Preamble

- Recalling progress in adoption of new declarations, treaties and charters including the ACRWC and the need to set up child-sensitive procedures
- The child occupies a unique and privileged position in Africa and should grow up in a family environment
- Responsibility of the child towards her/his family, community and the state
Preamble

- Noting that a number of significant achievements have been made in Africa in child survival, protection and development
- Need to strengthen mechanisms for accountability and consistent and comprehensive progress
- Children face persistent barrier to the fulfillment of their rights in the justice system such as complexity of procedures

Preamble

- The risk of secondary victimization of children by the justice system
- The difficult situation of African children and youths, many of whom are marginalized from mainstream society
- The existence of complex dualistic system of governance and justice– formal and traditional systems operating
Objective

- A framework to guide African States achieve full implementation of AU and international instruments
- A tool for the coordination and direction of actions by various role-players
- A framework to facilitate international cooperation and technical and other assistance to States and other actors

Objectives

- To promote the principle of respect for children’s dignity, their rights to participation, non-discrimination
- Promote an interdisciplinary approach, specialization, participation of all those concerned given consideration to formal, informal and traditional justice systems and special needs of
**Scope of Application of the guidelines**

- Apply to all procedures of an administrative or judicial nature, whether formal or informal
- Children in conflict with the law, victims and witnesses
- Criminal, civil and administrative law matters
- Takes into cognizance the family life systems including kinship forms and extended family
- Implemented within the context of national legislations, regional and international standards

**Overarching Principles**

- Right of children to participation
- Best interest of the child
- Right to non-discrimination
- Right to dignity
- Right to survival and development
- Right to protection
General measures of implementation

- Effective birth registration system
- Compatibility of national laws with these guidelines
- Development of national policy on children in the justice system
- Set up professional standards for working with children in the justice system
- Implement necessary information management system
- Allocation of sufficient resources

General measures Cont.

- Use of alternatives to formal justice procedures e.g mediation, restorative justice practices, diversion etc.
- Special attention given to children in need of care and protection e.g children with disability, street children, non national children etc.
- Social assistance programmes aimed at reducing vulnerability and prevention children’s involvement in unlawful conducts.
General elements of child friendly justice

- Possibility of access to justice for children— a system that can allow children to pursue justice on their own
- Provision of constant information and advice to children and their family throughout the proceedings
- System of screening of everyone (for suitability) working with children in the justice system

Elements of child friendly justice

- Training for professionals, traditional leaders on child rights in African friendly manner, alternatives to judicial proceedings and child development and protection
- Speedy trials bearing in mind the child age, maturity and stage of development
- Availability of child rights-oriented legal representation
- Non intimidating and child friendly settings—specialized police and court
Elements of child friendly justice

- Establishment of victims and witness protection and preparation schemes
- Due attention to displaced children, children illegally retained across borders etc

Traditional Justice – Minimum standards to consider

- Equality of all children irrespective of their background
- Respect for inherent dignity
- Respect for right to liberty and security
- Respect for gender equality
- Adequate opportunity to prepare a case
- An entitlement to the assistance of interpreters
Traditional justice cont.

- An entitlement to seek the assistance of and be represented by a representative chosen by the child
- Entitlement to representation for assistance
- Rights and obligation affected only by a decision based on evidence presented to the traditional court without delay
- Entitlement to appeal to a higher tribunal
- Respect of children’s right to privacy

Traditional justice cont.

- Due consideration of human rights of parents, guardians or care givers
- Abolish administration of justice conducted by secret societies
- Religious leaders and educators bound to exercise jurisdiction on matters of children compatible with these guidelines
- Prohibition of stigmatization of children as witches or wizards by law
Fair trial Rights for children in conflict with the law

- Ensure that law enforcement and judicial officials are adequately trained
- Establish laws and procedures which set a minimum age of criminal responsibility— not below 12 years
- Discourage arbitrary arrest and detention and expunge status offences
- Right to privacy be respected
- Alternatives to criminal prosecution with proper safeguards be

Fair trial rights for CIL cont.

- Develop and implement programmes of restorative justice
- Right to legal representation be respected
- Traditional justice process shall seek to promote restorative justice aimed at reformation
- Prohibit capital punishment
Fair trial rights for victims and witnesses

- Able to give their best evidence with minimum distress and they should be protected from hostile and intimidating questioning
- They should be questioned by the police in the presence of their parents/guardians except if contrary to the best interest of the child
- Where necessary, the child shall be questioned by law enforcement official through an intermediary
- Interviews should be done in a manner that avoids further harm to the child

Fair trial rights for victims and witnesses

- Ensure that child victims particularly of sexual abuse do not come in contact with their abuser
- Right to privacy be respected
- Where resources and facilities permit, video-recorded pre-trial interviews with child witness should be presented
- Defendants should be prevented from personally cross-examining child witnesses
- States should endeavour to develop common risk assessment tools
**Fair trial rights for Vc and Wt**

- Child victims and witnesses should be protected from threat and intimidation
- Child victims should be given information about any opportunity for compensation, redress and psychosocial support.
- Judges decision should be communicated to the victims and witnesses in language that they understand
- Right of children with disability be respected and provisions made to meet their challenges.

**Justice for Children of non-criminal judicial or Administrative proceedings**

- Where there is likelihood of conflict of interest between the child and parent/guardian, the child should be provided with separate legal rep.
- Right to be heard including the option not to express an opinion.
- In case of family dispute, measures which diminish or avoid intensification of conflict be avoided.
- Important to consider actions or measures, which do not result in the separation of siblings.
Justice for Children of non-criminal judicial or Administrative proceedings

- Legal provision for actions and measures that protect the child from harm including family violence
- After judgment in highly conflictual family proceedings, guidance and support be offered to affected children
- Legalise actions and measures that promote a child’s ability to maintain a connection with his/her family and culture
- Inter-country adoption of children shall be permitted only as a measure of last resort

Justice for Children of non-criminal judicial or Administrative proceedings

- Establish national systems and regulations of alternative care for children deprived of parental care
- Orphan children be assured of appointment of legal guardians
- Adequate legislative and judicial mechanisms should exist to guarantee children’s inheritance rights
- Justice system shall recognize the primary duty of parents/guardians to support the care and upbringing of the child
Monitoring and implementation

- States must consider positively requests for access to institutions and to child friendly justice courts from African Union structures, including the African Committee of Experts on the Rights and Welfare of the Child, Special Rapporteurs and human rights organisations.
- States should establish mechanisms for promptly investigating and prosecuting violations of the rights of children in the justice system.

States are encouraged to draw on regional expertise and technical and other assistance from intergovernmental, non-governmental, academic institutions, and international and regional financial institutions. States shall recognise the desirability of developing specialised courts to support child friendly justice principles and practices.
In accordance with the National Policy for Children in the Justice System, a monitoring framework, including independent mechanisms as appropriate, shall be established to oversee the implementation of these guidelines, in accordance with national judicial, administrative, social protection and traditional justice systems.

State reports to the African Committee of Experts on the Rights and Welfare of the Child and the African Commission on Human and Peoples’ Rights shall reflect on the progress made towards the implementation of these Guidelines.

States shall promote the dissemination of child friendly versions of relevant regional instruments, including these Guidelines.

CSOs including HR organisations shall fully be allowed to participate in monitoring.
The End

- Thank you for your attention