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EAST AFRICAN LEGISLATIVE ASSEMBLY

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REPORT OF THE COMMITTEE ON GENERAL PURPOSE ON THE OVERSIGHT
ACTIVITY ON THE LEGAL FRAMEWORK AND IMPLEMENTATION OF POLICIES
ON THE RIGHTS OF THE CHILD IN THE EAC PARTNER STATES

22ND – 26TH FEBRUARY 2015

*Paper laid
By the leader
of majority
Hon. A. Amadi
on 19/8/15
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1.0 Introduction

In accordance with Article 120 (c) of the Treaty establishing the East African Community, Partner States undertake to closely cooperate amongst themselves in the field of social welfare and to cooperate towards the development and adoption of a common approach towards the disadvantaged and marginalized groups including children, the youth, the elderly and persons with disabilities through rehabilitation and provision of amongst others, foster homes, health care education and training.

On the occasion of 25 years of the Convention of the Child which is observed on 20th November of each year, there is a need to invest in children to stop the inter-generational cycle of poverty and giving all children a fair start in life. Against the background of the coming to an end of the MDGS and transitioning into other global goals and priorities still under conception, the EAC region is faced with the need to enhance the role of governments in fulfilling the minimum requirements that mark the observance of basic human rights of their people. In this particular case, challenges in the observance of rights of the child has led to vices such as early marriages and pregnancies, child labour and exploitation, sexual exploitation in the form of human/child trafficking and child prostitution among others. Governments have put in place legislative and policy instruments to fight these vices and protect the rights of the child.

2.0. Justification

In developing countries, 34% of girls are married by age 18 and one in seven before the age of 15, according to UNFPA. UN figures indicate that 3 girls among girls aged 15-19 has been a victim of violence committed by a husband or partner, worldwide 50% of all sexual assault are against girls of 15 or younger. ¹ Child marriage at 13 years of age has for example, has escalated teenage pregnancies and continues to increase in certain

¹ IPU calls on parliaments to urgently step up efforts to protect girls from violence; IPU press office release, Geneva, 24, November 2014

regions such as in areas of Sembabule and Mayuge districts in Uganda as evidenced in a study funded by DFID.²

Also according to UNFPA, 3.3 million girls are still at the risk of FGM. It is clear that accountability with effective monitoring is critical and where possible, civil society, children and adolescents themselves can help monitor progress. Voices and acts such as early marriages and pregnancies, child labour and exploitation in the form of human/child trafficking among other.

The efforts by governments by way of putting in place legislative and policy instruments to fight these vices and protect the rights of the child in East Africa are acknowledged and appreciated by the Committee.

It is against this background that the Committee on General Purpose undertook an oversight activity on the Rights of the Child from 22-26 February 2015.

3.0. Objectives of the oversight activity

The main objective of the oversight activity was to assess the legal framework and implementation of policies related to rights of the child, as well as be informed and updated on the challenges faced, the different strategies and approaches and best practices undertaken by the partner states to combat the bad practices and protect the rights of the child.

The Committee further explored avenues of collaboration so as to combat the acts and bad practices that are taking place in the region such as child trafficking and child labour with the aim of considering a regional approach to implementation of activities toward protection of the child.

4.0. Methodology

The Committee interacted with actors in the area of protection of the rights of the child including concerned government officials from the Ministries having youth and children

² "Change and persistence in discriminatory social norms and practices affecting adolescent girls in rural Uganda.' October 2013 – September 2014. Extract from Sunday monitor, 14 December 2014.

in their attributions, NGOs, civil society, representatives of national commissions for children. Presentations were made on policy framework and implementation status on the subject and plenary debates followed. The Committee working in two groups, visited the Republic of Kenya and United Republic of Tanzania on the 23rd of February, the Republic of Rwanda and Burundi on the 24th of February and then converged in the Republic of Uganda on the 25th of February 2015.

A rehabilitation Center in the Republic of Kenya for male child offenders was visited to witness the rehabilitation that the children undergo.

In collaboration with Elizabeth Glaser Pediatric AIDS Foundation³ and the IPU, the need to increase children's access to HIV/AIDS treatment highlighted by way of presentations made, the large and unfair disparity in access to treatment between adults and children and the urgent need to ensure increased access to treatment and care for children.

5.0. Committee Findings

5.1. The Republic of Kenya

Participants included officials from the Ministries of EAC, Education, Science and Technology, Labour, the Office of the Attorney General and Department of Justice, Probation and Aftercare Services and Makadara Probation Hostel.

Framework for the Republic of Kenya

The framework highlighted includes international, national, and institutional as well as policy framework which are attached at **Annex I**.

Committee Findings

Challenges facing children and areas of abuse in the Republic of Kenya

Specific issues of child abuse, peculiar to the Country include FGM which has proven psychological and medical repercussions that inflict untold suffering to children that affect them throughout their lives. Consequences include fistula, child birth differences

³ Refer to Annex II

in later life as well as untold pain and humiliation suffered in early childhood when the FGM takes place. The prohibition of FGM Act 2011, is one of the laws in place in this respect.

Children in Kenya are subjected to abuse through several means including children in drugs, active labour, children on the streets, children with disabilities they are used as tools of revenge in marital and domestic conflicts which is a fairly new phenomenon in Kenya; as soldiers, child trafficking, as sex pets for various reasons including mythical excuses (having sex with a child cleanses certain diseases). In addition, abuse is faced by children with adult responsibilities, who are denied play opportunities, and burdened with curriculum overloads, miss parental love, care and guidance due to demands and pressures of modern life with work and social obligations as well as adult and evening schooling by parents.

Challenges that children carry into childhood include: diminishing job opportunities, drug abuse, sexual abuse, lack of relevant skills, suffer lack of institutional guidance by the family, the community or formal institutions. The resulting consequences of the above are as follows:

- Violence against children in schools is unacceptably high (VAC Report 2010) despite being outlawed by the Constitution;
- Corporal punishment and other forms of humiliating punishments go unabated despite being outlawed by the Constitution;
- Denial of the right to play;
- Child to child violence exists in various forms such as bullying, theft homosexuality and lesbianism, pornography, discrimination due to age, ethnicity, disability, devil worship;
- Abused children grow up with psychological wounds due to lack of adequate response mechanisms;
- Children grow up learning in fear due to lack of prevention strategies to child protection risks such as child poverty, FGM, child marriages, defilement;

- Over-emphasis on academic excellence at the expense of the child's safety and total wellbeing. As a result, suicidal cases are reported to be on the increase.

Gaps in implementation of policies of the rights of the child

1. Lack of a clearly mandated coordination body

Given the fact that the mandate on children is scattered and shared by five different ministries namely; the Ministry of Education, Science and Technology, the Ministry of Labour and Child Services, the Ministry of Planning and Devolution among others, there is therefore no ministry clearly mandated to manage children up to the desired independent status. For instance, the role of the probation office to ensure smooth transition of offenders to borstal institutions is defined in the law but fails to identify the probation department as a key stakeholder. This leads to children being victims of the gaps and being left to goodwill and individual efforts with absconding of responsibilities on aftercare services.

2. The Committee was informed that legal mandate does not match the actual implementation and practice and again due to lack of clear mandate, children fall victim to gaps and fall through the cracks
3. There is lack of information sharing mechanisms between the different mandated ministries and bodies cited above.
4. There is a shortage of professionally specialized personnel trained in care and protection of children.

The current interventions underway and proposed activities include strengthening of child protection structure through both a systemic approach and enhance community participation in the education system to serve the following purpose:

- Provide functional coordination mechanisms for child protection actors from the grass root to the national level;
- Promote networking and collaboration of child protection actors in the education sector;

- Establish an effective prevention and response mechanisms to child protection risks at the grass root level;
- Establish capacity building programmes on child protection for teachers and other child protection actors at the zonal level;
- Enhance enrollment, retention, transition and completion rates by ensuring children are protected and rescued from abuse.

The proposed activities herewith include:

- Strengthening the subcommittee of the county board on child protection to address and profile child protection risks and protection concerns affecting access, transition and completion rates in the county ;
- Identifying capacity gaps among actors and develop programs for capacity building; develop and implement child protection, prevention and response programmes at zonal levels including appointment of focal point teachers;
- Monitoring and evaluating child protection programmes at all levels.

Committee Observations

1. The Committee appreciates the development of an EAC common policy, curriculum and regulations for agencies dealing with children;
2. There is a need to amend the legal framework to fill the gaps to define expressly a body or various bodies to effectively play their roles; in the entire process of management of children by actors in the sector;
3. There is also the need for the formulation of a national aftercare policy to provide aftercare of children released from rehabilitation;
4. There is urgent need for the development of an accessible data sharing reporting mechanism for use by all stakeholders.

The sub-committee visited Makadara Probation Hostel, Nairobi which is a government funded rehabilitation hostel for male child offenders who are needy and deserving of a safe haven. The center supervises court sanctions with rehabilitation and empowers of the children with practical skills (vocational training) before reintegration into the

community as much as possible. Behavior modification, guidance and counseling are also part of the rehabilitation program.

5.2 The Republic of Rwanda

In the Republic of Rwanda, presentations were made by the National Commission for Children and Elizabeth Glaser Pediatric AIDS Foundation.

The frameworks highlighted includes international, national, and institutional as well as policy framework. **(Refer to Annex I of this Report).**

Committee Findings

1. There were a large number of children orphaned as a result of the Genocide of 1994 as well as those orphaned by HIV/AIDS.
2. Low level of birth registrations and late registration;
3. School dropout rates are significantly high and there is lack of adequate facilities for children with special needs;
4. Children are exposed to violence, exploitation, sexual abuse both at home, at school and the Community as well as the street children phenomena.

Solutions proposed are in the context of existing legal and policy framework:

- There is need to amend the children's Act to fill existing gaps in adoption and emerging forms of abuse;
- There is need to raise awareness targeting stakeholders to enhance sensitivity and enlist support and community responses;
- Mainstreaming children and child protection into essential sectors and ensuring accountability, sustainability and transparency in child related programs should be prioritized;
- A conditional grant for child care and protection disbursed to all local governments.

Committee Observations

The Committee observed that the Children's Council while charged with coordinating issues of children and having many Associate Bodies and NGOs working with children was faced with too many agencies and that duplication of activities was evident.

The Committee commends the temporary ban on interstate adoptions and recommended the development of child protection curriculum such as is in Makerere University, professional Certificate in child protection as well as strengthening community based child protection and child parenting.

5.3. The Republic of Uganda

Stakeholders included officials from the Ministries of EAC, Gender, Labour and Social Development, National Human Rights Commission, Naguru Reception Centre and Child Aid, Uganda.

The frameworks highlighted includes international, national, and institutional as well as policy framework. **(Annex I of this Report).**

Challenges faced by children under special circumstances including children who faced internal displacement, war and civil conflicts, orphan as result of HIV/AIDS and the emerging crime of child sacrifice.

Committee Findings

1. Lack of implementation of existing legislation. For instance, only a few Family and Children's courts (FCCs) are operational with irregular sittings and lack of magistrates. In rural areas, remand homes have not been established and children are remanded with adults;
2. Gaps exist in the Children's Act as follows:
 - Weak provisions existing on adoption which has made it easy for many children to be taken out of the country under Guardianship orders;
 - Current provisions do not take into account emerging forms of child abuse including child sacrifice, pornography and sex tourism among others as well as

evolving vulnerability such as children with disabilities. Rights of children with parents in challenging circumstances such as incarcerated or refugee parents are not provided for.

- There was a lack of remand homes up country so children are detained with adults before transfer to the right institutions which due to poor funding takes up to two days or more in some instances.

Committee Observations

- 1) The Committee considers that the Republic of Uganda could encourage and review the culture of community parenting as opposed to institutionalization of young offenders and children in conflict with the law;
- 2) The Committee urges the strengthening of legislation including among others, mobilizing against imprisonment of children with adults;
- 3) The Committee emphasized the strengthening of particular norms and values with regard to parenting and community responsibility toward children which cannot be enforced through legislation.
- 4) There is need for governments to increase funding to facilities dealing with children including remand homes, rehabilitation centers and juvenile courts.
- 5) Concerted efforts towards sensitization on the rights of children and obligations of the Community toward children need to be enhanced. This includes measures such as translation of materials to local languages and public lectures at town hall meetings among others.

5.4. The United Republic of Tanzania

In the United Republic of Tanzania participants included officials from the Ministry of the East African Cooperation, Ministry of Community Development, Gender and Children, C-Sema (National Child Helpline), Jericho Children Home, World Vision, Tanzania, Tanzania Child Rights Forum, Elizabeth Glaser Pediatric Aids Foundation and Plan International.

The frameworks highlighted include international, national, and institutional as well as policy framework. Refer to **Annex I** of this Report for the mentioned frameworks.

Committee Findings

1. Poverty was identified as being a major challenge in safeguarding child rights. A large part of the population, particularly, those living in rural and remote areas are poor. Poverty has had a negative impact on the living conditions of children especially their right to food and other basic needs.
2. There is a conflict between the law on marriage which allows marriage at the age of 16 and the Child Rights Act that provides for 18 years of age. Harmonisation is expected to be validated by the ongoing constitution making process.
3. Children with albinism face enormous risks in Tanzania and the challenge becomes even greater during periods of political campaigns. Whilst the government of Tanzania has made commendable efforts to combat the problem, the practice remains alarmingly prevalent in many parts of the country.
4. In Zanzibar, attending school is compulsory during the first ten years. This is, however, not backed by any legislation. Children living in rural areas are unable to go to school due to lack of transport infrastructure especially for children with disabilities.
5. Many young girls are victims of genital mutilation, victims of this traditional practice, suffer physical and psychological traumas throughout their lives that are never treated.
6. Child marriages have continued to reduce but the practice is still in place. Young girls are still forced to marry as young as 12 years old. These marriages affect the girl child in terms of health implications and ignorance around their responsibilities.
7. The prospect of generating income pushes families to send their children (mostly under 14 years of age) to work instead of school other families prefer their children to work on family farms and businesses.

8. There is lack of public awareness around birth registration is a challenge. Costs for such important documents are also prohibitive hence a few children have birth certificates.
9. Many children either charged or convicted of minor offenses are imprisoned under harsh conditions with serious offenders. Prisons are not suitable for children. Furthermore, children are sometimes detained with adults.

Committee Observations

1. Support for a strong civil society response to complement Government-led child protection, response services and cooperation is needed to strengthen with NGOs and the civil society agencies working for and with children, in a more systematic implementation of child protection legislation and policies.
2. The Committee was of the view that there is need for integration of plans and measures to address violence against children into a functioning system by recruiting more child protection and welfare officers and allocating adequate resources.
3. The Committee emphasised that further research into violence against specific groups of vulnerable children such as children living/working on the streets and those in institutions.
4. The Committee expressed that for Tanzania and Zanzibar to harmonise campaigns to raise awareness about child rights such as the work of the Human Rights Commission, including the work of the Special Desk for Children's Affairs, creation of a toll free helpline for children and related services for children's easy access. Adequate financial and human resources should be allocated for more effectiveness.
5. The Committee urged Mainland Tanzania to establish a comprehensive data collection system. This data, disaggregated; by age, sex, socio-economic background and geographical area, including asylum-seeking and migrant

children, should be systematically collected and analysed to support policy implementation.

6. The Committee proposed that the Republic of Tanzania should develop and disseminate translated documents, plans and policies that promote child rights in local and national languages for children's easy reading. Further recommendation to be undertaken was made for the reinforcement of adequate and systematic training for all professional groups working for and with children. These include; law-enforcement officers, teachers especially those in rural and remote areas; health practitioners, social workers and childcare centres.
7. The Committee proposed for a consultative process to be undertaken to set and reinforce the legal minimum age for marriage applicable to both boys and girls and acceptable by international standards.
8. The Committee called for support to be extended for the participation of children and young people in the Junior Council. It is imperative to reach the most marginalised groups of children with necessary information by involving them in public debates and consultations.
9. The Committee called for implementation of a free and efficient birth registration system that covers both parts of United Republic of Tanzania fully. Introduction of mobile birth registration units for remote areas to capture previously unregistered children is essential.
10. The Committee urged for corporal punishment be banned in schools in the United Republic of Tanzania to mitigate any possible child abuse through this practice. Teachers and parents should also be sensitised about alternative forms of disciplining children.
11. The Committee called for increased efforts to combat the spread and effects of HIV/AIDS. One of the programmes to be focused on is preventing mother-to-child transmission of HIV/AIDS (PMTCT) through provision of pregnant women with free and adequate health, social services and antiretroviral drugs and formula-food for infants.

12. The Committee called for more enforcement of anti-FGM legislation and a robust public awareness campaign against the practice. Such campaigns should target public, community and religious leaders and family attitudes for change of attitude towards FGM.

13. The Committee called upon the United Republic of Tanzania to urgently enforce legal protection for albinos. Programs targeting anti-discrimination of albinos should also be intensified.

5.5. The Republic of Burundi

In the Republic of Burundi, participants included officials from the Ministry of the Office of the Presidency Responsible for EAC Affairs, Children Family Department, Ministry of National Solidarity, Human Rights and Gender, Burundi Child Rights Coalition, 'Observatoire INEZA pour les Droits de L'Enfant au Burundi (O.I.D.E.B), SOJPAE-Burundi, Senate, CPJE, Le Forum national des enfants au Burundi (FONEB), Giruyuja, Maison Shalom and FVS AMADE.

The frameworks highlighted include international, national, and institutional as well as policy framework attached as **(Annex I of this Report)**.

Committee Findings

1. A history of civil war and high rates of HIV/AIDS are the main factors contributing to the poor condition of living for Burundian children. Food insecurity and malnutrition problems are also prevalent.
2. Articles 242 and 243 of Burundi's Criminal Code prohibit human trafficking and smuggling and prescribe sentences of five to 20 years' imprisonment. The code, however, needs to provide a definition of human trafficking to support investigators' or prosecutors' efforts to identify and prosecute child traffickers.
3. The juvenile justice system is lacking, children are for instance detained in the same cells as adult convicts which subjects children to sexual abuse. The separation principle exists but is not applied.

informed and accordingly the same shall be reviewed to reflect the provisions of the Constitution.

Children's rights are implemented through various institutions including Juvenile Courts, the National Child Rights Committee (Zanzibar), the Commission for Human Rights and Good Governance, Multi Sectoral Task Force for violence against children, Prime Minister's Office, Regional Administration and Local Government through the local authorities, Ministry of Community Development Gender and Children(Tanzania), Ministry of Health and Social Welfare and relevant CSOs such as Tanzania Child Rights Forum and Tanzania Early Child Development Network.

Zanzibar

The Implementation of Children Rights in Zanzibar is coordinated by the Ministry of Empowerment, Social Welfare, Youth, Women and Children. The laws that regulate children issues in Zanzibar among others include; The Zanzibar Employment Act 2005, Persons with Disabilities(Rights and Privileges)Act, Zanzibar Constitution 1984, Education Act 1982, Spinsters and Single Parent Children Protection Act 2005, Kadhis Court Act 1985 and Penal Act 2004.

armed conflict in November 2004 and the Optional Protocol on the sale of children, child prostitution and child pornography in April 2003. It also ratified the United Nations Convention against Transnational Organized Crime and its two supplementing Protocols in May 2006. It ratified ILO Convention No. 182 (1999) on the worst forms of child labour in 2001, ILO Convention No. 138 (1973) concerning Minimum Age for Admission to Employment in 1983, and the African Charter on the Rights and Welfare of the Child (ACRWC) in March 2003.

National legal, policy and Institutional framework

Tanzania's current legal framework relevant to child rights includes Tanzania Main Land Law of the Child Act 2009. The law was followed by the development of relevant policies that recognize the rights of the child, namely; Child Development Policy 2008-under review, National Employment Policy 2008, Education and Training Policy 2014, National Health Policy 2007, Food and Nutrition Policy 1992-under review, National Employment Policy 2008, Education and Training Policy 2014, National Health Policy 2007, National Agriculture Policy 2013 and National Disability Policy.

Other legislations that protect the rights of the child include; Education Act 1995 under review, Employment and Labour Disability Act 2008, Mining Act 2010 and Evidence Act 1967.

Tanzania has developed rules and regulations to effectively implement the Children's Acts such as Children's Court Rules adopted to regulate the administration of juvenile justice in the juvenile court in the mainland and the rules for the Zanzibar Children's Court in the final stage of adoption. Moreover, a set of regulations to implement the Child Act have been adopted.

Currently, review of the Tanzanian is underway, among other proposals, is a provision that provides exclusively for the rights of the child, as provided under Article 53. Following this milestone, the legal framework governing the rights of the child will be

- Minimum Standards for children living in Child care institutions or deprived of Family care environment
- National Strategy to Prevent and eliminate the Phenomenon of Street Children
- Action Plan on the Elimination of Worst Forms of Child Labor
- Act No 1/28 of 29 October 2014 on the prevention and punishment of trafficking in Persons and Protection of Victims of trafficking.
- The Ministry of National Solidarity, Human Rights and Gender, through the Department of Children and Family, deals with all children and family related issues in partnership with 7 other line ministries
- Family and Community Development Centres in all provinces and communes
- Independent National Human Rights Commission;
- National Children Forum (2013) (established at village, district, provincial and national levels)
- Unit for the Protection of Children in conflict with the law within the Ministry of Justice
- Child Protection Brigade within the Ministry of Public Security
- Inter-Ministerial Steering Committee with a mandate to ensure child protection across all sectors at the national level
- Child and youth Protection Unit within the Office of the Ombudsman.
- Child Protection Committees at village, district and provincial levels, whose mission is to protect children and promote their rights at Community level, especially through prevention of abuse exploitation, and neglect,
- To provide assistance and response to violations, make advocacy for promotion of children's rights.

UNITED REPUBLIC OF TANZANIA

International Legal Framework

The United Republic of Tanzania (URT) ratified the Convention on the Rights of the Child in 1991. It acceded to the Optional Protocol on the involvement of children in

REPUBLIC OF BURUNDI

International and Regional legal framework

Burundi ratified the main international and regional legal instruments relating to the rights of children, including:

- The Convention on the Rights of the Child (CRC) in 1990;
- The Optional Protocol to the CRC on the sale of children, child prostitution and child pornography of children in 2007;
- The Optional Protocol to the CRC on the involvement of children in armed conflict in 2008;
- The Convention on the Elimination of all Forms of Discrimination Against Women in 1992;
- The Hague Convention on the protection of children in international adoption in 1998;
- Convention no.138 concerning Minimum Age for Admission to Employment in 2000;
- Convention no. 182 on the worst forms of child labour by 2002
- The African Charter on the Rights and Welfare of the Child in 2004.

Policy, strategies and institutional framework

In the area of child protection, the Country adopted its National Social Protection Policy in April 2013 and the new National Child Protection Policy (2012-2016).

- The Constitution of Burundi (2005) which contains provisions on the protection of the people, and children as well as (Articles 19, 21, 22, 26, 53) and other provisions for the protection of the child in general and of the child in conflict with the law in particular (sections 44 to 46);
- The Labour Code of 1993 which sets the minimum age of admission to employment to 16 years (Article 126) and prohibits work to children under 12 years with the exception of light work and that does no harm to the health, development and education of children (Article 3).

REPUBLIC OF UGANDA

International Framework includes:

- The UN Convention on the Rights of the child
- The African Charter on the Rights and Welfare of the child;
- The UN General Assembly Special Session on HIV/AIDS, the UN Millennium Declaration;
- The UNCRDP

National Framework includes:

- Uganda Constitution provides for the protection of all children, 1995
- The Children's Act Cap 59, The NCC act CAP 60
- The Trafficking in Persons Act, 2009
- The Penal Code
- The Employment Act, 2006
- The Births and Deaths Registration Act
- The Local government Act (1997) amended in 1999
- The Prohibition of Female Genital Mutilation Act, 2010
- The Domestic Violence Act, 2010.
- The National Orphans and Vulnerable Children Policy (NOP) (2004)
- The Child Labour Policy (2006)
- The National Universal Primary Education Policy (1997)
- The Health Policy (1999)
- The National ART Policy(2003)
- The National Youth Policy (2000)
- The National Policy for Internally Displaced Persons (2004)
- The National Policy on Disability in Uganda (2006)

- The National Integrated child Rights Policy and strategic plan, the National Social Protection policy and strategic plan, Early Childhood development policy and strategic plan , 2011;
- National Strategy for Childcare Reform 2012;
- National policy on the Elimination of Child Labour, 2013;
- Children's Access to Justice Policy.

Institutional Framework includes:

- The Ministry of Gender and Family Promotion;
- The National Commission for Children;
- The National Youth Council;
- National Child rights Observatory Department within the Human Rights Commission;
- The National Children's Forum (including the annual children's summit);
- Inshuti z'umuryango (Friends of the Family) structure at grassroots level;

The current status of child rights is identified through the following:

- i. Identity and nationality; whereby any child born in Rwanda of one or both Rwandan parents has a right to nationality, as well as those who find themselves in Rwanda without parents and without known nationality of parents;
- ii. Family and alternative care with emphasis on encouragement of commitment and adoptions within the country.
- iii. Survival, health and standards of living;
- iv. Education and child participation;
- v. Protection and justice; including the banning of interstate adoptions till further notice.

- The Protocol to prevent, suppress and punish trafficking in persons, especially women and children supplementing the UN convention against transitional organized crimes;
- The UN convention on the status of refugees;
- The Convention 123 of the international Labour Committee relating to the Minimum age for admission to mining underground;
- Convention 138 of the ILO on minimum age of employment 1973;
- The Convention concerning Forced or Compulsory Labour;
- The Hague Convention on Inter Country Adoption;
- The Convention on the Rights of People with Disabilities;
- The Convention against all forms of Discrimination in Education;
- The International convention on the Protection of the rights of All migrant Workers and Members of their families.

National legislation includes:

- The Penal Code of the Republic of Rwanda;
- The Rights and protection of the Child;
- Regulation of labour and determining the worst types of child labour;
- Protection of the Rights of People Living with Disabilities;
- The civil code and institution of the law on matrimonial regimes ,liberties and succession;
- Prevention and punishment of GBV;
- Law relating to Rwandan Nationality;
- Law establishing and regulating the National Commission for Children;

Policy framework includes:

- A strategic plan for street children 2005;
- National Girls Education Policy and strategic plan, 2008;

- The Nairobi Children's Court Pilot Project which facilitates cases that include children in conflict with the law as victims or witnesses. Services include legal education, legal aid, advice and litigation.

Policy framework includes:

- Policy framework for Education and Training formulated in 2012 and has been implemented through development of policies and strategies to address institutional reforms, the management and financing of education, the curriculum, teacher education, development and management;
- The National Special Needs Education Policy Framework 2009 which addresses some of the critical issues which determines delivery of quality and relevant education to learners with special needs. It also addresses issues of equity and improvement of learning environments.
- The National Plan of Action on Children 2008 – 2012 (currently under review);
- The National Plan of action against sexual exploitation of children in Kenya 2013-2017
- Sexual offences Rules of Court
- Gender Policy.

REPUBLIC OF RWANDA

International instruments include:

- The UN convention on the Rights of Child;
- The Optional Protocol to the CRC on the sale of children, child prostitutes and child pornography;
- ILO Convention on prohibition of all forms of exploitation of child labour and the immediate action for their elimination;
- The convention on consent to marriage, age for marriage and registration of marriages;

4. There is a high number of street children especially in Bujumbura while there are very few services and donors supporting children to get off the streets.
5. Education is free but limited to primary education and there are no enforcement mechanisms to ensure all children, including the vulnerable groups, are enrolled into school.
6. The Republic of Burundi has free medical care that is limited to children under Five years of age. Vulnerable children over the age of five years are not supported to access free medical care.
7. In the sale of land and land ownership, the code of persons and family authorizes the consent of the spouses to sell the family property. Children are often left out.

Committee Observations

1. The Committee observed that although Burundi has ratified most of the international legal instruments relating to the rights of the child, there is a need to harmonise and align the national principles and legislations to Children's Rights Council and its principles.
2. The Committee further urged for strengthening of the coordination mechanisms at all levels with an integrated approach to protection of the child.
3. The Committee called for enactment of anti-child trafficking legislation and enforce the trafficking provisions in the 2009 Criminal Code amendments through increased prosecutions of trafficking offenses and conviction and punishment of trafficking offenders. Consideration should also be given to the amendment of the criminal code to provide a legal definition of human trafficking and set clear penalties.
4. The Committee encouraged establishment of a centralised mechanism of collecting, managing, analysing and disseminating data on child protection and related services.
5. The Committee called for strengthening of the national system supporting child victims of violence, abuse and exploitation. As a result, Children will have easy access to social services, health care and basic education.

6. The Committee commended existing efforts at improving targeted community services aimed at preventing violence and exploitation of children as well as those providing rehabilitation for victims of violence and abuse but called for more to be done in this regard.
7. The Committee called for the definition of clear roles among all stakeholders to improve accountability in delivery of child protection services.
8. The Committee urged the Republic of Burundi to define a minimum social services package/award.

6.0. Emerging issues in all Partner States and General Recommendations

It emerged that there was adequate legal, policy and institutional framework(s) and partner states have put in place impressive policy instruments that have ensured a measure of observance of child rights to a considerable extent. The Committee appreciates the efforts of the partner states but notes that implementation still remains a major challenge in partner states. The Committee noted that all the lapses observed are due to implementation gaps and challenges rather than lack of legal, policy and institutional framework. The Committee therefore recommended that implementation mechanisms be devised across board as indicated with regard to laws related to rights of the child, labour, human trafficking laws, crimes such as FGM and killing of albinos and common approaches to prevention and management policy mechanisms among others.

7.0. Specific Recommendations

The Committee urges the Council of Ministers to urgently give attention to and implement the recommendations made by the Committee for both national challenges as indicated in parts 1-6 of this Report as well as the regional challenges and recommendations elaborated as follows:

7.1.1. A need for a Regional approach to combat child related criminal acts

- This would include harmonization of national laws and streamlining of segmented laws that have been rendered ineffective;

- The Committee recommends to the Assembly to urge the Council of Ministers that interstate adoptions be restricted in all partner states until adequate control and follow up mechanisms are instituted to ensure the adoptions are genuine and not ill intentioned toward crime and child abuse or exploitation. This would also encourage national/internal adoptions through proper sensitization and associated awareness creation.
- The Committee recommends the fast tracking of cases of violence against children by specialized institutions which presently is for example, at 3 months for Rwanda and 3 years for Kenya.
- There is also need to translate all materials related to the Child Rights care and management into as many local languages as possible to ease sensitization and awareness creation.
- There is need to ensure accountability in form of registration of births and creation of a regional database that is widely accessible to ease registration by appropriate use of technological developments such as mobile technology.

7.1.2. The need for a Regional approach to curricular training, management and service delivery as well as implementation of national policies for Key Stakeholders

There is need to ensure uniformity in services in access, delivery and management of child rights related services, facilities and rights. It is recommended that with a view to minimizing vulnerability and enhancing effective service delivery, a common curriculum be instituted for all areas, sectors and personnel that deal with children in terms of care providers, access to justice, management and guidance. Related minimum wage and remuneration issues also need to be addressed.

The regional approach should also comprise standards on location of facilities; Juvenile Courts within local jurisdiction, their numbers and standards as well as guidelines on management and funding.

Furthermore guidelines based on mapping of activities peculiar to a region should be considered to create flexibility and understanding of specific cultural practices that may not necessarily amount to child abuse such as practices of the Maasai which may be considered as customary up bringing rather than labour. The Acts should define mapping of economic activities that define and distinguish child abuse from economic activities.

7.1.3. The need for urgent revision of Acts on the Rights of the Child in all the Partner States

This is in order to facilitate adequate and commensurate coverage of emerging and hitherto uncommon offences and sophisticated crimes like child pornography, prostitution, trafficking, nudity, kidnapping, child sacrifice, internal organ theft and crimes committed as a result of vulnerability of children with disabilities among others.

Measures to enforce the observance of rights of the child including the right to education, human rights and related rights provided for under the Acts need to be instituted. The monitoring and follow up instituted in most of the Partner States that extend to the grass root level are highly commended and encouraged as a best practice. The specific law on defilement should make penalties stiffer whereby offenders should be charged with aggravated rape instead of defilement which has a higher sentence.

7.1.4. The need to establish a regional fund and sustainable financing for child rights related issues of protection, prevention and management.

The institutional basis of such a fund would be coordinated at the regional level by the EAC and any such children's council/committee/desk as the need may be. This is notwithstanding sources of financing at national level.

7.1.5. Creation and coverage of a Child Predator/Sex offender's regional database and website to name and shame child abusers and sex offenders;

The facility with a regional coverage and access would help create and stimulate more active public/ community prevention, management and responses. The facility would

have links to national databases and be regularly updated to facilitate follow up, monitoring of any such individuals to curb the practices.

7.1.6. With regard to access to HIV treatment for children, **it is recommended that strict policy guidelines be put in place to ensure access to treatment for children living with HIV and institution of sanctions against parents and guardians who do not comply.** Complete separation of treatment and management of children, adolescents and adults should be followed and the related databases to respond to the different needs and sensitivities created as is appropriate and expected.

8.0. Acknowledgment

The Committee would like acknowledge and express appreciation to the Office of the Rt. Hon. Speaker, EALA and Office of the Clerk for facilitating the Committee as it undertook the oversight activity. The Committee expresses its appreciation to the Ministries for East African Community in all the Partner States for coordination and facilitation of the activity thereby contributing to its success. All the stakeholders the Committee interacted with including the relevant Ministries of Social Welfare, Labour, Child Welfare, Family Promotion as the case was, are commended for the cooperation and valuable inputs provided.

Finally appreciation also goes to Elizabeth Glaser Pediatric and AIDS Foundation (EGPAF) for facilitating and partnering with the Committee for the entire duration of the activity in Kenya, Uganda, Rwanda and The United Republic of Tanzania where they have programs.

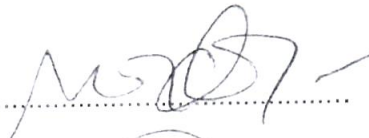
9.0. Conclusion

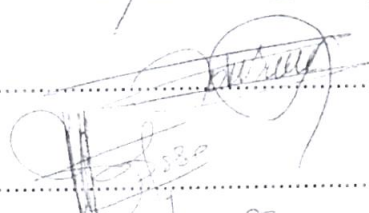
The Committee concludes that children and youth are without doubt a very important part of our community and have to be protected as the future depends on the quality of care, education, orientation received as well as values inculcated into them today. Dividends can be reaped with the young population that has a lot to contribute to the socio-economic development of the region. More measures that go beyond legal and

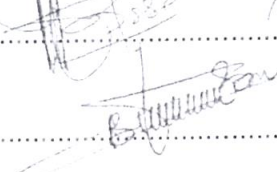
policy provisions need to be enhanced to ensure a sustainable and secure future, the achievement of which is possible.

REPORT OF THE COMMITTEE ON GENERAL PURPOSE ON THE OVERSIGHT
ACTIVITY ON THE LEGAL FRAMEWORK AND IMPLEMENTATION OF
POLICIES ON THE RIGHTS OF THE CHILD IN THE EAC PARTNER STATES:
22ND – 26TH FEBRUARY 2015

1. Hon. Dr. Odette Nyiramilimo
2. Hon. Dr. Martin Nduwimana
3. Hon. Hafsa Mossi
4. Hon. Emerence Bucumi
5. Rt. Hon. Margaret N. Zziwa
6. Hon. Susan Nakawuki
7. Hon. Bernard Mulengani
8. Hon. Angela C. Kizigha
9. Hon. Maryam Ussi Yahya
10. Hon. Charles M. Nyerere
11. Hon. Dr. James Ndahiro
12. Hon. Valerie Nyirahabineza
13. Hon. Amb. AbuBakr Ogle Abdi
14. Hon. Abubakar Zein Abubakar
15. Hon. Nancy Abisai

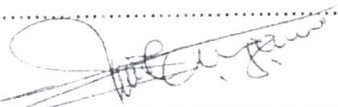

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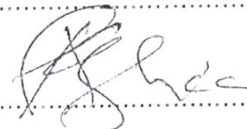

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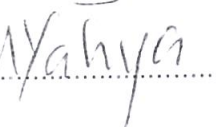

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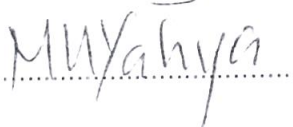
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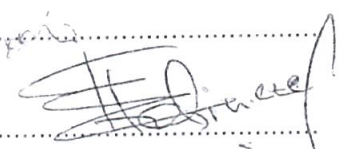

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ANNEX I

REPUBLIC OF KENYA

The framework highlighted includes international, national, and institutional as well as policy framework.

International frameworks include:

- Article 24 of the international convention on civil and political rights guaranteeing every child the right to measures of protection as are required by status as a minor;
- African Charter on the Rights of the Child;
- ILO Convention 132 on the Millennium Age and ILO convention 182 on the worst forms of child labour.

National Framework includes:

- The Constitution of the Republic of Kenya : Article 14, 15 (3), 53;
- The Children's Act of 2001 (Cap 141) Laws of Kenya where child rights were integrated into the curriculum at both primary and secondary level to include survival, development, protection and participation rights;
- Sexual Offences Act- Section 8 providing for the offences of defilement and penalty of the same;
- Penal code (Cap 63) setting the age below which a child cannot be held criminally responsible – 8 years
- Evidence Act- section 124 calls for corroboration of the evidence of a child of tender age; except where the case is one of sexual assault and the child is the victim;
- Employment Act – Part VII deals with protection of children. The Act also outlines Children's Employment Rules
- Prohibition of FGM Act, 2011;

- Borstal Institutions Act Cap 92 , Part III which provides for the process undertaken before sentencing of youthful offenders whereby the court considers available evidence of character and previous conduct and where if expedient for his/her reformation should undergo a period of training in a borstal institution;
- Persons with Disabilities Act, 2003: children with disabilities should have access to education and health services;
- The Counter trafficking in Persons Act, 2010;
- The HIV and AIDS prevention and control Act, 2006.

Institutional Framework includes:

- The Ministry of Labour, Social Security and Services which is the primary ministry offering services for children in need of care and protection through the department of children services that coordinates and supervises and facilities designed to advance the wellbeing of children;
- The National Council for Children's services in Kenya which oversees policy direction on children's institutions which advises government approves registration of charitable children's institutions; advises government on all aspects relating to children's matters and in charge of full implementation of Kenya's international and regional obligations relating to children;
- The Judiciary;
- Kenya Children Assembly in the Counties;
- Witness Protection Agency which gives due regard to particular needs of vulnerable witnesses;
- National Legal Aid and Awareness Programme (NALEAP) which was set up to create awareness to the public about legal aid, to provide and representation to poor marginalized and most vulnerable in society (including children);

Annex II

Presentations by Elizabeth Glaser Pediatric AIDS Foundation (EGPAF)

The Elizabeth Glaser Pediatric AIDS Foundation is a global leader in the fight against pediatric HIV and AIDS. EGPAF works in 15 countries around the world to provide HIV Prevention, Care, and Treatment Services for Children, Women, and Families—with a mission to eliminate Pediatric AIDS. The Pediatric AIDS Foundation has one critical mission: to bring hope to children with HIV/AIDS.

EGPAF Today

EGPAF has become the leading global nonprofit organization dedicated to preventing pediatric HIV infection and eliminating pediatric AIDS through research, advocacy, and prevention and treatment programs.

62 percent of HIV-positive pregnant women in low- and middle-income countries now receive medicines to help prevent transmission of HIV to their babies. In 2013, more than one in six of those women received their medicines through programs supported by EGPAF and its affiliates.

EGPAF uses a three-pronged strategy to implement its work around the world:

Research: EGPAF-supported research efforts around the world seek to improve the prevention, care, and treatment of pediatric HIV infection; train international research leaders to respond to the virus in children; and pursue the development of a pediatric HIV vaccine.

Lifesaving Programs: EGPAF's work supports program implementation in those areas deeply affected by HIV/AIDS. EGPAF works with partners to provide accessible HIV prevention, care, and treatment services for children, women, and families; to research and identify better technologies and interventions for those in need; and to document models that can be replicated throughout the world.

Public Policy and Global Advocacy: Through work with policymakers, affected children and families, the scientific community, business leaders, and the media, EGPAF has built upon Elizabeth's legacy by expanding funding for pediatric research; improving the safety, efficacy, and availability of drugs for children living with HIV; and fighting to prevent discrimination against people living with HIV.

Connecting HIV/AIDS to child rights, the presentation by EGPAF highlighted the disparity between access to treatment for HIV between adults and Children which is causing death to almost 50% of infected infants will die before their second birthday. By using the guiding principles of the Convention on the Rights of the Child, a child rights approach will help reach most children vulnerable to disease through:

- Survival, development and protection i.e. health, education, treatment and counseling;
- Nondiscrimination and reducing stigma;
- Child centered facilities and programs;
- Participation (right to advocate, express views and have input considered).

Governments therefore should consider the prevention of HIV in children and their care and treatment as a basic right, and report disaggregated data for children and adolescents;

- Tackle stigma, discrimination and gender based violence;
- The adoption of and implementation of National HIV Action plans, very early infant diagnosis, treatment and care for children, with clear and measurable objectives;
- Advocate for budget allocations to support HIV treatment for children who need it.

