

The African Committee of Experts on the Rights and Welfare of the Child: An update

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1 Introduction and background

The African Charter on the Rights and Welfare of the Child (African Children's Charter)¹ is the first comprehensive regional children's rights treaty specifically dedicated to the protection of children in Africa. A number of reasons, which could stand scrutiny, are forwarded to justify the need for a separate regional instrument,² given the existence of the

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¹ African Charter on the Rights and Welfare of the Child (1990) OAU Doc CAB/LEG/24.9/49 (1990).

² Some of the reasons for the need for an African Charter include the fact that during the drafting process of CRC, Africa was underrepresented. Only Algeria, Egypt, Morocco and Senegal participated meaningfully. Furthermore, specific provisions on aspects peculiar to Africa were not sufficiently addressed in the UN instrument. Some of the peculiarities of the African situation were omitted from CRC, such as the situation of children living under the (then prevailing) apartheid regime in South Africa; practices and attitudes having a negative effect on the life of the girl child; and widespread harmful cultural practices in African society, such as female genital mutilation. Other issues not considered by CRC were problems of displaced persons arising from internal conflicts, the African concept relating to the community's responsibilities and duties and, most pertinently, the particularly difficult socio-economic conditions on the continent. See eg D Olowu 'Protecting children's rights in Africa: A critique of the African Charter on the Rights and Welfare of the Child' (2002) 10 *The International Journal of Children's Rights* 127; D Chirwa 'The merits and demerits of the African Charter on the Rights and Welfare of the Child' (2002) 10 *The International Journal of Children's Rights* 157; A Lloyd 'Evolution of the African Charter on the Rights and Welfare of the Child and the African Committee of Experts: Raising the gauntlet' 2002 (10) *The International Journal of Children's Rights* 179; M Gose 'The African Charter on the Rights and Welfare of the Child' (Community Law Centre, University of the Western Cape) 2002.

widely ratified and acclaimed United Nations (UN) Convention on the Rights of the Child (CRC).³

In any case, at a macro level, it was in order to give CRC specific application within the African context that the African Children's Charter was adopted by the Organization of African Unity (OAU) (now African Union (AU)) Heads of State and Government on 11 July 1990. The African Children's Charter and CRC complement each other. The African Children's Charter also complements the African Charter on Human and Peoples' Rights (African Charter).⁴ The African Children's Charter came into force on 29 November 1999 when the fifteenth instrument of ratification was deposited.⁵ Currently, the Children's Charter enjoys ratification by 38 AU member states.⁶

The implementation and monitoring of the Children's Charter is supervised by the African Committee of Experts on the Rights and Welfare of the Child (African Children's Committee).⁷ The African Children's Charter provides for an independent 11-member committee, appointed by the Assembly of Heads of State and Government of the AU.⁸ Article 33 of the African Children's Charter maps out the criteria that need to be met by committee members for selection. Accordingly, committee members must be nationals of a state party to the African Children's Charter. They must be individuals of high moral standing, integrity, impartiality and competence in matters relating to the rights and welfare of the child.⁹

The African Children's Committee has both advisory and contentious jurisdiction over the rights in the African Children's Charter. Under article 43, it has the mandate to receive state party reports. It also has the power to receive communications.¹⁰ Parties that have standing before the African Children's Committee are individuals, groups or non-governmental organisations (NGOs) recognised by the AU, a member state, or the UN.¹¹ The Children's Committee also has the power to

³ United Nations Convention on the Rights of the Child (adopted November 1989 and entered into force September 1990).

⁴ OAU Doc OAU/CAB/Leg/67/3/Rev 5; C Heyns (ed) *Human rights law in Africa 1996* (1996) 7.

⁵ In terms of art 47(3) of the Children's Charter, it came into force 30 days after the reception by the Secretary-General of the OAU/AU of the instrument of ratification or adherence of the 15th member state of the OAU/AU.

⁶ For a list of the countries that have ratified and signed the African Children's Charter, see http://www.africa-union.org/Official_documents/Treaties_%20Conventions_%20Protocols/List/African%20Charter%20on%20the%20Rights%20and%20Welfare%20of%20the%20Child.pdf (accessed 22 July 2006). The last countries that ratified the Charter are Ghana and Madagascar on 30 March 2005 and 10 June 2005 respectively.

⁷ Art 32(1) African Children's Charter.

⁸ Arts 33-36 African Children's Charter. See also art 11(2) of the Rules of Procedure of the Committee.

⁹ Art 33(1) African Children's Charter.

¹⁰ Art 44 African Children's Charter.

¹¹ Art 44 African Children's Charter.

undertake studies and investigations and may, like the UN Committee on the Rights of the Child (UN Committee), issue general comments.¹²

Subsequent to the coming into force of the African Children's Charter, the African Children's Committee was established when its first 11 members were elected in July 2001 during the 37th session of the Assembly of Heads of State and Government in Lusaka, Zambia. The African Children's Committee had its inaugural meeting in May 2002,¹³ and by the end of 2005, it had held seven ordinary sessions (meetings). Thus, the African Children's Committee, together with the African Commission on Human and Peoples' Rights (African Commission) and the new African Court on Human and Peoples' Rights (African Court)¹⁴ represent the foundational pillars of the African human rights system within the framework of the AU.

This paper aims to support the promotion of the African Children's Charter and the dissemination of knowledge about the African Children's Committee's work and to update the reader on recent developments and activities of the Children's Committee. Focus falls on the work undertaken by the Children's Committee from the time of its 5th meeting, which was held in Nairobi, Kenya from 8 to 12 November 2004, up to the time of its 7th meeting, which was held in Addis Ababa, Ethiopia, from 19 to 21 December 2005. However, in the process of updating the reader, this article also attempts to highlight the challenges faced by the African Children's Committee. Real opportunities for the Children's Committee in the protection and promotion of children's rights on the continent are also explored.

In writing this paper, I rely on personal knowledge gathered while participating in some of the African Children's Committee meetings. I also solicited information from the reports of the Children's Committee, staff members of the AU, academic writings and information gathered from members of NGOs and inter-governmental organisations, who are actively involved in the Children's Committee's work.

Here it should be mentioned that this work does not tout itself to provide a comprehensive and full description of the duties and activities of the African Children's Committee and, for that matter, the AU, in

¹² Rules 73, 74 & 77 of the Rules of Procedure of the Committee.

¹³ The 1st, 2nd and 3rd ordinary meetings of the African Committee were reported on by Lloyd. See A Lloyd 'The first meeting of the African Committee of Experts on the Rights and Welfare of the Child' (2002) 2 *African Human Rights Law Journal* 320; A Lloyd 'Report of the second ordinary session of the African Committee of Experts on the Rights and Welfare of the Child' (2003) 3 *African Human Rights Law Journal* 329; A Lloyd 'The third ordinary session of the African Committee of Experts on the Rights and Welfare of the Child' (2004) 4 *African Human Rights Law Journal* 139.

¹⁴ Protocol to the African Charter on Human and Peoples' Rights on the Establishment of an African Court on Human and Peoples' Rights, 10 June 1998 (entered into force 25 January 2004) <http://www.africa-union.org.innopac.up.ac.za:80/home/welcome.htm> (accessed 23 July 2006).

children's rights matters in Africa.¹⁵ More could be said on the complicated procedures, the political intricacies, of the insufficient financial resources allocated to the general human rights programmes of the AU and other related 'sensitive' matters that tamper with the availability of basic facilities and a conducive environment necessary to optimise the work of the African Children's Committee and the promotion and protection of the rights and welfare of the African child. However, those issues are beyond the scope of this work. Finally, it should also be pointed out at the outset that I am under no illusion that my views and ideals on the challenges, opportunities and overall progress of the African Children's Committee will be shared by everyone.¹⁶

2 New committee members (and a renewed optimism?)

As mentioned above, the African Children's Charter provides for an independent 11-member committee who are appointed by the Assembly of Heads of State and Government. According to article 37(1) of the African Children's Charter:

The members of the Committee shall be elected for a term of five years and may not be re-elected. However, the term of four of the members elected at the first election shall expire after two years and the term of six others, after four years.

This article means that, following the 6th ordinary session in July 2005, the terms of office of six of the committee members (who were elected for a four-year term in July 2001) came to an end. The outgoing committee members were the Chairperson of the Children's Committee, The Hon Justice Joyce Alouch (Kenya), the first Vice-Chairperson, Mr Rodolphe Soh (Cameroon), the second Vice-Chairperson, Prof Lullu Tshiwulu (South Africa), the Rapporteur, Mr Startson Nsanzabaganwa (Rwanda) and Mr Robert Ahnee (Mauritius).

The term of office of Mrs Nانيتom Motoyam, the member from Chad, who resigned from her seat when joining UNICEF¹⁷ in 2002, also came to an end in July 2005. It is to be recalled that, according to article 39 of the African Children's Charter, Chad should have nomi-

¹⁵ The AU also has other projects on child rights, such as the activities on 'Accelerating Action for Child Survival and Development in Africa' to meet the Millennium Development Goals.

¹⁶ Eg, there is the view that the AU should not have created the African Committee, but rather strengthened the work of the African Commission on Human and Peoples' Rights to also address effectively the rights of children. Some believe that the appointment of a Special Rapporteur for children's rights within the African Commission would have been enough to cater for the special needs and rights of children.

¹⁷ Lloyd 'Second ordinary session' (n 13 above) 332.

nated another member 'from among its nationals to serve for the remainder of the term — subject to the approval of the Assembly'. To the knowledge of the author, such appointment never took place.

A similar state of affairs surfaced in connection with the vacant seat left by Mrs Dior Fall Sow of Senegal. Mrs Sow was elected for a five-year term, though she left her post when she joined the International Criminal Court of Rwanda in 2001. Senegal, like Chad, failed to appoint another member, which forced the African Children's Committee to operate short of two members until July 2005.¹⁸

The problem of vacant seats on the Children's Committee continued in spite of the clear rules and procedure laid down by article 39 of the Children's Charter and rule 14 of the Rules of Procedure of the Children's Committee under the caption 'Filling of casual vacancies'. In particular, rule 14(2) provides:

If a member of the Committee dies or resigns or declares, for any other cause, that he/she can no longer perform his/her duties as member, the Chairperson of the Committee shall notify the Chairperson of the Commission who shall then declare vacant the seat of that member.

Furthermore, in reinforcing this rule, rule 14(4) provides:

Pursuant to the provisions of article 39 of the Children's Charter and paragraphs 1 and 2 of this rule, the Chairperson of the Commission shall request the state party which had nominated that member to appoint another expert from among its nationals within two months to serve for remainder of his/her predecessor's term.

Here it can be inferred that, although the Rules of Procedure of the African Children's Committee clearly attempt to address the problem of vacant seats that may arise within the Children's Committee, they are not comprehensive. It would have been better if the Rules of Procedure had gone one step further and provided for an avenue to be taken in the case of the failure of a state party to nominate a replacement.

In a related matter, the committee member from Nigeria, Prof Peter Onyekwere Ebigbo, who was elected at the Maputo Summit in July 2003, was not sworn in until November 2004. Therefore, during the 5th ordinary session, Prof Ebigbo was called to take his oath of office by reading and signing the oath in the presence of the committee members, representatives of the AU Commission on Labour and Social Affairs, the AU Legal Counsel and observers. Prof Ebigbo was elected to serve a five-year term, which will expire in 2008.

In an effort to replace the outgoing committee members mentioned above, the 7th ordinary session swore in six new members of the African Children's Committee. The new members were elected by the 5th session of the Assembly of Heads of State and Government in Sirte, Libya, in July 2005. The new committee members were called to take an oath

¹⁸ As above.

of office, in accordance with rule 15 of the Rules of Procedure of the Children's Committee, by reading the oath and signing it under the guidance of the representative of the AU Legal Counsel.

The new committee members are Ms Seynabou Ndiaye Diakhate (Senegal), Mrs Koffi Appoh Marie-Chantal (Côte d'Ivoire), The Hon Lady Justice Martha Koome (Kenya), Mrs Mamosebi T Pholo (Lesotho), Ms Boipelo Lucia Seitlhamo (Botswana) and Mr Moussa Sissoko (Mali).¹⁹

After the opening ceremony and the swearing in of the new members of the African Children's Committee, members of the Children's Committee held an informal closed consultative meeting to discuss some procedural and administrative matters.²⁰ Among other things, the committee members, according to rule 16 of the Rules of Procedure of the African Children's Committee, elected 'from among its members a Chairperson, three Vice-Chairpersons, a Rapporteur and a Deputy Rapporteur'. These officers of the Children's Committee were elected for a term of two years and are eligible for re-election.²¹

Accordingly, the current composition of the Children's Committee (still short of one member) is as follows:

Name	Country	Appointment/expiry
Mr Jean-Baptiste Zoungrana Chairperson	Burkina Faso	5 years/2008
Mrs Mamosebi T Pholo 1st Vice-Chairperson	Lesotho	5 years/2010
Mrs Marie Chantal Appoh Kofi 2nd Vice-Chairperson	Côte d'Ivoire	5 years/2010
The Hon Justice Martaha Koome 3rd Vice-Chairperson	Kenya	5 years/2010
Mr Mousa Sissoko Rapporteur	Mali	5 years/2010

¹⁹ The Executive Council elected the six members of the African Committee and recommended the members to the Assembly for appointment. See Decision on the Election of Members of the African Committee of Experts on the Rights and Welfare of the Child Doc EX CL/202 (VII). The Assembly, after taking note of the election by the Executive Council, appointed the six new Committee members. See Decision on the Appointment of Members of the African Committee of Experts on the Rights and Welfare of the Child Doc EX CL/202 (VII). The names and titles of the new Committee members are provided in here as they appear in the official document of the AU Doc EX CL/202 (VII).

²⁰ This was done in accordance with rule 33 of the Rules of Procedures on Closed Sessions which determines that at the beginning of every ordinary session, the Committee shall convene a closed session.

²¹ Rule 17 of the Rules of Procedure of the Committee.

Name	Country	Appointment/expiry
Ms Boipelo Lucia Seithlamo ²² Deputy Rapporteur	Botswana	5 years/2010
Dr Assefa Bequele	Ethiopia	5 years/2008
Mrs Seynabou N Diakhate	Senegal	5 years/2010
Prof Peter O Ebigbo	Nigeria	5 years/2008
Ms Nakpa Polo	Togo	5 years/2008

Here, a setback is the fact that, unlike the commissioners of the African Commission, the committee members cannot be re-elected after serving one term. In this regard, under Decision EX/CL/233(VII), paragraph 8, the Executive Council of the AU requested the AU Commission to study measures to renew the terms of office of committee members for another term.

The process, both at the national and AU level, that culminated in the nomination and appointment of these committee members is not very clear.²³ In the context of the African Commission, referring to the 2005 *note verbale* of the AU Commission, Viljoen rightly comments that²⁴

state parties need to develop transparent domestic procedures, involving civil society, for the nomination of members to the African Commission. At the level of the AU itself, nomination and election should also be more transparent, allowing broader and more inclusive scrutiny involving civil society and the press. A leaf could be taken from the Council of Europe, where the Council's Parliamentary Assembly elects the judges of the European Court of Human Rights on the recommendation of a sub-committee of the Parliamentary Assembly.

Be it as it may, the new committee members, just like the outgoing and continuing committee members, bring on board a range of expertise which is crucial for the protection and promotion of the rights and welfare of the African child. Nothing has surfaced that calls into question the independence and suitability of the new committee members for the position. Actually, on the question regarding the independence of committee members, Murray notes that²⁵

unlike the African Commission on Human and Peoples' Rights, the issue of

²² Although the surname of the newly elected Committee member from Botswana is spelled as 'Seithlamo' in the AU official document Doc EX CL/202 (VII), it was spelled as 'Seithlamo' during the 7th meeting of the Committee.

²³ The same could be said for the existing and previous Committee members.

²⁴ F Viljoen 'Promising profiles: An interview with the four new members of the African Commission on Human and Peoples' Rights' (2006) 6 *African Human Rights Law Journal* 248.

²⁵ R Murray 'Children's rights in the OAU' in R Murray (ed) *Human rights in Africa* (2004) 168.

independence and incompatibility of the members of the Committee appears to have been taken seriously by the AU, due in part to the fact that the provisions in the Rules of Procedure were much clearer on this point. Two members of the Committee were thus requested by the AU to leave when they changed positions in their home states which rendered their position as Committee members incompatible.

Out of the 10 current committee members, there are six women and four men. Unlike the previous Children's Committee, the present Children's Committee is dominated slightly by women. Should the eleventh seat, which remains open, be filled by a woman, the gender balance would be even more tipped toward woman members.

In the context of geographic and linguistic distribution, it could be said that the new Children's Committee is more or less evenly distributed. However, as was the case with the two previous committees, it is apparent that there is an absence of a member from Arabic speaking/Northern African countries. This happens despite the fact that Algeria,²⁶ Egypt²⁷ and Libya²⁸ have ratified the African Children's Charter. The reason for the absence of at least one committee member from the Arabic speaking Northern African region is not clear. However, for the purpose of ensuring continent-wide involvement, geographical representation is important.²⁹

3 Establishment of a secretariat

As has been said before by others, there is a need for the institutional empowerment of human rights supervisory organs on the continent to enable them to function effectively. Nevertheless, in the context of the African Children's Committee, the lack of a functioning secretariat has been mentioned time and again as one of the major reasons for the lack of progress of its work.³⁰ This is against the clear requirement under article 40 of the African Children's Charter that '[t]he Secretary-General of the Organization of African unity shall appoint a secretary for the Children's Committee'. As early as 2002, the Assembly of Heads of State and Government at the Durban Summit called upon the Secretary-General to urgently appoint a secretary to the Children's Committee,

²⁶ Ratified on 8 July 2003.

²⁷ Ratified on 9 May 2001.

²⁸ Ratified on 23 September 2000.

²⁹ See Viljoen (n 24 above) 238, highlighting the need for geographical representation in the context of the African Commission.

³⁰ The lack of sufficient finances and, later on, the cumbersome procedure of staff recruitment within the AU which needs to take into account linguistic, gender and geographic distribution have been mentioned as the main causes for the lack of a functioning secretariat.

so that the Children's Committee could function effectively.³¹ The same obligation and even the detailed duties of the Secretariat are unequivocally provided for in the Rules of Procedure of the African Children's Committee.³²

Between July and December 2004, thanks to the African Network for the Protection and Prevention Against Child Abuse and Neglect (ANPPCAN), a temporary co-ordinator, Mr Deogratias Yiga from Uganda, was seconded to the African Children's Committee. During his time in the office, Mr Yiga has done much to promote and facilitate the work of the Children's Committee,³³ for which he was publicly commended for during the 5th meeting by the Chairperson of the Children's Committee. Because Mr Yiga's secondment was coming to an end in December 2004, the urgent need to recruit a permanent replacement was stressed.

In this regard, during the 5th meeting of the African Children's Committee, the AU Commissioner for Social Affairs briefed the meeting on the recruitment process going on within the AU Commission. It was noted that the recruitment process was delayed due to the need for regional distribution and gender balance, but the Commissioner assured the Children's Committee that she would do everything in her capacity to get the posts necessary filled as soon as possible. The committee member highlighted the need for the co-ordinator to be bilingual. The same issue was reiterated during the 6th meeting.

Taking notice of the fact that the long-overdue secretary for the African Children's Committee had still not been recruited by July 2005, which as a result kept on delaying the work of the Children's Committee, the Executive Council urged the AU Commission to strengthen the Children's Committee.³⁴ In an unequivocal manner, it requested the AU Commission 'to urgently ensure the full and effective functioning of its secretariat'.³⁵

Following this, during the 7th meeting, a more promising and concrete announcement about the Secretariat of the African Children's Committee from the AU Commissioner for Social Affairs was made. The attention of the meeting was drawn to the fact that the AU Commission was finalising the recruitment of a secretary to the Children's Committee and that UNICEF had approved the funds to assist the Secretariat of the Children's Committee with a Senior Policy Officer

³¹ It should be recalled that in 2002, a temporary secretary was appointed on a three-month contract basis to oversee the 2nd ordinary session and the follow-up work of the Committee.

³² Rule 23 of the Rules of Procedure of the Committee.

³³ Among other things, the website of the Committee was made operational, reporting guidelines were distributed to state parties, a draft document for the consideration of state party reports was prepared, and the 5th meeting was well organised.

³⁴ EX CL/Dec 233 (VII).

³⁵ n 34 above, para 9.

(Legal) and an Administrative Secretary. In addition, it was indicated that UNICEF would enhance the capacity of the Department of Social Affairs by sponsoring a Senior Policy Officer to follow up on the implementation of the African Common Position on Children and the programme on children infected and affected by HIV/AIDS.

It looks as if the ongoing issue of a permanent secretary for the African Children's Committee will be put to rest soon.³⁶ A functioning Secretariat is the 'minimum core' that any treaty monitoring body needs. Its absence is inconsistent with the AU's determination 'to take all necessary measures to strengthen our common institutions and provide them with the necessary powers and resources to enable them to discharge their respective mandates effectively'.³⁷ Especially because the Children's Committee comes close to the stage of effective engagement with state parties, the need for a secretariat upgrades itself from the level of urgency to emergency.

4 Monitoring and implementation of the provisions of the African Children's Charter and the role played by the African Children's Committee

The expression by a country of its commitment to a treaty's goals need not necessarily be consistent with the country's actual course of action. Therefore, establishing a mechanism of monitoring the implementation of the obligations state parties have undertaken becomes crucial. The process of treaty implementation — in particular the preparation of reports, follow-up measures to recommendations and responses to individual complaints — is a critical mechanism for legislative, policy and programmatic change at the national level. Treaty implementation under the African Children's Charter takes the form of state reporting, individual complaints, lobbying and fact-finding missions and other related activities undertaken by the African Children's Committee according to its mandate under the African Children's Charter.³⁸ The discussion now turns to these aspects.

³⁶ When the author last visited the AU Commission in July 2006, Ms Sadequa Rahim of the Department of Social Affairs was serving as the Secretary for the Committee along with her other responsibilities in the Department.

³⁷ Constitutive Act of the African Union, adopted at the 36th ordinary session of the Assembly of Heads of State and Government of the OAU, 11 July 2000 at Lomé, Togo. See Decisions on the Establishment of the African Union and the Pan African Parliament, OAU Doc AHG/Dec 143 (XXXVI) Preambular para 11.

³⁸ Here, it is imperative to mention that under the five-year work plan (2005-2009), the Committee has prepared and adopted, popularising the Children's Charter and ensuring follow-up and enforcement of the Charter are the areas given specific priority.

4.1 State reporting

The preparation and examination of the reports of state parties allow for a comprehensive and periodic review of national legislation and administrative rules, procedures and practices that can be assessed against the benchmarks established in the treaties.³⁹ Ideally, the process provides a platform for national dialogue on human rights among the stakeholders in a state party and an opportunity for public scrutiny of government policies, encouraging the involvement of various sectors of society in formulating, evaluating, and reviewing policies.⁴⁰

Against this backdrop, article 43 of the African Children's Charter provides as follows:⁴¹

Every state party to the present Charter shall undertake to submit to the Committee through the Secretary-General of the Organization of African Unity, reports on the measures they have adopted which give effect to the provisions of this Charter and on the progress made in the enjoyment of these rights:

- (a) within 2 years of the entry into force of the Charter for the State Party concerned; and
- (b) thereafter, *every 3 years*.

It also requires that the report should⁴²

- (a) contain sufficient information on the implementation of the present Charter to provide the Committee with comprehensive understanding of the implementation of the Charter in the relevant country; and
- (b) shall indicate factors and difficulties, if any, affecting the fulfilment of the obligations contained in the Charter.

In addition, it is provided that⁴³

[a] state party which has submitted a comprehensive first report to the Committee need not, in its subsequent reports submitted in accordance with paragraph 1(a) of this article, repeat the basic information previously provided.

To supplement this, the African Children's Committee has drafted and distributed a document entitled Guidelines for Initial Reports of State

³⁹ This is reiterated in the Guidelines for Reporting under arts 3 and 4.

⁴⁰ Through their recommendations, treaty bodies evaluate the extent to which state parties meet treaty obligations and identify specific human rights problems, which may help set national priorities. Together with the state party report, the recommendations in the concluding observations of treaty bodies may be a framework for joint action by governments, UN agencies, NGOs and other partners.

⁴¹ Art 43(1)(a) African Children's Charter (my emphasis).

⁴² Arts 43(2)(a) & (b) African Children's Charter.

⁴³ Art 43(3) African Children's Charter.

Parties.⁴⁴ In recognition of the dual reporting burden that states may need to shoulder, article 24 of the Guidelines provides that

[a] state party that has already submitted to the UN Committee on the Rights of the Child a report based on the provisions of the CRC may use elements of that report for the report that it submits to the Committee as required by the Children's Charter. The report shall, in particular, highlight the areas of rights that are specific to the Children's Charter.

In spite of this, by June 2005, during the 6th meeting, the number of state party reports overdue had reached 33.⁴⁵ Although the African Children's Committee, as well as the Social Affairs Department of the AU, tried to use all opportunities to lobby governments to report to the Children's Committee, apart from promises, a concrete positive response remained out of sight.

This is a clear indication that countries seem to have taken their reporting obligation under the African Children's Charter very lightly and only continue to 'boast' about the fact that they are parties to the African Children's Charter, thereby indicating their 'commitment' to children's rights.⁴⁶ Even Ethiopia, which is the seat of both the African Children's Committee and the AU, and, ironically, the only country in Africa (and one of 16 countries in the world) that has reported to the UN Committee on the Rights of the Child three times,⁴⁷ is already more than two years overdue with its initial report to the African Children's Committee.

Disappointingly, even countries of which nationals are members of the African Children's Committee have not reported, though it is notable that the respective members of the African Children's Committee

⁴⁴ Cmttee/ACRWC/2II Rev2. For a detailed description of the paragraphs of the Guidelines, see Lloyd 'Second ordinary session' (n 13 above) 341-343.

⁴⁵ These countries are Algeria, Angola, Benin, Botswana, Burkina Faso, Cameroon, Cape Verde, Chad, Comoros, Egypt, Equatorial Guinea, Eritrea, Ethiopia, The Gambia, Guinea, Kenya, Lesotho, Libya, Malawi, Mali, Mauritius, Mozambique, Niger, Nigeria, Rwanda, Senegal, Seychelles, Sierra Leone, South Africa, Tanzania, Togo, Uganda and Zimbabwe.

⁴⁶ Such is the case, eg, when countries report to the UN Committee on the Rights of the Child under the CRC. Countries mention that their governments have further shown their commitment to children's rights by ratifying the African Children's Charter. A case in point is recent reports submitted from Benin, Ethiopia and Senegal, whose reports are to be considered by the UN Committee during its 43rd session from 11 to 29 September 2006. Here, one possibility for reminding state parties of their reporting obligations under the Children's Charter is to inquire into the possibility if the UN Committee can use the opportunity, while considering state party reports from African countries that have ratified the Charter, to recommend to them that they should also report to the African Committee.

⁴⁷ The 3rd periodic report of Ethiopia under the CRC was submitted in 2006 and is scheduled for consideration in the September 2006 session of the UN Committee.

are serving in their personal capacities.⁴⁸ These countries include Botswana, Burkina Faso, Kenya, Lesotho, Mali and Togo, which are all overdue for more than four years.

At this juncture, however, it should be noted that this reluctance was signaled already during the ratification process. This is because, although African countries were overall speedy in their accession to CRC, member states have been slow to ratify the African Children's Charter, and it was not until 1999 that the fifteenth country ratified the Children's Charter, thereby allowing the treaty to enter into force.

However, this stalemate of non-reporting to the African Children's Committee ended officially during the 7th meeting of the Children's Committee, when the AU Commissioner for Social Affairs informed the meeting that the AU Commission had received the initial reports from Egypt and Mauritius. In connection with this, the AU Commissioner for Social Affairs has called on the Children's Committee to finalise the procedures for considering state parties' reports so that at its next meeting it could start examining the reports.

The 'Procedures for Considering State Parties' Reports' is a document that has been presented before the African Children's Committee several times. The same document was the subject of discussion during the 5th and 6th meetings of the Children's Committee. However, due to some amendments incorporated into the document, it was presented again during the 7th meeting. This created the opportunity for new committee members to familiarise themselves with the document.

It was also highlighted that the Mauritius report was in English, while the one from Egypt was in Arabic. In this regard, the AU representative indicated that the reports could not be translated into the other working language of the African Children's Committee because of the workload of the AU conference services. Here, it was questioned if it was possible to request countries to submit their reports in English and French. Accordingly, after a protracted debate, it was agreed that the AU Commission should have reports of state parties translated into the working language of the African Children's Committee. Once initial

⁴⁸ Here it should be mentioned that, during the 5th meeting, Mr Robert Ahnee, the Committee member from Mauritius, informed the meeting that he was in contact with the relevant Ministry regarding the submission of the country report. He stated that the draft report was ready but had to be cleared by the State Law Office, after which it would be forwarded to the Chairperson of the Committee. As discussed below, Mauritius submitted its report in the second half of 2005 and this is a clear example that Committee members could at least lobby their own governments to comply with their obligations under the Children's Charter. However, during the 5th meeting, it was stressed that, in order to maintain the independence of the Committee members, the responsibility of urging member states to submit reports should be left to the AU Commission. While Committee members could informally follow up, they should not have the primary responsibility of reminding their member states to submit reports.

reports had been submitted by state parties, the possibility of providing a page limit for periodic reports was also entertained.

It was also proposed and agreed that supplementary reports to be submitted by state parties should be entitled 'additional reports' while 'complementary reports', according to rule 69 of the Rules of Procedure of the African Children's Committee, would be the preserve of NGOs.⁴⁹

The African Children's Committee nominated Rapporteurs for state party reports. Accordingly, Mme Pholo (to be assisted by Prof Ebigbo) was appointed for the report from Mauritius, while Mrs Seithamo (to be assisted by Dr Bequele) for the report from Egypt. The AU Commission was requested to translate the reports into the working languages of the Children's Committee and to send these to committee members by February 2006. It was agreed that the reports would be examined at the pre-session of the next meeting of the African Children's Committee.

An important issue that was raised, but which was not given the attention it called for, was whether a committee member could assist his or her country in preparing a report. The first and best port of call in this regard is to look into the practice of the African Commission. Therefore, to maintain the independence and integrity of committee members, it is not advisable that committee members assist any country for that matter in the preparation of a state party report.

Finally, this section would be incomplete without briefly touching on recent developments in the UN human rights system and its possible implications on reporting to the African Children's Committee. Thus, as the newly established Human Rights Council took over from the Commission on Human Rights (abolished on 16 June), the first session in June 2006 served the main purpose of deciding on working procedures. Therefore, as yet, the manner of reporting to the UN Committee, for that matter to all treaty bodies, is somewhat uncertain. In the event of a decision that a separate and detailed report to the UN Committee is no longer necessary, it will be better for the African Children's Committee to look into the detailed situation of African children and making recommendations.

4.2 Consideration of communications

Article 44 of the African Children's Charter provides that⁵⁰

the Committee may receive Communications from any person, group or non-governmental organisation recognised by the Organization of African

⁴⁹ Rule 69(1) of the Rules of Procedure provides that '[t]he Committee may invite RECs, the AU, specialised agencies, the United Nations organs, NGOs and CSOs, in conformity with article 42 of the Children's Charter, to submit to it reports on the implementation of the Children's Charter and to provide it with expert advice in areas falling within the scope of their activities'.

⁵⁰ Art 44(1) African Children's Charter.

Unity, by a member state, or the United Nations relating to any matter covered by this Charter.

Moreover, '[e]very communication to the Committee shall contain the name and address of the author and shall be treated in confidence'.⁵¹

From this, it is logical that the right to present individual communications is afforded to a larger number of physical persons and entities. 'Physical persons' would then include any child, its parents or its legal representatives, alleging a violation of a right recognised by the Charter, and presented by or on behalf of the child victim.⁵² This provision means that anyone could bring a communication before the African Children's Committee.⁵³ Notably, the fact that the Children's Committee can receive communications, sometimes also called complaints, is one of the most significant mandates the Children's Committee enjoys over the UN Committee.

During the 6th meeting, it was indicated that the AU Commission had received its first communication under article 44. The communication related to the plight of children in Northern Uganda. It highlighted the dire situation of the children in the area, the manner by which their rights were being violated as a result of the 20 year-old civil war between the Ugandan government and the Lord's Resistance Army (LRA), and underscored the obligation of the Ugandan government under the African Children's Charter.

Therefore, as agreed during the 6th meeting, the advice of the AU Legal Counsel with regard to this communication was sought and the memo as well as the communication itself was distributed to committee members. Furthermore, during the 7th meeting, Mrs Polo explained that she had distributed to committee members draft guidelines on the consideration of communications which was prepared by the Institute on Human Rights and Development in Africa.

Thus, after some discussion, it became apparent that the feeling shared among committee members was that members should compare the documents and come up with a draft on the procedures to be followed in the consideration of a communication. Therefore, the AU Legal Counsel was requested to come up with a draft procedure which would be forwarded to all committee members for their consideration and input. The draft was requested to be ready by the end of February

⁵¹ Art 44(2) African Children's Charter.

⁵² Soboka provides that '[I]f likewise, one could imagine that the guidelines which will be adopted by the Committee on the Rights and Welfare of the Child would consider it possible for a communication to be submitted in the name or on behalf of a child victim of a violation of the rights recognised by the Charter, including without its consent, on condition that this is justified by the child's best interest principle. However, it would be useful for the child who can communicate to express its views on a communication that would be submitted on its behalf.' T Soboka 'Article 43: Reporting procedure under the African Charter on the Rights and Welfare of the Child' (2005) (unpublished) (Institute for Human Rights and Development in Africa) 3.

⁵³ As above.

2006. Mrs Diakhate, the committee member from Senegal, was requested to harmonise all inputs sent to her by committee members and to send them back to the AU Commission so that the draft would be considered in the forthcoming (8th) meeting.

The next immediate concern was what to do with the communication already received. It was considered only reasonable to acknowledge receipt of the communication and await the finalisation of the procedures for consideration of communications.

Here the role communications have played and continue to play in the African human rights system in general cannot be overemphasised. The African Children's Committee, both during its 6th and 7th meetings, has devoted time to debate issues surrounding communications. Therefore, the attention the Children's Committee gave to the communication it received is a clear signal of the considerable importance it attaches to it, and which, by any standards, is commendable.

4.3 Fact-finding mission

Article 45(1) of the African Children's Charter mandates the African Children's Committee to⁵⁴

resort to any appropriate method of investigating any matter failing within the ambit of the present Charter, request from the states parties any information relevant to the implementation of the Charter and may also resort to any appropriate method of investigating the measures the state party has adopted to implement the Charter.

The situation of children in Northern Uganda should alarm any society.⁵⁵ The African Children's Committee is acutely aware of the dire situation of these children who are stuck in a vicious circle of war. A thematic presentation on children and armed conflict by ANPPCAN during the 5th meeting of the Children's Committee put the issue in the spotlight.

The mandate of the African Children's Committee under article 45(1) of the African Children's Charter, coupled with the scourge of war on children in Northern Uganda, led to a fact-finding mission to the country from 15 to 19 August 2005. A document containing the back-

⁵⁴ Here it should be mentioned that the mandate of the Committee under art 45(1) needs further clarification, perhaps by adopting rules governing the implementation of the mandate. The overarching question that needs to be clarified is the way in which the implementation of the mandate is to be undertaken. Would it be visits *in loco*? Would sub-committees or working groups be constituted? Or would the procedure be carried out by appointing Special Rapporteurs? Would such experts be independent? See, generally, A Fall 'The inquiry procedure under article 45 of the African Charter on the Rights and Welfare of the Child' (2005) (unpublished) (Institute for Human Rights and Development in Africa).

⁵⁵ The 2005 *Country Report on Human Rights Practices* for Uganda by the US State Department states that approximately 38 000 children have been abducted by the LRA during the past 20 years and forced into roles as soldiers, labourers and sex slaves.

ground of the mission, the objectives, activities undertaken, but more importantly, clear recommendations, was submitted by the two committee members who undertook the mission. The role of the Peace and Security Department of the AU in implementing the recommendations was raised and it was agreed that it would only be appropriate that the African Children's Committee liaise with the Department. The need to be cautious and abide by AU rules and procedures followed by a labeling of the situation in Northern Uganda as 'sensitive' dominated the subsequent discussion. In the end, it was agreed that the AU Commission should take note of the report and take appropriate measures to implement the recommendations contained in the report.

Here it is important to comment. Indeed, rules and procedures should be followed; however, attention to procedures should not detract one from the main issue. Although the AU Commission was requested to take appropriate measures to implement the recommendations contained in the report, it was not clearly requested to come back to the African Children's Committee and inform on the actions taken. This should be considered a serious issue that the Children's Committee needs to follow up on at its next meeting.

Here, we need once again to be reminded that one of the reasons that necessitated the transformation of the old OAU to the new AU was progress in the field on human rights on the continent. It is believed that the AU inaugurates a new era that promises better human rights promotion and protection in Africa. Therefore, it will be disappointing to allow for fact-finding missions and then undermine the implementation and follow-up of a report from a mission.

4.4 Promotional activities of the African Children's Committee

4.4.1 Promotional missions

During 2004, members of the African Children's Committee have concluded advocacy visits to four African countries. The reports of the visits were communicated during the 5th meeting. The purpose of the visits was to, among other things, lobby for the ratification and implementation of the African Charter as well as to build links with relevant stakeholders on the ground in the respective countries. The countries visited were Burundi, Madagascar, Namibia and Sudan. These missions have already yielded some positive results. In 2004, two countries, namely Burundi⁵⁶ and Namibia,⁵⁷ ratified the African Children's Charter. Although the mission to the Sudan was informed that ratification of the Children's Charter would take place before the end of 2004, to date this has not materialised.

During these visits, delegated committee members have held talks

⁵⁶ Ratified on 28 June 2004.

⁵⁷ Ratified on 23 July 2004.

with government officials, parliamentarians, civil society members, international NGOs, the media and the children themselves.

In order to follow up further ratification and implementation of the Charter, during the 5th meeting, the committee members agreed on lobbying visits to the Central African Republic, Congo, Djibouti, Gabon, Ghana, Liberia, São Tomé and Príncipe, Swaziland, Zambia and Zimbabwe. Committee members were nominated from specific countries to undertake the missions. However, until the 7th meeting in December 2005, there was no report that any of the countries listed above were visited. Such failure could possibly be attributed to a lack of finances.

4.4.2 Day of the African Child

The Day of the African Child marks the 1976 march in Soweto, South Africa, when thousands of black school children took to the streets to protest the inferior quality of their education and to demand their right to be taught in their own language. Hundreds of young boys and girls were shot down; and in the two weeks of protest that followed, more than a hundred people were killed and more than a thousand injured.

Fifteen years later, in 1991, the Organization of African Unity immortalised the Soweto uprising by declaring 16 June the Day of the African Child.⁵⁸ This declaration marked an official recognition of children's contributions to the struggle against apartheid.

The Day of the African Child also draws attention to the lives of African children today. This day has also become an opportunity to examine progress towards health, education, equality and security for all African children and on the implementation of the African Children's Charter.

The African Children's Committee has been selecting themes for the celebration of the Day of the African Child.⁵⁹ The theme for 2005 was 'African orphans: Our collective responsibility' — chosen by the Children's Committee in recognition of the impact of HIV/AIDS on Africa's children. As part of the day's celebrations, the AU Commission also organised a workshop on Social Protection for Orphans and Vulnerable

⁵⁸ In South Africa, 16 June is a national holiday celebrated as 'Youth Day'.

⁵⁹ In 2003, the theme was 'Right to Registration' while in 2004, it was 'The African Child and the Family'. For a review of some of the activities undertaken in the Eastern and Southern Africa region for the 2003 Day of the African Child, see <http://www.unicef.org/newsline/2003/dac2003inesaro.doc> (accessed 23 July 2006). In 2005, across the West African region, for instance, Plan joined forces with partner organisations and communities to help create a visible and audible platform for the region's children, helping to give voice to their thoughts and feelings around the lives of orphans. In nearly all countries, debates with children and youth were held on the rights of the child. Similarly, a number of high profile media events were conducted using radio, video, poetry and drama to raise awareness on what has been a growing phenomenon in sub-Saharan Africa. For a further review of some of the activities in Burkina Faso, Ghana, Niger, Senegal and Sierra Leone, see <http://www.plan-international.org/wherework/westafrica/publications/africanday05/> (accessed 23 July 2006).

Children in line with the theme. This workshop was part of the 6th meeting of the Children's Committee. At the continental level, governments were lobbied to put in place statutory, developmental and governance interventions⁶⁰ to address the plight of children and youth.

In 2006, the theme selected was 'The right to protection: Stop violence against children'. This theme was selected by the African Children's Committee in view of the UN Secretary-General's Global Study on Violence against Children undertaken by the independent expert Prof Paulo Sergio Pinheiro. The Children's Committee decided that countries should be free to choose sub-themes that would be in line with the overall theme.

A disappointing reality pointed out at the 5th meeting was that only seven member states' reports were received on the celebrations of the Day of the African Child in 2004. It was agreed that the reports did not constitute a sufficient basis for a comprehensive assessment on the activities at the continental level.

The importance of the Day of the African Child as an advocacy tool to promote children and children's rights issues is clear to the African Children's Committee. The AU Commission and the Children's Committee should do everything to lobby governments to celebrate the day and to submit reports. In order to enhance clarity and expand on the theme of the Day of the African Child, it is pointed out that an explanatory note should always be prepared and forwarded to member states amplifying the rationale for the selection of the theme, its relevance and its meaning.

5 The link between the African Children's Committee, partners/donors and civil society

5.1 The African Children's Committee and other AU Organs

The African Children's Committee falls under the AU Commission in the Department of Social Affairs. The Department tries its best to push forward the work of the Children's Committee and the cause of children in general.⁶¹ The Children's Committee also has a good

⁶⁰ Millennium Campaign voices against poverty African's Orphans <http://www.millenniumcampaign.org/site/apps/nl/content3.asp?c=grKVL2NLE&b=190470&ct=915249> (accessed 23 July 2006).

⁶¹ Eg, in 2006 the AU Commission established and awarded the first ever 'African Union Award for Children's Champions in Africa'. The award honours and celebrates the initiatives taken by organisations and recognises leadership, dedication and commitment to improve the life chances of children throughout the continent. It will serve as an instrument to encourage other individuals or organisations to take similar exemplary initiatives in promoting the rights and improving the wellbeing of children. For further details on the purpose and objectives of the award, see http://www.africa-union.org/root/au/Conferences/Past/2006/June/award/Children_announcement.htm (accessed 22 July 2006). Another award entitled the 'Nkosi Johnson' award, with special emphasis on HIV/AIDS, was also established.

working relationship with other departments, notably the office of the Legal Counsel. In addition, in April 2004 a committee member attended the last meeting of the Labour and Social Affairs Commission (LSAC), held in Benin. The Children's Committee has also been represented at the AU Commission's Day of the African Child celebrations, at the first AU Conference of national human rights institutions, and at the sessions of the AU Executive Council.

Clearly, the African Commission and the newly established African Court are two institutions the African Children's Committee should have a close working relationship with. The Children's Committee is given standing before the African Court.⁶²

The relationship between the African Commission and the African Children's Committee has been discussed at a number of previous meetings, including the 5th meeting. However, during the 7th meeting, the relationship was stressed when the Chairperson of the African Commission made a presentation to the participants of the meeting. During her presentation, the Chairperson emphasised that both institutions are waging the same struggle and should develop a strategic partnership that would comprise the exchange of information and experiences on human rights promotion and protection. It was recommended that the scope of such a partnership, as well as the financial implications thereof, be studied by both institutions.

In the area of children involved in armed conflict, as highlighted above, the involvement or leading role of the Peace and Security Council is inevitable. In the meantime, establishing a good working relationship between the African Children's Committee and the Economic, Social and Cultural Council of the AU is also very important.

In conclusion, to have better co-ordination, minimise costs and avoid a duplication of efforts, stronger links should be forged between the Children's Committee and the AU. Links that do not exist need to be established and those that exist need to be strengthened further. Some of these problems are expected to be alleviated once a permanent secretary is put in place.

5.2 The African Children's Committee and UN agencies

The African Children's Committee has links with UNICEF and benefits also from its financial support. As mentioned above, UNICEF has agreed to contribute some of the funding for the establishment of a permanent secretariat for the African Children's Committee.⁶³ Other UN agencies also participate in African Children's Committee meetings. Moreover, the UN Commission for Human Rights is to facilitate a visit by three

⁶² Art 5(1)(e) of the Protocol Establishing the African Court explicitly provides that the African Commission has standing and can bring a case before the African Court.

⁶³ UNICEF was involved during the early days of the drafting of the African Charter.

members of the Children's Committee to attend a session of the UN Committee in Geneva.

5.3 The African Children's Committee and NGOs

The role of NGOs in the African human rights system, generally, cannot be overemphasised. Although it lacks the same level of involvement as the one that exists for the African Commission, proof exists that NGOs are now engaging more with the African Children's Committee than before. In time, the number of NGOs participating at the Children's Committee meetings has increased.

NGOs, among other things, have undertaken promotional work under the Charter and lobbied governments to ratify the Children's Charter, and those that have done so, to report to the African Children's Committee. During promotional visits, NGOs play a crucial role in alerting committee members to the situation of children on the ground. This is just one proof that the partnership with NGOs in the field of children's rights is particularly important to the success of the work of the Children's Committee in protecting and promoting the rights and welfare of the child.

The AU Commissioner for Social Affairs, at the occasion of the Larissa Award organised by the African Child Policy Forum, addressed the necessity to work with civil society to promote the work of the African Children's Committee and, in effect, to promote the rights and welfare of children. In the words of the Commissioner:⁶⁴

In implementing our programmes we will indeed need to work in collaboration with our partners, including civil society organisations, hence the establishment of the Economic, Social, and Cultural Council. The AU is guided by the philosophy of being a people's organisation and it takes serious the issue of promoting their active involvement in the work of the AU.

A few examples of the involvement of NGOs in the work of the African Children's Committee are mentioned by name. Those that call for specific mention include Save the Children Sweden,⁶⁵ the African Child Policy Forum,⁶⁶ the Institute for Human Rights and Development in

⁶⁴ Speech by Adv Bience Gawanas, AU Commissioner for Social Affairs, on the occasion of the presentation of the Larissa Award <http://www.africanchildforum.org/speech/contentarea.asp?ID=4> (accessed 23 July 2006).

⁶⁵ Among others, it funds sections of the ordinary sessions of the Committee and also supports NGOs working on the African Charter.

⁶⁶ Among others, it organised the 1st (2004) and 2nd (2006) International Policy Conference on the African Child and helped to popularise the African Children's Charter, the Committee and other issues facing African children. The Forum has also organised the Larissa Award, to coincide with the Day of the African Child in 2005.

Africa⁶⁷ and, as highlighted above, ANPPCAN.⁶⁸ These NGOs, and others, have also sent representatives to the meetings of the African Children's Committee.

Nevertheless, the participation of NGOs in the meetings of the Children's Committee so far has been *ad hoc* and needs to be formalised. During the 5th meeting, in order to streamline the participation of non-committee members in the meetings of the Children's Committee, it was recommended that the Secretariat follow up the preparation of guidelines on granting observer status for the Children's Committee's consideration during its 6th meeting. However, these guidelines did not materialise.

The revised programme outline/plan of action of the African Children's Committee (2005-2009) drafted during its 6th meeting also alludes to the need to streamline NGOs in the work of the Children's Committee. It provides that

the Committee will nurture systematic and structured processes of engaging with civil society and other non-governmental institutions and organisations so as to diffuse good practices on the continent and influence action at national and international level to protect the rights of Africa's children.

During the 7th meeting, the issue of observer status was again raised. The representative from the Legal Counsel made it clear that the criteria for granting observer status were formally adopted by the Sirte Summit in July 2005.⁶⁹ However, it was submitted that the African Children's Committee could adopt its own criteria for observer status as was done by the African Commission. As a result, the possibility of NGOs attending the next meeting of the Children's Committee and taking part in the consideration of state party reports is uncertain.

6 Conclusion

The African Children's Committee is a young institution. Therefore, its modest achievements are cause enough for optimism. The awakening of a renewed spirit after new committee members were elected, the submission of the first state party reports by Egypt and Mauritius, the receipt of the first communication on the situation of children in Northern Uganda, and the progress in the finalisation of the establishment of a permanent secretary, provide more than a glimmer of hope.

Assessed against the magnitude of the obstacles facing children in

⁶⁷ It initiated and helped in drafting some of the official documents of the Committee and organised the 1st (2004) and 2nd (2005) Workshop on the Procedures before the African Committee. Members of the Institute are also regular participants at the Committee's meetings.

⁶⁸ ANPPCAN was involved in the drafting of the Charter and continues to be involved in the work of the Committee. Eg, during the 5th meeting, a thematic paper on the effect of armed conflict on children was presented by ANPPCAN.

Africa on a daily basis, the African Children's Committee has hard work ahead. In future sessions, as they descend into detail and wrestle with state party reports and communications received, they need to keep constantly in mind the noble aims that brought them together. They should never allow the Children's Committee to become caught up in political point-scorings or petty manoeuvrings.

As the saying has it, 'there is no second chance to make a first impression'. Therefore, as the Children's Committee comes close to engaging meaningfully with state parties for the first time, it should undertake its activities in a more organised and well thought-out manner. If the Children's Committee begins well and makes its presence felt, it may widen its financial and technical support base. This will make it increasingly confident and it will gain respect from states in its promotion and protection of the rights of the child. In this regard, the postponement of the 8th meeting, which was scheduled initially for 29 May to 2 June 2006, in order to give the Children's Committee time to finalise the groundwork necessary for the proper consideration of state party reports, is a mature move.

Admittedly, problems persist and there is room for improvement. The Children's Committee should aggressively pursue discussions with all role-players, including governments, in its endeavours to help create conditions to ensure the maintenance and protection of human rights of children. More links with other AU organs, UN agencies and NGOs need to be facilitated. The process of granting observer status to NGOs should be expedited. Focus in enforcing the rights of children should not be lost by the need to 'abide by AU rules and procedures'.

Finally, some have questioned the desirability of creating new organs on human rights and the AU's real commitment to them in the light of the lack of resources.⁶⁹ However, five years after the Children's Committee has been established, this issue should no longer be raised. Questions and concerns should surround its work and be constructive. Now that the Children's Committee is on its feet, with internal and administrative matters sorted out, stakeholders should work on how to get it to 'run'. Strengthening the Children's Committee to realise its potential will definitely yield fruit. As shown above, against all the odds, the African Children's Committee is moving ahead.

⁶⁹ To my knowledge, at least one observer status application has been made to the Committee, by the Community Law Centre of the University of the Western Cape.

⁷⁰ Murray (n 25 above) 163.