# CSO ENGAGEMENT WITH THE ACERWC

WEBINAR
18 OCTOBER 2017



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

18 OCTOBER 2017
WEBINAR PRESENTATION

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### The African Charter on the Rights & Welfare of the Child (ACRWC)

- Is the first and only regional human rights treaty to specifically protect and promote the rights and welfare of the child.
- Adopted in 1990 by the Organisation of African Unity (OAU) to provide for a specific and comprehensive mechanism for the protection and promotion of children at the African regional level.



- The peculiarities in the African situation included but were not limited to: the situation of children living under apartheid, factors disadvantaging the female child (e.g. child marriage and female genital mutilation), socioeconomic conditions of African children, and a compulsory minimum age for military recruitment.
- The ACRWC came into force on 29 Nov 1999 after ratification by 15 Member States.



#### The principles of the ACRWC

- The Charter contains 48 articles, of these, 31 are substantive provisions (the remainder are procedural and aimed at oversight and implementation).
- The four cardinal principles:
- **Article 3 Non-discrimination**
- Article 4 Best interest of the child
- Article 5 Life, survival and development
- **Article 7 Participation:**.



### The Committee (ACERWC)

#### Treaty body established as per Article 32 of the Charter

- 11 members of high moral standards, integrity, impartiality and competence in matters of the rights and welfare of the child;
- Members serve voluntarily in their individual capacity and for 5 years, renewable.

#### **Article 42-Mandate of the Committee:**

- To promote and protect the rights enshrined in the Charter,
- To monitor the implementation and ensure protection of the rights enshrined in the Charter;
- and interpret the provisions of the Charter.

### **State Party reporting**

#### **Under Article 43,**

- The Committee has the mandate to receive reports 2 years after ratification and every 3 years thereafter.
- Each report must contain sufficient information on the implementation of the present Charter to provide the Committee with comprehensive understanding on its implementation in the relevant Country.



### State Party reporting

- After the Committee receives the State Party Report, it considers CSOs complementary report to verify facts presented in the State Party report.
- The consideration of the CSO report is organized in a presession prior to the consideration of the State party report to ascertain the situation of children on the ground.
- The process of the preparation of the CSO report should be preferably broad, collective & participatory



- Afterwards the Committee engages with the State in constructive dialogue when it considers the State Party Report
- The Committee then issues concluding observations and recommendations urging governments to take necessary measures for the realization of rights, freedoms and duties enshrined in the Charter.

### Child marriage

 One of the unique features of the Charter is the entrenchment of Article 21(2) which provides that 'child marriage and the betrothal of girls and boys shall be prohibited and effective action, including legislation, shall be taken to specify the minimum age of marriage to be 18 years and make registration of all marriages in an official registry compulsory.

- The Committee during its 22nd Session held in November 2013, had a Day of General Discussion on Ending Discrimination and Violence against Girls in Africa which aspired the way forward considering the gravity of the problem in Africa.
- During its 23<sup>rd</sup> Session in April 2014, the Committee also had a Day of General Discussion on Ending Child Marriage and adopted the Addis Ababa Declaration spelling out the roles of different stakeholders in ending child marriage. During the same Session, the Committee proposed the theme "25 years after the adoption of the African Children's Charter: Accelerating our collective efforts to end child marriage in Africa"

# The AU Campaign on Ending Child marriage

- In May 2014, the African Union Commission launched an AU Campaign to End Child Marriage in Africa whose main purpose is to accelerate the end of child marriage in Africa by enhancing awareness of the effects of child marriage. campaigns.
- 20 Countries out of the 30 with high prevalence rates of Child marriage in the Continent have launched their National campaigns on ending child marriage.



- Out of the 20 Countries, 30% have put in place laws prohibiting child marriage.
- 2014 was a landmark year in the AU as regards Ending Child Marriage as Mme Nyaradzai Gumbonzvonda was appointed the AU Goodwill Ambassador for Ending Child marriage in Africa and Dr. Fatima Delladj-Sebaa,appointed the AU Special rapporteur on ending child marriage in Africa in June and October 2014 respectively.
- Dr Fatima completed her term and Mme Marie-Christine Bocoum a member of the Committee took 2017.

# More initiatives to end Child marriage by AU

#### African Union Agenda 2063

Which is both a Vision and an Action Plan. It is a call for action to all segments of African society to work together to build a prosperous and united Africa based on shared values and a common destiny

**Aspiration 6:**An Africa whose development is peopledriven, relying on the potential of African people, especially its women and youth, and caring for children:

Target: All Member States harmonize their laws and policies regarding protection of the girl child and eradication of harmful traditional practices against girls in light of the provisions of the Charter

#### Africa's Agenda for Children 2040

The Committee has also developed the Africa's Agenda for Children for the coming 25 years in line with the AU Agenda 2063

Aspiration 6: Every child benefits fully from quality education by 2040:

Aspiration 7: Every child is protected against violence, exploitation, neglect and abuse by 2040.



# How to Engage with Committee in regard to State Party reporting

- Take part in the preparation and submission of Complementary (shadow) reports.
- Advise and implement concluding observations and recommendations of the Committee to identify and work on issues at stake in respective countries.
- Be part of the ending child marriage campaign in the particular Countries.



#### Conclusion

The ratification and implementation of the Charter helps to facilitate and promote the developmental efforts of States including those aimed at achieving the Sustainable Development Goals (SDGs) ,AU Agenda 2063, the Africa's Agenda for Children 2040 ,and the Call for Accelerated Action Towards Africa Fit for Children of the AU.





## A CASE STUDY FROM TANZANIA ON HOW CSOS DEVELOPED AND SUBMITTED A COMPLEMENTARY REPORT TO THE ACERWC

FORUM COORDINATOR
TANZANIA CHILD RIGHTS FORUM (TCRF)

#### Introduction

- This is a case study on how civil society organizations in Tanzania engaged in the preparation of complimentary report to the African Committee of Experts on the Rights and Welfare of the Child (ACERWC)
- Members of Tanzania End Child Marriage Network (TECMN) and Tanzania Child Rights Forum(TCRF) were part of the CSO technical team which was involved in preparing and finalising the CSO complimentary report which was submitted in October 2016 to compliment the 2<sup>nd</sup>,3<sup>rd</sup> and 4<sup>th</sup> State Party Report.

## CSO Collaboration in Preparation of the Report (1)

- The Tanzania Child Rights Forum (TCRF) facilitated and organised CSOs to prepare the complimentary report.
- TCRF was established in 2012, with over 200 members working on child rights
- Prior the process different national and international NGOs raised awareness to children, children groups and community based organisations
- In Tanzania the process started in January 2016. TCRF organized the first forum with more than 100 CSO representatives and networks from Tanzania Mainland and Zanzibar e.g. TECMN, education networks and professional bodies working on child rights

# CSO Collaboration in Preparation of the Report (2)

- The first consultative forum focused on information gathering.
- There were different clusters where CSOs provided information
- The consultation included children and government officials (to share information, data and avoid duplication of data)
- This forum encouraged members to share experiences and information including those not addressed by the State based on concluding observations.
- All the information was collated by a rapporteur.

### **CSO** Reporting Guidelines

- In August 2016 TCRF convened the second forum with technical experts e.g. legal professionals, child rights experts and policy analysts to review, analyze the information and place the information to the relevant cluster
- The technical team considered the criteria stipulated in the <u>CSO reporting guidelines</u> for the ACRWC with input from Plan Regional Office.
- The technical experts prepared the first draft which was shared with TCRF and TECMN members for input in order to prepare the final draft.

#### **Collective Action to Finalise the Report**

- The technical team incorporated the inputs gathered from the members and developed the final complimentary report.
- The report was endorsed TCRF members and was submitted to the Committee in October 2016.
- The key recommendations from CSOs were mainly focused on policy reform e.g. amendment of the Law of Marriage Act, Education Act, Reentry Policy for Pregnant school girls, resource allocation and provision of water and sanitation in schools

### CSO Participation During Committee Session

- CSOs in Tanzania lobbied with the Government and participated in the Session held between the State Party and the Committee in May 2017
- 5 CSOs representatives from Tanzania attended the session in Maseru, Lesotho.
- CSOs collectively played a key role on lobbying state representatives to address CSOs recommendations.
- The members of the committee appreciated the solidarity of CSOs in Tanzania, adopted the recommendations and developed 12 Concluding Observations to the Government of Tanzania

# Concluding Observations from the Committee (1)

- Develop an implementable guideline on reinstating/re-entry of pregnant schoolgirls
- Allocation of adequate resources, which will accommodate children with disabilities and support the education sector
- Amendment the Law of the Marriage act of 1971 and Education Act to align with Law of the Child Act 2009

# Concluding Observations from the Committee (2)

- Design and implement advocacy measures to publicise the legislative and policy steps, to curb harmful traditional practices, in consonance with Article 21 of the ACRWC
- The Committee recommends that in order for the State Party to guarantee the right to water and sanitation in respect of children as envisaged in Article 14 (2) (c) of the ACRWC, the State Party should enact constitutional, policy and legislative provisions to this effect to guarantee water and sanitation in school settings

### **Lesson Learned (1)**

- Awareness raising is crucial as it creates a common understanding among CSOs
- It is important to have an established and functional CSO coalition
- CSOs should invest and allocate resources to support the whole process. Tanzania INGOs e.g. Plan International and Save the Children provided financial and technical support.
- There is a good working relationship between national and international CSOs.

### **Lesson Learned (2)**

- The Government should be involved at the preliminary stages of the process as this enhances transparency and promotes a good working relationship.
- Participation of children is very important.
   They should share their views, opinions and perspectives which need to be incorporated in the CSO Complementary report.



# JOINT GENERAL COMMENT ON ENDING CHILD MARRIAGE

ACHPR AND ACERWC
BY SAMRAWIT GETANEH DAMTEW,
SECRETARIAT OF THE ACERWC

### **Basis**

 The Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa, 2005 (Maputo Protocol) Article 6(b)

 And the African Charter on the Rights and Welfare of the Child, 1990 (African Children's Charter) Article 21(2)

#### **Mandate**

 Article 42 (a) (iii) of the African Children's Charter and Article 45 (1) (c) of the African Charter which mandate the ACERWC and ACHPR respectively to cooperate with other African, international and regional institutions concerned.

### Purpose and scope

- Aim to elaborate on the nature of State Party obligations that arise from Article 6(b) of the Maputo Protocol and Article 21(2) the African Children's Charter, both of which prohibit child marriage
- It describes legislative, institutional and other measures that should be taken by States Parties to give effect to the prohibition of child marriage and to protect the rights of those at risk or affected by child marriage.
- It gives guidance to Governments, CSOs, IGOs, child protection clusters, practitioners, individuals and groups in any effort towards the elimination of child marriage and protection of children in the context.
- The Joint General Comment includes children in child marriages, children at risk of child marriage and women who were married before the age of 18

#### Main elements

- Underlying principles of interpretation
- Normative framework
- State obligations

### Underlying principles of interpretation

- Best interest of the child
- Freedom from discrimination
- Right to survival development and protection
- Participation
- Interrelatedness of children's and women's rights

#### Best interest of the child

- Child marriage gives rise to negative physical, psychological, economic and social consequences and curtails the enjoyment of children's human rights and fundamental freedoms. Child marriage is therefore not in the best interests of the child
- The best interests of the child principle cannot and should not be interpreted or used as a justification to permit child marriage in any circumstance.

### Freedom from discrimination

- State Parties should recognise child marriage as a form of sex and gender based discrimination and take appropriate measures towards its elimination.
- This is reflected by the overwhelmingly disproportionate risk and impact it has on girls and women and its correspondingly disproportionate effect on the enjoyment of their human rights and fundamental freedoms

### participation

- Article 4(2) of the African Children's Charter, a child has the right to communicate and express their views and opinions, subject to such restrictions as prescribed by law
- Article 7 of the African Children's Charter, the views of the child must be heard and taken into consideration in all judicial and administrative proceedings affecting the child
- Articles 4(2) and (7) are violated when children are betrothed or married without their giving their personal, free and full consent
- A child's right to participate in decisions and matters affecting them shall not be used to justify any exception to the minimum marriageable age of 18 years, the best interests of the child requires that no exceptions to the minimum marriageable age of 18 can be tolerated.

#### interrelatedness

- The GC reiterates the interrelatedness and interdependence of human rights.
- The prohibition against child marriage in Article 6 of the Maputo Protocol and Article 21(2) of the African Children's Charter is interdependent and interlinked with a number of other rights recognised under the two instruments

#### **Normative framework**

- Article 21(1), 21 (2) and Article 1(3) of the African Children's Charter (harmful social and cultural practices affecting the welfare, dignity and normal growth of the child, prohibits child marriage and betrothal and provides for minimum age of marriage 18 with no exceptions, obliges State Parties to discourage any custom, cultural or religious practice that is inconsistent with the rights, duties and obligations in the African Children's Charter)
- Articles 6, 6(a) and 6(b) of the Maputo Protocol (equal right in marriage, no marriage without the free and full consent of both parties, minimum age of marriage -18 years without exception)
- Article 1(b) of the Maputo Protocol (States Parties to combat all forms of discrimination against women)

### State obligations

- Legislative measures
- Institutional measures
- Other measures

### Legislative measures

Prohibiting betrothal and marriage under the age of 18 with no exception

 States Parties should enact, amend, repeal or supplement legislation as appropriate to ensure that the betrothal and marriage of children under the age of 18 years is prohibited

Personal full and free consent - cannot be replaced by the consent of a parent, legal guardian or any other person.

Undertake constitutional reform

#### Institutional measures

- Verification procedure implementation birth registration (compulsory, accessible and free), age verification (in case of doubt minority should be presumed) and marriage registration (compulsory and supported by objective evidence for ascertaining majority)
- Effective laws penalties and sanctions caution to ensure that penalties do no target or affect children, target should be the person who is authorized to perform the marriage, primary goal of sanctions and penalties should be prevention and deterrence, penalizing parents is not recommended, whistle blowers should be protected
- Education retention of children in schools, ensuring equal access, interventions, encouraging pregnant girls to continue education

#### Institutional measures

- Health services access and uptake comprehensive sexual and reproductive health services with age appropriate information
- Promoting access to justice awareness creation, increasing accessibility, specialized children and women justice units, remedies should be provided by competent authorities
- Support for children already married social protection and health services, access to redress, education, protection or other rights, supporting in parenting children born of the union
- Capacity building for relevant stakeholders
- Credible and effective aggregated data collection to support targeted programs and interventions
- Allocation of budget

#### Other measures

#### Address root causes

- poverty (increase national budget for social services, give particular focus to address poverty among vulnerable groups
- Prohibit, condemn and discourage all HPs with a focus on those that correlate with child marriage – balance with promoting positive cultural context
- Eradicate systematic gender inequality and discrimination
- Develop and implement a multi sectorial approach and early warning programs
- Promote the participation of men, traditional and religious leaders
- Develop and implement specific measures to prevent child marriage among children at higher risk (conflict, disability, displacement...)

#### Other measures

#### Reparation to victims

- Restitution return to school, alternative vocational training programs
- Rehabilitation and reintegration restore independence, physical, mental, cultural, spiritual and vocational ability and the full inclusion and participation in society
- Compensation and guarantee of nonrepetition – where acts or omissions are attributed to State Parties

Awareness and public information campaigns

To all sectors of society in all places

# Dissemination, monitoring and reporting

 Dissiminate the GC in local languages and make its contents knowen to all stakeholders, especially to especially government officials, the police and the judiciary

#### State Reporting

• States Parties must report on compliance with Article 6(b) of the Maputo Protocol and Article 21(2) of the African Children's Charter, in line with the recommendations in this Joint General Commentinclude statistics, offer descriptions of context, indicate challenges and barriers in realising the prohibition on child marriage



# OPPORTUNITIES FOR GIRLS NOT BRIDES MEMBERS AND CSOS TO COLLABORATE WITH THE COMMITTEE

BY RUTH KOSHAL
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1280CTOBER 2017

#### What is Girls Not Brides?

- Global civil society partnership to end child marriage
- Founded by The Elders, launched in 2011
- Now over 800 members from more than 90 countries
- Diverse membership, from grassroots groups to international NGOs working in different sectors
- Africa, Asia, Middle East, the Americas, Europe

### What is our joint mission?

Members of Girls Not Brides: The Global Partnership to End Child Marriage are committed to ending child marriage supporting girls who are or have been married, all over the world.

In line with the UN Convention on the Rights of the Child, we believe that 18 should be the minimum age of marriage for boys and girls.

#### What is our mission?

Specifically, *Girls Not Brides* members work collectively to:

- Raise awareness of the harmful impact of child marriage at the community, local, national and international level;
- Facilitate learning and coordination between organisations working to end child marriage;
- Mobilise all policy, financial and other support to end child marriage.

We will be more effective in achieving our objectives by working together than by working alone.

## Where are the National Partnerships based?

- There are National Partnerships
  in eight countries: Bangladesh, Ghana,
  Mozambique, the Netherlands, Nepal,
  Uganda, United Kingdom and United
  States.
- We also work with national coalitions in other countries, including the Tanzania End Child Marriage Network (TECMN), The Zambia Ending Child Marriage NGO Network, and the Zimbabwe Alliance to End Child Marriage.

**Each year, 15 million girls** are married before the age of 18 – that is 41,000 girls a day



Over 700 million women alive today were married before 18 - nearly 10% the world's population



- 45% of girls under age 18 are married in South Asia;
- 39% in sub-Saharan Africa;
- 23% in Latin America and the Caribbean;
- o 18% in the Middle East and North Africa;
- o and in some communities in Europe and North America.

Child marriage happens across countries, cultures, religions, in stable and fragile contexts

#### Rates of child marriage

#### Numbers of child marriage

01 Niger	76%	01 India	26,610,000
02 Central African Republic	68%	02 Bangladesh	3,931,000
03 Chad	68%	03 Nigeria	3,306,000
04 Mali	55%	04 Brazil	2,928,000
05 Burkina Faso	52%	05 Ethiopia	1,974,000
O6 Guinea	52%	06 Pakistan	1,875,000
07 Bangladesh	52%	07 Indonesia	1,408,000
08 South Sudan	52%	08 Mexico	1,282,000
09 Mozambique	48%	09 Democratic Republic of the Congo	1,274,000
10 India	47%	10 Tanzania	887,000



If there is no reduction **1.2 billion girls will be married as children by 2050** – equivalent to the entire population of India.

### Why does it happen?

Poverty & lack of opportunities



Social & gender norms, culture and tradition



**GENDER INEQUALITY** 

### What is the impact?



## There have been important advances in a number of areas, including:

- New global and regional commitments
- Strengthened legal and policy frameworks
- A movement to end child marriage
- New programmes
- Growing consensus of what needs to be done
- More funding

#### Regional commitments



#### **African Union**

Inclusion in <u>Agenda 2063</u>. <u>Campaign</u> to accelerate the end of child marriage in Africa.



Southern African Development Community (SADC) - Model Law on Eradicating Child Marriage and Protecting Children Already in Marriage



South Asia Association for Regional Cooperation (SAARC) Regional Action Plan to End Child Marriage

Progress 1: global and regional commitments were made

#### **National strategies**

- Mobilise public support and interest in the issue
- Outline the need for multi-sectoral work to both prevent child marriage and respond to the consequences of child marriage.



#### For example:

- 1. Burkina Faso
- 2. Chad
- 3. Egypt
- 4. Eritrea
- 5. Ethiopia

- 6. Mozambique
- 7. Nepal
- 8. Nigeria
- 9. Uganda
- 10.Zambia

Have all launched national strategies to address child marriage in their country

**Progress 2: legal and policy frameworks were strengthened** 

## Lessons learned from national initiatives to end child marriage

- National initiatives need strong government leadership.
- National initiatives must involve several sectors.
- A quality national initiative requires involving all concerned actors.
- National initiatives must be informed by research
- Civil society has a key role to play
- Governments need to better fund and coordinate national initiatives across ministries.

## CSOs Advocate for Ratification and removal of Reservations

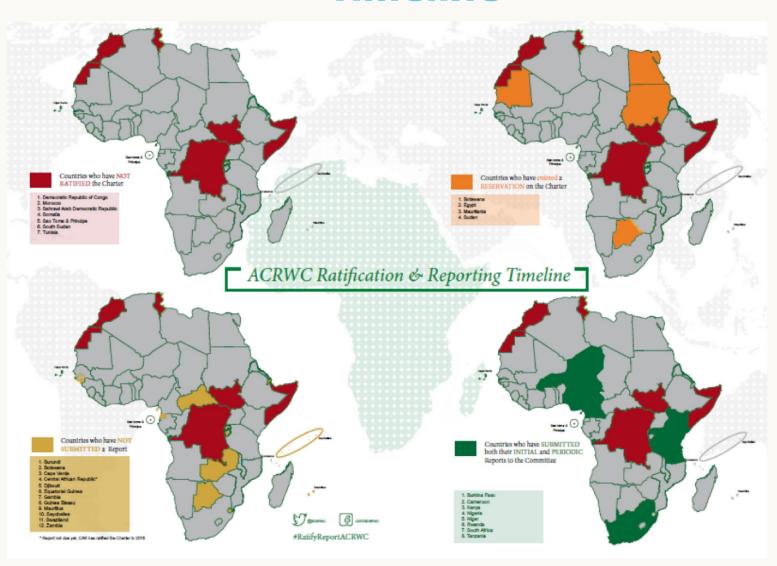
- Advocate for Ratification: 7 countries to ratify the Charter namely Democratic Republic of Congo, Morocco, Sahrawi Arab Democratic Republic, Somalia, Sao Tome and Principe, South Sudan and Tunisia.
- Removal of **Reservations**: 4 countries with reservations namely Botswana, Egypt, Mauritania and Sudan. Egypt and Sudan have specific reservations on articles 21 (2) on child marriage.

# CSOs Influence Member States to Report and Implement

Collectively take action to influence their governments to

- Report to the Committee
- Implement and follow-up with the concluding observations Especially on Article 21(2) on child marriage e.g.
- Development and implementation of a national strategy or national plan of action on child marriage
- Human and financial resources available for the costed national strategy on child marriage
- Child marriage prevalence rates and absolute numbers (sources include DHS and UNICEF State of the World Children)
- Linkage of child marriage with other sectors e.g. education, health, child protection and human rights

# ACRWC Ratification and Reporting Timeline

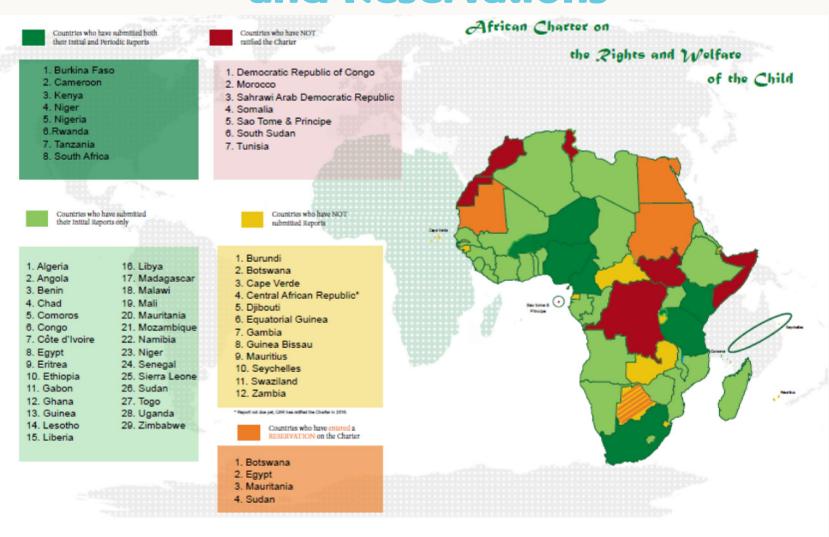


## CSO Engagement

(See Committee's Website <a href="http://www.acerwc.org/csos-engagement/">http://www.acerwc.org/csos-engagement/</a>)

- Observer status with the Committee
- CSO reporting guidelines
- Submission of Complementary reports
  - Submit a
    Communication to the
    Committee

# Follow-up on Reporting, Ratification and Reservations



### **CSOs Support Country Visits**

CSOs can support, share information, experiences and meet with the following:

- ACERWC Special Rapporteur on child marriage, Mrs. Marie Christine Bocoum
- AU Goodwill Ambassador to end child marriage, Mrs. Nyaradzai Gumbonzvanda
- Staff from the AU Campaign to end child marriage

Raise awareness, jointly advocate and take collective action on addressing child marriage during the **Day of the African Child** (DAC) on 16 June

Support the dissemination and implementation of the final General Comment on child marriage jointly prepared by the ACERWC and ACHPR

#### WHAT NEEDS TO BE DONE

Our discussions with members and partners have consistently pointed to a number of key actions that will be crucial for us all in the immediate term:

1 Hold governments accountable to their international, regional and national commitments,

in particular to developing ambitious plans for implementing target 5.3 of the Sustainable Development Goals with clear indicators for progress.

2 Develop, implement and fund comprehensive policies, programmes and plans

to end child marriage and support married girls, in partnership with civil society and other key stakeholders. This might involve the development of targeted national strategies and/or integration of child marriage into related strategies for girls and children.

### 3 Continue to grow and strengthen the movement

by involving new stakeholders, developing new partnerships, and supporting new champions. Ensure that young people are at the forefront of the movement.

#### 4 Celebrate and share successes,

including case studies of individuals overcoming child marriage; of communities who have united to promote a better future for their girls, of policy change or programmatic initiatives which have had a large-scale impact and ultimately of regions and countries where child marriage has been tackled in a holistic and comprehensive manner.

- 5 Engage related sectors
  - such as those addressing education, health or violence at global, regional, national and local levels, so that they integrate a focus on ending child marriage into their work.
- 6 Learn from what works and what doesn't so that efforts to end child marriage are based on the latest evidence. Ensure the necessary research, documentation and evaluation of programmes and policies, and learn from other sectors and initiatives which address social norm change.
- 7 Increase funding for efforts which prevent child marriage and support married girls, and ensure the necessary support for grassroots groups working directly with those affected. In particular, target investment in education and health programmes for girls, as well as in initiatives which tackle social norm change over the long term.