

DAY OF THE AFRICAN CHILD 2020: ACCESS TO CHILD FRIENDLY JUSTICE SYSTEMS IN AFRICA

Outcome Statement

We, the participants of the virtual commemoration of the 2020 Day of the African Child under the theme **Access to Child Friendly Justice Systems**; after thorough deliberations covering aspects such as international and regional norms and standards on access to child friendly justice system in Africa; obligations of member states in ensuring child friendly justice; good practices and limitations in accessing child friendly justice systems, including limitations for vulnerable groups and role of various stakeholders including civil society organizations, children and media; have resolved the following statement on access to child friendly justice systems in Africa

UPHOLDING Article 17 of the **African Charter on the Rights and Welfare of the Child (ACRWC)**, which provides that children who are in conflict with the law should be treated in a manner consistent with the child's sense of dignity and worth and which reinforces the child's respect for human rights and fundamental freedoms of others. In addition, which further provides safeguarding measures to be followed in relation to children in conflict with the law;

AFFIRMING the principles of the ACRWC: the best interest of the child, non-discrimination, life, survival and development and participation and COGNIZANT OF the evolving capacity of the Child;

GUIDED BY General Comment No. 1 of the African Committee of Experts on the Rights and Welfare of the Child (ACERWC) on Article 30 of the ACRWC 'children of incarcerated and imprisoned parents and primary caregivers';

AFFIRMING the African Union's (AU) vision in *Agenda 2063* (paragraph 53) that 'African children shall be empowered through the full implementation of the African Charter on the Rights of the Child' and its elaboration in respect of children as reflected through *Africa's Agenda for Children 2040*: which provides in *Aspiration 8* that by 2040, all children benefit from a child child-sensitive criminal justice system;

RECOGNIZING the relevant regional and international norms and standards on access to child friendly justice systems; including Article 37 and 40 of the United Nations Convention on the Rights of the Child; General Comment No 24 of the UN Committee on the Rights of the Child, on Children's Rights in Juvenile Justice; and the United Nations Standard Minimum Rules for the Administration of Juvenile Justice;

CONCERNED BY lack of comprehensive legislation at national levels on child-friendly justice systems; lack of harmonization of national legislation on children with the ACRWC and other relevant norms and standards on child friendly justice systems such as the setting of minimum age of criminal responsibility below the internationally recognized age of 14 years; imposition of capital punishment on children; the imposition of life sentence on children; and lengthy court proceedings in cases involving children;

FURTHER CONCERNED BY the high rate of deprivation of liberty of children as result of prioritization of detention; focus on retribution rather than rehabilitation; lack of psycho-social support to children in conflict with the law; and lack of safeguards for children engaged in civil proceedings;

MINDFUL OF the special situation of the girl child and children in vulnerable situations such as children on the move, unaccompanied and separated children, children affected by conflict and crisis, children with disabilities, and children whose mothers or primary caregivers are incarcerated;

NOTING WITH CONCERN the advent of COVID-19 global pandemic and its overall impact on the rights and welfare of the Child as well as its specific impact on access to child friendly justice systems, mainly the exacerbation of already existing challenges

through measures taken to curb its spread and at the same time the health risk children and their caregivers may face while accessing justice systems;

NOTING the importance of traditional justice systems in providing access to justice for children while at the same time **NOTING WITH CONCERN** lack of codification of customary law and harmonization of traditional justice systems with the ACRWC and other relevant international norms and standards;

ACKNOWLEDGING Good practices on child friendly justice systems available such as the Pre-Trial Diversion programs and progressive Child Justice Acts in some Member States;

TAKING INTO ACCOUNT the outcome of consultation with children on the theme and their recommendations thereafter;

We hereby urge the following stakeholders to take the necessary measures to ensure access to child friendly justice systems:

- MEMBER STATES

- Harmonize and align national legislation on justice for children, customary law and traditional justice systems with the ACRWC and other relevant regional and international norms and standards;
- Set minimum age of criminal responsibility at the age of 14 and gradually endeavor to increase it;
- Ensure that death sentence and life imprisonment are not pronounced for crimes committed by children;
- Ensure that the best interest of the child is the primary consideration for all proceedings (civil, criminal, administrative and judicial) involving children and ensure that there are necessary psycho-social safeguards to protect the rights and welfare of children in such proceedings;
- Ensure that judicial and extra-judicial proceedings involving children are executed expeditiously and with confidentiality;

- Establish well resourced child friendly courts manned by trained personnel on access to child friendly justice for children.
- Provide legal aid that is decentralized to all regions of countries for all children in conflict with the law as well as other auxiliary support through social workers and other services for children in contact with the law;
- Ensure that justice systems are gender sensitive, responding to the specific protection needs of girls;
- Take measures to ensure the special protection of vulnerable children including; children with disabilities, children on the move, unaccompanied and separated children, children affected by conflict and crises;
- Provide for the availability of diversion programs oriented towards education and rehabilitation of children in conflict with the law;
- Ensure that criminal records of child offenders are removed once the child has been rehabilitated;
- Invest on comprehensive specialized justice systems for children;
- Empower children through educating them on their rights under the ACRWC and other instruments relevant to child justice.
- Facilitate the availability of platforms for children, such as children's parliaments that are state resourced, for them to deliberate on matters affecting them, including matters related to access to justice, and input the outcome of their deliberation in Governmental decisions and actions.
- Ensure that necessary safeguards are put in place to protect children and their care-givers from COVID-19 infection while accessing justice systems;
- Take necessary measure to ensure that measures taken to combat COVID-19 do not result in violation of the rights and welfare of children, such measures should include the recognition of child protection services as essential services; ensuring that child friendly reporting mechanisms for violence and abuse are in place and functional and train and equip social workers to detect and act swiftly on instances of child abuse and violence;
- Ensure the availability of enabling environment for civil society organizations and media outlets to work on the children's rights advocacy, promotion and protection.

- TO CIVIL SOCIETY ORGANIZATIONS

- Strengthen the capacity of children as rights holders to engage with the justice systems in their respective countries;
- Support Member States financially, technically and in any other way possible in ensuring the availability of child friendly justice systems;
- Collaborate with the ACERWC to address challenges in access to justice for children using the key mandates of the Committee: consideration of state party reports and CSO complementary reports; consideration of communications/ individual complaints and on-site investigation;
- Build the capacity of key personnel in the justice system on children's rights and principles of child friendly justice.
- Engage media as strategic partners, departing from transactional relationship on child related issues, including on children in contact with the law; and
- Engage Media Councils in member countries to harness their code of conduct/ ethical guidelines to be inline with child rights legal frameworks and to enhance child rights based media leadership on issues affecting children.

- TO MEDIA

- Ensure that the plight of children remains on the political and social agenda through ethical coverage of children in conflict with the law;
- Establish awareness programs on the rights of children in contact and also in conflict with the law, involving stakeholders in direct contact with children such as teachers, parents and social workers;
- Protect the identity and confidentiality of young offenders involved in criminal procedures;
- Cover child related issues with the view of seeking reparations for violations rather sensational reporting; and
- Create platforms for children to contribute content to their media products.

ADOPTED on 16 June 2020