

# The 9th ordinary session of the African Committee of Experts on the Rights and Welfare of the Child: Looking back to look ahead

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## 1 Introduction

The African Children's Committee of Experts on the Rights and Welfare of the Child (African Children's Committee) monitors the implementation of the African Charter on the Rights and Welfare of the Child (African Children's Charter).<sup>1</sup> The 11-member African Children's Committee held its 9th meeting at the African Union (AU) Conference Centre in Addis Ababa, Ethiopia, from 29 to 31 May 2007.<sup>2</sup> The Committee meets in bi-annual ordinary sessions, in spring and fall respectively.

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<sup>1</sup> African Charter on the Rights and Welfare of the Child (1990) OAU Doc CAB/LEG/24.9/49 (1990). For a detailed discussion of the Charter see, for instance, D Olowu 'Protecting children's rights in Africa: A critique of the African Charter on the Rights and Welfare of the Child' (2002) 10 *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 *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 Children's Committee of Experts: Raising the gauntlet' 2002 (10) *International Journal on 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).

<sup>2</sup> For a report on the 5th, 6th and 7th meeting of the African Children's Committee, see B Mezmur (A) 'The African Children's Committee of Experts on the Rights and Welfare of the Child: An update' (2006) 6 *African Human Rights Law Journal* 549-571. For a report on the 8th meeting of the African Children's Committee, see B Mezmur (B) 'Still an infant or now a toddler? The work of the African Children's Committee of Experts

Below, the article highlights the proceedings of the 9th ordinary session of the African Children's Committee. The discussions covered in this article include the issue of the independence of the members of the Committee; the frequency of meeting of the Committee; the Second Pan-African Forum on the Declaration and Plan of Action on Children — Mid-Term Review; lobbying and investigation missions; and the Day of the African Child. In addition, the issue of state reporting and the role of non-governmental organisations (NGOs) in submitting complementary reports to the African Children's Committee are devoted a substantial amount of space. The experience of the Committee on the Rights of the Child (CRC Committee) in this regard is highlighted. The need to look back at the experience of the African Commission on Human and Peoples' Rights (African Commission) is also mentioned.

The writer relies mostly on notes personally taken while participating during the 9th meeting. Reports of the Committee, documents of the AU and academic writings are also used as a source of information.

This piece does not discuss in full detail all the procedures involved and the issues deliberated upon during the 9th meeting. Finally, this is not the official report of the AU Commission or the African Children's Committee.<sup>3</sup> It has been compiled to support the promotion of the African Children's Charter and the dissemination of the African Children's Committee's work.

## 2 Procedural matters

During the initial stages of the 9th meeting, a closed session was held among the Committee members after the opening ceremony of the meeting. The agenda and programme of work were considered and adopted by the Committee. The attention of the Committee was drawn to the fact that two Committee members had joined other positions and there was a need, therefore, to see how this would affect their membership of the Committee.

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on the Rights and Welfare of the Child and its 8th ordinary session' (2007) 7 *African Human Rights Law Journal* 258-275. See Annexure A, 'Criteria for granting observer status in the African Committee of Experts on the Rights and Welfare of the Child to non-governmental organisations (NGOs) and associations'; Annexure B, 'Guidelines on the conduct of investigations by the African Committee of Experts on the Rights and Welfare of the Child under article 45 of the African Charter and article 74 of the Rules of Procedure'; and Annexure C, 'Guidelines for the consideration of communications provided for in article 44 of the African Charter on the Rights and Welfare of the Child'. The 'Guidelines for initial reports of state parties to the African Charter on the Rights and Welfare of the Child were published previously (see (2003) 3 *African Human Rights Law Journal* 347).

<sup>3</sup> For official reports and documents, see <http://www.africa-union.org> (accessed 30 September 2007).

There is no gainsaid in reiterating that the issue of the independence of the Committee members is important.<sup>4</sup> Murray notes that, unlike the African Commission, the issue of independence and incompatibility of members of the Committee appears to have been taken seriously by the AU.<sup>5</sup>

Mrs Seynabou Diakhate was said to have been nominated as judge to the West African Monetary and Economic Union, while Mrs Dawlat Hassan has been appointed as Advisor to the Minister of Agriculture and International Relations. The Committee considered the matter in light of its Rules of Procedure.<sup>6</sup> The view of the representative of the AU Legal Counsel was also sought, who indicated that if the Committee found that the posts taken were not incompatible with the functions of the Committee, then the Committee should take the decision as called in rule 11(3).

The Committee discussed the issue in detail and highlighted the ramifications that could be involved by the taking of the position by the two Committee members. After this, the Committee decided that the posts taken by the two Committee members were not incompatible with their functions within the Committee and they should continue to be members of the Committee.<sup>7</sup> The fact that the two Committee members disclosed their change of posts of their own volition and the level of attention the Committee gave the issue are indeed very commendable.

Another procedural matter which the Committee had to handle related to the frequency of its meetings. In her opening address, the AU Commissioner for Social Affairs reckoned that the Committee is working under very difficult circumstances and that the establishment of the Secretariat is taking much longer than expected. A set-back was also highlighted in regard to the AU-UNICEF project with the recruitment of the project staff.<sup>8</sup> In view of this predicament, the AU Commission did put forward a proposal that the Committee meets only once a year until such time when a fully-fledged Secretariat is put in place.

After some debate, the Committee outrightly resisted this proposal. The Committee highlighted that it had a lot of work and was already working behind schedule. The need to consider the state party reports

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<sup>4</sup> Art 33(1) of the African Children's Charter provides that '[t]he Committee shall consist of 11 members of high moral standing, integrity, impartiality and competence in matters of the rights and welfare of the child'.

<sup>5</sup> R Murray 'Children's rights in the OAU' in R Murray (ed) *Human rights in Africa* (2004) 168.

<sup>6</sup> Rules 11.2 & 3 Rules of Procedure.

<sup>7</sup> However, it was highlighted that the two Committee members should affirm their availability to participate in the meetings and activities of the Committee. It was agreed that a letter would be drafted and sent to the Committee member who was not present during the meeting.

<sup>8</sup> After the recruitment of the two personnel, one of them desisted and the other left after six months because of health and personal reasons.

at its disposal was highlighted as one of the priority tasks the Committee should undertake. The attention of the meeting was also drawn to the Rules of Procedure of the Committee addressing the frequency of meetings of the Committee. Rule 2(1) of the Rules of Procedure requires that '[t]he Committee shall normally hold two ordinary sessions annually not exceeding two weeks'.

Rather, in a move to boost the capacity of the Committee, it was highlighted that the AU Commission should endeavour to find out urgent ways of establishing the Secretariat to enable the Committee to accomplish its work effectively. A proposal was made to the members of the Committee to at least meet with the Director of Administration and Human Resources Development who could follow up the appointment of the Secretary to the Committee with the office of the Deputy Chairperson of the AU Commission.<sup>9</sup> The Committee highlighted that it would lose its credibility and momentum if it cannot convene its meetings as mandated in its Rules of Procedure and achieve its mandate.

In connection with the issue of the frequency of meetings, a point worthy of mention is the length of each ordinary session. Clearly, the Rules of Procedure provide for the maximum period an ordinary session should last — which is not more than two weeks.<sup>10</sup> The minimum length of an ordinary session is for the AU Commission and the Committee to decide by taking into account a number of factors. However, in a situation whereby the Committee reckons on record that it has a lot of work to attend to and a number of issues to address, the writer feels that the length of the 9th meeting was very short. It lasted for only three days — the morning of the third day with no activity and the afternoon committed to the reading out and adoption of the report of the meeting. Therefore, not only the frequency of meetings in a given year, but also the length of each meeting should be reasonable, taking into account the amount of work that needs to be covered. Otherwise, very short sessions could also have the potential to cause the Committee to lose its credibility and momentum.

### **3 Second Pan-African Forum on the Declaration and Plan of Action on Children — Mid-term review**

The African Children's Committee was briefed about the preparations for the Second Pan-African Forum on the Declaration and Plan of Action for Children. The outcome of the First Pan-African Forum on Children, held in Cairo, Egypt, in 2001, was the adoption of the African Common

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<sup>9</sup> This proposal was made after the urgent need to meet with the AU Chairperson or his deputy was emphasised. The meeting was informed that both the AU Chairperson and the Deputy Chairperson were out of the country at that moment.

<sup>10</sup> Rule 2(1) Rules of Procedure.

Position for Children — Africa Fit for Children. The African Common Position, which comprises a Declaration and Plan of Action, was also Africa's contribution to the United Nations (UN) General Assembly Special Session on Children held in May 2002. The Plan of Action was also meant to be implemented by all member states.

Five years after the adoption of the African Common Position, and as called for in the Plan of Action, the AU Commission is organising the Second Pan-African Forum on the Future of Children to assess progress made in implementing commitments made to Africa's children.

It was highlighted that the Second Pan-African Forum on Children is to be held in Cairo, Egypt, in October.<sup>11</sup> The Forum will assess achievements made in implementing the Plan of Action on Children based on a questionnaire which was sent to member states. It will also consider in-depth issues related to child survival, protection, development and participation. The outcome of the Forum will be the adoption of a Call for Accelerated Action for Child Survival, Protection, Development and Participation which will also be Africa's contribution to the UN Special Session on Children to be held in December 2007.

The attention of the Committee was drawn to a questionnaire prepared and sent to member states. The meeting was informed that the questionnaire had been sent to member states after receiving an input from Committee members. It was also stressed that regional consultations were envisaged and that the AU Commission was working out the modalities.

As the regional children's rights monitoring body, the role of the African Children's Committee is significant in the preparations towards the Forum. The role of Committee members in ensuring that the questionnaire is filled out by member states and sent back to the AU Commission was highlighted. In addition, the Committee was informed of its role in identifying organisations that may participate in the regional consultations.

#### 4 Lobbying missions and investigation

During the 8th meeting, after considering the countries that have not ratified the African Children's Charter and taking into consideration the regional balance, it was recommended that Gabon, Tunisia, São Tomé and Príncipe, Democratic Republic of Congo, Liberia and Zambia be visited by Committee members for lobbying. The 'Status of Implementation of Recommendations of the 8th meeting' report, submitted during the 9th meeting, indicated that *notes verbales* were sent to the six

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<sup>11</sup> At the time of writing, the meeting is to be held from 29 October to 2 November 2007 under the patronage of HE Mrs Suzan Mubarak, the First Lady of the Arab Republic of Egypt. The meeting will be held at two levels as follows: Experts Meeting: 29–30 October 2007; Ministerial Meeting: 1–2 November 2007.

countries to be visited by the Committee members. Copies of *notes verbales* were also sent to the Committee members.

Accordingly, it was indicated that the Republic of Tunisia replied that there was no need for the mission, since the government of Tunisia was finalising the process of ratification of the African Children's Charter. The Republic of Zambia was also said to have replied by indicating that the request had been forwarded to the relevant ministry in Zambia. However, the attention of the meeting was drawn to the fact that there had been no response from the Democratic Republic of Congo, Gabon,<sup>12</sup> Liberia and São Tomé and Príncipe.

The African Children's Committee's own experience from the past indicates that these lobbying missions are very important and effective. For instance, in 2004, members of the Committee concluded lobbying missions in four countries: Burundi, Madagascar, Namibia and Sudan. Positive results were recorded after these visits, namely, the ratification of the African Children's Charter by the first three countries. Although the Committee was informed that ratification by Sudan would take place before the end of 2004, there is no official record<sup>13</sup> of that to date. By the same token, although there is a positive promise made by the Republic of Tunisia of the finalisation of ratification, the African Children's Committee should not be reluctant to do a follow-up and request progress made in this regard. This follow-up should continue until the final document of ratification is deposited with the AU Commission.

During the 8th meeting, the Committee had also recommended that a special mission of the Committee be sent to Darfur to report on the situation of children in the area.<sup>14</sup> The members of the mission that will undertake the meeting was also indicated. As a follow-up, during the 9th meeting, it was highlighted that the Department of Social Affairs was in consultation with the AU Department of Peace and Security to facilitate the visit of the Committee members to Darfur.

Regarding the planned mission to Darfur, the previous experience of the Committee in its mission to Northern Uganda should be revisited. After the visit, a report containing the background of the mission, the objectives, the activities undertaken and, importantly, clear recommendations, were submitted to the AU Commission.<sup>15</sup> Any lessons from the Northern Uganda mission should be a guide for the forthcoming visit to Darfur. For instance, to mention but one, to the knowledge of the

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<sup>12</sup> Subsequent to the 9th meeting, Gabon ratified the African Children's Charter on 12 June 2007.

<sup>13</sup> There is an unconfirmed report that the Children's Charter was ratified by a Presidential Decree in 2006, although the AU record cannot confirm this.

<sup>14</sup> Such a visit finds legal support from art 45(1) of the African Children's Charter.

<sup>15</sup> See, for further details of the mission, Mezmur (A) (n 2 above) 564-565.

writer, there has not been any concrete follow-up on the recommendations of the Committee to the AU Commission.<sup>16</sup> If any visit is to be undertaken, a proper follow-up should be made in connection with the recommendations made in the mission report submitted by the Committee to the AU Commission.

## 5 Consultation with partners

The main highlight of the 9th meeting of the African Children's Committee was the discussion held under agenda item 12, 'Consultations with partners'. Although other cross-cutting issues were also mentioned in the process of the discussion, two of the main issues were

- state reporting; and
- observer status.

### 5.1 State reporting

At the start of the discussion under this item, it was highlighted by the Chairperson of the Committee that the Committee would soon have to consider state party reports which it had already received. Reports already received hail from Egypt, Mauritius, Nigeria and Rwanda. As provided in an earlier publication, the report from Egypt has been allocated to Mrs Sielthamo and Mrs Diakhate; the report from Mauritius to Mrs Pholo and Prof Ebigbo; the report from Nigeria to Mrs Koome and Dr Bequele; and the report from Rwanda to Dr Sissoko, Mrs Polo and Mrs Hassan.<sup>17</sup> The respective Committee members are allocated the reports to act as Rapporteurs.

The Chairperson of the Committee underscored the procedures for the consideration of state party reports which outline the requirements prior to the consideration of the reports. Here, the need for complementary reports to enable the Committee to examine the state party reports in a meaningful manner was highlighted. After noting that some of the NGOs and other organisations present during its meeting already have experience in dealing with the UN CRC Committee and in the preparation of complementary reports, the Chairperson called upon partner organisations to share their experiences with the African Children's Committee and to provide it with appropriate guidance to facilitate the process of examining state party reports.

In the process, the representative from the ILO gave an overview on the process of considering reports under the two core conventions of the ILO on child labour. Similarly, the representative of CONAFE shared his experiences on the report of Senegal which was presented to the

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<sup>16</sup> As above.

<sup>17</sup> Mezmur (B) (n 2 above ) 270.

CRC Committee. He rightly emphasised that it was important for the Committee to have a set of guidelines for NGOs to prepare their reports. This view was shared by many in the room, including the representative from ANPPCAN-Ethiopia. The need to establish an advisory group of NGOs to gather complimentary reports was also echoed by a number of representatives.<sup>18</sup>

The fact that the Chairperson alluded to the need to share experience from the CRC Committee is important and indicative of the fact that the African Children's Committee is cautious not to re-invent the wheel. Under the CRC Committee procedure, reports are considered in three steps: the pre-session working group, the constructive dialogue and concluding observations.

The pre-session working group, which at this point is very relevant for the African Children's Committee, is the first stage which reviews reports. The Working Group usually meets a week after a plenary session of the Committee, in a closed meeting, to prepare for the next session.<sup>19</sup> The pre-session working group of the CRC Committee is convened with UN agencies and bodies, NGOs and other competent bodies, such as national human rights institutions and youth organisations, which have submitted additional information to the Committee.<sup>20</sup> The main purpose of this meeting is to identify in advance the main questions that should be discussed with the representatives of the reporting states. Therefore the list of issues is intended to give the government a preliminary indication of the issues which the Committee considers to be priorities for discussion.<sup>21</sup>

Here it is apposite to highlight the role that is played by the Secretariat of the CRC Committee towards preparation for the Working Group. Thus, it is the staff members of the Secretariat of the CRC Committee

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<sup>18</sup> The representative from the Community Law Centre (University of the Western Cape) and the representative from the World Association of Girl Guides and Girl Scouts, in particular, pushed for this idea.

<sup>19</sup> The pre-session working group consists of the Committee members. Government representatives are not allowed to attend these sessions. The pre-session working group is a meeting closed to the public, so no observers are allowed.

<sup>20</sup> See Working methods of the CRC Committee <http://www.ohchr.org/english/bodies/crc/workingmethods.htm#a1> (accessed 23 June 2007).

<sup>21</sup> The 'working methods' section of the CRC Committee's website further explains the role of the pre-session working group. It indicates that the pre-session working group 'also gives the Committee the opportunity to request additional or updated information in writing from the government prior to the session. This approach gives governments the opportunity better to prepare themselves for the discussion with the Committee, which usually takes place between three and four months after the working group. In order to facilitate the efficiency of the dialogue, the Committee requests the state party to provide the answers to its list of issues in writing and in advance of the session, in time for them to be translated into the working languages of the Committee. It also provides an opportunity to consider questions relating to technical assistance and international cooperation.' See Working methods of the CRC Committee (n 20 above).

that initially go through state party reports and do a preliminary analysis. The Secretariat prepares substantive background papers and draws up a draft list of issues which is afterwards submitted to the Working Group for their adoption.<sup>22</sup> In this regard, the establishment of the Secretariat for the African Children's Committee becomes an even greater necessity than before as the Committee gears towards the consideration of state party reports.

The role of NGOs and individual experts at the level of the pre-session working group is very relevant. In recognition of this, the CRC Committee has adopted guidelines to facilitate and encourage the process of the written submission of NGO reports as well as the participation of NGOs and individual experts in its pre-session working group meetings. This was done at the 22nd session of the CRC Committee. The adopted guidelines are entitled 'Guidelines for the participation of partners (NGOs and individual experts) in the pre-session working group of the Committee on the Rights of the Child'.<sup>23</sup>

According to these guidelines, written submissions by NGOs (or national coalitions) and individual experts and requests of NGOs to participate in the pre-session working group are to be submitted to the CRC Committee through its Secretariat at least two months before the pre-session starts.<sup>24</sup> It is on the basis of these written submissions that the CRC Committee, in a written form, invites a selected number of NGOs to take part in the pre-session working group.<sup>25</sup> This provides a unique opportunity for dialogue with partners regarding the implementation of the CRC by the state parties.<sup>26</sup>

Speaking of alternative reports to the CRC Committee by NGOs, credit should also go to the NGO Group for CRC which is a coalition of international NGOs, which work together to facilitate the implementation of CRC. Originally formed in 1983 when members of the NGO Group were actively involved in the drafting of the Convention, the NGO Group has a Liaison Unit that supports the participation of NGOs, particularly national coalitions, in the reporting process to the CRC Committee as well as other activities to ensure the implementation

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<sup>22</sup> The 'list of issues', once adopted, is sent to the state in order to enable the representative to prepare himself or herself for the constructive dialogue session that follows the pre-session working group.

<sup>23</sup> CRC/C/90, Annex VIII.

<sup>24</sup> See 'Guidelines for the participation of partners (NGOs and individual experts) in the pre-session working group of the Committee on the Rights of the Child' (UN Doc CRC/C/90, 1999) paras 2 & 3.

<sup>25</sup> Guidelines (n 24 above) para 4.

<sup>26</sup> The Committee strongly recommends that its partners limit their introductory remarks to a maximum of 15 minutes for NGOs coming from in-country and five minutes for others so that members of the Committee can engage in constructive dialogue with all participants.

of the Convention. An important area is the management of alternative reports that have been submitted to the CRC Committee.<sup>27</sup>

By the same token, the establishment of an NGO Group for the African Children's Charter, similar to the NGO group for the CRC, as a coalition of international, regional and national NGOs which work together to facilitate the implementation of the African Children's Charter, could be given some thought. The NGO Group can support participation of the NGOs, particularly national coalitions, in the reporting process to the African Children's Committee as well as other supplementary activities to ensure the implementation of the African Children's Charter. It could assist in the preparation of alternative reports, by bringing communications to the African Children's Committee, facilitate and even finance fact finding missions or other activities that fall within the mandate of the African Children's Committee. The NGO Group for the African Children's Charter could also have a focal point programme on different priority areas that affect the life of the African child to facilitate co-ordination of continent-wide action. The granting of observer status, to strengthen the work of the African Children's Committee, could be an avenue worthy of exploration. In recognition of the value added by such an NGO Group on the work of the African Children's Committee, the 9th meeting stressed that there is a need to revive the NGO Group that was initiated in May 2005 in Addis Ababa, Ethiopia.

The African Children's Committee has also not overlooked the fact that experience in considering state party reports (and other areas too) should be drawn from its sister organisation, the African Commission. The discussions during the meeting and the final report of the meeting reflect this reality. In this regard, perhaps it is time to follow up on the formal relationship that was started with the two organisations in December 2005 (when the Chairperson of the African Commission attended and addressed the African Children's Committee meeting) and capitalise on that for the purpose of capacity building.

In the end, since the African Children's Committee has not established an NGO Group yet, it was agreed that it should merely call on

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<sup>27</sup> In accordance with art 45(a) of CRC. See NGO Group for the Convention on the Rights of the Child <http://www.crin.org/NGOGroupforCRC/> (accessed 28 May 2007). According to its brochure, the NGO Group 'has a membership of over 50 international non-governmental organisations. Each of these has a constituency and/or activities in at least three countries. Some members are directly involved in the implementation of the CRC through their aims and activities. Others have child welfare as their primary focus. There are also members, such as special interest groups, religious-based charities, women's organisations, professional associations and trade unions, for whom the rights of the child form one aspect of a wider mandate. Full members' meetings are held twice yearly in Geneva to co-ordinate NGO Group action and develop joint strategies. Other intergovernmental organisations, such as UNICEF, participate at this and other levels as observers.' See Child Rights Information Network <http://www.crin.org/NGOGroupforCRC/about.asp> (accessed 3 June 2007).

any NGO or organisation to provide it with complementary reports in its endeavour to consider the state party reports at its disposal. In order to avoid contradictions, thematic reports as complementary reports were not encouraged to be submitted to the Committee. Rather, the idea that garnered support was a partnership between civil society organisations (CSOs) and NGOs in the submission of joint complementary reports on the four countries who have submitted their initial reports. Such a partnership was called upon to be as inclusive as possible and to involve concerned NGOs in the preparation of the complementary reports. Subsequently, the African Children's Committee requested UN agencies, NGOs and other partners to provide the Committee with any complementary reports on those state parties that have submitted their initial reports to the Committee.

## 5.2 Observer status

As alluded to previously,<sup>28</sup> the African Children's Committee has drafted a Criteria for Granting Observer Status, in conformity with article 42 of the African Children's Charter and articles 34, 37, 81 and 82 of the Rules of Procedure on representation and co-operation with CSOs. There is no gainsaid in reiterating the role of granting observer status to formally involve NGOs in the work of the African Children's Committee, be it in the preparation of complementary reports, the submission of communications or undertaking of lobbying and/or investigation missions.

During the 9th meeting, the Chairperson of the Committee called on partners to submit their requests for observer status by the latest in May 2008. The final version of Criteria for Granting Observer Status with the African Children's Committee was distributed to all partners.

## 6 The Day of the African Child

The Day of the African Child (DAC)<sup>29</sup> has been recognised by the OAU since 1991. It is celebrated every year on 16 June, and has been used as the main advocacy tool by the African Children's Committee. The role of the Day of the African Child is not only to popularise the African Charter, but to also keep member states updated about the work of the African Children's Committee. It also helps to draw attention to priority issues affecting children in Africa. Member states are obliged to submit reports on how the DAC was celebrated at the national and local levels.

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<sup>28</sup> See Mezmur (B) (n 2 above) 267-270; Annexure A to this article.

<sup>29</sup> The Day 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. CM/Res 1659 (LXIV) Rev 1 1996.

These reports should be scrutinised by the African Children's Committee.

In 2006, the theme selected was 'The right to protection: Stop violence against children'. This theme was selected, among others, in view of the UN Secretary-General's Global Study on Violence against Children.<sup>30</sup> In order to keep the 'Stop violence against children' momentum, 'Combat child trafficking' was the theme adopted for the day of the African Child in 2007. The 9th meeting was informed that the theme has been communicated to all member states and partners. The joint AU-EU Plan of Action on Trafficking against Human Beings Especially Women and Children, which was adopted by the AU Summit in January 2007, was also said to have been forwarded to member states and partners.

The role of the Committee members in the celebration of the Day of the African Child needs no reiteration. Suffice to say that they should organise events and continue to participate actively in the celebrations. They should not only lobby their own states but also other states as much as possible. The representative of the AU Commission drew the attention of the meeting to the fact that, although at the AU level no specific programme was envisaged, a message would be delivered by the AU Chairperson on the theme.

Here, experience from the past shows that member states are often reluctant to celebrate the DAC in a meaningful manner. To date, there have been very few reports submitted about the celebration of the Day of the African Child by member states, and the African Children's Committee has often stated that these were insufficient to constitute a basis for comprehensive assessment. An aggressive lobbying strategy, both on the part of the African Children's Committee, the AU and partners, is called for to elevate the role of the Day of the African Child. The communication of the theme for the year to member states in good time is crucial. In addition, it might help that, while communicating the theme to member states, the African Children's Committee attaches a brief explanation about the relevance of the theme, the reason for its selection as well as providing pointers on how the DAC could possibly be celebrated.

The theme selected for 2008 in celebrating the Day of the African Child, as recommended by the 8th meeting of the Committee, is 'Right to participation: Let children be seen and heard'. The right to participation is one of the cardinal principles of both CRC and the African Children's Charter and it is very relevant to the promotion and protection of the African child.

However, child participation is also a right which is relatively less understood in practice. This has been demonstrated by the representative of UNICEF who made the thematic presentation on participation

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<sup>30</sup> See Mezmur (A) (n 2 above) 567 for further details.

rights of children during the 9th meeting.<sup>31</sup> Accordingly, child participation is not manipulation, decoration and/or tokenism. In order to have a meaningful and informed celebration of the Day of the African Child with this theme, it is even more apposite this time around that the African Children's Committee, the AU and all partners give clear guidance and assistance to member states in the celebration of the DAC.

## 7 Other matters

As requested during the 8th meeting, participation rights of children have been included in the agenda of the 9th meeting under item 4. Accordingly, a presentation was made on the subject matter by a representative of UNICEF. The presentation revolved around article 12 of CRC. It highlighted that child participation was an important issue which had been neglected for too long. Areas covered by the presentation included degrees of child participation, spaces for child participation, principles of meaningful presentation, and child participation in the African context. The need to develop guidelines on child participation in order to educate governments, NGOs and other role players dealing with children on how to involve them to ensure their participation, was underscored. Although the presentation was appreciated, it drew criticism for being focused on CRC and not on the African Children's Charter.

After the presentation by UNICEF, Committee members highlighted some areas of the African Children's Charter where they might need guidance for a better understanding of provisions. Accordingly two thematic items were debated and agreed to be included in the agenda of the 10th meeting of the Committee. These items were a discussion paper on the unique provision of article 31 of the African Children's Charter on 'the responsibilities of the child' and article 4 of the African Children's Charter on the 'best interests of the child' principle. The Community Law Centre, based at the University of the Western Cape, was called upon and agreed to prepare the paper on the 'responsibilities of the child' and present it to the Committee during its 10th meeting.

On a different note, Committee members reported on the various activities they undertook within the framework of the Committee.<sup>32</sup> The issue of resource mobilisation was also touched upon. A core group which was established during the 8th meeting was called to continue its work and develop a plan for resource mobilisation.

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<sup>31</sup> See sec 7 below for further details.

<sup>32</sup> These activities included attendance of meetings, workshops and conferences.

## 8 Conclusions

The African Children's Charter is currently ratified by 41 countries on the continent. The last two countries to come on board are Gabon<sup>33</sup> and Côte d'Ivoire.<sup>34</sup> Indeed, ratification by all member states of the AU does not seem to be out of reach. The African Children's Committee is exercising its mandate in this regard to make ratification of the Children's Charter by all AU member states a reality.

The issue of individual communications seems to be drawing less attention from the Committee, despite the fact that there is at least one communication submitted to the Committee on the situation of children in Northern Uganda. Perhaps it is already high time that a way forward is planned for this and other communications that the Committee might already have received.

The African Children's Committee has many challenges ahead of it that it needs to tackle in its endeavour to advance the rights of children in Africa. To name but one challenge, the Committee operates with a very tight budget line. This of course is despite the fact that there are NGOs and UN agencies that continue to support the work of the Committee.

In its endeavour to advance the rights of children in Africa, the African Children's Committee should at least try to avoid two things — a room for repetition of 'shortcomings' and an exercise that could be dubbed as 'reinvention of the wheel'. Especially now, as the Committee gears towards the consideration of the state party reports at its disposal, the granting of observer status and undertaking of lobbying and investigation missions, the need to look back at its own previous work and their lessons, as well as the work of its sister institution, the African Commission, and the work of the CRC Committee, have become pertinent. The African Children's Committee clearly recognises that it needs to look back (and look around) at these and other lessons in order to look ahead.

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<sup>33</sup> Ratified on 12 June 2007.

<sup>34</sup> Ratified on 18 June 2007.