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INDIVIDUAL CONSULTANT
REQUEST FOR EXPRESSION OF INTEREST
CONSULTANCY SERVICES DEVELOP A GENERAL COMMENT ON CHILD
SEXUAL EXPLOITATION AND ABUSE UNDER ARTICLE 27 OF THE AFRICAN
CHARTER ON THE RIGHTS AND WELFARE OF THE CHILD
PROCUREMENT NUMBER: AUC/DSA/C/035

1. BACKGROUND

Child sexual abuse and exploitation (CSEA) is believed to be the lived reality of millions of children in Africa. However, the wide nature of sexual exploitation and abuse as well as the little focus given to the issue makes updated and comprehensive data regarding its prevalence in Africa difficult to obtain. Furthermore, sexual abuse and exploitation is seldom reported due to the high level of stigmatization in society. The Sexual abuse and exploitation of boys is much more hidden and less reported than that of girls. Neither a global estimation nor estimation at the African level exists for sexual exploitation and abuse rate of boys.

The term sexual abuse is traditionally defined as 'Actual or threatened physical intrusion of a sexual nature, whether by force or under unequal or coercive conditions'. Moreover, the definition of sexual abuse has evolved to incorporate both contact and non-contact sexual activity, meaning in person or virtual. On the other hand, sexual exploitation is a form of sexual abuse. 'It includes any actual or attempted abuse of position of vulnerability, differential power or trust, for sexual purposes, including, but not limited to, profiting monetarily, socially or politically from the sexual exploitation of another. Sexual exploitation of children can be commercial or non-commercial'. Commercial sexual exploitation of children includes prostitution of child, the use of children in pornography, child trafficking for sexual exploitation and child marriage. ILO Convention 182 incorporates juvenile prostitution as one of the worst forms of child labour.

In addition to the above-mentioned types of sexual abuse and exploitation, the growth of information and communication technology has introduced the challenge of online child sexual exploitation and abuse. Online sexual exploitation and abuse of children is a constantly evolving phenomenon that is shaped by developments in technology. Online child sexual exploitation and abuse poses new child protection challenges due to its cross-border nature and the high level of anonymity of online perpetrators. According to Microsoft, everyday 270,000 images of child sexual abuse are uploaded on the internet.

The African Charter on the Rights and Welfare of the Child (ACRWC/the Charter), under article 27, provides a provision which requires states to protect children from sexual exploitation and abuse. While the title of the article indicates a focus on sexual exploitation, the content of the

provision provides the obligation of State Parties to ‘protect the child from all forms of sexual exploitation and sexual abuse.’ The provision further obliges State Parties to take measures to prevent the inducement, coercion or encouragement of a child to engage in any sexual activity, the use of children in prostitution or other sexual practices and the use of children in pornographic activities, performances and materials.

Due to recent developments in ICT and the corresponding challenges, the African Committee of Experts on the Right and Welfare of the Child (ACERWC/the Committee), during its 33rd Ordinary Session which was held on 18 to 28 March 2019, conducted a Day of General Discussion on Online Child Sexual Exploitation (OCSE). As an outcome of the discussions, the participants of the Day of General Discussion adopted a declaration, which calls on the Committee to adopt a General Comment on Article 27 of the Charter with the aim of clarifying its meaning and scope with special emphasis on promoting, safeguarding and protecting children’s rights in the cyberspaces. Following this call and cognizant of the fact that all forms of sexual child exploitation and abuse need clarification in the context of the Charter, the Committee has decided to develop a General Comment on article 27 on child sexual exploitation and abuse.

The Committee notes that preventing and responding to CSEA can only be done effectively if State Parties clearly know and understand their obligation under the Charter. State Parties have an obligation to respect, protect and fulfil the rights of children to protection from CSEA. Each level of state obligation needs through explanation through an interpretation of the relevant provisions by the Committee. The Committee feels the need to clearly define what constitutes sexual abuse, sexual exploitation, commercial and non-commercial sexual exploitation in the context of Africa. There is also a need to expound on the ‘in kind’ element of commercial sexual exploitation of children, taking in to account the cultural context of various African communities.

The Committee notes that the issue of combating child sexual exploitation and abuse has been relegated for Non-Governmental organization. It is critical to remind State Parties that they are the primary duty bearers in protecting children from sexual exploitation and abuse. There is a strong need to demystify CSEA in Africa and to address it directly and holistically.

2. OBJECTIVE OF THE CONSULTANCY

The aim of this General Comment is to clarify the nature of State Party obligations that arise from Article 27 of the African Children’s Charter, which deals with protection of children from sexual exploitation and abuse. This General Comment will describe legislative, administrative and other measures that should be taken by States Parties to protect the rights of children from all forms of sexual exploitation and abuse.

3. SCOPE OF WORK

Article 27 obliges States Parties to protect the child from all forms of sexual exploitation and sexual abuse. The General Comment should define and explain what is meant by sexual abuse and sexual exploitation and all the various types of sexual abuse and exploitation that

are undertaken either in person or virtually. It should further explicate in detail the types of legislative, administrative and other measures that should be taken by state parties. The measures that should be taken by state parties under this provision are aimed at respecting, protecting and fulfilling the rights of children for protection from sexual abuse. Hence each of these obligations should be expounded in conjunction with measures to be taken by State Parties.

The provision further obliges State Parties to take measures to prevent the inducement, coercion or encouragement of a child to engage in any sexual activity; the use of children in prostitution or other sexual practices and the use of children in pornographic activities, performances and materials. The list of types of sexual abuse and exploitation is illustrative in the provision; hence the General Comment will clearly outline the implied sexual abuse and exploitation practices along with measures that should be taken to address them. Moreover, types of sexual exploitation and abuse that affect children have evolved with time and technology. Hence, with this in mind, the General Comment should elucidate the term 'all forms of sexual exploitation and abuse' under article 27. New forms of sexual exploitation and abuse include; online grooming, sexting, live streaming, consuming child sexual material, coercing and blackmailing children for sexual purposes commonly known as sextortion. The Committee notes that these emerging challenges were not foreseen during the adoption of the Charter, and hence they should be addressed through the General Comment.

Furthermore, situations that facilitate CSEA have broadened overtime. CSEA has increased with the growth of travel and tourism industry, in lieu of appropriate protective mechanisms. The prevalence of protracted armed conflict in various countries in Africa has also been used as a fertile ground for child sexual abuse and exploitation. Girls are kept as sex slaves and wives of fighters; both boys and girls are sexually abused and exploited in conflict situations. CSEA is also one of the protection challenges in refugee camps as well as for children in street situations. Furthermore, OCSE poses unique protection threat due to the use of the dark web and its extraterritorial nature. Hence the General Comment should expound on State Obligation and necessary preventive and protective measures in the various contexts and situations in which CSEA is prevalent.

Child sexual exploitation and abuse attracts criminal responsibility in various jurisdictions. Even though the Charter does not specifically provide for the criminalization of CSEA, it obliges State Parties to take all necessary measures to protect children from CSEA. As sexual exploitation and abuse is a form of violence against children, one of the measures that should be taken to protect children is criminalization of the act. Hence the General Comment should elaborate on the measures to be taken by State Parties to ensure accountability, including establishing criminal responsibility. It should further explicate measures needed once CSEA takes place, to ensure rehabilitation and reintegration in to society of children who are victims of the various types of CSEA.

The General Comment should further elucidate on how the four principles of the Charter (best interest of the child, survival and development, participation and non-discrimination) should be interpreted in the context of child sexual exploitation and abuse. Furthermore, there it is important to look into the interplay of cultures and religions, and CSEA with the aim of devising measures to effectively address the phenomenon in the context of Africa.

4. LEGAL AND OTHER SOURCES

Primarily, the General Comment is expected to draw inspiration from relevant international and domestic jurisprudence, academic commentaries, the travaux préparatoires of various instruments, soft law instruments to aid its interpretation of Article 27, when relevant and appropriate. Moreover, The General Comment should benefit from additional relevant resources including the UN Convention on the Rights of the Child; The Optional Protocol to the Convention on the Rights and the Child on the Sale of Children, Child Prostitution and Child Pornography; We PROTECT Global Alliance Model National Response for Preventing and Tackling Child Sexual Exploitation and Abuse.

5. Methodology

A consultant shall draft the GC on behalf of the ACERWC. The process for the drafting of the GC will be led by the Special Rapporteur on violence against children of the ACERWC. There will be an advisory group for the GC, which involves a selected number of the Members of the ACERWC, Secretariat of the ACERWC, and Staff of the AUC and partner organisations. The role and level of involvement of these stakeholders will be outlined in due course. A detailed work plan will be developed before the start of the development of the GC.

6. Word count

It is envisaged that the GC will not exceed 10,000 words [excluding reference].

7. KEY DELIVERABLES

Under the ACERWC designated supervisors, the consultant will be responsible for drafting the General Comment on child sexual exploitation and abuse as it is prescribed under article 27 of the African Children's Charter.

8. QUALIFICATION

Advanced university degree in international law, child rights, human rights law, or a related technical field;

9. EXPERIENCE AND REQUIRED SKILLS

- Minimum 10 years of work experience in human rights, child rights, child protection or related field;
- Previous experience in drafting general comments and other related documents of treaty bodies would be an asset;
- Excellent writing, conceptual and analytical skills;
- Demonstrated professional experience on matters related protection of children from sexual exploitation and abuse and research and writing experience on related issues;
- Ability to speak and write in English is a must and working knowledge in French is an asset;
- Good communications and facilitation skills;
- Good knowledge and understanding of the ACRWC and the mandate of ACERWC;
- Ability to work independently and achieve quality results with limited supervision

10. DURATION AND VENUE

Estimated duration of the consultancy is 40 working days, within the period of July-December 2019. While the consultancy will primarily be home-based, it could also require the consultant to travel to other countries where the validation workshop and the Session of the Committee will be organised.

11. TIMEFRAME

Deliverables	Duration (Estimated # of days)
1. Prepare a draft outline of the General Comment and present it to the African Committee of Experts on the Rights and Welfare of the Child (ACERWC) and its partners;	4 days
2. Develop a first draft of the General Comment, based on the agreed outline; collect input and develop a second draft for presentation to ACERWC;	20 days
3. Participate in the Committee's Session, coordination, planning, consultation and validation meetings, as required	10 days
4. Develop the final draft of the General Comment based on inputs, and revise it based on inputs, for adoption by the ACERWC	6 days
TOTAL	40 days

VIII. EVALUATION CRITERIA

For evaluation of the expressions of interest the following criteria will be applied:

- a) General Education Qualification and Relevant Training (30 points);
- b) Experience Related to the Assignment (60 points)
- c) Language (10 points);

Interested candidates are requested to submit the following documents for AUC's consideration:

- a) Technical Proposal not exceeding 8 pages on:
 - understanding and interpretation of the TOR

- methodology to be used in undertaking the assignment
- time and activity schedule
- b) Financial proposal not exceeding 1 page
 - Consultant's daily rate in US\$
 - Other costs e.g. travel
 - Total cost
- c) Personal Capacity Statement
 - Relevant experience related to the assignment (include samples of two most recent similar works and/or references for the same)
 - Contacts of at least 3 organizations previously worked for
 - Curriculum Vitae of the Consultant (s)

Further information can be obtained at the address below during office hours 8:00-13:00hrs and 14:00-17:00 hours Local Time.

12. RESPONSE TO THE CALL

Application must be delivered in a written form to the address below not later than 1500 hours local time, 21st October 2019.

African Union Commission,

Head of Procurement Travel and Store Division

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