

The Third Ordinary Session of the African Committee of Experts on the Rights and Welfare of the Child

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1 General information

The 3rd ordinary session of the African Committee of Experts on the Rights and Welfare of the Child (Committee) took place from 10 to 14 November 2003 at the African Union (AU) headquarters in Addis Ababa, Ethiopia. This meeting was convened under article 37(3) of the African Charter on the Rights and Welfare of the Child (Children's Charter) and in accordance with Rule 2(1) of the Rules of Procedure of the Committee. The 3rd ordinary session was to consider the Progress Report of the Chairperson of the Committee; the Activity Reports of all Committee members; to provide an update on activities related to children within the AU; to discuss the recommendations of the last two meetings; to hold presentations and discussions on polio eradication; to assess the implementation of the recommendations of the First Continental Conference on Children in Situations of Armed Conflict; and to assess the impact of HIV/AIDS on children. Other issues deliberated upon during the session were the work plan and funding proposal; country visits; the Day of the African Child; the status of the submission of initial state reports; modalities for co-operation with partners; and finally, the adoption of the session report.

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The session was formally opened in the new AU Conference Centre by the Vice-Chairperson of the Committee, Mr Rudolphe Soh. The Chairperson of the Committee, Lady Justice Aluoch, was unable to be present at this session. Seven out of eleven members of the Committee attended the session.¹ In addition to the Committee Members, the session was attended by the AU Commissioner for Social Affairs; the representative for the United Nations Children Fund (UNICEF), as well as many ambassadors to the AU;² AU legal counsel and other AU representatives; United Nations (UN) Education, Scientific and Cultural Organisation; UN High Commissioner for Refugees; International Committee of the Red Cross (ICRC); World Health Organisation (WHO); Save the Children (Sweden); African Network for the Prevention and Protection of Child Abuse and Neglect (ANPPCAN); International Action Centre; International Organisation for Migration (IOM); *Organisation Internationale de la Francophonie* (OIF); World Association for Girl Guides and Scouts (WAGGS); and other non-governmental organisations (NGOs) and international organisations based in Ethiopia.

2 Opening statements

Mr Soh, the Vice-Chairperson of the Committee, opened the session with a statement outlining the agenda of the session and welcoming new members. Because the terms of four of the members were for two years,³ they expired in July 2003. Three of the four new members elected at the AU Summit in July 2003 were in attendance. Mr Soh reiterated the fledgling status of the Committee and stated that it required continual support and sustained help from member states and partners. The Committee's commitment to improving the situation of children and creating a sustainable life for all was emphasised. Mr Soh referred specifically to realising the socio-economic rights of children and to development conditions. He reminded AU member states that initial reports on the measures taken to implement the Children's Charter since ratification were due. Mr Soh stressed the necessity of co-ordinating and monitoring children's rights in Africa by assisting member states to ensure that the rights and welfare of children are protected and to account for progress made thus far. Furthermore, concrete programmes and strategies needed to be developed to help in the everyday lives of

¹ Mr Ahnee (Mauritius); Prof Lullu Tshiwula (South Africa); Dr Assefa Bequele (Ethiopia); Mr Soh (Cameroon); Mr Zoungrana (Burkina Faso); Mr Nsanzabaganwa (Rwanda); and Mme Polo (Togo).

² Algeria, Benin, Botswana, Burkina Faso, Cameroon, Chad, Cote d'Ivoire, Djibouti, Egypt, Ethiopia, Gabon, Ghana, Kenya, Lesotho, Libya, Madagascar, Malawi, Mali, Mauritania, Mozambique, Namibia, Senegal, South Africa, Zambia and Zimbabwe.

³ See art 37(1) Children's Charter.

children. This can be achieved partly through the continued constructive dialogue with the AU and national organisations. The work of the Committee should not only be an exercise in diplomacy.

Mr Abdul Mohammed, representative for UNICEF, opened with an acknowledgement that health, education and security are fundamental components in a society where two-thirds of the people are children. He stated that the AU, the international community and the African community have made commitments to children through the adoption of the Children's Charter, the African Common Position (Cairo Declaration) and the UN Convention on the Rights of the Child (CRC) to ensure survival and development through legal and programmatic means. As this is the era of accountability, commitments of member states need to be measured and monitored to ensure compliance with the Children's Charter. Under the auspices of the Committee, the bi-annual 'Status of African Children' report will be produced by the AU and UNICEF, ensuring that all governments have fulfilled their commitments. The first report is due in 2004. The AU and the New Partnership for Africa's Development (NEPAD) were commended for bringing children's issues onto their agenda. Mr Mohammed reiterated the importance of children's rights and universal and continental rights, which are centrally located in African culture and heritage. These rights are non-negotiable, as children and youth are the greatest resource of all.

Advocate Bience Gawanas, the AU Commissioner for Social Affairs, congratulated the new members who were elected at the Maputo Summit and commended the existing members for their achievements thus far. She recognised the special efforts of, among others, UNICEF, Save the Children (Sweden), International Labour Organisation (ILO), International Monetary Fund (IMF) and OIF. She thanked all guests for attending. She reiterated that African children have high expectations of the Committee members, both individually and collectively.

Advocate Gawanas's statement was devoted to the challenges facing children in Africa: HIV/AIDS, resulting in an ever-increasing number of orphans, neglect, having to live as street children, having to be child soldiers, trafficking in children, sexual exploitation and prostitution, arms smuggling and other illicit activities. Children in Africa face a life of hunger and starvation, leading to a voluntary upsurge in the above-mentioned activities.

Member states were urged to speed up ratification of the Children's Charter if they have not already done so, and those which have, to develop legal mechanisms for the implementation of the Children's Charter. As at November 2003, 32 states out of 53 have ratified the Children's Charter. This is a low number, considering all states, except Somalia, have ratified the CRC. The Commissioner reiterated that children's rights are human rights and that human rights are inter-related and interdependent. The Committee was implored to draw from other international treaties such as the Universal Declaration on Human Rights, the International

Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the African Charter on Human and Peoples' Rights (African Charter or Charter), as well as from values and traditions which are consistent with the Charter's provisions. The challenges facing children are enormous, yet surmountable.

The Committee was urged to take into consideration additional commitments during the session, such as the African Common Position, the Abuja Declaration 2001, the Maputo Declaration 2003, the Kigali Document 2001 and the Draft Declaration on Human Trafficking 2002. Advocate Gawanas referred to the principles on which the AU is predicated: a return to democratic culture, good governance, the rule of law and respect for human rights. Everyone needs to take advantage of this strong mandate to deal with the political and socio-economic challenges facing Africa.

3 Adoption of the agenda

The agenda and programme of work were formally adopted after deliberations and suggestions by the Committee and additional input. The new Committee member, Dr Bequele, stated that he was handicapped by three things: Senior members of the Committee were not present for the start of the session; they were in attendance but were not participating in this item of the agenda. He wished to point out the implications of the absence of senior members. New members needed to experience from senior members' wisdom gained in serving on the Committee for the past two years. As the agenda had only just been presented to members, they needed time to consider the issues.

Major concern was raised about the agenda, specifically in relation to monitoring the Children's Charter. This was raised by all three speakers during the opening ceremony. Two aspects were mentioned specifically: firstly, the importance of sharing and disseminating information in respect to the application of the Children's Charter and, secondly, a suggestion by UNICEF that there should be a biannual report on the status of children in Africa, to serve as a platform for the promotion of the Children's Charter and as a monitoring tool for the Children's Charter and for the promotion of the mandate of the AU. It was asserted that more information was required on this report, such as preparatory work on the contents. Deliberations continued between Committee members, the Vice-Chairperson and AU representatives, and eventually it was decided to include as a sub-item the discussion on the report of the status of the African child.

Mr Zoungrana, the Committee member from Burkina Faso, raised concerns regarding the Rules of Procedure and Guidelines for Initial and Periodic State Reports. He wished to know when new members would be briefed on these documents and when they would be available in

French. Dr Kalimugogo, Director of the Social Affairs Department at the AU, stated that new members should read through these documents and that the AU would brief them on the details afterwards. The fact that French documents were missing was due to the heavy agenda at the AU, including the heavy work-load of translators. The AU would brief new members as the session proceeds, as and when necessary.

Clarification was required on the bi-annual 'Status of Children in Africa' report. Dr Kalimugogo stated that the Pan-African Forum was held in May 2001 and the report is a product of this Forum. As it is due every two years, it should have been supplied to the Maputo Summit in July 2003. The Committee was responsible for the preparation of the report, which would supplement the work already carried out in member states by partners, such as UNICEF and WHO. The production of the report was too heavy a burden for Committee members to bear alone. The members would be required to read the report, which would be based on the principles laid down in the Children's Charter. They would have to decide on the contents and modalities for follow-up work. Members appeared to be unaware of this report and what was expected of them. The report had not been mentioned at the previous two ordinary sessions. The AU was in a position to elaborate on the draft format, but not the report itself, as this was contingent on the work of the Committee and what they believed should be included. The Director of Social Affairs reiterated the importance of the Committee in finalising their part of this report as soon as possible, as the Labour and Social Affairs session meets in April 2004 where the report must be endorsed in order to be considered at the Summit in July 2004. Consequently, the report needed to be ready in March 2004.

4 Officers

The terms of office of officers of the Committee last for two years.⁴ Thus, those elected at the 1st ordinary session to the positions of the Chairperson, Vice-Chairperson, Rapporteur and Deputy Rapporteur had to be replaced or re-elected. This was mentioned at the beginning of the session, but no elections were held and those already elected continued in their roles. It was stated that these elections would be considered at the 4th ordinary session. There was no explanation given for this. Thus, despite the Rules of Procedure, officers were now serving for a three-year period.

⁴ Rule 17 Rules of Procedure; art 38(2) Children's Charter.

5 Progress and activity reports

5.1 Lady Justice Aluoch, Chairperson of the Committee (Kenya)

The Vice-Chairperson, Mr Soh, presented the progress report submitted by Lady Justice Aluoch. She convened a meeting with a UNICEF-appointed consultant to elaborate on the work plan for 2003–2005, and on the funding proposal in Nairobi as recommended and agreed upon during the Second ordinary session. Mr Robert Ahnee represented the Committee at the First session of the AU Labour and Social Affairs Commission in Mauritius in April 2003, where he urged member states to ratify the Children's Charter. Mr Straton Nsanzabaganwa represented the Committee at the Second Ministerial Conference on Human Rights in Africa in Kigali, Rwanda, in May 2003. His presentation focused on the rights of children and the work of the Committee. Lady Justice Aluoch attended the Third Meeting of the AU Executive Council and Second Assembly of Heads of State and Government in Maputo in July 2003. She reported on the challenges facing children in Africa, the work of the Committee and the need to strengthen its capacity. The Chairperson also participated in the meeting of the International Board of Trustees of the African Child Forum in October 2003, of which she is a member.

The Chairperson, by proxy, also raised issues concerning the election of new members of the Committee, Rules of Procedure, Guidelines for the Initial Report of State Parties and consultation with civil society organisations. In her statement, she also advised the Committee to select priorities from its work plan for immediate action. The Chairperson further stated that she was in the process of developing a website for the Committee, in collaboration with UNICEF. Committee members were requested to submit their personal details for inclusion in the website. Her statement concluded with an apology for her absence.

5.2 Mr Straton Nsanzabaganwa, Deputy Rapporteur (Rwanda)

Mr Nsanzabaganwa opened his statement by referring to the restraints members faced as they were unable to work outside their own countries due to financial and other resource constraints. His activity report therefore related only to Rwanda. At the end of January 2003, a national policy on orphans and other vulnerable children was adopted by the Council of Ministers in Rwanda. Mr Nsanzabaganwa was the Chairperson for this programme and was the central force behind its adoption. It ran on two levels: central government and a decentralised structure. This strategic policy had legal status and it was hoped that it would be adopted at district levels. The aim was to incorporate this policy into development plans at the local level. At the end of January 2003, the President of Rwanda announced a measure to free all children suspected of having committed genocide, aged between 14 and 18 years when those crimes had been perpetrated and who had confessed

to such crimes. A measure had previously been taken to free all those under 14 years of age by declaring them not liable criminally.

As mentioned previously, Mr Nsanzabaganwa attended the Second Ministerial Conference on Human Rights in Africa, held in Kigali in May 2003, on behalf of the Chairperson. He gave a presentation on the rights of the most vulnerable groups of children. The conference was attended by representatives from different ministries of Africa, the AU Commission and the African Commission on Human and Peoples' Rights (African Commission). The conference examined the development of the promotion of human rights in Africa and formulated a plan of action.

In May 2003, Mr Nsanzabaganwa attended a conference in Stockholm on children in custody. The conference examined the problem of children in custody and aimed to discuss strategies to adopt a more community-based approach for taking care of children. The results of this conference and the decisions emanating from it may have a massive impact on children in such institutions. For example, in Rwanda there is a system of 'organised fostering'. This system started in 1995 with the national policy: 'One child, one family'.

With reference to the Day of the African Child (DAC), 16 June 2003, the theme was 'Birth Registration'. The DAC was celebrated officially in a rural district, under the patronage of the Prime Minister, who was escorted by several Ministers. Children also participated. A countrywide campaign was launched to promote the registration of children under five years and to promote the legalisation of marriages and cohabitation. 'Mass marriages' were organised in different sectors to solve the problem of some marriages not being legally recognised.

The National HIV/AIDS Control Commission organised a campaign to combat discrimination against, and stigmatisation of HIV/AIDS affected and infected children, in partnership with state and non-state organisations.

The Deputy Rapporteur attended an international conference on HIV/AIDS (ICASA) in Nairobi from August to September 2003. Over 8 000 people were present, of whom many were eminent figures and experts. The conference focused on access to drugs and care for sufferers from HIV/AIDS. Mr Nsanzabaganwa gave a presentation on Rwanda's experience. Another 'expert' meeting was convened by UNICEF on the framework document on combating HIV/AIDS infections in children. This document was distributed during the 3rd ordinary session for comments and deliberation.

Mr Nsanzabaganwa noted that the government of Rwanda was completely committed to the protection and promotion of children's rights, particularly through wide publicity of three basic legal instruments, namely CRC, the Children's Charter and domestic Law No 27/2001 of 28 April 2001.

Mr Nsanzabaganwa will also take part in the mid-term review of the UNICEF/Rwanda (2001–2006) country programme.

5.3 Mr Rudolphe Soh, Vice-Chairperson (Cameroon)

Mr Soh attended the session of the AU Commission, which took place in Addis Ababa from 24 August to 6 September 2003, on behalf of the Chairperson. Actions to date were assessed and most of the problems confronting this Committee were also felt at the level of the African Commission, such as a lack of financial means and human resources, and concerns regarding the follow-up and implementation of the African Charter through state reports between the Secretariat and the African Commission itself. Specific issues regarding collaboration between the African Commission and the Committee were addressed. Advocacy was the principal tool for this, reinforcing the link between the African Commission and the Committee. The two bodies needed to share experiences, disseminate documents and provide a platform for consultation.

The Cameroonian government decided that Mr Soh would be included in all government activities relating to children. He had been involved in a number of issues relating to children, such as the elaboration and implementation of a special protection programme in co-operation with UNICEF, the development of a socio-economic reintegration programme for victims of child trafficking and a project to combat child labour in industrial plantations in co-operation with the ILO. He assisted in the launch of a pilot programme initiated by Save the Children (Belgium) for the prevention of the 'street children' phenomenon, and for socio-economic reintegration of children living and working on the street. Furthermore, he directed a study for the establishment of co-ordination and monitoring structures aimed at the implementation and realisation of legal instruments for the promotion and protection of children. A Code of Personal Status is being considered by the government in Cameroon. One of the main concerns regarding this was the assurance that the new text was in conformity with the Children's Charter and CRC. The Code included provisions on family benefits, succession, adoption, and gender discrimination. When eventually adopted, it would therefore be one way in which Cameroon had implemented the letter and spirit of its international obligations.

Mr Soh was involved in producing a compendium of legal texts relating to children, which attempt to solve the problem of duality of laws, bridging the gap between Roman-Germanic and Anglo-Saxon law. Cameroon would endeavour to narrow the gap between international and national law and eventually to bring about a code for children, including both civil and criminal aspects. The Committee's contribution to the process was to ensure that there was a harmonisation between the Children's Charter and national law.

Cameroon participated in the DAC. It was celebrated in an area known as a 'marginalised population zone', where legitimacy of children at birth was poor.

Mr Soh was involved in the national plan to instigate a study on violence against children; such violence was prevalent in Cameroon, as had been demonstrated by international organisations. The Committee was charged with the responsibility of bringing authorities to account and carrying out investigations on the magnitude and ensuring better protection of children's rights.

The Vice-Chairperson also assisted in supporting a Tunisian initiative to organise a forum of associations concerned with the protection of children's rights and welfare.

At the international level, Mr Soh aided in the drafting of a sub-regional convention to combat child trafficking in the francophone countries of West and Central Africa. He also drafted statutes of the African group of associations and NGOs on the rights of the child, whose Constitutive Assembly was scheduled to take place in Tunisia in November 2003. He attended the UN Special Committee's session on the drafting of an international, comprehensive and integrated convention on the protection of the rights and dignity of disabled people. This session was held in April 2003 in New York. Twenty-seven countries participated, seven of which were African. Cameroon was elected as part of the Committee for the elaboration of such a convention, following the implementation of a process to revise the law on handicapped people in Cameroon. Mr Soh headed the committee for the socio-economic integration of children and social re-integration of children.

5.4 Mr Robert Ahnee, Committee member (Mauritius)

Following the 2nd ordinary session in Nairobi, Mr Ahnee briefed the Minister in charge of children's rights in Mauritius on the outcome of this meeting. He represented the Chairperson of the Committee at the AU session of the Labour and Social Affairs Commission, which was held in Mauritius in April 2003. He briefed the members on the work of the Committee and emphasised the importance for all AU member states to ratify the Children's Charter.

He participated in meetings with Ministries in charge of child issues and noted the adoption of several laws pertaining to the protection of children. The Mauritian government has passed the following laws: the National Children Council Act; the Residential Care Homes Act 2003; and the nomination of an Ombudsperson for children to safeguard their rights and in particular to investigate cases of abuse or violence against children.

Several activities have been organised in Mauritius to mark the DAC. The theme 'Birth Registration', however, was not relevant in the Mauritian context due to legislation making it compulsory to register every child within a stipulated period after birth. UNICEF has closed its office in Mauritius as all objectives have been achieved.

5.5 Prof Lullu Tshiwula, Committee Member (South Africa)

The Gender and Child Rights Unit at the University of Port Elizabeth has initiated a programme to 'train the trainer', run by student volunteers. This programme is aimed at equipping Grade 10 children with 'life skills' and the objective is that high school pupils will be able to train their peers on the principles and contents of the Children's Charter.

Professor Tshiwula was involved in a programme organised by children from primary and high schools in the Eastern Cape, entitled 'Hear our voices'. This programme covered 60 schools and children demonstrated their views through music and dance, using their own language.

A Children's Parliament was held in Johannesburg. There was a young president and nine ambassadors from other provinces. This is part of an initiative to encourage children to be responsible for the popularisation of the Children's Charter in their own province.

Professor Tshiwula addressed a workshop in Cape Town, organised by the Community Law Centre at the University of the Western Cape. She promoted the Children's Charter with the aim of motivating NGOs to take the process forward. She emphasised how important it was for NGOs to become active in the promotion of the Children's Charter. As there was no funding for individuals, NGOs needed to bid for funding to aid the ratification process. In the course of this work, she was involved in resiliency research in high-risk areas in Port Elizabeth, exploring the views of children between the ages of 14 and 16. This work was aimed at assisting professionals who work with children who are in conflict with the law. The Community Law Centre also ran a workshop on litigating for children's rights; this is a public interest area, thus involving group actions, not individual disputes.

With regard to the DAC, South Africa had to reach a compromise, as June is the month of youth and some government departments saw this as a clash between the two commemorations. South Africa is deciding whether to call this the 'Day of the Child and Youth' and have it on a different date. Prof Tshiwula is vehemently against this motion, especially as the DAC is a continent-wide initiative and cannot be derogated from. Lots of programmes were planned for 16 June and some outreach programmes to the rural areas; 'Child Protection Week' was initiated to ensure that children were registered.

Finally, it was noted that the work undertaken had been very fragmented and Prof Tshiwula was unsure of how to address this fragmentation due to limited resources.

6 Comments on the activity reports

The reports given by the members varied in detail and in formality. Some had written notes, others had prepared formal papers for dissemination.

It was urged that the reports were to be organised in a formal and structured manner, each seeking to achieve the same objectives. The information given was descriptive and lacked substance. The reports should seek to analyse the prevailing problems and make recommendations. They should reference all documents and legal instruments correctly and indicate the status of these documents. Reports should be distributed to all members prior to the session. National level initiatives need to be shared and experiences exchanged. The Committee members asked for the AU to compile all the conventions and instruments adopted on children at the UN and AU levels.

The issue of Child Parliaments was debated at length as an issue emanating from some of the inter-session activity reports. Due to the success of some of the schemes, it was stated that member states should be encouraged to follow such good practices and provide a forum for children to exchange views on their rights.

It was stressed that the role of NGOs and civil society should be enhanced in children's issues. These institutions could be requested to submit supplementary reports, which could form part of a pre-session forum.

The Committee made it very clear that it did not have the required resources to allow it to carry out its activities. The AU department dealing with children's issues was inadequately staffed and only a limited budget was provided for the implementation of activities on children. At present, there was one person dealing with children's issues at the AU, but the new structure did include a second officer. With regard to the budget, the AU representative made it clear that when the Committee planned activities, it could put a request in for funding. There were also funds available from other sources, such as Save the Children (Sweden). The Committee was not yet at the stage for having a firm budget, as the sessions bordered on brainstorming, rather than dealing with concrete issues, state reports and other communications; as well as investigations, organisation of meetings and the commission of inter-disciplinary assessments of situations on African problems regarding the rights and welfare of the child.⁵

7 Update on activities relating to children within the AU

Mme Rahim presented activities relating to children on behalf of the AU Commission since the 2nd ordinary session. She made reference to finance offered by Save the Children (Sweden) to enable the Committee to undergo on-site visits. There were caveats attached to this proposal,

⁵ Art 42 Children's Charter.

such as the countries to be visited and when the funding would need to be expended. This was primarily the end of 2003, which seemed too short notice, as this session was convened in November, and December was a busy month in respect of various festive engagements. The outcome of this proposal was not known at the time of writing.

A progress report on the 'Way Forward in Implementing Renewed Continental and Global Commitments on Children' was presented to the 1st session of the Labour and Social Affairs Commission in April 2003 in Mauritius. Numerous recommendations were endorsed by the Executive Council and Assembly of Heads of State and Government in Maputo.⁶

At the AU Commission, the commemoration of the DAC was marked by a children's programme. The programme included drama, a recital on the Children's Charter, and song and dance. Mementoes were distributed to children and adolescents from local schools and participants included permanent representatives of member states as well as representatives of international organisations.

The theme of the 2003 World Health Day was 'A Healthy Environment for Children'. The objective was to raise awareness of the risks faced by children in their environments and to mobilise action to protect children from preventable diseases and risks. The AU Commission joined the international community in this regard.

During the 1st AU session of the African Ministers of Health, held in April 2003 in Libya, issues such as child growth, survival and development were considered and the recommendations from this meeting were endorsed by the Executive Council at the Maputo Summit.⁷

The Plan of Action on the Family in Africa is in the process of being drafted. This plan of action will constitute Africa's contribution for marking the Tenth Anniversary of the International Year of the Family.⁸

Another temporary secretary has been recruited to serve until a permanent secretary is secured for the Committee by the AU.

8 Relationship between the Committee and other AU organs

The Committee is charged with finding its own role and a plan of collaboration with the new organs of the AU which are particularly related to children's rights and welfare issues. Among the new AU institutions, the Peace and Security Council, the Pan-African Parliament, the

⁶ See AU Website <<http://www.africa-union.org>>.

⁷ See AU Docs: EX/CL/Dec 50 (III), Decision on the Report of the 1st ordinary session of AU Conference of African Ministers of Health, Doc EX/CL/49 (III).

⁸ See AU Docs EX/CL/Dec 65 (III), Decision by the 3rd session of the Executive Council.

African Court on Human and Peoples' Rights, the Court of Justice and the Economic, Social and Cultural Council are the most pertinent and relevant to the Committee's work. The Committee will have to work out modalities for co-operation and collaboration with these bodies.

The Peace and Security Council was established to take over the work of the central organ for conflict prevention. It was established by the Protocol on the Peace and Security Council and adopted on 9 July 2002 in Durban. The Protocol came into force on 26 December 2003, when the Republic of Nigeria became the 27th member state to deposit the instrument of ratification. The mandate of this organ is extended to include the promotion of good governance, human rights and international humanitarian law. The AU Acting Legal Counsel proposed that the Committee takes the lead in working with the Peace and Security Council when it eventually comes into force. The Committee would focus on children in situations of armed conflict and could make inputs into disaster management.

The Protocol establishing the Pan-African Parliament was adopted in March 2001 as a Protocol to the Abuja Treaty. At the time of the 3rd session, 23 countries had ratified and Senegal was about to deposit its notice of ratification. The Protocol has since come into force, on 16 January 2004. It will be a consultative and advisory organ for the first five years. The Parliament will advise the Assembly and the Committee can submit topics on children's issues that they would like the Parliament to discuss or highlight.

The Protocol Establishing the African Court on Human and Peoples' Rights was adopted in Ouagadougou in June 1998. Ratification of this Protocol has been very slow, but since the 3rd ordinary session, the Union of the Comoros deposited its ratification instrument and thereby fulfilled the requisite 15 ratifications to enter into force. The Protocol entered into force on 25 January 2004. The African Court has the mandate to indoctrinate the African Charter and the Children's Charter, in addition to other AU human rights instruments. In essence, this means that, once in force, issues arising under the Children's Charter can be litigated and can be judicially enforceable. The Acting Legal Counsel stated that there may be similarities between the work of the Court and that of the Committee, particularly on the interpretation of the Children's Charter. The Committee itself will not be able to give binding judgements; it is considered a 'promotional' body.

The Court of Justice of the AU was provided for by the adoption of a Protocol in Maputo in July 2003. It is not yet in force. It is mandated to deal with the interpretative function of the AU Constitutive Act, which has a significant human rights content, and all other treaties and international law. There may be considerable overlap between the two courts, due to the large number of human rights issues. The African Court of Justice may impact on pending cases before the African Court

on Human Rights. A system needs to be developed to prevent the two courts from conflicting with each other in their work and mandate.

The Economic, Social and Cultural Council (ECOSOCC) is an organ comprising civil society and professional groups, whose statutes are currently being developed. ECOSOCC will have an advisory role.

9 Recommendations from the First and Second Ordinary Sessions

It was recommended that efforts be intensified to increase ratifications of the Children's Charter. This is to be achieved through lobbying ministries, using personalities and making visits to non-ratified countries. The Chairperson is to follow up the request for Regional Economic Communities (RECs) to include popularisation of the Children's Charter on their summit agendas.

The Committee requested to know the status of those African countries that have ratified the ILO Convention 182 on the Worst Forms of Child Labour be made available in order to determine which countries need encouragement to ratify the conventions. Unfortunately the information given to the members on the status of ratification was printed from a site that had not been updated since 9 November 2001 and was not taken from the official ILO website.⁹

The 'Draft Plan of Action to Combat Trafficking in Human Beings, Especially Women and Children' was adopted by the Africa-European Union Follow-up Ministerial Conference in Burkina Faso, November 2002. This plan was still in draft form, as it had not been considered by the Heads of State. The Committee recommended that member states be encouraged to put in place national plans of action to combat trafficking once the draft has been adopted.

Member states are to be requested to prepare national plans for children, taking into account the African Common Position and the UNICEF initiative 'World Fit for Children'.

10 Presentations and discussions on issues affecting children: Polio eradication by 2005

The AU representative presented the AU's activities and campaigns to date on eradicating polio. Global campaigns under the auspices of the WHO, UNICEF and Rotary International had been largely successful, and most continents had successfully eradicated the disease. It was

⁹ The information distributed was accessed from <www.campaignforeducation.org/globalmarchreport/182.html> (accessed 11 November 2003).

mandatory to immunise all children under the age of one in order to eradicate polio. The original goal of eradicating polio in Africa by 2000, 'Kicking polio out of Africa', had not been achieved due to socio-cultural and physical barriers, as well as logistical constraints. The AU believed that 2005 was a realistic goal and would be achieved with continued efforts and commitment from member states. The AU was committed to supporting and monitoring the campaign, as well as ensuring certification when polio had been eradicated.

Recommendations were made to ensure that this objective is achieved: A regional or sub-regional summit had to be held in 2004, involving the Heads of State of Benin, Burkina Faso, Cameroon, Chad, Ghana, Niger, Nigeria, Togo and other countries at risk to discuss challenges and opportunities in the fight against polio transmission. Another recommendation was to encourage all member states in the region to improve performance in national routine immunisation programmes. The Committee members had to play an active advocacy role in the campaign to eradicate polio by 2005.

11 Assessment of the implementation of the recommendations of the First Continental Conference on Children in Situations of Armed Conflict

The International Committee of the Red Cross (ICRC) representative stated that one of the objectives of the Continental Conference on Children in Situations of Armed Conflicts in Africa, Addis Ababa 1997, was to provide the tools to formulate appropriate policies for governments, NGOs, international organisations and civil society to address the issues of conflict and its impact on children. The principal objective had been to encourage member states to ratify the Children's Charter so it could enter into force, which happened in 1999. Since this Conference in 1997, other legal instruments had been adopted: the 1997 Ottawa Convention banning the use of landmines, the ILO Convention on the Worst Forms of Child Labour, the Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflicts and the Statute of the International Criminal Court. The problem confronting the Committee and other organs was one of implementing the provisions of these instruments. The ICRC was able to provide technical assistance to member states in implementing these instruments, particularly in the areas of international humanitarian law, child soldiers, landmines and education.

12 The impact of HIV/AIDS on children

A UNICEF representative presented this information. HIV/AIDS posed the greatest threat to survival of Africa and its children. AIDS was killing millions of children, negatively impacting on Africa's economy, decreasing life expectancy in the region, resulting in an unprecedented increase in orphans. The impact of HIV/AIDS led to social disintegration and breakdown; an increase in the number of children who were sick, or caring for the sick; an increase in the number of child-headed households; an incalculable amount of social and psychosocial distress, including dropping out of schools; unavoidable child labour; and an increase in social stigma and abuse of orphaned children.

The UNICEF representative recommended to the Committee that the capacity of families and of the community be strengthened to cope with the devastating effects of the pandemic. Furthermore, governments should respond to the crisis with appropriate policies, and this required monitoring. The Committee needed to undertake a very well-targeted awareness campaign, using the comparative advantage of having access to the Heads of State through the AU Commission.

13 Consideration of the work plan and the funding proposal

A working group was established to consider in detail the contents of the work plan and the funding proposal. The working group comprised three Committee members and one external party.¹⁰ The work plan was redrafted, as there were lots of overlapping issues and the consultative document prepared after the 2nd session was difficult to understand, due to the fact that neither a memorandum of understanding, nor an explanation of calculations was appended. The work plan, drafted in a closed session, was presented to the Committee to deliberate in full in a closed session. It would be adopted at the 4th ordinary session. The work programme of the African Committee could be divided into four components: general; partnerships; resource mobilisation; and the funding proposal.

14 General

The following issues were identified: children in armed conflict; child labour; child trafficking; sexual abuse and exploitation of children;

¹⁰ Dr Assefa Bequele, Mme Polo, Mr Straton Nsanzabaganwa and Ms Amanda Lloyd. The meeting took place at the UNICEF offices in Addis Ababa.

orphans affected and infected by HIV/AIDS; children's rights to education; the formulation of national plans for children where they do not exist; and resource mobilisation. Priority issues were the popularisation of, and attempts to secure more ratifications of the Children's Charter from member states, and reporting by member states.

The implementation of this work programme will require the deepening and widening of partnerships. It will in particular require vigorous leadership and an involvement by Committee members, as well as the support of the AU, UN, national and international NGOs concerned with children's rights and welfare, and governments. Equally important is the need for the African Committee to initiate, establish and reinforce partnerships with RECs, CSOs, community based organisations and the media.

The African Committee will need to mobilise resources in collaboration with African governments, UN agencies and other stakeholders. This activity will involve several other activities, including strategic meetings and seminars and conferences aimed at compiling notes, sharing and exchanging knowledge, experiences and strategies on the way forward in areas of mutual interest within the ambit of child rights and welfare. These include health, education and protection. This involves the Committee updating itself with the above stakeholders' calendars, 'keeping in touch' and continued liaison between members. Furthermore, the Committee will undertake lobbying activities among policy makers, such as presidencies, government ministers, parliamentarians, regional and country level representatives, programme advisers of UN agencies, and representatives of other NGOs and stakeholders. A large number of communication and liaison activities will be required to achieve this end.

15 Activities for 2003–2005

15.1 Popularising the Children's Charter at a local, national and international level

This will be achieved by following up on countries' ratifying and signing of the Children's Charter. The Committee will need to travel in order to raise awareness amongst countries that have not yet signed the Charter. This will include travelling to countries and holding meetings with countries that have not ratified. The Committee will endeavour to build the capacity of member states to implement the Children's Charter and to prepare and submit state reports. The AU, UNICEF and other partners will facilitate the publicity of the DAC theme with the relevant government ministries, focal points and partners, particularly by and during the planning of the celebrations. Committee members are to participate in the DAC celebrations, focusing particularly on those countries that have not yet ratified the Charter. The Committee will raise

awareness on the rights and welfare of the child: the Committee and the AU are to work with member states' focal points, line ministries and community-based organisations.

15.2 Promoting national, sub-regional, regional and international networking on children's rights and welfare

The African Committee is to ensure their active presence and participation in national, sub-regional, regional and international meetings and seminars on the rights and welfare of the child.

15.3 Following up and monitoring the implementation by African governments of their commitment under the Children's Charter

The African Committee is to hold high-level conferences on children's rights and welfare issues, which are to be attended by government policy makers and other country level implementers.

15.4 Advocating and following up on the goals of the African Common Position on Children (ACP), the World Fit for Children and other international commitments

The African Committee is to review the state reports (initial and periodic reports) not only in view of the African Charter but also through closely monitoring state compliance with the goals of other international and continental commitments, such as the ACP. This monitoring will be conducted through appropriate means, such as a continental ministerial conference, and an international policy conference. Particular attention is to be given to the control of HIV/AIDS and other major causes of ill health and the death of children in Africa. The Committee is to follow up and report on the impact of HIV/AIDS and other pandemics affecting children. The Committee is to collaborate with the relevant government ministries, UN Agencies, NGOs and other stakeholders addressing HIV/AIDS-related issues in order to forge partnerships. The Committee will advocate the incorporation of the African Child Right's Agenda in NEPAD's programme and the participation of the Committee in NEPAD's meetings and deliberations.

15.5 Promoting and reinforcing collaboration with the AU and the UN

The Committee will collaborate with the AU Social Affairs Directorate, the AU Commission, and the African Commission, among others, to promote child welfare issues. The Committee will also collaborate with the UN Committee on the Rights of the Child to exchange information on state reporting.

15.6 Supporting the Secretariat of the Committee

The Secretariat to the Committee needs to be strengthened and indeed formally established. To date there is only a temporary secretary, no documentation centre or library and no formal point of contact for further information on the work of the Committee.

16 Day of the African Child 2004

The Committee decided to have 'The African Child and the Family' as the theme for the DAC in June 2004 because the rights of the child can be best protected and realised in the context of a strong, vibrant and harmonious family. The survival of Africans as peoples depends on the extent to which public policy attends to and supports the family.

17 Initial reports of state parties, pursuant to article 43 of the Children's Charter

The Guidelines were forwarded to member states in October, so it was too early to expect any reports to have been submitted. Concerns were raised about the relevant ministries actually receiving the Guidelines. The communication channel was discussed and it was agreed that in addition to the Ministries of Foreign or External Affairs, copies should be forwarded to the Ministries in charge of issues relating to children in member states and to embassies in Addis Ababa. It was agreed that copies of the *note verbale* and the Guidelines would be given to the members for their respective countries. Article 43 of the Children's Charter requires states to submit their initial reports two years after the entering into force of the Charter or two years after ratification, if they acceded to the Children's Charter after it entered into force and, thereafter, every three years. The Committee decided that a list, which includes a time frame for reviewing the reports, should be drawn up. Mme Affa'a Mindzie from the Institute for Human Rights and Development in Africa presented a draft schedule to the members for deliberation.

18 Observer status

The Committee members noted that there was a requirement for NGOs and other organisations to be formally granted observer status for participation in the sessions. The Acting AU Legal Counsel has been charged with drafting a document for the consideration of the Committee at its 4th session.

19 Recommendations from the Third Ordinary Session

The AU Commission should ensure all member states have received the Guidelines for Initial State Reports without delay. It should also prepare a schedule on when each country is to submit a report.

The Chairperson should write a letter to all state parties reminding them to submit their reports; this letter should be supplemented by a letter from the Chairperson of the AU.

Contacts should be made with UN agencies, donor agencies and other institutions to enhance the capacity-building of member states as well as Committee members. Closer co-operation should be promoted between the African Commission and the Committee.

20 Date and venue of the Fourth Ordinary Session

The AU representatives informed the Committee that the Chairperson was unavailable in March 2004 and that she had proposed that the next meeting be held in April 2004. The AU Labour and Social Affairs Commission convenes in April and in May and there will be an Extraordinary Summit on Employment and Poverty Alleviation in Burkina Faso. Thus, the Committee agreed that, as February was too near, it would meet in June 2004 in Addis Ababa. However, as this would result in the Committee not having sufficient time to prepare for the July Summit, the Committee and AU subsequently decided to convene the next meeting the week of 24–28 May 2004 at the AU headquarters in Addis Ababa, Ethiopia.