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**AFRICAN COMMITTEE OF EXPERTS ON THE RIGHTS AND WELFARE  
OF THE CHILD (ACERWC)**

**CONCEPT NOTE ON THE COMMEMORATION OF THE DAY OF THE  
AFRICAN CHILD (DAC) ON 16 JUNE 2013**

***THEME: "ELIMINATING HARMFUL SOCIAL AND CULTURAL PRACTICES  
AFFECTING CHILDREN: OUR COLLECTIVE RESPONSIBILITY"***

## I. INTRODUCTION

1. The Day of the African Child (DAC) is commemorated every year on June 16 by Member States of the African Union (AU), and its Partners (in accordance with Resolution CM/Res.1290 (XL)).

2. This commemoration is firstly an occasion to recall the 1976 uprisings in Soweto, when a protest by school children in South Africa against apartheid-inspired education resulted in the brutal and deadly repression of these unarmed young protesters by police officials. Secondly, the DAC further presents an opportunity to reflect on the lived realities of children in Africa. It allows caregivers focus on the work of all actors committed to the rights of children on the continent, to consolidate their efforts in addressing the obstacles for realizing the rights of children. The DAC also provides an occasion for Governments, International Institutions and communities to renew their on-going commitments towards improving the plight of marginalized in general and particularly vulnerable children and raising awareness. These Governments, Institutions and Communities organize activities and programs to improve the situation of all children and to include those who require special care.

3. The African Committee of Experts on the Rights and Welfare of the Child (ACERWC), the treaty body established to monitor the implementation of the African Charter on the Rights and Welfare of the Child (ACRWC) annually selects the theme for the DAC. In 2012, African States commemorated the 22nd DAC under the theme of “The Rights of Children with Disabilities: The Duty to Protect, Respect, Promote and Fulfil”. This commemoration aimed at creating widespread awareness of the rights of children with disabilities and the necessary measures that need to be undertaken in order to uphold their rights.

4. For the commemoration of the 23<sup>rd</sup> DAC in 2013, the African Committee has selected and adopted the theme “**“Eliminating Harmful Social and Cultural Practices affecting Children: Our Collective Responsibility”.**”

The AU Executive Council has endorsed this theme during its 21<sup>th</sup> Session held in July 2012 in Addis Ababa, Ethiopia.

5. The purpose of this concept note is to elaborate on the reason that led the Committee to choose this theme, the content, the nature of obligations of States and the role of other stakeholders in relation to this theme. While it is not prescriptive, these guidelines give an idea of the main activities and obligations of States parties to be considered under this theme. Attached at the end of the concept note is a Reporting Guideline on the celebration of the DAC for States to enable them to submit a summary to the ACERWC on the activities undertaken for the celebration of the DAC.

## **II. TERMINOLOGY**

6. In ordinary parlance, the term “harmful traditional practice” has been particularly associated with Female Genital Mutilation (FGM). Here, however, the term “harmful practice” is used to cover all traditional, customary, social and religious practices that are injurious to children’s physical, psychological and social well-being, health, education and general development.

7. « Violence result(s) in severe traumas on children as well as serious and lasting psycho-traumatic consequences on their health, with repercussions on their psychomotor development, their schooling and their social life in the short and long term<sup>1</sup>. »

## **III. Objectives of the 2013 - Day of the African Child (DAC)**

8. **The general objective** of the celebration of the DAC in 2013 is to call attention to harmful social and cultural practices against children, and highlight the roles and responsibilities of various stakeholders. In particular, underscoring the roles and responsibilities of States Parties to the African

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<sup>1</sup> African Committee of Experts on the Rights and Welfare of the Child “Statement on Violence against Children” pages 2 & 3.

Charter on the Rights and Welfare of the Child in order to combat and eliminate harmful practices against children in Africa is one of the main objectives of the 2013 DAC.

9. **The specific objectives** of the celebration of the 2013 DAC are the following:

- To take stock of and raise awareness about harmful practices against children;
- To highlight the negative consequences of harmful practices on the various rights of children;
- To explain the impact of various activities resulting from the ratification of international and regional Human rights in Harmful Practices in particular by using research on the topic;
- To recommend the urgent need to review existing legislative and policy frameworks, as well as practices, at national level to combat and eliminate harmful practices against children;
- To undertake advocacy with African Governments, civil society organizations including faith based organizations, the media and other role players for greater mobilization for the realization of the rights of children against harmful practices;
- To identify areas of concern, aligned with the African Children's Charter and the Call for Accelerated Action, where action should be taken by Governments as a matter of urgency;
- To consider effective strategies for the prevention of harmful practices against children.

#### **IV. HARMFUL PRACTICES AND THE AFRICAN CHARTER ON THE RIGHTS AND WELFARE OF THE CHILD**

10. A number of international and regional instruments underscore the fact that the protection of children from all forms of violence is a human rights imperative. The UN Study on Violence against Children urged states "to prohibit all forms of violence against children, in all settings, including all

corporal punishment, harmful traditional practices, such as early and forced marriages, female genital mutilation and so-called honour crimes<sup>2</sup>...”. A recent study by the Special Representative of the UN Secretary General on Violence against Children (SRSG VAC) and plan International focused on Africa emphasises the same points in a more detailed manner<sup>3</sup>.

11. The list of harmful social and cultural practices that one can find across in Africa is long. These include some relatively well known and others that are less known practices. In the former category are included female genital mutilation/ cutting (FGM/C), forced marriage, child marriage, the use of dowry price, honor killings, and degrading and harmful initiation rites. In the latter category are harmful practices such as uvulectomy, milk teeth extraction, breast ironing, son preference, female infanticide and prenatal sex-selection, virginity testing, the offering of young virgin girls to priests (Trokosi), the “replacement” of a person that has been murdered by another person (child), forced feeding and nutritional taboos, children accused of witchcraft, and the murder, mutilation and sacrifice of children for organs and limbs to be used in witchcraft rituals.

12. At the African regional level, the relevant instruments addressing harmful practices include the African Charter on Human and Peoples’ Rights (ACHPR), particularly its Protocol on the Rights of Women in Africa (AWP)<sup>4</sup>, and the African Children’s Charter<sup>5</sup>.

13. The ACHPR provides protection for women’s rights and children’s rights in its Article 18. The AWP was designed to supplement the women's rights provisions of the Charter represents an attempt to balance the preservation of custom and upholding of gender equality. However, as far as harmful practices that negatively impact on women are concerned, the AWP clearly

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<sup>2</sup> United Nations Secretary-General, Study on Violence Against Children, 2002, paras 25, 98

<sup>3</sup> SRSG VAC/Plan « Protecting children from harmful practices in plural legal systems» (Oct 2012)

<sup>4</sup> See particularly arts 4, 5 & 6 of the AWP.

<sup>5</sup> See art. 16(1) ACRWC.

asserts equality over custom<sup>6</sup>. The Protocol under Article 4(2) requires states parties to enact and enforce laws and other measures for the prohibition, punishment and eradication of all forms of violence against women, including the girl-child. The Protocol mandates that all States Parties enact and enforce legislation prohibiting FGM and other harmful practices.

14. The ACRWC neither overplays nor devalues the role of culture in Africa and African children's lives. The Preamble emphasizes the importance of "the virtues of ... [African] cultural heritage, historical background and the values of the African civilization<sup>7</sup>...". Under Article 1, the ACRWC also entrenches that "any custom, tradition, cultural or religious practice that is inconsistent with the rights, duties and obligations contained in the present Charter shall to the extent of such inconsistency be discouraged<sup>8</sup>".

15. While the obligation to "discourage" is not a very strong one, Article 21 fortunately entrenches the obligation to "...take all appropriate measures to eliminate..." those harmful social and cultural practices that negatively affect children<sup>9</sup>. Article 21 Protection against Harmful Social and Cultural Practices in full States that:

1. States Parties to the present Charter shall take all appropriate measures to eliminate harmful social and cultural practices affecting the welfare, dignity, normal growth and development of the child and in particular:

(a) those customs and practices prejudicial to the health or life of the child; and

(b) those customs and practices discriminatory to the child on grounds of sex or other status.

2. Child marriage and the betrothal of girls and boys shall be prohibited and effective action, including legislation, shall be taken to specify the

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<sup>6</sup> See generally, J. E. Bond, 'Gender, discourse and customary law in Africa' (2012) 83 Southern California Law Review 509

<sup>7</sup> Preamble to the ACRWC, para. 7.

<sup>8</sup> Art. 1(3), ACRWC.

<sup>9</sup> Art. 21 (1). Art. 21(2) proceeds to mention 'child marriage and the betrothal of girls and boys' as some of the harmful practices which are prohibited.

minimum age of marriage to be 18 years and make registration of all marriages in an official registry compulsory.

16. While children's right to fully participate in cultural life is also recognized by the ACRWC in Article 12, it is argued that the adoption of Article 21 of the ACRWC endeavours to take into account the special African context with regard to the rights of the child<sup>10</sup>. Moreover, in terms of Article 16(1) of the ACRWC, States Parties have an obligation to:

- Take specific legislative, administrative, social and educational measures to protect the child from all forms of torture, inhuman or degrading treatment and especially physical or mental injury or abuse, neglect or maltreatment including sexual abuse, while in the care of a parent, legal guardian or school authority or any other person who has the care of the child.

17. It should be highlighted that both the ACRWC and CRC include provisions that require respect for other instruments in force or domestic law more conducive to the realisation of the rights of the child<sup>11</sup>.

## **V. Some areas of concern**

18. The ACERWC is of the view that there are several areas that compel urgent attention and concerted action from all stakeholders such as Governments, Intergovernmental Organizations (such as the African Union, the United Nations and Regional Economic Communities), Civil Society Organizations (CSOs), and the Media. However, for the purposes of the commemoration of the DAC in 2013, five areas of concern have been highlighted, as described below. This does not prevent Governments from paying attention to additional areas that are of particular importance to them to combat harmful practices against children in compliance with the African Children's Charter and other relevant instruments/documents.

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<sup>10</sup> M Gose *The African Charter on the Rights and Welfare of the Child* (2002) Community Law Centre 51.

<sup>11</sup> Art 41, CRC & art 1(2), ACRWC.

## **Area of concern 1: Preventing and/or addressing violence against children**

19. It is important to recall that the UN Study on Violence against Children recommends, among others, the development in each State of a national comprehensive strategy to prevent and to eliminate all forms of violence against children. Moreover, States are reminded of their obligation to introduce an explicit national legal ban on all forms of violence against children in all settings; and the consolidation of a national system of data collection, analysis and dissemination, and a research agenda on violence against children. Addressing violence against children in a comprehensive manner can go a long way in preventing and/or combating harmful practices. However, many African countries have not yet developed a national comprehensive strategy to prevent and address all forms of violence against children, including harmful practices, which is one area of concern for the African Committee.

## **Area of concern 2: Harmonization of laws**

20. One of the main States Parties' obligations under the ACRWC is to undertake legislative reform in compliance with the provisions of the Charter. Legislative reform is a deterrent to continuing violence against children, including harmful practices. It is stated that even in countries where harmful practices persist behind deeply entrenched traditions, the legislative process has provided opportunities to involve community and religious leaders, parliamentarians, professional associations, academic institutions and grass-roots organizations, and engage communities concerned<sup>12</sup>. Many African countries still remain to undertake comprehensive legislative review and reform that examines the whole spectrum of relevant legislation and regulations to affect the realization of a child's right to a life free from violence, including from all harmful practices. Such a comprehensive and consultative review of existing legislation seems the clearest and most effective way to

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<sup>12</sup> Special Representative of the United Nations Secretary-General (UNSG), Annual Report on Violence Against Children, 9 August 2010, para 20.



begin the process of harmonizing international and domestic law as well as synchronize relevant domestic laws with each other. The legislative framework has a huge impact on children's lives, even in regards to harmful practices. All exceptions, justifications and authorizations of violence against children need to be explicitly repealed or removed from all laws relating to protection of children from harmful practices.

### **Area of concern 3: Institutional frameworks**

21. Law reform and child friendly policies are not sufficient in order to guarantee children a life free from violence. The effective implementation and enforcement of laws and policies is what would add value to children's lives. As a result, a number of institutional frameworks are necessary in order to prevent and/or address harmful practices. It is important for States to develop a multi-faceted and systematic framework to respond to violence against children that is integrated into national planning processes. In addition, of a national strategy, policy or plan of action on violence against children, including harmful practices, with realistic and time-bound targets, coordinated by an agency with the capacity to involve multiple sectors in a broad-based implementation strategy, should be formulated<sup>13</sup>. Adequate human and financial resources for children need to also be allocated for activities that help to prevent or address harmful practices. The establishment of an effective and independent national institution on children's rights dealing with incidents of violence including harmful practices should also form part of the institutional framework to prevent or address harmful practices<sup>14</sup>.

### **Area of concern 4: Collaboration between various stakeholders**

22. In order to prevent or address harmful practices, there is a need to collaborate with various stakeholders such as the media, schools, traditional and religious leaders, and of course children themselves, as agents of positive change. The collaboration envisaged would be extremely useful in

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<sup>13</sup> Recommendation 1.

<sup>14</sup> Global Progress Survey on Violence against Children, UN Special Representative on Violence against Children, (2011).

child protection programming, as a whole. Such collaboration could be aimed at awareness raising, law and policy reform, and other measures in order to prevent and address harmful practices. For instance, through collaboration, religious communities can undertake a number of measures to protect children from harmful practices. They can interpret child-protection principles of the Charter “in a language that is meaningful and appropriate to their communities, thus raising greater awareness of key child protection issues<sup>15</sup>”. Religious leaders should also clarify that harmful cultural practices, such as FGM, are not part of religious beliefs and practices, and they can work towards the abandonment of such harmful practices<sup>16</sup>.

23. Collaboration between States should also form an important aspect of addressing harmful practices. Extra-territorial measures useful for addressing harmful practices include taking advantage of efforts made by other States within the same region or sub-region, collaborative programmes between or among neighbouring countries, and working with UN bodies such as the CRC Committee, SRSG VAC, and with international NGOs with a wide spread network.

#### **Area of concern 5: Data collection and research**

24. The lack of comprehensive data on the nature, magnitude and synergy of harmful practices affecting children remains a major challenge in countries where such practices exist. Many African countries significantly lag behind in research and data collection, usually as a result of lack of human and financial resources. The need is urgent for States to identify and draw on good practices in law, policy development and implementation, especially in countries with deep-rooted harmful practices, in order to utilize lessons from comparable contexts and situations, such as other countries with very limited resources. Governments should also take measures to systematically collect data in these countries, and take part and make active use of already available research undertaken by various stakeholders to deepen an

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<sup>15</sup> UNICEF, “Partnering with religious communities for children” (2012) 20

<sup>16</sup> As above.

understanding of trends and to carve out suitable legislative, administrative and other appropriate measures.

## **V. Proposed Activities**

25. The ACERWC recognizes that the magnitude, nature, and experiences of children in relation to harmful practices may differ among countries and acknowledges the importance of allowing each government, as it prepares to celebrate the DAC in 2013, to conduct activities that take into account its national context. The following activities are offered only as guidelines:

### **Activity 1:**

26. States (and other stakeholders) can start a process of consultation to prepare a comprehensive strategy to address all forms of violence against children, including harmful practices. Such a process will need to be participatory, and in particular it should ensure meaningful participation of children and their parents. Apart from paying particular attention to the areas of concern outlined above, the comprehensive strategy and action plans should be accompanied by clear indications of sustainable resource allocation. In this regard, some activities can include:

- Secure the preparation of a consultation workshop with stakeholders;
- Conduct the review of all policies relevant for violence against children;
- Organize events to allow children and their parents to understand the harmful effects of harmful practices and to express their views on these practices Run TV and radio spots where issues pertaining to violence against children focusing on harmful practices ;
- Invite children to identify at least 5 harmful social and cultural practices they consider most prevalent in their respective communities or states.
- Conduct of interviews with policy makers and opinion leaders representing all social strata on the various measures that need to be undertaken in order to address harmful practices; etc...

## **Activity 2:**

27. As outlined above, one of the main obligations that States have under the ACRWC is the harmonization of their laws with the provisions of the Charter. In this respect, States (and as appropriate, other stakeholders) can undertake the following activities:

- Ratify the African Children's Charter if not yet a State Party;
- Report to the African Committee if a report(s) is/are due;
- Undertake a review of all existing laws relevant for harmful practices with a view to introduce more comprehensive legislation on the issues concerned;
- Where States Parties have recently harmonized their legislation in line with the African Children's Charter, the implementation thereof is essential. Therefore States Parties should implement these laws, together with including any concluding observations issued by the African Committee.
- Undertake awareness raising campaigns about the laws relevant for harmful practices;
- Conduct workshops and consultations with various stakeholders, including children, on law reform to prevent and address harmful practices;
- Give trainings for role players on preventing and addressing harmful practices;
- Secure pledges from various stakeholders such as politicians, parliamentarians, the media, the judiciary, religious and traditional leaders, and others with a view to undertaking measures to eliminate harmful practices.

## **Activity 3:**

28. With a view to strengthening the institutional frameworks for preventing and addressing harmful practices, activities including the following can be undertaken:

- Undertake an assessment of the strengths and gaps of various institutions

relevant for addressing harmful practices;

- Conduct workshops and consultations with various stakeholders, including children, on law reform to prevent and address harmful practices;
- Conduct trainings for role players such as the police, the judiciary, teachers, and other persons working in or involved with the works of the various institutional frameworks;
- Conduct workshops on the role of national human rights institutions to address harmful practices;
- Use the media to raise awareness of the role of the various Institutions ;
- Introduce or reinforce accessible mechanisms where children (and/or their families) who have been victimized or may be at the risk of being victimized as a result of harmful practices can lodge complaints collaboration;
- Secure pledges from various stakeholders such as politicians, parliamentarians, the media, the judiciary, religious and traditional leaders, and others with a view to strengthening the capacities of institutional frameworks relevant for undertaking measures to eliminate harmful practices; etc...

#### **Activity 4:**

29. In order to facilitate collaboration between various stakeholders, and also between states, the following activities are proposed:

- Conduct consultations in order to identify areas of collaboration and role players for collaboration;
- Have a memorandum of understanding for collaboration;
- Undertake collaboration to strengthen all areas of service provision (including health care and community-based rehabilitation) to accommodate and include children who are/are at the risk of being victimized as a result of harmful practices ;
- Undertake collaboration to minimize unnecessary duplication of efforts to prevent or address harmful practices;
- Establish a concerted collaboration with international role players, such as the UN Special Representative of the Secretary General on Violence

Against Children and the Inter-African Committee on Harmful Practices.

### **Activity 5**

30. States and other stakeholders should engage in data collection and research in order to better understand the nature, magnitude, and impact of harmful practices on children. As a result, activities similar to the following are proposed:

- Undertake a review of the data and research gaps in relation to harmful practices;
- Collaborate with research and academic institutions;
- Undertake a consultation/ review of the possibility of establishing/strengthening child focused courses/trainings;
- Conduct polls on harmful practices;
- Develop measures to strengthen the collection of disaggregated data on children with disabilities. These should include, at a minimum, proactive approaches to overcome barriers hindering birth registration of children;
- Undertake awareness raising campaigns, among others, with a view to encourage reporting of violations of rights; etc...

### **VI. Monitoring and evaluation**

31. The ACERWC notes with concern that the majority of member States of the African Union (AU) did not report to the Committee on their activities related to the 2012 DAC theme despite the fact that the Committee sent out Note Verbal in advance requesting Member States to report on their celebration of the DAC. Therefore the Committee strongly urges and recommends that Member States make concerted efforts to submit reports on the implementation of activities for the celebration of the DAC on 2013. For this purpose, a reporting Guideline is attached to this concept note.

32. Monitoring and evaluation of the commemoration of the DAC in 2013 should take place as follows. The Committee will monitor the implementation of the recommendations in all African countries. All Member States are

expected to submit a report on the celebration of the DAC on 16 June 2013 to the African Union Commission. Other stakeholders such as UNICEF, INGOs, and CSOs are also welcome to submit reports. This report on commemoration activities should include information on the situation of children affected or at the risk of being affected by harmful practices, and the activities undertaken on June 16 to highlight and address these and related challenges. Annexed to this concept note is a reporting framework which States and other stakeholders can use to report to the Committee on their activities for the celebration of the Day of the African Child 2013.

33. Based on these reports, the ACERWC will make an overall assessment and will take all steps that will be required at its level to work with Governments to ensure greater compliance with their duties to protect children from harmful practices.



**Annex**

**Template for reporting on the Day of the African Child, 2013 “Eliminating Harmful Social and Cultural Practices affecting Children: Our Collective Responsibility”.**

**Motivation:**

This template is a reporting framework which Members States and other Stakeholders can use to report on the celebration of the DAC on 16 June 2013 and on the information on the ***Harmful Social and Cultural Practices affecting Children***. The report is expected to be submitted in the following format, in order to ensure a comprehensive understanding of the ways in which the theme has been taken forward at country and district level. This will allow the Committee to monitor and evaluate the implementation of the Recommendations in the same manner in all African countries

**Country/Organization:**

**Partners:**

**Measures and Activities undertaken in compliance with the concern area recommendations:**

- Summary of Legislatives and Administrative Measures, National plans of action taken to ***Eliminate Harmful Social and Cultural Practices affecting Children***, paying particular attention to the areas of concern outlined in the concept note;
- MDG programmes targeting ***Harmful Social and Cultural Practices affecting Children*** taken;
- Practical measures taken to end ***Harmful Social and Cultural Practices affecting Children***;
- Provide Statistics and data collection on this issue;



**Organised Events:**

	<b>Details of the events</b>	<b>No of participants</b>	<b>No of participants rural/no of participants urban</b>	<b>Details of Implementing agency (Politicians, Govt Dept/NGO)</b>	<b>National, regional or district level impact</b>	<b>No of children reached</b>
	<b>Conferences, workshops, seminars held</b>					
	<b>Drama, role play, school based events, events in children's institutions</b>					
	<b>Print media, newspaper articles on the topic,</b>					

<b>magazines features, journals</b>						
<b>Radio shows, TV, and related media events on the DAC theme</b>						
<b>Ceremonies, games (eg soccer matches), parades etc</b>  <b>5 prevalent harmful social and cultural practices identified by children</b>						
<b>Phone in programs, competitions, speeches made by</b>						

<b>opinion Leaders in support of the DAC</b>						
<b>Data collection activities to determine the extent of the situation of concern children</b>						
<b>Plans to take forward the programmes / advocacy for concern children after the DAC for the remainder of the year</b>						

Please indicate with an \* (asterisk) those activities in which children have been involved.