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

**Concept Note on the commemoration of the Day of the African Child on 16 June
2012 under the theme:**

***“THE RIGHTS OF CHILDREN WITH DISABILITIES:
THE DUTY TO PROTECT, RESPECT, PROMOTE AND FULFILL.”***

I. Introduction

1. The Day of the African Child (DAC) is commemorated every year on 16 June by Member States of the African Union (AU), and its Partners (in accordance with Resolution CM/Res.1290 (XL)). This occasion is firstly a commemoration to recall the 1976 uprisings in Soweto, when a protest by school children in South Africa against apartheid-inspired education resulted in the public killing of these unarmed young protesters by police officials.
2. The DAC further presents an opportunity to focus on the work of all actors committed to the rights of children on the continent, to consolidate their efforts in addressing the obstacles for realising these rights. The DAC also provides an occasion for Governments, International Institutions and Communities to renew their on-going commitments towards improving the plight of marginalised and particularly vulnerable children by organising activities aimed at including these specific children.
3. In 2011, African States commemorated the 21st DAC under the theme of “All Together for Urgent Actions in Favour of Street Children”. This commemoration aimed at creating widespread awareness of the dangers that children in street situations face and to take urgent steps to protect them.
4. For the commemoration of the 22nd Day of the African Child in 2012, the theme of **“The Rights of Children with Disabilities: The Duty to Protect, Respect, Promote and Fulfil”** has been identified and adopted.
5. The Committee notes with concern that the majority of member States of the African Union (AU) did not report to the Committee on their activities related to the 2011 DAC theme despite the fact that the Committee requested in advance Member States to report. Therefore the Committee strongly recommends that Member States make concerted efforts to submit reports on the implementation of activities for the celebration of the DAC on 2012. For this purpose, a reporting Guideline, attach to this concept note, will be sent to Member States and Partners.

II. Background: A new way of looking at disability

6. In the last couple of decades, significant advances have been made in the development of an international framework setting out the rights of persons with disabilities, including children with disabilities. The reasons for this new focus are partly to be found in the fact that the voices of persons with disabilities and of disabled persons’ organisations (DPO’s) are increasingly being heard at the national and international levels, and partly in an important shift in the way in which disability and persons with disabilities have traditionally been seen, mainly as suffering from a medical condition.

7. This view of a medical condition (also known as the “medical model”) has gradually been replaced by a social view (known as the “social model”) that looks at disabling environments and social structures (including attitudes) rather than at the disabled person. Instead of disability being viewed as a shortcoming on the part of the individual, the focus has now moved to the environment and society as a whole and to the lack of consideration for human difference.

8. The shift from a ‘medical model’ to the ‘social model’ of disability accompanied the emergence of the international human rights framework in which the State has a responsibility to address socially created obstacles in order to ensure full respect for the dignity and equal rights of all persons.

9. This framework saw the adoption by the UN General Assembly of the World Programme of Action Concerning Disabled Persons in 1982, and was followed by the inclusion of a dedicated provision on the rights of children with disabilities (for the first time in an international treaty) in the Convention on the Rights of the Child (CRC) in 1989 as well as the coming into force of the African Charter on the Rights and Welfare of the Child (ACRWC) in 1999. These developments resulted in the adoption in December 2006 of the Convention on the Rights of Persons with Disabilities (CRPD), which came into operation in May 2008. Furthermore, it gradually became apparent that human rights treaty bodies were paying increasing attention to disability-based discrimination and the rights of persons with disabilities in the context of the respective instruments these bodies are in charge of monitoring.

10. The ACRWC (Article 13) and the CRC (Article 23) both contain explicit articles on the obligation on States to ensure the realisation of all rights for children with disabilities on an equal basis with other children and promote their best interests. The African Youth Charter, adopted in 2006, also contains particular provisions on youths with disabilities.

11. The adoption of these instruments and the ratification of the ACRWC and CRPD by a number of AU Member States is testimony to the fact that the continent underwrites the human rights approach to disability. (It is commendable that more than a third of the 106 States Parties to the CRPD – 38 – are also AU Member States.) This means that there can no longer be any justification for the exclusion of African children with disabilities from society. Furthermore, the AU has also instituted a dedicated agency, the African Rehabilitation Institute (ARI) to implement the commitments of the continent regarding persons with disabilities. In this regard, ARI coordinates the implementation of Continental Plan of Action of the African Decade of People with Disabilities (2010 – 2019).

III. Causes of disability in Africa

12. Certain of the causes of disability are closely associated with circumstances in developing countries. It has been reported that the leading causes of disability in

Africa are preventable diseases (such as poliomyelitis, meningitis and cerebral malaria), accidents, and inadequate prenatal and neonatal health care services (African Child Policy Forum, 2011). Armed conflicts and their aftermath, for example, unexploded landmines, remain a major concern in parts of Africa, resulting not only in physical injuries, but also leaving an (often un-addressed) legacy of post-traumatic stress disorder and psychosocial disabilities among children who witnessed armed conflict or participated as combatants. Although inroads have been made against harmful traditional practices, such as child marriage and female genital mutilation, in certain African countries these practices are still contributing factors to disabilities among especially girls. Other causes of disability are diseases caused by emotional deprivation affecting the personality of the child, particularly borderline pathologies and developmental disorders. These disorders can result in physical, mental or psychological disability.

13. It is further important to consider the relationship between disability and poverty: poor nutrition, for example, is linked to vitamin A deficiency in infants, which in turn may cause blindness or lead to children being born with disabilities such as Spina Bifida. This relationship is discussed further below.

IV. Normative foundation

14. As noted above, the normative human rights framework at the African regional level consists of the following:

- The African Charter on Human and Peoples' Rights adopted in 1981 and entered into force in 1986
- The African Charter on the Rights and Welfare of the Child, adopted in July 1990 (entered into force in 1999);
- The African Youth Charter, adopted in 2006 (entered into force in 2010)

15. These instruments, in addition to setting out substantive rights applicable to children with disabilities, require States Parties to respect these rights and to take such legislative and other measures as may be necessary to give effect to them.

16. Further guidance on these State obligations is provided by regional plans such as the *Plan of Action of Africa Fit for Children* (2001), the subsequent *Call for Accelerated Action on the Implementation of the Plan of Action Towards Africa Fit for Children* (2007) as well as the *Continental Plan of Action for the African Decade of Persons with Disabilities* (1999 – 2009), now extended for a second decade (2009-2019).

17. Significantly, the above-mentioned *Call for Accelerated Action* particularly notes the special vulnerability of children with disabilities and makes specific recommendations to Member States and other stakeholders in the following areas:

allocate adequate resources to strengthen social protection measures for children particularly vulnerable children; ensure universal access to comprehensive quality basic education including early childhood care and education as well as preschool education; and promote the right to participation of all children (particularly those who are marginalized, children from poor families, children with disabilities and children who are orphaned and vulnerable) based on their evolving capacities.

V. Objectives of the 2012 Day of the African Child

18. The general objective of the celebration of the DAC in 2012 is to call attention and accountability to the duties of African Governments to protect, respect, promote and fulfil the rights of children with disabilities.

19. The specific objectives are the following:

- To raise awareness about the rights, capabilities and potential of children with disabilities and to draw attention to the situation of children with disabilities who are particularly vulnerable to marginalisation and/ or violence, for example, children with intellectual disabilities and children with albinism;
- To facilitate a clearer understanding of the practical implications of the different duties arising from signature and/ or ratification of regional and international human rights instruments;
- To strongly recommend the review of existing legislative and policy frameworks at national level to address discrimination against children with disabilities and to ensure the effective inclusion of these children in all areas of society;
- To undertake advocacy with African governments and civil society for greater mobilisation for the realisation of the rights of children with disabilities;
- To identify areas of concern, aligned with the *Call for Accelerated Action*, where action should be taken by Governments as a matter of urgency;
- To consider effective strategies for prevention of disability in childhood.

VI. Areas of concern

20. There are several areas that compel urgent attention from all Actors, including Civil Society, Governments, REC's and the African Union. However, for the purposes of the commemoration of the DAC in 2012, **six** areas of concern have been highlighted, as described below. This does not prevent Governments from paying attention to additional areas that are of particular importance to children with disabilities and their families in their respective countries.

Area of concern 1. The links between poverty and disability

21. Disability and poverty are intricately linked with each other: children with disabilities are more likely to be poor than their non-disabled counterparts; and people living in poverty are more likely to become disabled than those who are not living in poverty.

22. Given the relationship between poverty and disability, the International Community has begun to realise that achieving the Millennium Development Goal to cut poverty in half by 2015 is impossible, unless it addresses the needs of its poorest minority (persons with disabilities). For this reason, organisations such as the African Child Policy Forum have recommended that programmes for the attainment of the MDGs must target children with disabilities and their families. It is crucial to strengthen social protection measures and provide adequate support for families with a child with a disability.

Area of concern 2. Social attitudes, stigma and discrimination

23. Despite social attitudes towards children with disabilities having seen a marked turn towards the positive in recent years, unfortunately stigmatisation still remains, and these attitudes often lie at the heart of the discrimination and exclusion experienced by children with disabilities.

24. The harmful impacts of discrimination can be profound, denying children with disabilities access to education and health care, opportunities for play and culture, family life, protection from violence, an adequate standard of living, the right to be heard, and can corrode their self-esteem and self-confidence .

Area of concern 3. Access to education

25. In the 2010 progress report on the Millennium Development Goals, it was noted that the link between disability and marginalisation in education is evident in countries at all levels of development. Even in some countries that are closer to achieving the goal of universal primary education, children with disabilities represent the majority of those who are excluded.

26. UNESCO reported in 2006 that over 90% of children with disabilities in Africa are being denied the right to primary education. Children with disabilities are also more likely to drop out of school and are less likely to achieve positive learning outcomes than their peers without disabilities. In its recent four-country study, the African Child Policy Forum found that the main barriers to the realisation of the education rights of children with disabilities are poverty, negative attitudes, unskilled

teachers, lack of appropriate resources to facilitate inclusive learning (Braille or audio materials, classroom assistants etc.), inaccessible and inappropriate infrastructure and location.

27. Articles 11 and 13 of the ACRWC provide the essential basis for the duties resting on Member States to address these barriers to education currently experienced by children with disabilities, and to respect, protect, promote and fulfil their right to access education on an equal basis. Regional plans of action set out further commitments undertaken by Member States in this regard.

28. The *Call for Accelerated Action* (mentioned above) includes, under the right to education, a commitment by African Member States to ensure universal access to comprehensive quality basic education for both girls and boys, with special attention to reducing disparities and addressing the rights of marginalised children, including children with disabilities.

29. In the *Plan of Action for the Second Decade of Education (2006-2015)*, an undertaking is given by AU Member States that every effort will be made to ensure that the rights of the most vulnerable persons are respected, including (amongst others) children with disabilities. In the *Continental Plan of Action on the African Decade of Persons with Disabilities (1999 - 2009)*, the AU Member States are expected to ensure and improve access to rehabilitation, education, training, employment, sports, the cultural and physical environment. Under this objective, Member States are required to ensure that boys and girls with disabilities have access to education through inclusive education.

Area of concern 4. Violence against children with disabilities

30. The ACRWC contains clear provisions aimed at the protection of all children, including those with disabilities, from all forms of violence and abuse. For instance, Article 16 protects the child from all forms of torture, inhuman or degrading treatment and especially physical or mental injury or abuse, neglect or maltreatment including sexual abuse; Article 21 aims to eliminate harmful social and cultural practices affecting the welfare, dignity, normal growth and development of the child; and Article 27 protects the child from all forms of sexual exploitation and sexual abuse.

31. Despite the strong protective measures set out in the Charter (as well as the CRC and CRPD), there is a growing body of evidence showing that children with disabilities across the world are disproportionately vulnerable to violence, neglect and abuse, to which Africa is not an exception.

32. Some forms of violence are specific to children with disabilities. For example, the African Committee on the Rights and Welfare of the Child has expressed concern about the practice of forced sterilisation of girls with disabilities. Amongst others, the Special Representative of the Secretary General on Violence against Children, and the UN Study on Violence Against Children have indicated that children with

disabilities can also be abandoned and left to die, or subjected to ‘mercy killing’, a crime that often attracts lower penalties, reflecting the lower value attached to the lives of these children. In certain instances, cultural practices and beliefs are a further threat to the safety of children with disabilities, such as children with albinism.

33. A 2010 study conducted by Handicap International and Save the Children in four African countries concluded that children with disabilities are especially vulnerable as a result of entrenched social and structural discrimination against them. Many live in relative isolation and are invisible to society, often kept indoors and out of sight; they have less interaction with peers or adults in whom they could confide; and stigma surrounding disability can result in their needs and rights being dismissed by Communities, Authorities and families. Even where children with disabilities have information about possible sources of help, children who are deaf, blind or have restricted mobility may find it impossible to reach that help. Their dependency on family members, who in many cases are the perpetrators or relatives of the perpetrators, restrict them to the violent situation.

34. This is compounded by the acute lack of access experienced by many children with disabilities to education, child protection and medical, psycho-social, legal and other services, including reporting mechanisms that rarely accommodate their individual needs. This results in these children being uninformed about their rights, finding themselves in environments where they are vulnerable to sexual violence and, if they experience violence, with little opportunity to receive the necessary support. For example, in many countries there is a chronic lack of interpreters (such as sign language interpreters) to assist children with communication disabilities when making a report to the police or giving evidence in court.

Area of concern 5. The Importance of statistics and data collection

35. One of the primary reasons for the absence of children with disabilities from policies and national plans is a lack of accurate information and statistics on their situation.

36. It is acknowledged that disability prevalence is a complex phenomenon and that wide variations occur due to differences in definitions and measurement. Many challenges impede effective data collection. While some steps have been taken to address the current shortage of information, a much greater investment is still required to form a more accurate picture of the lives of children with disabilities and for efficient service delivery and, importantly, enable more effective monitoring of progress or the lack thereof towards realisation of their rights.

Area of concern 6. The right to be heard and to participate

37. Article 13(1) of the ACRWC entitles children with disabilities to protective measures that (*inter alia*) ensure their active participation in the Community.

Furthermore, Article 4(2) of this Charter explains that in all judicial or administrative proceedings affecting a child who is capable of communicating his or her own views, an opportunity must be given for the views of the child to be heard either directly (or through an impartial representative as a party to the proceedings). These views must be taken into consideration by the relevant authority in accordance with the provisions of appropriate law.

38. The Convention on the Rights of Persons with Disabilities confirms that all children capable of forming their own views have the right to express those views on all matters of concern to them, and to have these views given due weight in accordance with the child's age and maturity. To promote these principles of participation, it is important for Governments to consult with children with disabilities and disabled children's organisations in the conceptualisation and monitoring of policies and plans aimed at ensuring the realisation of their rights.

VII. Proposed Activities

39. The Committee recognises that the experiences of children with disabilities may differ among countries and acknowledges the importance of allowing each government, as it prepares to celebrate the DAC in 2012, to conduct activities that take into account its national context. This as a backdrop, the following activities are proposed as being indicative for measures to be taken in the context of the celebration of the DAC 2012.

Activity 1:

40. Compile and adopt national plans of action to protect, respect, promote and fulfil the rights of children with disabilities, paying particular attention to the areas of concern outlined above. In compiling these plans, countries should consult with children with disabilities and their Representative Organisations. The action plans should be accompanied by clear indications of sustainable resource allocation.

41. Activities relating to the areas of concern outlined above may include among others:

41.1 The links between poverty and disability
Ensure that MDG programmes target children with disabilities and their families, with specific reference to social protection measures that may address the additional costs associated with disability and provide adequate support for families with a child with disability.

41.2 Social attitudes, stigma and discrimination
Introduce public awareness and education activities involving political figures, respected elders, religious and traditional leaders and community workers at all levels of society (from the highest political office to the smallest village) to

address customs, practices and perceptions that stigmatise and discriminate against children with disabilities.

41.3 Access to education

Develop time-bound implementation plans, showing how existing commitments regarding the realisation of the right to inclusive education of children with disabilities will be honoured, which should include at a minimum –

- Development of a policy framework for inclusive education at central (national) level to support a practice and culture of inclusive education at all levels of the education system, including early childhood development;
- Transforming mainstream schools to be more inclusive;
- Training of teachers (both in-service and pre-service) in inclusive teaching practices;
- Measures taken to ensure regular attendance of children with disabilities at school and reduction of ‘drop-out rates’;
- Reasonable accommodation of children with disabilities to enable equality of learning opportunities; and
- Indicating the resource allocation for the implementation of the policy framework of inclusive education.

41.4 Violence against children with disabilities

- Introduce accessible, safe and child-sensitive measures to report violence and to facilitate effective access to the judicial system for children with disabilities.
- Strengthen the capacities of child protection systems and services to be inclusive of children with disabilities and to respond to their needs, as well as to introduce disability-appropriate violence prevention initiatives.
- Collaborate with relevant stakeholders, such as the Special Representative of the Secretary General on Violence Against Children

41.5 Statistics and data collection

Develop measures to strengthen the collection of disaggregated data on children with disabilities. These should include, at a minimum, proactive approaches to overcome barriers hindering birth registration of children with disabilities. For example, birth registration must be free and accessible.

41.6 The right to be heard and to participate

Consider measures to strengthen disabled children’s Representative Organisations in order to ensure meaningful consultation on matters relating to the duties to protect, respect, promote and fulfil the rights of children with disabilities. These measures may include capacity-building initiatives, facilitating networking and so forth.

Activity 2

42. Conduct 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 as a member states of AU, with specific reference to the Plan of Action of Africa Fit for Children, Call for Accelerated Action, Continental Plan of Action for the African Decade of Persons with Disabilities and the Plan of Action for the Second Decade of Education.

43. Ratification of ACRWC and CRPD

44. The reviewed framework should –

- Prohibit discrimination on grounds of disability in constitutional provisions and in specific anti-discrimination laws or legal provisions; and
- Aim to respond to sexual violence against children and young people with disabilities by making explicit and specific mention of their particular rights and needs in national child protection and sexual violence legislation and policies.

Activity 3

45. Strengthen all areas of service provision (including health care and community-based rehabilitation) to accommodate and include children with disabilities. This reinforcement should include every aspect of service provision, ranging from training of service providers to ensuring that facilities are accessible to all. Specifically, invest in high-quality, 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.

Activity 4

46. Introduce or reinforce accessible mechanisms where children with disabilities and/ or their families may lodge complaints when their rights are disregarded or violated and publicise these complaints mechanisms, especially to disabled children's organisations.

VIII. Monitoring and evaluation

47. Monitoring and evaluation of the commemoration of the DAC in 2012 should take place as follows:

- 47.1 The Committee will monitor the implementation of the recommendations in all African countries.
- 47.2 All Member States are expected to submit a report on the celebration of the DAC on 16 June 2012 to the African Union Commission. Other stakeholders such as UNICEF and INGOs, CSOs are also welcome to submit reports.
- 47.3 This report on commemoration activities should include information on the situation of children with disabilities in each country, and the activities undertaken on June 16. Annexed to this concept note is a reporting framework which States and other stakeholders can use to report to the Committee on their activities for the celebration of the Day of the African Child 2012.
48. Based on these reports, the African Committee on the Rights and Welfare of the Child will make an overall assessment and will take all steps that will be required at its level to work with Governments to ensure greater compliance with duties to protect, respect, promote and fulfil the rights of children with disabilities.
49. The AUC Commission and the Committee will convene a consultative meeting in 2013 to identify the roles of the African Union Commission, the Committee, REC's, Governments and Partners in monitoring on going compliance with commitments undertaken at regional and national level to protect, respect, promote and fulfil the rights of children with disabilities; and
50. Annexed to this concept note is a framework to States Parties in submitting reports under Article 43 of the ACRWC to the effect that such reports should contain specific information on the situation of children with disabilities.

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Annex

Template for reporting on the Day of the African Child, 2012 [“The Rights of Children with Disabilities: The Duty to Protect, Respect, Promote and Fulfil”]

Motivation:

This template is a reporting framework which Members States and other Stakeholders can use to report on the celebration of the DAC on 16 June 2012 and on the information on the situation of children with disabilities. The report is expected to be submitted in the following format, in order to ensure a comprehensive understanding of the ways in which the theme has been taken forward at country and district level. This will allow the Committee to monitor and evaluate the implementation of the Recommendations in the same manner in all African countries

Country/Organization:**Partners:****Measures and Activities undertaken in compliance with the concern area recommendations:**

- Summary of Legislatives and Administrative Measures, National plans of action taken to protect, respect, promote and fulfil the rights of children with disabilities, paying particular attention to the areas of concern outlined in the concept note;
- MDG programmes targeting children with disabilities and their families taken;
- Measures taken against Social attitudes, stigma and discrimination;
- Access to education;
- Measures taken to end Violence against children with disabilities;

- Statistics and data collection;
- The right to be heard and to participate.

Organised Events:

	Details of the events	No of participants	No rural/no urban	Details of Implementing agency (Politicians, Govt Dept/NGO)	National, regional or district level impact	No of children reached
	Conferences, workshops, seminars held					
	Drama, role play, school based events, events in children's institutions					
	Print media, newspaper articles on the topic, magazines features, journals					
	Radio shows, TV, and related media events on the DAC theme					

Ceremonies, games (eg soccer matches), parades etc						
Phone in programs, competitions, speeches made by opinion Leaders in support of the DAC						
Data collection activities to determine the extent of the situation of concern children						
Plans to take forward the programmes/ advocacy for concern						

children after the DAC for the remainder of the year						
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Please indicate with an * (asterisk) those activities in which children have been involved.