

AFRICAN UNION

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



UNION AFRICAINE

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

الاتحاد الأفريقي

"An Africa Fit for Children"

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**CONCLUDING RECOMMENDATIONS BY THE AFRICAN COMMITTEE OF
EXPERTS ON THE RIGHTS AND WELFARE OF THE CHILD (ACERWC) ON THE
REPUBLIC OF GHANA INITIAL REPORT ON THE STATUS OF IMPLEMENTATION
OF THE AFRICAN CHARTER ON THE RIGHTS AND WELFARE OF THE CHILD**

December 2016

I. INTRODUCTION

1. The African Committee of Experts on the Rights and Welfare of the Child (ACERWC) extends its compliments to the Government of Ghana and wishes to acknowledge with thanks receipt of the initial report on the status of implementation of the African Charter on the Rights and Welfare of the Child. The Committee congratulates the State Party for sending an important high-level, inter-ministerial delegation led by the Deputy Minister of Gender, Children and Social Protection to discuss the Report during its twenty eight session held in Banjul, The Gambia, from 21st October to 1st November 2016.
2. After considering the report from Ghana, the Committee has the honour to forward to the Government of Ghana the following observations and recommendations:

II. PROGRESS IN THE IMPLEMENTATION OF THE CHARTER

3. The Committee commends the State Party for a number of activities it has undertaken with a view of creating systems and structures that enabled the implementation of children's rights. The Committee noted that since ratification of the African Children's Charter in 2005, various policies, legislations, institutional reforms have been carried out including:
 - a. The formulation of policies that seek to facilitate the implementation of children's rights such as the Growth and Poverty Reduction Strategy II (GPRS) (2006-2009); Ghana Shared Growth and Development Agenda (2009); National HIV & AIDS and Sexually Transmitted Infections (STI) Policy (2013); Draft Child and Family Welfare Policy (2013); and Draft Justice for Children Policy (2014).
 - B. The promulgation of various legal instruments such as: the Human Trafficking Act, 2005 (Act 694); Person with Disability Act, 2006 (Act 715); The Domestic Violence Act, 2007 (Act 732); The Education Act, 2008 (Act778); and the Ghana National Commission On Children (Repealed) Act, 2006 (Act 701).

AREAS OF CONCERN AND RECOMMENDATIONS

A. General Measures of Implementation

4. The Committee commends the Government of Ghana for the measures it has taken in restructuring the Ministry of Women and Children's Affairs and replace by the Ministry of Gender, Children and Social Protection whose mandate amongst others includes the promotion and protection of children's rights with the Department of Children of the Ministry responsible for coordinating and monitoring all child rights related projects in the country.
5. Despite the creation of a dedicated department under the Ministry, the Committee is concerned that widening the mandate of the Ministry could result in

a situation where child rights issues not to be prioritized. The Committee is also concerned that the Ministry lacks clear mandate for coordinating inter-ministerial child rights and welfare related activities. The Committee is further concerned that the Department of Children is not greatly decentralized to reach district levels to ensure the effective implementation and monitoring of child rights issues in the Country.

6. The Committee; therefore, recommends that the mandate of the Ministry of Gender, Children and Social Protection should be examined to ensure it adequately promotes and protects the rights of children. The Committee also recommends that the Department of children is decentralized to all districts with a view of ensuring an effective implementation and monitoring of child rights programmes across the Country.

B. Definition of a child

7. The Committee appreciates that the Children's Act 1998 defines a child as any person below the age of 18. The Committee also notes the existence of various definitions of the child as it pertains to the age of sexual consent, the age a child can engage in labour, the minimum age for criminal responsibility and prohibition of child marriage. The Committee is also notes that despite a law on the age of alcohol consumption, children have easy access to alcoholic beverages.
8. In this regard, the Committee recommends that:
 - The State Party endeavours to enforce the application of the law on alcohol consumption by persons under 18 and develop a system to regulate children's access to alcoholic beverages;
 - Considering the fact that 21% of girls in Ghana are still married before they are 18, but rates can be as high as 39% in the Northern part of the country, the Government should take measures on persons who marry children and undertake awareness raising campaigns throughout its territory on ending child marriage. In this regard, the Committee recommends for the Government to closely work with the AU Team on Ending Child Marriage;
 - Ensures that the Juvenile Justice Act applies to all persons under 18 as provided by the law;
 - The Committee also notes that the minimum age of criminal responsibility is set at the age of 12. In this regard, the Committee recommends for the Government to consider raising the age taking into consideration the emotional, mental and intellectual maturity of children at this age.

C. General principles

Non Discrimination

9. The Committee commends the State Party for the measures adopted to eliminate all forms of discrimination against children in its territory as provided in its 1992 Constitution, the 1998 Children's Act, and other national laws. However, it was brought to the Committee's attention that some group of children still continue discrimination in various sectors across the country. These groups of children include children in rural areas, children with disabilities and the girl child. Particularly, the Committee is informed that children with disabilities are facing discriminatory practices in the context of education due the existence of the very limited educational facilities which are also donor dependent. In this regard, the Committee notes that children with disabilities are not receiving education on an equal basis with other children with no disabilities.

10. The Committee is also concerned that although at basic education level, parity is nearly achieved, at higher levels of education, the retention rate for girls remains lower as girls drop out of school due to economic constraints of their families which leads to boys being chosen to go to school, inadequate sanitary facilities especially during their menstrual period and teenage pregnancy.

11. The committee therefore recommends that:
 - An inclusive education should be expanded with adequate funding provided for special schools to avoid heavy reliance on donor funding;
 - The Committee also recommends, through the Livelihood Empowerment against Poverty (LEAP) program the Government should focus on assisting girls from poor households, raise parental awareness on the importance of keeping girls in schools, and introduce age appropriate sexual and reproductive education, including the importance of contraception, in school curriculums; and
 - The Government should also provide assistance and take measures to encourage girls to return to school after delivery.

Best interest of the child

12. The Committee recognizes efforts made by the State Party to ensure that the best interest of the child is considered by state administrative, judicial and legislative structures. However the Committee observes that child custody cases take a while to conclude, the Spousal Property Bill is yet to be adopted and a high number of child abuses cases are reported to State institutions. The Committee recommends that the State Party ensures that determination of matrimonial cases do not prolong the conclusion of child custody cases. The Committee also recommends that the Spousal Property Bill awaiting adoption in

parliament since 2013 should be adopted and measures taken to address the high rate of child abuse cases.

Survival and Development

13. The Committee notes with satisfaction that the State Party has adopted laws to ensure the survival and development of children and has devised a strategy for improving health services for mothers and children. The Committee is however concerned that despite the protection in Constitution and other domestic laws, life and survival of girls who would like to terminate pregnancy continues to be violated. The Committee recommends the enforcement of these laws along with the strategy and calls on the State Party to repeal Act 29 of the Criminal Code 1960 prohibiting abortion which has led to girls seeking unsafe abortion thereby risking their lives.

D. Civil Rights and Freedoms

Name, Nationality, Identity and Registration of Birth

14. The Committee congratulates the State Party for improving the birth registration rate from 17% in 2002 to 66% in 2013 and ensuring birth certificates are received along with carrying out weekly outreach programs with the Birth and Death Unit. The Committee also notes the initiative to register new born babies for free within twelve months of delivery.

15. The committee is however concerned with the fact that a high number of births are still unregistered which leaves such children at risk. The Committee is also concerned that article 6 (2) of the 1992 Constitution of Ghana and section 7 of the Citizenship Act 2000 are contrary to Article 6 of the Charter which risks some children being stateless. The Committee observes that the Birth and Death Registry Unit faces human and financial constraints in implementing its programmes which poses a risk to maintaining and improving on the current birth registration rate. The Committee therefore recommends that the State Party increase funding to the Birth and Death Registry to ensure the implementation of its programme, involve civil society organisations in promotion and publicity efforts, undertake an assessment on statelessness to establish the number of stateless children and those at risk of statelessness to effectively address the issue, and undertake efforts with the view to amending provisions on citizenship that are contrary to the Charter.

Protection against abuse and torture

16. The Committee commends the State Party for its efforts to protect children from abuse and torture by including child protection measures in the Constitution, The Children's Act, Domestic Violence Act and Human Trafficking Act along with

efforts made to tackle abuse of children through the internet. However the Committee observes with concern that children continue to suffer from the worst forms of abuse. Particularly, the Committee notes the situation of migrant children, some as young as 6 years, who are engaging in labour in busy markets without permanent residence which leaves them sleeping on the streets exposing themselves to exploitation and some resorting to prostitution. The Committee is further concerned that such children rarely report instances of abuse and the State Party currently has insufficient measures to address this. The Committee therefore recommends that the State Party

- Undertakes comprehensive measures to address issues affecting migrant children by training labour inspectors and provide centres to house children until reunited with their families;
- Provides assistance to children from migrant households and undertake to address issues causing their migration, and
- Laws prohibiting corporal punishment are applied strictly and positive alternatives of punishment should be developed together with campaigns on them for parents and teachers.

Freedom of expression

17. The Committee notes with satisfaction that the Constitution and section 11 of the Children's Act safeguards the child's freedom of expression and that measures have been implemented to enable children express themselves through avenues such as the CURIOUS MINDS and Child Rights International. The Committee also notes the involvement of children in the formulation of policies and passage of laws such as the Adolescent Health Policy and The Human Trafficking Act. The Committee however observes that socially, the opinions of children are rarely considered and children's clubs such as the CURIOUS MINDS are not widely known or available in underserved communities. The Committee recommends that such measures be decentralized with the creation of children's clubs in all its regions. The Committee also recommends that the involvement of children in the passage of laws and development of policies should be done meaningfully with a view of taking their views in to consideration.

Protection of Privacy

18. On the protection of privacy, the Committee recognizes efforts of the State Party in terms setting norms against unnecessarily disclosing the identity of children in cases involving sexual abuse matters. However, the Committee notes that efforts to protect the privacy of children are insufficient as the forms of abuse suffered by children are not limited to sexual abuse. The Committee is particularly concerned by the frequent media coverage on accusations of child witchcrafts due to its impact on the child's dignity and privacy. The Committee, therefore, recommends that the State Party apply media laws strictly to protect the identity of children when portrayed by the media. The Committee also recommends that

protection of privacy of the child be expanded to all forms of abuse affecting children. The Committee further recommends the State Party to devise measures to ensure institutions frequented by children particularly health facilities to undertake to maintain the privacy of children.

E. Family environment and alternative care

Adoption

19. The committee notes that despite measures to address the adoption procedure as provided in the Children's Act, post adoption monitoring mechanisms are inadequate especially for inter-country adoption. It was also noted that due to insufficient levels of transparency and control in the child protection system, the Government introduced in May 2013 a moratorium banning all adoptions of children until the situation can be examined further. Though the moratorium is still in place, it is noted that despite a moratorium; adoptions continue to be carried out without the supervision of the Head Office.
20. The Committee also notes that Ghana is in the process of acceding the 1993 Hague Convention on Inter-country adoption (parliament has accepted cabinet memo for accession in Dec2015), which is accompanied by a reform process launched in 2013 to make sure that Ghanaian legislation is in line with international standards.
21. The Committee therefore recommends that the State Party assess the impact of the moratorium with a view to reaching a decision on adoption in its territory. The Committee also recommends for the State Party to expedite the process of accession to the Hague Convention.

F. Basic health and welfare

22. The Committee commends the State Party for implementing measures which has led to gains with regard to the preservation of maternal and new-born healthcare, and reduction of under-five mortality rate. Despite the reductions made, the Committee is concerned at the continuing high rate of maternal mortality attributable to the limited availability of contraception which results in high pregnancy and unsafe abortion rates among adolescents. The Committee is also concerned that despite efforts to address malnutrition through the community based – management, acute malnutrition remains a problem among children across the country. For instance, it was brought to the attention of the Committee that 13% of children under 5 within the territory of the State Party are moderately or severely underweight.
23. Based on these and other health related challenges the Committee recommends that the State Party:

- Endeavours to remove barriers such as inadequate trained personnel, poorly maintained healthcare facilities along with other physical, financial and social barriers which hinder access to healthcare services;
- Endeavours to increase budgetary allocation to the health sector;
- Ensures essential medicines as per the WHO essential medicine lists are provided;
- Provides sufficient contraception especially to children to prevent unwanted pregnancies and STIs, and ensure that Family Planning Centres exist throughout its territory and are staffed with adequate and well trained personnel to address the sexual and reproductive needs of children.

G. Education, leisure and cultural activities

The right to education

24. On the provision of free education, the Committee commends the State Party for the effort it employed in trying to ensure free, compulsory and available basic education, along with subsidizing the registration cost of Basic Education Examination, issuing free school uniforms and exercise books, and providing school children with one free basic meal a day. The Committee also commends the State Party for the development of its Affirmative Action Bill with regards to its provisions on education. The Committee is however concerned that basic education is not truly free or compulsory as hidden charges such as examination fees, extra classes and Parents-Teachers Association (PTA) fees hinder this provision.
25. The Committee remains concerned that the standard of education in public schools is low with inadequate qualified teachers, teacher absenteeism and infrastructural challenges which lead to children studying under trees or in life threatening school buildings along with the distance some children have to travel in the rural areas to go to school. The Committee is further concerned that monitoring of private schools is inadequate and girls drop out of school as a result of pregnancy due to unfriendly environment or being compelled by school authorities.
26. The Committee therefore calls on the State Party:
- To ensure that the gains of the Affirmative Action Bill are not outweighed by a resultant discrimination against boys
 - To ensure that its provision of free education is achieved with hidden cost removed, undertakes to progressively make education free at all levels;
 - To continue addressing teacher absenteeism and ensure the proper training of all teachers;
 - To ensure the effective monitoring of public and private schools to improve the standard of education along;

- To undertake to address factors which continue to prevent girls from attending school and staying in school;
- To revitalise the free bus ride for school children and ensure children in underserved communities have access to the service; and
- To ensure the completion and implementation of the manual on positive forms of discipline for teachers with a view to eventually enacting a legislation prohibiting the use of corporal punishment in school.

Leisure, Recreation and Culture

27. The Committee notes the efforts of the State Party to ensure that children have recreational and leisure spaces with the creation of an amusement park and the designation of places in the community for children along with scheduled breaks in the school timetable. However the Committee is concerned that the efforts made are not sufficient for children to enjoy the right. The Committee is further concerned over the minimum regulation of media houses with regards to the contents it airs at certain times. The Committee is also concerned that the only television channel dedicated to children has been scrapped.

28. The Committee therefore recommends that the State Party create more recreational spaces for children throughout its regions and make them accessible to children with disabilities also ensure the maintenance of these spaces. The Committee also recommends that regulations should be developed for media houses with regards to the content it airs at particular times of the day.

H. Special Protection Measures

Children with disabilities

29. The Committee notes with satisfaction that the laws of the State Party provides for the welfare of persons with disabilities. The Committee however notes that despite the Persons with Disability Act 2006, many children with disabilities continue to not enjoy the right to education and efforts to promote inclusive education have not yielded the expected outcome. The Committee is concerned that facilities have not been adapted to the needs of children with disabilities and specialized healthcare services are not widely available and affordable with many children with disabilities left in adult psychiatric hospitals and prayer camps where they face further violation. It is also brought to the Committee's attention that children with disabilities continue to be used by their parents as objects of begging. The Committee notes especially that despite the requirement in the 1992 Constitution and the Children's Act, funding for the promotion of persons with disabilities continue to be inadequate and the 2% allocated by the District Assembly Common Fund is not readily accessible. The National Council on Persons with Disability is also inadequately funded.

30. The Committee therefore recommends that the State Party:

- As a matter of urgency, assess the impact of the requirement in the 2006 Act with the view to ensuring that facilities yet to be compliant for the needs of people with disabilities are made adaptable;
- Assess funding allocated to the inclusive education program to ensure that the issues hindering children with disabilities from enjoying inclusive education are addressed;
- Increase funding allocated to persons with disabilities by the District Assembly Common Fund and made it accessible to promote the welfare of persons with disabilities; and
- Assessing the funding for the National Council on Persons with Disabilities with the view to increasing it to enable the Council effectively address the needs of persons with disabilities particularly those of children.

Child Labour

31. It is indicated that the State Party has laws prohibiting children's engagement in exploitative and hazardous labour. However the Committee is concerned that financial difficulties in homes have propelled many children to engage in various forms of labour during school hours and late at night. It was brought to the Committee's attention that recent figures show that 1.9m children in Ghana are in child labour. The Committee is further concerned of a surge in child commercial sex along the coastal Ghana. The Committee, therefore, recommends that:

- The Government, in partnership with Civil Society organisations, should launch a comprehensive programme of rescue, rehabilitation and reintegration of existing children who are involved in child labour;
- The Government to focus on investment in prevention activities in communities that have traditionally been the source for child labour so that the practice becomes culturally unacceptable and economically unnecessary in modern Ghana; and
- The State Party urgently address the issue of commercial sex along its coastal areas.

Administration of Juvenile Justice

32. The Committee notes with satisfaction the enactment of the Juvenile Justice Act 2003 which provides the legal framework for juvenile justice in Ghana. Notwithstanding, the Committee is notes that cases of children in conflict with the law are dealt through ordinary courts and they are also detained with adults; the Committee is also informed that cases at the juvenile Courts suffer from unduly delays and the absence of an effective legal aid system means that juveniles from poor and vulnerable families who cannot afford to engage the services of a lawyer go on trial unrepresented. The Committee further notes that despite efforts, there exists only two operational correctional facilities in its territory which

means that children sent to such facilities lose contact with their family when taken outside of their region.

33. The Committee recommends that the State Party:

- Advocate the use of detention as a measure of last resort and were children are detained due to pre-trial or punishment; they are not detained with adults;
- Undertake to develop alternatives to custody to reduce the number of children in custody and also ensure that correctional centres are staffed with adequate personnel to provide for the rehabilitation needs of children and their education is not disrupted;
- Specify that children cannot be sentenced to life in custody and devise a framework on custodial orders of children.

Protection against Harmful Social and Cultural practices

34. The Committee commends the State Party for measures taken to protect children from harmful social and cultural practices. However the Committee notes practices such as betrothal of girls, FGM, child marriage, children laded as witches and kept in camps still continue to occur. The Committee further notes the practice of infliction of tribal marks on the bodies of children for various traditional reasons which stigmatizes them and reduces their self-confidence along with violating their bodily integrity and can pose health risks. The Committee therefore recommends that the State Party ensures the strict application of laws prohibiting harmful social and cultural practices and enter into bilateral agreements with neighbouring states to prevent families travelling to practice FGM.

Sexual Exploitation

35. The Committee commends the State Party for adopting measures prohibiting a range of sexual offences. However the Committee is notes that children as young as 9 years old are engage in sex tourism at tourist sites and business centres and there exists no specific legislation to address the sexual exploitation of children who voluntarily engage in prostitution leaving such exploitation being treated as any other.

36. The Committee further notes that despite reports of children being sexually exploited through social media platforms there currently exist no measures to address child abuse through the internet.

37. Hence, The Committee recommends:

- The adoption of specific measures to address the growing phenomenon of child sexual exploitation which takes into consideration the investigation and prosecution of exploiters;

- The children who are sexually exploited are provided with adequate psychological support when found and families provided with financial assistance to help address the causes of child exploitation.

Sale and Trafficking

38. Concerning trafficking, the Committee notes the enactment of the Human Trafficking Act 2005 to deal with issues relating to child trafficking and punish offenders along with the establishment of an Anti-Human Trafficking Unit within the Ghana Police Service to deal with cases of trafficking. The Committee recommends that the Palermo Protocol to Prevent, Suppress and Punish Trafficking in Persons along with bilateral and multilateral agreements is implemented. The Committee also recommends that:

- Adequate budget is allocated to the Government institutions dealing with trafficked children;
- Provide training to law enforcement officers and social workers on identifying and treating cases of child trafficking;
- children separated from their families due to trafficking should be included in the LEAP programme and such children provided with adequate counselling services to help them recover.

Children of Imprisoned Mothers

39. The Committee notes efforts by the State Party to prevent children being imprisoned with their mothers. The Committee recommends that:

- The pilot at Nsawam Prisons should be rapidly rolled out to ensure that children do not be imprisoned with their mothers.
- The guidelines are developed to guide the operations of these pilot units to protect the best interest of the child;
- Encourages the State Party to consider the Committee's General Comment No. 1 on article 30 of the Charter to be guided on the protection of children whose parents or caregivers are imprisoned.

G. Responsibilities of the Child

40. The Committee calls upon the State Party to assist children become responsible citizens who work to safeguard the integrity of their nation and continent. They should be educated about their responsibilities in the family and their community so that they can develop a spirit of accountability.

H. Conclusion

41. The African Committee of Experts on the Rights and Welfare of the Child appreciates with satisfaction the efforts invested by the Government of Ghana

and aspires to the implementation of these recommendations. The Committee would also like to indicate that it will undertake a follow up Mission to ascertain the implementation of these recommendations in the foreseeable future. The African Committee of Experts on the Rights and Welfare of the Child takes this opportunity to renew to the Government of Ghana, the assurances of its highest consideration.