, the African Children’s Charter, the African Women’s Protocol and the African Youth Charter.

51. She was of the opinion that the African legal provisions on HTP are superior to those of the UNCRC which are absolutist and only related to health. The African Charters look at HTP in context by recognizing the virtues of African cultural heritage. But it also recognizes practices which are inconsistent with the provisions of the Charter. The provisions of the African Charter are more nuanced than the CRC as the content is not abolitionist and rigid, but rather discourage HTP to the extent of the inconsistency.

52. She noted that there is a change in traditional and cultural attitudes by which preference was given to the education of boys only, as initiatives such as the Girls Education Initiative have been taken. There are novel and innovative programs on how to change gender stereotypes. Women and girls’ rights are being more recognized now.

53. The Presenter concluded that custom, culture and tradition have been the central themes in AUC and OAU jurisprudence. The addition of the words ‘harmful’ is not a necessary corollary of custom, culture and tradition as there is widespread recognition in AU jurisprudence of the positive attributes of culture. She reminded that HTP should not be concentrated on FGM only. She urged the ACERWC to give attention to HTP holistically taking into account cultural shifts due to development of ICT and globalization.

54. After the Presentation the discussion focused on the following:

- The commitment of State Parties to combat HTP and the challenges they confront;
- The necessity to promote positive cultural Practices;
- The role of education and sensitization;
- The need to take into account cultural sensitivity and the weight of socio and cultural beliefs and practices;

- The need to include the perspectives of children on HTP;
- Women empowerment and access to equal opportunities;
- The necessity of ensuring that culture and tradition are not offended;
- The nuances between the definition of mutilation and (male) circumcision;
- The importance of the discussion with the traditional and religious leaders;
- The need for dialogue between the ACERWC and the Member States;
- The necessity to prioritise the best interests of the child.

**ITEM 11: PRESENTATION AND DISCUSSION ON ARTICLE 42 OF THE CHARTER:
ACERWC MANDATE ON ISSUING GENERAL COMMENTS (GC)**

55. Mr. Edmund Foley from the Community Law Centre gave a presentation on the “Development of General Comments by the ACERWC”. Inspiration was drawn from the UN Treaty Bodies Practice of Issuance of General Comments (GC) to interpret specific treaty provisions or lay down guidelines for the implementation of obligations by State Parties. He gave a historical overview of the development of GC. He also briefed the Meeting on how the concept of GC was developed in the African human rights system.

56. The opportunities and challenges facing the ACERWC towards the development of GC were discussed by the presenter. He asked if there is a case for developing guidelines and principles and interpretation currently. Secondly, he reflected on whether GC should be the preferred approach of the ACERWC. He argued that GC may be used to tackle common problems that are visible from State Parties Reports instead of engaging with each and every country. Issuing a general comment may be an effective tool to analyse and expand on treaty provisions. He was also of the opinion that the working relationship between CSO and the ACERWC could be an opportunity to be explored to develop the mechanism of GC.

57. The Presenter concluded by highlighting the importance of GC in the development of human rights norms. The ACERWC could become a jurisprudential resource for other regional and international human rights protection systems to learn from.

58. Discussions after the presentation were based on the following :

- The progress made by the African Commission on Human and Peoples Rights in the interpreting the African Charter on Human and Peoples Rights;
- GC as a powerful tool of interpretation and implementation of the provisions of the Children’s Charter;

- The need of the Committee to draw inspiration from the UNCRC system;
- Support of CSO to the Committee to develop its GC;
- A proposal by ACPF to make inter country adoption as the subject of a GC by the Committee.

ITEM 12: PRESENTATION OF THE REPORT OF THE AUC PAN-AFRICAN CONFERENCE ON CELEBRATING COURAGE AND OVERCOMING HARMFUL TRADITIONAL PRACTICES

59. Dr. STRIJDOM Johan, from the AUC Department of Social Affairs presented the Report of the Conference on Celebrating Courage and Overcoming Harmful Traditional Practices in Africa which was held from 5th to 7th October 2012 in Addis Ababa by AU Commission, with support from GIZ. The two main inputs were the Report and more practically the Framework of Action; both documents are available online.

60. The Conference shared views on both the negative and positive aspects of Traditional Practices and also acknowledged the efforts of various actors to eliminate HTP. The Conference focused on Human Rights and Legal Protection of Women and Girls, Positive and Negative Cultural Practices and Traditions, Sexual and Reproductive Health and Rights, Case Studies on Best Practices in combating Harmful Traditional Practices and Case Studies on Best Practices.

61. The Framework for Action and Recommendations noted and underscored the following areas in combating Harmful Traditions: Holistic and Integrated Strategies on HTP, Legal and Policy Environment, Women's Empowerment, Research, Advocacy and Awareness, Media Advocacy, Voices, Cooperation on HTP and Monitoring and Evaluation.

62. The follow-up actions include publishing and disseminating the Report and Framework, a workshop to fine tune recommendations, inter-and cross generational dialogues, a proposed agenda on HTP at the upcoming Session of the AU Conference of Ministers, developing harmonized tools and indicators for research on HTP, conducting baseline studies on HTP and identifying 5 priority HTP areas for concerted action over the next 5 years.

63. After the Presentation, discussions were as follows:

- Need for research on the reason behind HTP;
- Women empowerment to curb HTP;
- Inter-generation dialogue highlighted as one of powerful tools of change.

ITEM 13: OVERVIEW ON HARMFUL TRADITIONAL PRACTICES (HTP) IN AFRICA

64. Presentations were made by:

- Ms. Akila Belembaogo, Head of UNICEF Liaison Office and Representative to the African Union and UN Economic Commission for Africa; with
- Dr Denis Pain and Ms. Alina Meyer as Consultants.

65. In her presentation, Ms. Belembaogo recalled the obligations of States Parties related to the Convention on the Elimination of all Forms of Discrimination against Women; the Convention on the Rights of the Child and the African Charter on the Rights and Welfare of the Child. The three treaties are complementary instruments reinforcing each other.

66. She further noted that there was a global and Africa regional commitments towards HTP. However, one problem was lack of documentation and data base on HTP. She shared key messages that need to be considered to promote conducive practices and to tackle the harmful practices. She then presented a list of twelve HTPs that were not well or enough addressed and documented as well as nine HTPs addressed through programmes and strategies with different levels of importance. She raised common concerns regarding HTP as well as progress being made on combating HTP which are affecting children especially girls and women. The main strategy consists of promoting the social norms approach harmonised with the legal and moral norms to reach common consensus among the community and rapid behaviour change.

67. She finally shared few ideas to consider, mainly the following:

- Recommend the use of the Day on Zero Tolerance on HTP to also address HTP or as the main theme of the next DAC?
- Expand country experiences for abandonment of FGM/C to HTP;
- Promote HTP into national programmes and strategies on gender mainstreaming, on violence against women and girls, on social protection and on child protection system or extend existing specific plans of action on FGM to HTP, as relevant;
- Promote joint UN programmes with Government within UN Development Assistance Framework (UNDAF) and humanitarian programmes including capacity building programmes to religious and traditional leaders and professionals; support measures to protect and assist victims; data collection and research;
- Acknowledge community-based initiatives for social change towards the abandonment of HTP. And which include multi-sector programmes (hygiene, health, income-generating activities, community mobilisation, dialogue, empowerment, education, awareness raising, and enforcement of laws...);

- Pursue effort for the ratification and implementation of the ACRWC as well as reporting by all 54 member states and for the consideration of the Committee recommendations and conclusions to the Members States;
- Ensure counselling, reporting and complaint mechanisms for children who are in danger of or who have been victims of HTP;
- Elaborate specific questions to country delegation to address HTP during deliberations on the consideration of country reports.

68. She also made suggestions/recommendations regarding legislative reforms and legal measures for a comprehensive legal framework.

69. In their presentation Dr. Denis Pain and Ms. Alina Meyer explained that they are carrying out research on HTP. They took the participants through the data baseline and the priorities for action. In addition, the opinions and perspectives of children should be taken into account in assessing the challenges they confront on a daily basis.

70. The presenters delineated the structure of their Report, which included the definition and traditional normative setting and legal frameworks, incidences and trends and impact at National and sub-regional level, approaches to address HTP, monitoring, reporting and the way forward.

71. They went on to mention that their priority HTP categories were gender based violence, early/forced marriage; FGM; opportunity marginalization and land/inheritance exclusion. They then briefed the participants on general approaches that should be complementary and include community involvement. The context should take into consideration the global/regional and national level. A publication of an Annual Report Redress Mechanisms and an annual report on the progress of each state, amongst other approaches, was suggested. In conclusion, they made recommendations for regional action as follows:

- Analyse the social and political economy of each HTP;
- Promote a cultural analysis of the best interests of the child, with a focus on promotion, education, health and rights of the girl child;
- Work with men and boys as change leaders;
- Promote new role model for girls;
- Address social political and economic drivers for HTP;
- Map allies and create strategic alliances for change with traditional and religious leaders;
- Generate evidence for social and legal changes;

- Penalties for harm, then legislative reforms as consolidation of social movements.

72. After the two presentations, the participants raised the following issues:

- The challenge of availability of statistics on HTP;
- The need to differentiate mutilation from circumcision;
- The speed at which attitudinal change occurs;
- The barriers of the political and territorial sovereignty;
- The link between early marriage and birth registration;
- The relationship between child trafficking and child labour;
- The phenomena of talibets (child beggars);
- Capitalization of positives norms;
- Change of behaviours and attitudes;
- The phenomena of slavery;
- The issue of son preference;
- Harmful practices in general vs harmful traditional practices.

ITEM 14: PRESENTATION AND DISCUSSION: RESEARCH INTO CHILD MUTILATION AND TRAFFICKING BODY PARTS IN “SOUTHERN AFRICA”

73. This Presentation was made by Mr. Simon Fellows of Humane Africa who said that the presentation was about a research of several months carried out in South Africa and Mozambique. He first of all introduced his Organization and the work it is doing in these two (2) countries. He then presented, with images, the results of the research and the approach used to gain the confidence of the community. This approach, based on the exchange of social norms brought the community to accept the fact that the mutilation of children exists and it adversely affects them, mentally and physically. Thus through several workshops organized in the two countries which facilitated communication, the community itself recognized that trafficking in child organs exists and that the demand for these organs comes from this same community on the prescription of traditional doctors.

74. Theatre, music and dance made it possible to sensitize the community in an effort to reduce the demand of body parts, which could ultimately lead to the abandonment of the practice.

75. Actions for the rehabilitation of the victims in the community are also organized after they have received suitable treatment.

76. Following the presentation, the discussions centred on:

- The rehabilitation and follow-up of the victims;
- The capacity of children to support their status as victims;
- The status of victims (orphans, abandoned, sold or street children);
- The link between the trafficking in body parts and organized crime;
- The role of Governments;
- The case of albinos' children.

ITEM 15: PRESENTATION AND DISCUSSION ON LEGAL AND POLICY INSTRUMENTS RELATED TO HTP, WEAKNESSES AND CHALLENGES IN THEIR APPLICATION:

77. Dr. Denis Pain made a presentation on 'Good Practices and Experiences in the Reduction on Harmful and Traditional Practices in Africa'. He gave examples of traditional values which may not be harmful as such but also not in the best interest of the child. He was of the opinion that working closely with families and the community is the way forward. He linked traditional practices to identity politics. He argued that one projects an image which is closely linked to one's tradition.

78. He explained that Conventions such as the CRC and CEDAW are the normative framework on a worldwide scale. For a national level discussion, the African Children's Charter and the Maputo Protocol would be more efficient. A UN General Comment would not be nuanced and would not take into account the African realities. This is where the AUC and the Committee play an important role of accounting for those African realities. He pointed out that more countries should be encouraged to report under the Children's Charter. The importance of using mechanisms such as the APRM and other institutions like the ECA was also seen as a way forward.

79. Dr. Pain advocated national legislations and the force of law a constitutional provision on HTP would have. National legislations should also cover HTP widely and define and classify HTP. The necessity of an agreement between the Committee and the CSO on the priority fields of HTP is essential. He argued that banning or compromising traditional practices is not the way forward. Instead, the focus should be

on documentation and classification to differentiate between good practices and harmful practices.

80. The second presentation was made by Mrs. Saba Lishan from ACPF on the “State of Legal Protection for the Girl Child in West Africa: A Tale of Rites and Rights”. She provided an overview of the state of HTP in the West African region. She argued that the misinterpretation of religion and customary laws have a lot in common. Much of the celebrated customs, especially those aspects of customs that govern community harmony and interpersonal relationships within the community, find their way into and are reflected as customary law.

81. She presented the desk based research and the field study that were carried out in West Africa involving government agencies, judges, law makers of both traditional and formal justice systems, the police and victims of Female Genital Cutting (FGC) and child marriage. She proposed that an examination of the underlying principles and values of the African traditional justice systems can help in better appreciation of the various incidences of HTP. It is also important to study the perception of both man and woman on female genital mutilation and legal protection from it.

82. Mrs. Lishan argued that legal protection from FGC and early marriage should make collective injury and collective responsibility a legal issue and not an issue of being individual victim or individual perpetrator. She pointed out that some aspects of the traditional justice system have merits such as accessibility, popular participation and transparency. However, there are also negative aspects such as partiality, marginalisation, monopoly of power and the unwritten nature of traditional justice system.

83. At the end of both presentations, the floor was opened for discussions and comments on the following:

- The role of the non-African world and an international dialogue;
- The necessity of incorporating the regional laws into domestic provisions and the role of the judge in applying the laws;
- The need for State Parties to include HTP in their report on the implementation of the Charter;
- Whether HTP should be completely banned or not since HTP does not seem to decrease;
- The importance of post ratification actions such as making the declaration under Article 34(6) of the African Charter on Human and Peoples’ Rights;
- The need to involve APRM not only on the basis of service delivery in African countries but also on substantive issues relating to HTP.

ITEM 16: PRESENTATION AND DISCUSSION ON “GOOD PRACTICES AND EXPERIENCES IN THE REDUCTION ON HARMFUL TRADITIONAL PRACTICES IN AFRICA”

84. In her presentation, the Representative of the German International Cooperation, Dr. Gabriele Gahn, took participants through Good Practices and Experiences in the Reduction of Harmful Traditional Practices in Africa. She mentioned the following:

- An estimated 140 million girls and women worldwide are affected by FGM;
- 3 million girls and women suffer genital mutilation each year;
- It is practiced in 28 countries across Africa, in a few Arab and Asian nations as well as by immigrants in other countries;
- It violates children’s rights;
- Many international Treaties and Conventions call for an end to FGM as a Harmful Traditional Practice;
- GIZ has contributed to international efforts to overcome FGM since 1999;
- The aims of GIZ include empowerment, capacity building and increased impact;
- There is need for multi-Level approach bringing about sustainable change on various levels.

85. In conclusion, she mentioned that the main characteristics of the methods of dialogue around FGM are the following:

- Greater impact;
- Bottom-up, instead of top-down approach;
- Sustainability;
- Transferability;
- Complementarity.

86. She presented the Generation Dialogue as well as other dialogue approaches for examples family dialogue, educational and religious to reach out to community, religious and political leaders.

87. In regard to the above presentation participants raised the following issues during the discussion:

- The presenter showed respect for communities they are working among;
- There should be no confusion between strategic goals and implementation goals;

- Approaches used need to be owned by the communities;
- There should always be an emphasis on HTP, not only FGM;
- The Committee should consider developing a report on workable methods of combating FGM;
- There is need to look at recommendations on specific issues on HTP.

ITEM 17: RECOMMENDATION ON THE IMPLEMENTATION OF ARTICLE 21 OF THE CHARTER

88. At the end of the two (2) days of discussion during which various communications on the subject were presented, participants agreed on the following recommendations:

- To make an observation on the situation of HTP on the basis of presentations made and reports of other meetings;
- To make priorities based on a country-by-country approach; States should also make priorities;
- To prepare a summary containing the key elements discussed daily as well as the proposals and recommendations made;
- To send this summary document to State Parties with a questionnaire annexed to it to take cognizance of the situation of HTP in the country. A deadline would be given to the country to respond and one contact person per country would be identified. However, there was no consensus among Committee Members on the idea of sending questionnaires;
- A Note Verbale will be sent together with the document to remind State Parties of their commitment on the implementation of Article 21;
- The Committee will review and comment on the software for data collection presented by Mr Denis Pain;
- To develop a partnership with the actors of the Civil Society;
- To develop a synergy of actions with the other Organs of the African Union charged with Human Rights;
- To interpret article 21 and make a general comment on the article;
- To include these activities in the Work Plan of the Committee.

ITEM 18: MEETING WITH SIDA PROJECT PARTNERS (CLOSED SESSION)

89. The Committee Members had a session with SIDA Project Partners during which Save the Children, Plan International and Community Law Centre and the Coordinator of the project were present.

90. The aim of the meeting was to discuss the implementation of the 2012 activities. All the partners made presentation on activities for which they are the leading partner. They highlighted the strategies adopted in materializing the project, the mode of assistance and support they intend to give to the Committee, the collaboration and assistance they require from the Committee as well as challenges that they may face in the course of the projects.

91. After their presentations, there were discussions and clarifications on the following:

- During this Session, the Committee Members will agree on the theme for the General Comment and for the DAC which will be communicated to CLC through the Secretariat of the Committee;
- The Committee requested the SIDA Project Partners to produce a detailed document on the activities and their implementation planning;
- The SIDA Project Partners assured the Committee that in case of relocation of the Committee's Secretariat, CSO Liaison office will be present wherever the Secretariat is located;
- The Committee assured the Partners that the name of its Representative to the upcoming African Commission's Session in Banjul will be communicated through the Secretariat in due course;
- The Partners requested for assistance from the Committee in facilitating the engagement of Child Rights CSO with ECOSOC;
- Save the Children proposed that the Committee consider Article 6 of the Charter as the theme of the DAC 2013.

ITEM 19: IMPLEMENTATION OF THE STRATEGY ON HUMAN RIGHTS IN AFRICA

92. The Chairperson of the Committee presented the Africa Strategy on Human Rights to the Committee Members and invited them to express their views on the way forward from the Committee's stand point.

93. After discussion, it was agreed that:

- The Committee should evaluate its needs in terms of actions to be taken in relation to the implementation of the Strategy;

- There must be a mainstreaming of the Strategy in the Committee's Work Plan in the future, by drawing up a list of the Committee's priorities;
- The lobbying missions for the ratification of the Charter fit into the objectives of the Strategy;
- The Committee should participate in the mechanism adopted for the implementation of the strategy;
- Clarifications should be sought from the Department of Political Affairs on the process of implementation of the Strategy.

ITEM 20: ADOPTION OF THE SPEECH OF THE DAC

94. The Draft Speech of the Chairperson for the DAC 2012 was reviewed by the Committee after which it was adopted with minor amendments. The Committee agreed on the following:

- The Speech should be finalised and sent to all State Parties and well circulated among partners;
- The Secretariat should discuss with the AUC Communication Directorate to explore the possibility of having the Speech recorded and aired on television channels and send to State Parties and to CSOs for dissemination.

ITEM 21: REVIEW OF THE WORK PLAN 2012

95. The Committee went through the Work Plan and agreed on the relevant activities.

Lobby Member States for the Ratification of the Charter

96. Committee Members who will participate in those missions were designated:

- Mme Fatima-Zohra Delladj-Sebaa and Mme Maryam Uwais: to Tunisia;
- Mr Cyprien Yanclo and Mr Clement Mashamba: to DRC;
- Mme Felicite Muhimpundu and Mr Andrianirainy Rasamoely: to Central Africa;
- Mme Amal Hengari and Mr Alfas Chitakunye: to South Sudan.

Monitoring the Implementation of Concluding Observations

97. Mr. Benyam Mezmur and Prof. Julia Sloth-Nielsen to Nigeria, Mr. Cyprien Yanclo and Mr. Andrianirainy Rasamoely: to Burkina Faso, Mr. Cyprien Yanclo and Mme Agnes Kabore: to Togo.

Follow up on the Communications on Child Rights Violations.

98. As regards the follow up on communication on Child Rights Violations in northern Uganda. Mr. Benyam Mezmur and Prof Julia Sloth-Nielsen were designated to undertake the investigation mission to Uganda.

99. Mr Benyam Mezmur, Mme Maryam Uwais and Mr Alfas Chitakunye were designated to go to Kenya as a follow up mission on the Decision on Children of Nubian Descent.

100. The missions to Swaziland and Mali missions have been deferred.

101. The Secretariat would follow up with Plan International, Save the Children and UNICEF, UNHCR and ACPF who have agreed to assist in undertaking the selected missions. It will also send a Note verbal to inform Member States of the intended missions.

Preparation and Monitoring the Activities of the Day of the African Child

102. It was decided that the theme of the DAC will be communicated to the Community Law Center (CLC) for the preparation of the concept note.

103. It was also decided that a Note Verbale should be sent to Member States requesting them to submit their Reports on the commemoration of the DAC within stated deadlines. An evaluation will be carried out during the November Session after receiving the Reports.

Improving the ACERWC Communication Plan

104. The Secretariat reported that the TOR of the Communication Plan is finalized and Save the Children will soon proceed with the recruitment of the consultant. The Committee asked the Secretariat and Save The Children to speed up the process. The Secretariat informed the Meeting that an AUC volunteer has offered to design the newsletter and work on the friendly version of the Charter. The Committee Members welcomed the idea and designated Mrs. Fatima-Zohra Delladj-Sebaa and Mr. Yanclo to follow up on the issues.

Develop and Update a Data base on Child Rights

105. The Committee welcomed the proposal from UNICEF and Save the Children to assist in linking the ACERWC website with relevant databases on child rights. It was decided that the Committee should endorse the data. It also welcomed the proposal of the ICRC to provide relevant data with regard to the activities it conducts in relation to children in situation of armed conflict in Africa. The data will serve as an additional value to the establishment of the Committee's Database.

Improve the ACERWC Working Procedures and Guidelines

106. The second Vice-Chairperson gave an overview of the amendments to the Rules of Procedures. The Committee requested that the process be expedited and decided that the English and French versions be finalized simultaneously. The Secretariat was requested to follow up with the Institute on Human Rights and Democracy in Africa (IHRDA) on the way forward.

Organizing the ACERWC Sessions and Participation in the 3rd Pan African Forum on Children

107. Mrs. Uwais gave a brief on the Meeting on the negotiations she is undertaking with the Nigerian Government to host the 20th Session and the 3rd Pan-African Forum. From the brief, it was noticed that the Department of Social Affairs proposed a three-day Session instead of five. The Secretariat was requested to draw the attention of the Government to this matter so that rectification could be made before the finalization of the process. The Committee congratulated Mrs Uwais for her effort and invited her to continue the follow up. It was noted that the required funds for the 20th Session are yet to be secured and the Committee decided to continue to lobby partners for support.

108. Considering the numerous activities to be undertaken and the added work the 3rd CSO Forum will especially require, Committee members expressed the desire to have an extraordinary Session in the course of the year or to plan a period of two weeks for the next Ordinary Session as per the rules of Procedure of the Committee.

Participation in AU Summits

109. Preparation is underway to participate in the July 2012 Summit.

Strengthening Collaboration with other AU Organs

110. In March 2012, the Committee attended the Session of the African Court on Human and Peoples' Rights and intends to participate in the African Commission on Human and Peoples' Rights' Session in Banjul in April 2012.

Developing Collaboration with RECs

111. The Secretariat presented the activities to be undertaken in 2012, including collaboration with ECOWAS and SADC through the SIDA Project and the difficulties encountered in efforts to get a response from the RECs.

112. It was decided that the Secretariat continues the follow up and report to the Committee on the outcomes.

Capacity Building for the Committee Members and its Secretariat

113. The Committee approved the Secretariat Staff visit to the ACHPR and UNCRC Secretariat.

114. After reviewing the Work Plan 2012, the Committee requested the Secretariat to liaise with interested partners so as to ensure the materialization of their commitments.

ITEM 22: DISCUSSION AND ADOPTION OF THE DRAFT CONCEPT NOTES ON THE ACERWC 2012-2013 ACTIVITIES

115. Following the consideration of the draft concept note, the Committee discussed the form and content of the note. The Secretariat was then requested to incorporate the additional information from the discussions on the 2012 Work Plan, especially as regards team composition and interested partners.

ITEM 23: ADOPTION OF THE THEME OF THE 2013 DAY OF THE AFRICAN CHILD

116. After discussions and consideration of a number of proposals for the theme of the DAC, the Committee adopted the following theme for the DAC 2013: **“Eliminating Harmful Social and Cultural Practices Affecting Children: Our Collective Responsibility”**. It was indicated that the other proposed themes will be considered in future.

ITEM 24: ADOPTION OF A THEME FOR GENERAL COMMENT (GC)

117. After discussions, the Committee adopted the theme of the General Comment: **“Children with Imprisoned Mothers”** (Article 30 of the Charter). It was decided that the Theme will be communicated to the Community Law Centre which should study the documentations and reports and prepare a first draft within three months. Mrs. Fatima-Zohra Delladj- Sebaa was designated to review all the State Parties reports received so far so as to extract all the information relevant to the Theme. A group consisting of Mr. Benyam Mezmur, Mrs. Maryam Uwais and Prof Julia Sloth-Nielsen was designated to oversee the drafting of the GC.

ITEM 25: DISCUSSION WITH THE SECRETARIAT STAFF ON THE PROPER FUNCTIONING OF THE ACERWC

118. The new recruits of the secretariat staff introduced themselves to the Committee Members. They were welcomed and the Committee members expressed their satisfaction about the reinforcement of the Secretariat. The expectations of the Committee were conveyed to the staff of the Secretariat, while the new members looked forward to the support and assistance from the Committee.

119. A task allocation table for the Secretariat was presented by the Secretariat which met the approval of the Committee members. The Secretariat was requested to develop a plan for the task allocation. It was emphasized that the Secretary to the Committee would play a general supervisory role and that all major decisions would be made by her. It was also pointed out that all the Secretarial staff should be conversant with each other's work, so that in the event of the absence of one staff, the other staff can perform his/her duty.

ITEM 26: ANY OTHER BUSINESS

120. The first Vice-Chairperson briefed participants on the meeting held between himself, the second Vice-Chairperson and the Chairperson with the representative of the ICRC. The outcome of the meeting was that a one-day training on International Humanitarian Law would be conducted for Members of the Committee by the ICRC. The training will take place in the margins of the next Session of the Committee. The Secretariat was requested to continue discussions with the ICRC and report thereon to the Committee.

121. The Committee then went on to designate Members for participation in various meetings:

- Ms. Felicite Muhimpundu and Mr. Andrianirainy Rasamoely will take part in the validation workshop to prepare the course on the rights of the child;
- Mr. Benyam Mezmur and Mrs. Félicité Muhimpundu will take part in the meeting of Ministers in charge of Justice from 7 to 14 May;
- Mr. Cyprien Adebayo Yanco will take part in the meeting of the Banjul Commission as focal point.

122. The Secretariat gave details on the correspondence sent and received on the implementation of the AIDS Project. Ms. Maryam Uwais was mandated to follow-up on the correspondence sent to ECOWAS in Abuja.

123. The Secretariat presented three requests for observer status from S.O.S International Village, Penal Reform International and African Movement of Working Children and Youth; 3 Rapporteurs were appointed to follow up on each of the requests and are expected to present their Reports to the next Session.

124. Vote of thanks: The Committee expressed its thanks to all the Partners and Stakeholders who continue to work with it in promoting and protecting the rights of children in Africa. More particularly, the Committee expressed its appreciation to GIZ and Plan International for their support, along with the African Union Commission, which made it possible to convene the 19th Ordinary Session of ACERWC. The Committee looked forward to working and strengthening its collaboration with all the partners."

ITEM 27: ADOPTION OF THE DRAFT REPORT

125. The Report was adopted as amended.

ITEM 28: CLOSING CEREMONY

126. Closing Statements were made by a Representative of the AU Commission and the Chairperson of the Committee.

127. The Secretary to the Committee on behalf of the AU Commission thanked GIZ and Plan International for their support which made it possible to organize the 19th Session of the ACERWC and all the Partners for their constant support to the Committee. She also thanked the members of the Committee for their abiding commitment to the protection of the rights of the child and for the work accomplished during the present Session. She concluded by thanking the Chairperson for the able manner in which she steered the deliberations of the Committee, the Interpreters and the staff of the Secretariat for their cooperation and diligence. She wished all the participants a safe journey back home.

128. For her part, the Chairperson also thanked GIZ and Plan International for their invaluable contribution towards the holding of the Session and the Commissioner for Social Affairs and her team for their constant support to the Committee. She said that the 19th Session had been very fruitful as evidenced by the presentations and the discussions which will go a long way towards promoting the rights of the child. She thanked the members of the Committee for the efforts deployed in favour of rights of the child and the Interpreters who made it possible for the participants to understand each other. She then declared the deliberations of the 19th Session of the Committee closed.