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

Concept Note on the Day of the African Child 2014

**Theme: “A child friendly, quality, free and compulsory
education for all children in Africa”**

I. Introduction

1. On 16 June every year, the African Union and its Partners celebrate the Day of the African Child (DAC), in commemoration of the 1976 protests by school children in Soweto, South Africa. The students protested against an education designed to further the purposes of the apartheid regime. The brutal response of the apartheid security agencies to the unarmed students' protests resulted in the death of a number of them. The 1976 protests contributed greatly to the eventual collapse of the apartheid regime. In 1991, the African Union Assembly passed a resolution designating 16 June as a Day for the celebration of the African child.
2. The DAC presents an opportunity for all Stake-holders on children's rights, including government, non-governmental and international entities, to reflect on issues affecting children in the region. The DAC is an opportune moment to take stock of the progress made and the outstanding challenges towards the full realization of the rights of children in the region. To this end, the African Committee of Experts on the Rights and Welfare of the Child (The Committee), the treaty body vested with the mandate to monitor the implementation of the rights contained in the African Charter on the Rights and Welfare of the Child (ACRWC), annually selects a theme for the commemoration of the DAC.
3. During its 21st Session, the Committee of Experts deliberated upon and adopted the theme **"A child friendly, quality, free and compulsory education for all children in Africa"** as the DAC theme for 2014. Significantly, the theme of 2014 DAC was drawn from consultations with children in the region which were conducted with the help of partners to the Committee. Thus whereas there are other equally competing aspects of children's rights that would be considered as themes for the DAC 2014, a focus on education is underscored by the expressed wishes of children in Africa.
4. A focus on the right to education for children in Africa is timely for a number of other reasons. To begin with, the African Children's Charter recognises a right to education for all children, and calls upon States Parties to ensure the fulfilment of this right. Also, education is critically linked to Africa's quality and magnitude of development and is therefore a key component of Africa's development agenda. Furthermore, education is at the forefront of Africa's role in the global future and its competitiveness in an increasingly globalised world. Also, education is a tool of empowerment for children in Africa, enabling them to achieve their maximum potential and enhancing their capacity to benefit from other entitlements that promote their wellbeing. Indeed, universal and quality education is a global concern reflected in numerous global agreements and investment plans. Yet despite this acknowledgement of the importance of education and the considerable investment into education by African states and partners, scores of children are still unable to access or benefit from education in a meaningful way. There is therefore need to kindle debate on the success thus far made and the challenges that stand in the way of achieving the right to education for children in Africa.

II. The objectives of the Day of the African Child 2014

5. The general objective of the DAC celebrations in 2014 is to call the attention of African governments to their responsibilities in respect of ensuring children's right to education in accordance with the African Charter on the Rights and Welfare of the Child (Children's Charter). The 2014 theme is even more significant in light of the fact that the Soweto uprising which DAC commemorates was a protest for an appropriate education.
6. The specific objectives of the DAC 2014 Concept Note are to:
 - ❖ Set out the situational context of quality, free and compulsory education in Africa,
 - ❖ Highlight the challenges in ensuring that education is not only free and compulsory but also child-friendly in Africa,
 - ❖ Highlight the importance of article 11 of the ACRWC and other relevant African human rights instruments in safeguarding and fulfilling the right to education for children in Africa,
 - ❖ Emphasize the importance of a child-friendly approach to fulfilling the right to education for particular groups of children such as children with disabilities and vulnerable children;
 - ❖ Highlight examples of best practice in the provision of a child-friendly free and compulsory education for all children in Africa;
 - ❖ Make recommendations for a holistic and integrated approach to fulfilling the right to a child-friendly, free and compulsory education for children in Africa;
 - ❖ Make recommendations on some strategic ways in which the DAC on the right to education theme can be celebrated; and
 - ❖ Develop a framework that the Committee of Experts can use to monitor the celebration of the DAC 2014 in State Parties. The framework will include a reporting template to be used by States Parties to the African Children's Charter, as well as partners, in preparing reports on measures undertaken towards the implementation of the recommendations on the DAC 2014.

III. Terminological clarifications

7. It is necessary to make some conceptual and terminological clarifications on terms used in education discourse and which are critical to the understanding of the right to education for children in Africa at the outset. First, it is essential to clarify the meaning of the term 'education' as used in the human rights context. Secondly, it is imperative to establish the difference between 'basic' and 'primary' education as used in contemporary discourse on the right to education because this distinction is significant for the understanding of state responsibilities for the right to education.

8. 'Education' is the lifelong process of learning which occurs in both formal and informal settings. Two views on the meaning and scope of 'education' prevail. The first view is that the right to education as depicted in international and regional human rights instruments refers to formal instruction, normally done within school settings. This view underlies contemporary evaluation of educational achievements which is often determined on the basis of completion of formal levels of education. The view also shapes the benchmarks for the implementation of education which are suited to or derived from formal schooling. For instance, the promotion of regular school attendance and reduction of 'drop-out' rates is considered a part of ensuring the right to education, as is the protection of children from performing any work that is likely to interfere with their attendance to school. The alternative view regards education as the full range of life experiences and learning processes which enable children, individually and collectively, to live a full and satisfying life within the society. Such a kind of education goes beyond academic achievement. It includes skills acquired beyond school settings such as cultural education, vocational training, apprenticeships and craftsmanship.
9. While the broader view of education encourages the recognition of a full range of educational possibilities, it also presents fundamental challenges in the monitoring and evaluation of such responsibilities. This is due to the undefined parameters of, and the vast differences of such an education from one country or region to another. The international and African human rights systems therefore focus on demanding the accountability of states for the implementation of formal education in accordance with established international standards. For instance, though the CRC Committee in General Comment No. 10 on the aims of education defined 'education' in this broad perspective, the CRC Committee has proceeded to embrace the narrow interpretation in the assessment of States Parties' implementation of the right. Accordingly, the right 'to an education' under the African Children's Charter requires African states to provide basic education (see the meaning of 'basic' below), secondary education in various forms, and tertiary education. Nevertheless, the Committee calls upon States Parties to the Children's Charter to encourage, and as far as possible to identify, regulated and support education measures beyond the formal education system.
10. The term 'primary' is sometimes used interchangeably with 'basic' education. However, while there are areas where the two overlap in meaning, there are also some differences which need to be kept in mind. 'Primary' education is not universally defined. It is however often understood as the first layer of formal schooling. 'Primary' education therefore fits in with the narrow understanding of education discussed in the preceding paragraph. 'Basic' education is, on the other hand, less concerned with the completion of specific formal programs or certification requirements and more focused on the content of education in a way that embraces the broad understanding of 'education'. This could mean that the entitlement to basic education such as what is provided for under article 11 of the African Children's Charter refers to the substance of education such as a level of literacy or numeracy.
11. However, the framing of the right to education under the Children's Charter does not significantly digress from other international instruments on the right to education including

the Convention on the Rights of the Child (CRC). In fact, the framing of article 11 suggests that ‘basic’ education in that article coincides with ‘primary’ education phase in the CRC and the International Covenant on Economic, Social and Cultural Rights (ICESCR). In any case, primary education is the main conduit of basic education. Indeed, primary education focuses on imparting basic learning skills, including literacy and numeracy. Essentially therefore, the implementation of the right to basic education under the ACRWC means that at the minimum, states have a duty to ensure primary education in accordance with international standards, and to facilitate other forms of ‘basic’ education as far as possible.

IV. Situation of children’s education in Africa

12. In 2010, the African Union’s report on the State of Africa’s Children noted that education in most African countries was characterised by poor completion rates, high withdrawal rates, poor indicators for secondary education, and poor continental commitments to pre-primary education. In the 2012 Millennium Development Goals report, it was indicated that Africa, particularly Sub-Saharan Africa, still has the highest number of out of school children. Another report shows that children in Africa, especially those from poor households, are still significantly excluded from primary and secondary education (ACPF 2013). These reports reflect a grim reality on the state of education for children in Africa. This is not to discount the commendable progress that has been made, such as the strides that most African countries have made towards universal primary education and gender parity at the primary level of education. However, other core aspects of the right to education, such as the quality of education, the responsiveness of the education system to children with ‘special’ education needs including children with disabilities, or access to secondary education are yet to register progress. Notably, even the aspects in respect of which considerable progress is registered, such progress is not uniform across the region, with some countries still far behind the targets of universal primary education and gender parity at the primary level of education.
13. A number of measures have been adopted at the regional level to respond to the need to ensure children’s right to education. A common commitment by African states to the provision of education is evident right from the early days of the Organisation of African Unity (OAU). In a series of conferences organised in cooperation with UNESCO, African states set out to identify a common regional education agenda including the needs and priorities on education in the region. In subsequent years, African states have sustained a commitment to the realisation of the right to education in the region through a number of binding and non-binding international instruments. The 1997 – 2006 Decade on Education in Africa, and the second Decade on Education running from 2006 – 2016 are some of the most significant commitments in this regard.
14. The First Decade focused on equity and access to basic education, quality, relevance and effectiveness of education, complimentary learning modalities and capacity building. The First Decade however was not successful for a variety of reasons including lack of support from development partners who instead developed other Africa specific programmes not linked to the Decade. There was also a lack of ownership of the initiative by key stakeholders in the education sector in Africa. The second Decade hopes to overcome these challenges so as to achieve, among other things, raised educational achievement through increased access,

quality, efficiency and relevance, as well as gender balance in primary and secondary education especially in respect of participation in mathematics, science, and technology.

15. Evidently, the realization of the right to education remains central to the agenda of the African Union and its member states. There has been remarkable progress towards the goal of universal education for children in Africa, with generally over 90% net enrolment in recent reports (MDG Report 2013). There are however gaps in the realisation of the right which necessitate an assessment of the future direction for action relative to the realisation of the right. Thus, while not departing from the core pursuit of universal access to education especially in the states that are yet to achieve the goal, there is a concurrent need for a more nuanced debate on the other aspects of universal education such as quality and inclusiveness.

V. The legal framework on children's right to education in Africa

16. Since the adoption of the Universal Declaration of Human Rights (Universal Declaration) which elaborated the equal entitlement of all human beings to education, this right has been reiterated in several international, regional and national human rights instruments including the International Covenant on Economic, Social and Cultural Rights (ICESCR), UN Convention on the Elimination of all forms of Discrimination Against Women (CEDAW), the African Charter on Human and Peoples' Rights (ACHPR), the UN Convention on the Rights of the Child (CRC), the African Charter on Rights and Welfare of the Child (ACRWC), the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (African Women's Protocol), and most recently the UN Convention on the Rights of Persons with Disabilities (CRPD).
17. The ACHPR recognises everyone's right to education. The guidelines for national reporting under the Charter require states to take measures to achieve the full realisation of the right to compulsory and free primary education in line with the international standards on primary education. Compared to other international treaties, the ACHPR's provision on education is more emphatic as it is not subject to the availability of resources and progressive realisation. This means African State Parties to the ACHPR have a duty to immediately take measures for the realisation of the right to education.
18. The ACRWC provides for the right of every child to education, including the duty of state parties to provide free and compulsory basic education (article 11). The ACRWC also encourages state parties to develop secondary education in its different forms and to make it progressively free and accessible to all. The Charter further recognises the need for special measures for the education of 'female, gifted and disadvantaged children' as well as equal access to education for all sections of the community. This provision is unique to the ACRWC and provides a basis for the recognition of the distinct educational needs of certain groups of children. A further unique provision of the ACRWC is the responsibility of states to encourage regular attendance of schools and reduction of 'drop-outs'. To encourage attendance, the state needs to, among other things, provide incentives for attendance such as feeding schemes in predominantly poor areas and creation of awareness on the benefits of education and regular school attendance. According to the ACRWC, education should be aimed at the promotion and development of the child's personality, talents, mental and

physical abilities to their fullest potential. Education also ought to prepare children to live responsibly in a free society.

19. Evidently, both international and regional legal instruments devote a lot of attention to the primary level of education and the corresponding duties of states towards the realisation of the right, thereby benefiting a lot of children. Children often fall within the pre-primary, primary and secondary school levels of formal education. However, when factors such as widespread poverty, lack of documents necessary to enrol such as birth certificates, late enrolment, repetition of classes and withdrawal in the education system, diminished transition rates from primary to secondary schools, and the precarious status of pre-primary education in most African countries are taken into account, children in Africa are more likely to benefit from primary education more than any other level of education. The UN Special Rapporteur on the right to education has therefore rightfully argued that primary education is perhaps the only kind of education to which most children in Africa will ever have access. Nevertheless, it is still imperative to assess measures taken by states towards the implementation of pre-primary and secondary education

VI. International normative standard on the right to education

20. A body of norms and standards on the interpretation of the right to education has developed based on the legal framework set out above. In terms of these standards, the interpretation of state obligations for the right to education at the international level normally follows the '4A Scheme' that was developed by the first UN Special Rapporteur on the right to education. The '4 A's' refer to 'availability, accessibility, acceptability and adaptability' of education. The determination of whether the state is fulfilling its duties with respect to the right to education therefore entails an assessment of whether each of these features of education has been implemented. The interpretation of the features is discussed in the subsequent paragraphs.
21. Availability refers to provision of functioning educational institutions and programmes in sufficient quantity within a state. The meaning of 'functional' depends on numerous factors, including the developmental context within which such facilities are found. However, there are minimum levels of functionality that do not depend on the level of development. For instance, all states, the level of development notwithstanding, have a minimum duty to provide buildings or other protection from the elements, separate sanitation facilities for male and female children, safe drinking water, trained teachers receiving domestically competitive salaries, and teaching materials for the purpose of education. Availability also means that the facilities that are provided should be of an adequate quantity. The adequacy of educational infrastructure has a bearing on the quality of education that the learners receive. The establishment of private schools is one of the measures that enhance the availability of education infrastructure. It is however necessary that states adopt adequate regulatory measures to ensure that the education provided in private schools respects the rights of children and the standards on the right to education.
22. Accessibility of education requires the removal of obstacles to entry into the education system and barriers to learning. Barriers to learning can emanate from discrimination,

economic or physical factors. Educational institutions ought to be available to everyone without discrimination, and within safe physical reach and reasonable geographic convenience, or be accessible through modern technology. Accessibility also means that educational facilities ought to be well adapted to accommodate children with disabilities.

23. The obligations of states with respect to availability and acceptability vary at each level of education. At the primary level of education, states have a duty to make education ‘free and compulsory’ to all children in their jurisdiction. At the secondary level, the responsibility of the state is to progressively make education free and accessible to all. At the tertiary level, the duty of the state is to avail education to all on the basis of capacity through appropriate means. Evidently, the primary level of education requires more urgent and concrete measures which demand priority in state action towards education.
24. The words ‘free and compulsory’ are distinctive features of primary education at the international level. Indeed, making education compulsory is contingent upon making it cost-free. Compulsory education applies to school attendance for the purpose of receiving an education, and to adherence to curriculum or other requirements within the education framework such as the requirement to wear uniforms. Compulsory education means that children’s right to attend school cannot be denied by the state, parents or guardians. This is especially important for protecting vulnerable children who would otherwise be denied education. The duration of compulsory education of children is not set in the ACRWC or the CRC. However, the internationally accepted standard is that the end of compulsory education should at least coincide with the minimum age for employment. To ensure compulsory education states have a responsibility to ensure that primary education is free since it is impossible to enforce attendance if schooling is unaffordable.
25. Acceptability relates to the content of education, requiring it to be culturally appropriate and of an acceptable standard. In addition, education ought to further the aims of education, and to develop the full potential of the child, including their personality, talents and physical abilities. This requires that the teaching methods and the content of the curriculum are relevant, of good quality, culturally appropriate, and must respect the dignity of the child.
26. Adaptability requires education to be flexible enough to adapt to the needs of children in accordance with the best interests of the child. Education ought to be flexible to the needs of changing societies and communities, and respond to the needs of students within their diverse social and cultural settings. The adaptability of the education system is especially significant to children with disabilities and other vulnerable groups whose needs ought to be taken into account in designing the education curriculum and the infrastructure.
27. Ultimately, education must be in consonance with the other rights of children, especially the fundamental principles of children’s rights. The emergence of children as subjects of rights and of the right to education in particular has extended the boundaries of ensuring acceptability of education with the effect that methods of instruction must at all times respect the child’s dignity. There is also a growing recognition of the unique needs of vulnerable groups such as children with disabilities, which in turn means that the acceptability of education is a function of its capacity to respond to the individual and diverse needs of

children. The recognition of children as bearers of rights requires that their interests and wishes are taken into account in the planning of education. This means that states ought to approach education from a rights perspective, safeguarding the optimum development of children's potential as opposed to the conceptualisation of education solely as a tool for economic or other macro agenda. The latter conceptualisation often leads to a manipulation of education to serve states as opposed to children's interests.

28. All the feature of education work towards ensuring that education is child friendly. Thus whereas States Parties have a responsibility to ensure that education respects, protects and fulfils all the features of education, such education must also respect the child as a bearer of rights and preserve the child's dignity. Child-friendliness also has to do with the environment in which children learn. It is for instance essential to ensure that children do not experience bullying in school, are protected from sexual violence and abuse, and are not discriminated in any way in their access to education.

VII. Areas of concern

29. Some areas of concern are evident from the foregoing discussion. These include matters relative to early childhood education, the expansion of access to primary education especially to vulnerable groups of children, the quality of education at all levels, access to secondary education, gender parity in education, and the regulation of private and religious education providers. In addition, the question of teacher training and deployment that is central to the quality of education, and the role of private actors in the provision of education need to be interrogated. These areas are discussed further below.

Area of concern 1: Early childhood education

30. Early childhood education and development (ECD) or pre-primary education, is one of the least developed spheres of education, with the main responsibility for education at this stage left to parents and caregivers of young children. This is unfortunate since the early years of children's lives set the foundation for their wellbeing throughout their life, including their capacity to learn. The challenges of ensuring early childhood education are also conceptual: there is no universal understanding of ECD or the age at which children are deemed to be eligible for ECD. International law does not provide any effective protection of the right to pre-primary education, or the duty bearers for its implementation. As a result, approaches to ECD vary from country to country making it difficult to define a common approach at the regional level. In its General Comment on implementing child rights in early childhood, the United Nations Committee on the Rights of the Child (CRC Committee) defines early childhood as the period between birth and 8 years. The definition seeks to take into account the varying definitions of ECD and the minimum age of compulsory school enrolment in different countries. The AU Report on the Status of Africa's Children noted that though the rate of access to ECD in Africa has improved, the percentage of children who have access is still unacceptably low. Access to ECD in the region is hampered by shortage of spaces for learners, concentration of facilities in urban areas, challenges with transport, and affordability.

31. Lack of clarity on the content of the rights in ECD and the corresponding responsibilities inevitably compromises the education of young children. In 2000, the drafting committee on the Dakar Framework for Action: “Education for All- Meeting our Collective Commitments” noted that governments have the primary responsibility for formulating early childhood care and education policies within the context of national Education for All (EFA) plans, and to mobilize political and popular support for it. The CRC Committee on the other hand has linked early childhood education to the child’s right to survival and development and therefore a responsibility of states. The Committee also recognises the shared responsibility of the state, parents or guardians and other caregivers of young children to ensure the children receive ECD. In the view of the Committee, education in the broadest sense includes well organized programmes of early childhood education whether provided by the state, the community, or non-governmental entities.
32. It seems that the duties of states with respect to ECD are neither as concrete nor absolute as that for primary education, but rather secondary and complimentary to that of parents and the community. Yet, given the pivotal role of ECD in both safeguarding the rights of young children to development and ensuring a concrete foundation for subsequent education, it is necessary to establish a regional and national regulatory framework within which this level of education may be effectively delivered, taking into account the unique circumstances of each country in the region.

Area of concern 2: Expansion of access to education for vulnerable groups of children

33. The main focus of the right to education in the past two decades, especially in the period after the adoption of the World Declaration on Education for All (1990) has been the expansion of access to all members of society. In the Dakar Declaration on Education for All, African states reaffirmed this commitment and prioritised improving access, particularly mobilising resources to strengthen basic education. They also prioritised paying special attention to the education of vulnerable groups of children such as those with disabilities. These commitments overlap with commitments made within the framework of the Millennium Development Goals which set out the achievement of universal primary education as one of the key development milestones of the millennium. The 2013 Millennium Development Goals monitoring report shows that Africa, despite making commendable progress in expanding access to education in general, will nevertheless fall far behind the 2015 target for achievement of universal primary education.
34. This means that whereas progress has indeed been made, the need to work towards broadening access to those yet to be reached remains. As was earlier indicated, broadening access requires the elimination of barriers such as direct and indirect costs including school fees, the cost of school uniforms, cultural beliefs and traditions that hinder access, transportation, insecurity, or laws and policies that hinder access to education for certain categories of children. As far as cost is concerned, states ought to especially recall that the duty to ensure basic education, especially primary education, entails the provision of free and compulsory education. It is also of great concern that reliable data on enrolment rates in primary schools (as well as other levels of education), is unavailable in some countries.

35. Arguably, commendable progress has been made towards universal access to primary education in general. It is nevertheless imperative to call the attention of states to groups of children that are predominantly excluded from education, including at the primary level. Exclusion may occur by default as a consequence of how education is organised (such as where the education hours and school location are inflexible thereby excluding children of nomadic communities), or by design based on ideological, religious, or cultural beliefs prevailing in the respective communities. There are patterns of exclusion that are discernible throughout the history of formal education, and which show the consistent exclusion of vulnerable groups of children. This is recognised by the ACRWC which calls upon States Parties to take special measures for the education of ‘female, gifted and disadvantaged children.’ Other factors that exacerbate the marginalisation of children from education in Africa include death of parents, conflict, displacement, migration, and child labour. Also, children from rural areas, children from marginalised communities, children incarcerated with their parents, or children in conflict with the law are likely to be disproportionately excluded from education.
36. The vulnerability of girls to exclusion from education is generally recognised, and responsive measures such as legislating against their exclusion or affirmative action to facilitate girls’ access to education have been developed at international and regional levels. In some states however, girls are routinely discriminated in education for cultural or religious reasons against the requirements of the ACRWC. The Committee particularly wishes to call the attention of states to the exclusion of girls from attending school due to the unavailability of sanitary facilities and or sanitary towels. The Committee is also concerned that many girls continue to be excluded from school due to pregnancy. As for ‘gifted and disadvantaged’ children, there is a gap of information on the identification of such children and the appropriate approach to their education, especially in Africa. ‘Gifted’ children refer to children with consistently remarkable abilities in valuable areas of human activity such as intellectual abilities, academic aptitude, creative thinking, art or leadership. The identification of gifted children entails sophisticated assessments that are beyond the capacity of rudimentary educational infrastructure in most African states. Even when such assessment is done, appropriate facilities for the education of gifted children are largely unavailable. There is therefore a clear need for states to focus their attention to the education of gifted children. The term ‘disadvantaged children’, on the other hand, generally refers to children whose ability to exercise their rights is significantly limited by various factors including disability or the other factors highlighted in the preceding paragraph.
37. Children with disabilities have long been excluded from education generally available to all children in the society, or from any kind of education at all. It is for instance reported that only 2% of persons with disabilities in Africa have access to formal education, and a majority of these are educated in special schools. States have been called up in various forums to adopt measures that ensure that children with disabilities enjoy their rights on an equal basis with all other children in the communities in which they live. Unfortunately, children with disabilities are largely invisible in the Second African Decade on Education, only being addressed under ‘girls and other vulnerable groups.’ In the Concept Note on the 2012 DAC, the Committee noted that children with disabilities represent the majority of children excluded from universal primary education for a variety of reasons including poverty,

negative social attitudes, lack of appropriate skills amongst the teachers, lack of appropriate resources and inaccessibility of schooling facilities. The Committee therefore called for development of time-bound implementation of existing commitments on the realisation of the right to inclusive education of children with disabilities.

38. The Convention on the Rights of Persons with Disabilities (CRPD) anchors inclusive education as the appropriate approach to the education of children with disabilities. A significant number of African states are party to the CRPD. This means that African states have undertaken, among other things, to review their education practices to ensure that they are in agreement with the inclusive education philosophy. Inclusive education requires among other things, review of longstanding practices of relegating the education of children with disabilities to the less competitive types of education, such as emphasising vocational skills at the expense of an academic curriculum generally offered in mainstream schools. It also means that states should as a matter of priority work towards ensuring adequate and accessible education infrastructure, development of teaching skills for education of children with disabilities, adaptation of curriculums to respond to the needs of children with disabilities, and continuous evaluation of measures towards inclusive education.
39. As far as conflict is concerned, it is generally acknowledged that conflict, whether internal or international, disrupts the lives of people including children, leads to the destruction of infrastructure, and often results in internal or cross-border displacement. While states ought to ultimately pursue the elimination of conflict, they should also work towards ensuring that in conflict situations, children's education is continued as far as possible. The ACRWC (article 23) calls upon states to extend protection and assistance to refugee and internally displaced children to enable them benefit from the rights under the Charter, including the right to education. Indeed, African states through the Kampala declaration on internally displaced persons have committed themselves to 'to ensure access to primary, secondary and post-secondary education, and other training for all children, including refugee and internally displaced children as well as access to informal and adult education by out of school girls and women.' These commitments should be respected. In similar manner, there is need for states to ensure that disaster response includes measures to ensure that as far as possible, the education of children is not unduly prolonged.
40. Conditions of detention in Africa, including facilities in which children found guilty of an offence are held, are generally deplorable, and underserviced. Often, children deprived of liberty do not have access to education, or to quality education during the period of their sentence. The same happens to children of school going age who are incarcerated with their parent. This practice violates the right of 'every child', including a child offender, to an education as set out in the ACRWC. It is essential that states pay attention to the establishment of proper mechanisms for the education of children in places of detention.

Area of concern 3: Expansion of access to secondary education

41. Just as with primary education, secondary education is not defined in international human rights instruments. However, it is often understood as the period between primary education and higher education. Secondary education generally benefits children between the ages of 11 and 18, giving them an opportunity to broaden their knowledge and experiences from the

basic skills offered at primary level in order to prepare for work or for higher education. Secondary education has to have a bearing on a child's present and future with a view to ensure the transition to gainful work or employment. The ACRWC calls upon state parties to develop secondary education in various forms. This allows for varied and innovative approaches that are suited to various social and cultural contexts. Such other forms of secondary education could include Technical and Vocational Education and Training (TVET). TVET focuses on specialised technical training and is augmented by entrepreneurship training and career guidance. TVET is especially relevant in the African context where children and young adults comprise the majority of the region's population and who are not able to be absorbed into the formal job market. The Second Decade on Education prioritises equitable access to TVET systems and programmes, and calls upon states to invest in the modernisation of the programmes.

42. As a result of the attention focused on the primary level of education both at the regional and international levels, most of state action and resources are channelled to the realisation of universal primary education. However, while the achievement of universal primary education is indeed a noble cause and well deserving of the international attention, secondary education is an essential component of basic education that needs to be accorded equal attention. As was noted in the 2012 Millennium Development Goals report, one of the outcomes of successful implementation of universal primary education is a growing demand for secondary schools. It has been noted that despite progress made in ensuring secondary education across the region, enrolment rates are still very weak, and completion rates even worse. Transition rates from primary to secondary school are generally very poor across the continent. There is also relatively less reliable data on secondary education that would facilitate monitoring of its implementation across the region.
43. State duties with respect to secondary education comprise of making secondary education generally available and accessible to all. 'Generally available' is interpreted to mean that secondary education does not depend on a student's apparent learning capacity. Rather, secondary education ought to be distributed across the country in such a way that it is available to all within the state on an equal basis. In view of the pervasive exclusion of significant percentages of eligible children from formal secondary education in Africa, alternative forms of secondary education are necessary to fill in the gap. This is even more critical since secondary education compliments universal primary education programmes. Unless measures to enhance transition rates from primary to secondary education are established, the benefits of universal primary education would be considerably diminished.

Area of concern 4: Quality of education

44. There is a tendency at the international level to assess progress in the implementation of the right to education through consideration of the percentage of children that have access to education. Consequently, less attention has been paid to the quality of education that children receive. Indeed, the evaluation framework on the right to education often focuses on the availability dimension of education. Save in as far as the quality of education is requisite for the acceptability of education, there are generally fewer measures taken to facilitate accountability in ensuring quality education. Goal 6 of the Dakar Framework for Action on

Education For All calls for the improvement of every aspect of the quality of education to facilitate measurable learning outcomes for all, especially in literacy, numeracy and essential life skills. This means that states have a responsibility to ensure quality education as part of the ultimate goal of education for all.

45. For education to be acceptable, its content needs to be culturally appropriate and of a good standard. The form and substance of education, including curricula and teaching methods, need to be relevant, culturally appropriate, and of good quality for the students. Unless education is of an acceptable quality, the aims of education cannot be satisfactorily attained. In essence, education is only acceptable if it achieves the objectives set out in article 11(2) of the ACRWC and is of a guaranteed quality. It is therefore essential that standards on quality of education are clearly set and enforced by the government. In addition, teacher development is fundamental factor in ensuring quality education. An effective education system demands that teachers are both properly qualified and are in sufficient numbers. To attain this, it is essential to have adequate and quality teacher training programmes and facilities and to guarantee proper working conditions for teachers, including competitive remuneration.

Area of concern 5: Gender balancing in education

46. The 2013 report on the progress towards the Millennium Development Goals in Africa indicates that, just as in the case of universal primary education, the goal of gender parity in education is yet to be achieved, and is unlikely to be achieved by the year 2015. The report noted that gender parity is closest to being achieved at the primary school level, but more the gap is more marked at the secondary level. More needs to be done to ensure that female children access various forms of secondary education. The second AU Decade recognises the need to eliminate gender disparities and ensure gender equality, and girls' and women's empowerment throughout the education system. It is essential to ensure that measures designed to enhance the education of girls are urgently identified and effected. As was highlighted in the part on the education of girls as a vulnerable group, States Parties ought to ensure that children who become pregnant before completing their education have an opportunity to continue with their education on the basis of their individual ability.

Area of Concern 6: Private and religious schools

47. Africa has, in recent times, experienced a proliferation of private education institutions, including religious institutions, at all levels of education. However, whereas private educational institutions play a critical role in safeguarding choice in education and complementing government efforts towards availability of quality education, lack of proper regulatory frameworks on their establishment and operation threatens the rights and welfare of children in the institutions. International law on education, including the ACRWC, recognises the right of private education providers to establish and direct educational institutions. The Charter requires that where such institutions are established, they should conform to the standards on the right to education set out in article 11, and to standards and regulations laid down by the state. This means that States Parties have a responsibility to set out standards on education, and to develop effective oversight mechanisms to ensure that the standards are respected. It is particularly essential to ensure that education provided in private

and religious institutions does not discriminate on any of the prohibited grounds and conforms to the quality and aims of education established in article 11 of the ACRWC.

VIII. Call for action

48. The areas of concern discussed above are not exhaustive of the aspects of children's right to education in Africa that require urgent attention. Nevertheless, the gaps apparent from the foregoing discussion are some of the most prominent concerns, and require action to be taken by member states to the ACRWC, as well as other stakeholders in the education sector. The Committee particularly urges the collaboration of key partners in education such as the African Union (AU), the United Nations Education Science and Cultural Organisation (UNESCO), the International Labour Organisation (ILO), and institutions of research and higher learning in States Parties to support the celebrations of the DAC 2014.

IX. Proposed activities for the 2014 DAC

49. The ACERWC recognises the challenges of setting out a comprehensive action plan in relation to children's right to education in light of the breadth of the issues entailed. Some specific action points may nevertheless be proposed to facilitate appropriate responses to education in the region. It is also imperative to harmonise the regional approach towards the realization of the right to education in Africa. In this regard, the proposals of the Second Decade on Education in Africa should be integrated into the proposed action points in this Concept Note. The following activities are only offered as suggestions on action towards 'a child friendly, quality, free and compulsory education for all children in Africa' on the basis of the areas of concern identified in the previous section. It is also recognised that countries are at different levels of implementing the right to education. The proposed activities may therefore be adapted appropriately in accordance with each state's circumstances. States Parties are also reminded to ensure that the measures or activities taken towards the celebration of DAC 2014 ought to be held at both the national and devolved/district levels of government. Conscious effort must therefore be made to ensure that activities targeted to the district level are undertaken.

Activity I

With a view to expand access to primary education, there is need for an evaluation of the measures that have thus far been taken to guarantee free and compulsory primary education to all children in States Parties. The following steps should be taken to this end:

1. Evaluate the compliance of states with the commitment in the Dakar Framework for Action where government pledged to allocate at least 9% of their Gross Domestic Product to education, and to show how priority has been accorded to primary education in this regard.
2. For States Parties that are yet to implement free and compulsory primary education, to develop clear plans of action indicating when and how the duty will be fulfilled. Such

plans should include measures geared at the elimination of direct and indirect costs of education such as school fees.

3. States Parties should adopt legislative measures to enforce compulsory schooling of all primary school children in their jurisdiction.
4. State Parties to collect data on children left out of education, and to map out patterns of exclusion in their jurisdiction.
5. States to specify measures geared towards ensuring access for systematically excluded children within their jurisdictions.
6. State parties to map out the education infrastructure and human resource needs in their jurisdictions, including the number of schools necessary to guarantee access to education for all children as well as to improve teacher-student ratios.

Activity 2

In order to improve the quality of education for children in member states;

7. State parties to develop indicators on quality in education at pre-school, primary and secondary levels of education.
8. Integrate quality assessment into the general assessment of education in the various jurisdictions.
9. Evaluate educational infrastructure and learning materials to guarantee quality in education.
10. Establish quality assurance mechanisms such as national monitoring agencies to regularly check the quality of education in the jurisdiction of the state.

Activity 3

In order to facilitate access to education for vulnerable and disadvantaged children;

11. Evaluate the efficiency of any existing measures for the education of vulnerable children in order to identify gaps in provision of educational services
12. Identify specific measures geared towards enhancing access to the education for:
 - a. gifted children,
 - b. children living in extreme poverty,
 - c. orphaned children,
 - d. children living in rural areas,
 - e. children affected by conflict and emergencies, and
 - f. children deprived of liberty or imprisoned with their mothers

13. Adopt an inclusive education approach to facilitate education of children with disabilities, and specifically;
 - a. Create awareness amongst key stakeholders on inclusive education methodology and purpose.
 - b. Provide early assessment and educational placement and support services for children with disabilities to facilitate early and appropriate intervention.
 - c. Facilitate development of inclusive education skills for teachers.
 - d. Ensure that the physical infrastructure in regular schools and the general education curriculum are adapted to accommodate children with disabilities.
 - e. Ensure sufficient and well equipped specialised schools to cater for children who are not otherwise able to study within regular schools.
 - f. Develop assessment tools and mechanisms for the monitoring and evaluation of education provided to children with disabilities.

Activity 4

With a view to improve the provision of early childhood education and development services, it is essential that;

14. A common position is adopted at the regional level on state responsibilities in early childhood education.
15. State parties undertake a review of national early childhood education policies to establish clear responsibilities for its provision at national level.
16. To take an audit of the existing early childhood education and development services within the states in order to facilitate monitoring of standards and to safeguard the interests of children.
17. To commit specific resources towards early childhood education, particularly in rural areas.

Activity 5

With a view to facilitate the realisation of secondary and further education and training;

18. Develop plans for progressive implementation of free secondary education with specific time frames for action.
19. Establish various forms of secondary education to cater for the variety of needs of learners and to ensure that these are equally available across the country.
20. Allocate more resources to technical and vocational education and training programmes
21. Provide support for higher education, including through the creation of public-private partnerships in tertiary education, education financing schemes and as far as possible subsidisation of tertiary education costs in public tertiary institutions.

Activity 6

With a view to consolidate the gains thus far made towards ensuring gender parity in education at all levels;

22. Create awareness on the need for education of female children.
23. Adopt(or re-affirm where appropriate) affirmative action measures for the education of female children.
24. Provide sanitary towels for adolescent girls from poor backgrounds in order to facilitate regular attendance and participation in school.
25. Review laws, and undertake measures to build awareness in order to change practices and social attitudes that prevent pregnant girls from accessing education.

Activity 7

With a view to facilitate proper regulation of private and religious educational institutions, States Parties shall;

26. Take stock of existing private education institutions in the jurisdiction of States Parties.
27. Develop standards to guide the establishment and operation of private and religious schools in accordance with the ACRWC.
28. Ensure monitoring of education facilities, curriculum, learning materials and staffing in order to ensure that they conform to the standards of education under article 11 of the ACRWC and the right to non-discrimination.

Activity 8

To facilitate the Committee's general monitoring and evaluation on the implementation of the right to education for children in Africa, state parties should;

29. Ensure that a proper education data and information management system is established, including documentation of informal education systems

X. Monitoring and evaluation framework

50. The ACERWC will monitor the implementation of the foregoing recommendations in State Parties. To facilitate this, State Parties to the Charter are expected to file a report on the Commemoration of the Day of the African Child on June 16 2014. Other stakeholder including non-government organisations may file reports in similar mannerto help evaluate the implementation of the Committee's recommendations in this Note. The report should contain information on the situation of the right to education in the state, and on specific activities undertaken for the celebration of the DAC 2014. The reports to be submitted for the 2014 DAC should, as far as possible, follow the format of the template annexed to this note. This will allow the Committee to monitor and evaluate the implementation of the recommendations in the same manner in all African countries

51. Based on the reports received, the Committee will make an assessment of the situation of children's education in member states in order to ensure a comprehensive understanding of the ways in which the theme has been taken forward at country and district level. Subsequently, the Committee in consultation with member states will determine the appropriate steps to ensure the realisation of a child friendly, quality, free and compulsory education for all children in Africa.

Annex I

Template for reporting on the Day of the African Child 2014

“A child friendly, quality, free and compulsory education for all children in Africa”

1. Whether the government has compiled and adopted national action plans to protect, respect, promote and fulfil children’s right to education:

1.1. Whether the action plan was made through consultations with children and their representative organizations.

1.2. Whether the action plan is accompanied by clear indications of sustainable resource allocation.

2. A Summary of legislative, administrative and policy measures taken to ensure children’s right to education, paying particular attention to:

2.1. Expansion of access to primary education in general, and specifically to

- Children with disabilities
- Gifted children
- Children living in extreme poverty
- Orphaned children
- Children living in rural areas
- Children affected by conflict and emergencies, and
- Children deprived of liberty or imprisoned with their mothers

3. Whether the Government has conducted a review of the national legislation and policy framework to align it with the normative human rights framework at regional and international level and the commitments undertaken.

3.1. Reference should be made specifically to the African Charter on the Rights and Welfare of the Child, the UN Convention on the Rights of the Child, the African Charter on Human and peoples’ Rights and other International and Regional human rights instruments.

3.2. Moreover, the report should also cover frameworks including: the Plan of Action of Africa Fit for Children, Call for Accelerated Action and the Plan of Action for the Second Decade of Education.

4. Measures taken towards improving the quality of education

4.1. Measures taken towards guaranteeing availability of accessible and quality early childhood education and development services

4.2. Measures taken towards the implementation of affordable and quality secondary education

4.3. Steps taken towards ensuring gender parity at all levels of education, with particular emphasis to the secondary level of education

4.4. Whether the State has invested in high-quality and free services that prevent and respond to sexual violence against children and young people with disabilities and prioritise the best interests of the individual child at all times.

5. Measures and activities undertaken towards compliance with children's right to education, and in particular:

5.1. Clearly highlight practical measures taken towards the implementation of the legal and policy frameworks on each of the above areas, such as the establishment of new schools, implementation of feeding schemes or types of financial support targeted at education of vulnerable children.

5.2. Provide disaggregated statistical data on children's access to education at pre-school, primary and secondary school levels.

5.3. Provide information on budgetary allocation to each level of education and earmarked expenditure on each of the areas of concern set out in this concept note.

6. Whether the concerned State has introduced or reinforced accessible mechanisms where children and/ or their families may lodge complaints when their right to education is disregarded or violated and publicise these complaints mechanisms.

7. In all the above issues the report should identify the challenges and achievement of the respective Member State. Moreover way forward to address the challenges should also be part of the report.

Annex II

Matrix on specific activities undertaken towards or on the Day of the African Child 2014

Date	Type of Event	Participants	Organising agency/organisation	Level of event (national or local)	Statement of impact of the event(Intended purpose, area of concern and outcome)