

Report of the second ordinary session of the African Committee of Experts on the Rights and Welfare of the Child

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Summary

The African Committee of Experts on the Rights and Welfare of the Child was established in July 2001 to monitor the implementation of the African Children's Charter which entered into force in 1999. The report examines the work of the Committee with the focus on its 2nd session held in February 2003. Rules of Procedure and Guidelines on State Reporting were adopted at the session. The Committee's relations to the African Union, the African Commission on Human and Peoples' Rights and other actors dealing with children's rights are discussed. Lack of resources is a serious problem and a permanent Secretary to the Committee has not yet been recruited. Three of the 11 members of the Committee had resigned and two of the posts remained vacant, impairing the work of the Committee.

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1 Introduction

The Organisation of African Unity (OAU)'s Charter on the Rights and Welfare of the Child (African Children's Charter or Children's Charter) of 1990 came into force on 29 November 1999. To date 31 out of 53 OAU/African Union (AU) member states have ratified this regional treaty and 13 more are signatories to the Children's Charter.¹

The African Committee of Experts (Committee) was established by the Heads of State and Government at the 37th OAU Assembly on 10 July 2001 in Lusaka, Zambia. The Committee comprises 11 members of 'high moral standing, integrity, impartiality and competence in matters of the rights and welfare of the child'.² The members are to serve in their *personal* capacity to promote and protect children's rights and welfare in Africa.³ The Committee decided at the 1st session to hold two meetings *per annum*. The Committee's working year begins in July.

The composition of the first serving Committee is as follows:

Mr R Soh	Cameroon	4 year term	1st Vice-Chairperson
Mr D Dore	Guinea	2 year term	
Lady Justice Aluoch	Kenya	4 year term	Chairperson
Mr KK Mohau	Lesotho	2 year term	3rd Vice-Chairperson
Mr S Nsanza-baganwa	Rwanda	4 year term	Deputy Rapporteur
Prof L Tshiwulu	South Africa	4 year term	
Mme DF Sow	Senegal	5 year term	
Mme N Motoyam	Chad	4 year term	
Mme S Aho	Togo	2 year term	2nd Vice-Chairperson
Dr R Nyonyintono	Uganda	2 year term	Rapporteur
Mr LPR Ahnee	Mauritius	4 year term	

The 1st ordinary (inaugural) session of the Committee was convened from 29 April to 3 May 2002 in Addis Ababa, Ethiopia. This meeting dealt with the formal appointment of the Committee members who took their

¹ The Status of Ratification of the Children's Charter is indicated at the back of this *Journal*.

² Art 33(1) Children's Charter.

³ As above, arts 33(2) & 32 respectively.

oaths of office,⁴ the handing over of the programme of the Special Committee on Children in Situations of Armed Conflicts, the adoption of the Rules of Procedure, the Guidelines for Initial State Reports, and consideration of the modalities for co-operation between the Committee and other stakeholders.⁵

In accordance with Rule 2 of the preliminary draft Rules of Procedure, the Committee convened to discuss progress of the Committee *per se* and also of its partners, donors and stakeholders in a predominantly public forum. The principal reasons for this meeting were to ensure the credibility of this fledgling human rights body and to ensure the transparency of the Committee's decisions, work programmes and other tasks, in compliance with article 42 of the Children's Charter.

2 Second ordinary session

The 2nd ordinary session of the Committee convened between 17 and 21 February at the AU/Inter-African Bureau of Animal Resources (IBAR) Conference Room in Nairobi, Kenya.

The opening ceremony of the 2nd session was elaborate and well-organised. The press were invited and various newspapers attended and published editorials on the meeting. The ceremony was opened by the Chairperson of the Committee, Lady Justice Aluoch, who stated the background to the Children's Charter and the current situation concerning ratification. Participants were made aware that the Chairperson had been elected to also sit on the UN Committee on the Rights of the Child. This was stated as a role complementary to that on the Committee of Experts.

The UNICEF Regional Director addressed the participants and delegates. The speech detailed historical notions about and developments of human rights in general and spoke of the relationship between the subject and object of human rights.

The Interim Commissioner of the African Union (AU), Ambassador Mahamat Habib Doutoum, addressed the delegation, emphasising the interim period of the AU as 'ongoing', all organs of the AU are being put in place and the organisation is being restructured to ensure that it

⁴ All of the members took this oath of office at the 1st session, except for Mr Ahnee (Mauritius), as he was absent from this session.

⁵ For a more comprehensive discussion of the inaugural session, see 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 *International Journal of Children's Rights* 179; 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. The Guidelines for Initial State Reports are reprinted on 347–353 of this *Journal*. For the reports of the sessions, see <<http://www.uwe.ac.uk/law/research/acr/>> (accessed 31 July 2003).

operates more effectively.⁶ It was further stated that the Secretariat to the Committee is one of the new organs under the AU structure. Those member states that had not already done so were urged to ratify the Children's Charter. Those member states that had ratified were urged to submit their now overdue initial state reports, as the Rules of Procedure and the Guidelines for State Reports had been formally adopted. The Interim Commissioner also acknowledged the need to adopt the GA Common Position 2001, Lusaka, at the national level.

The Minister of Home Affairs of the Republic of Kenya, the Honourable Mr AA Moody Awori, was invited as the guest of honour and in his speech he referred to the Plan of Action adopted at the 1990 World Summit for Children. Thirteen years had passed since its adoption and the overall assessment of children's rights and welfare was still bleak. He further stated that children are still forced to work, to go into the army, to live on the street, to have no education and to be orphans and HIV/AIDS orphans, and to become heads of households. These socio-economic conditions had negatively impacted on the wellbeing and welfare of the child.

Eight out of the 11 members were in attendance at the meeting. The three absent members had valid reasons for not attending. The Committee member from Togo, Mme Aho, had tendered her resignation due to her becoming the Minister of Health, Social Affairs, Promotion of Women and Protection of the Child, a position which threatened conditions of independence and impartiality under article 33 of the Children's Charter and is contrary to Rule 11 of the Rules of Procedure. The Committee member from Guinea, Mr Dore, was elected to take the role of Second Vice-Chairperson, formally a role undertaken by the Togo member.

The Committee members from Chad, Mme Motoyam, and Senegal, Mme Sow, resigned because they had secured new employment. Mme Motoyam has joined UNICEF and Mme Sow has joined the UN International Criminal Tribunal for Rwanda. Again, in accordance with the letter and spirit of Rule 11(2) of the Rules of Procedure, such roles are incompatible with the independence and impartiality of Committee members. By virtue of article 37 of the Children's Charter, Chad and Senegal will have to propose alternative candidates to serve the remainder of the respective terms of office of four and five years in total, thus two and three years remaining.

⁶ See the decisions of the AU: AHG/Dec 177 (XXXVIII) Decision on the Place of the OAU Labour and Social Affairs Commission in the African Union. It is to this Commission that the Committee must report. See also ASS/AU/Decl 1-2 (I), Decision on the Interim Period; CM/Dec 655, Decision on the Draft Programme Budget for the 2002-2003 Financial Year, <<http://www.africa-union.org>> (accessed 31 July 2003).

3 Decisions taken at the first session

The Committee members decided that the principal areas to work on over the next year had to be:

- the need to secure ratification;
- the need to improve children's situation in terms of the Children's Charter;
- to promote the domestic implementation and harmonisation of the Charter;
- to use 16 June, the Day of the African Child (DAC), as a means of popularising the Children's Charter;
- to adopt the draft Rules of Procedure; and
- to adopt the draft Guidelines for Initial State Reports.

The Assembly of Heads of State and Government at the Durban Summit in July 2002 decided on the Report of the African Committee on the Rights and Welfare of the Child.⁷ The Assembly took note of the report and the recommendations of the inaugural meeting and recognised the importance of the Committee. The Assembly called upon the Secretary-General to urgently appoint a Secretary to the Committee, as per article 40 of the Children's Charter, in order to enable the Committee to function effectively.

Due to budgetary constraints, the Secretariat to the Committee was still to be established, as required by Rule 22 of the Rules of Procedure, and many activities that had to be carried out in the first year of operation could not be realised. This was evident when the Committee members submitted their activity reports.

4 Activity reports of the Committee since the first ordinary session

Lady Justice Aluoch (Kenya)

The Chairperson successfully lobbied the AU to recruit a Secretary. A temporary Secretary was appointed on a three-month contract to oversee the 2nd ordinary session and the follow-up work.

Other activities included a keynote speech addressed to attendees at a regional Coalition of Child Soldiers' workshop. Non-governmental organisations (NGOs) and other partners were requested to assist the Committee in the popularisation of the Children's Charter.

⁷ AHG/Dec 172 (XXXVIII), <<http://www.africa-union.org>> (accessed 31 July 2003).

Mr Soh (Cameroon)

The report of the 1st session of the Committee was presented to the Cameroon Ministry at the level of the office of the President. The Ministry in charge of the Welfare of Children was requested to become involved in programmes for the improvement and advancement of children's rights and welfare in Cameroon. Mr Soh advocated for the conclusion of Legal Codes in Cameroon and the co-ordination of the implementation of all international and regional legal instruments ratified by Cameroon.

Links have been forged between the Ministry of Social Affairs, UNICEF and NGOs, and collaboration established with UNICEF and the International Labour Organisation (ILO) to develop a programme for the protection of children, with particular reference to the issue of child trafficking.

Mr Soh participated in the last meetings of the African Commission on Human and Peoples' Rights (African Commission or Commission) in Pretoria and Banjul respectively. Contact was made with some of the commissioners and he started a dialogue between the Chairperson of the Committee and the commissioners to discuss modalities. Due to other commitments, the Chairperson was unable to attend the Commission's session. Also, he participated in two study tours in Burkina Faso and Ghana, mandated by the Cameroon government.

The Committee was briefed on the activities of the Commission and its Action Plans. It was reiterated that the Committee would benefit from the experience of the Commission, especially in the consideration of state reports.

Prof Tshiwula (South Africa)

A paper was prepared and presented at an international conference on youth in conflict with the law, organised by UN HABITAT⁸ (Kenya) and the National Department of Social Development in South Africa. A further paper was presented on South African youth in conflict with the law for the belated celebration of the Day of the African Child (DAC) 2002. Popularisation activities were undertaken, involving the local community and, in particular, children themselves.

Dr Nyonyintino (Uganda)

Uganda is currently undergoing a constitutional review process and children have had the opportunity to participate in this process. Uganda is looking at child advocacy for the promotion of children's rights.

Popularisation activities were undertaken, involving a variety of committees for children's rights and also welfare issues.⁹ Furthermore,

⁸ UN HABITAT — UN Human Settlements Programme <<http://www.un-habitat.org>> (accessed 31 July 2003).

⁹ These were not elaborated on by the member.

the press and media were used to assist in the popularisation. Dr Nyonyintono noted that a popularisation kit needs to be developed so that all members of the Committee could speak with the same voice, promoting the same issues and highlighting areas of priority to target in the short term.

The Ministers in Uganda have been briefed on the Children's Charter and the functions of the Committee were outlined. Sensitisation campaigns are being launched.

Mr KK Mohau (Lesotho)

The 'training of trainers' has been carried out at the national level and in conformity with the Children's Charter and the United Nations (UN) Convention on the Rights of the Child (CRC).

A national monitoring body for children has been proposed, yet has been opposed by the government. A steering committee was established to assist in the establishment of such an organ. A Draft Concept Paper on the Establishment of a Children's Commission was circulated. In essence it makes a strong argument for the establishment of an independent institution for children, in line with the UN Committee's concluding observation on the establishment of such a structure.¹⁰

Mr Dore (Guinea)

Mr Dore participated in the UN General Assembly Special Session on Children (UNGASS) in New York.

Sensitisation and advocacy work was undertaken, university students were educated about the Children's Charter and the Committee and resource mobilisation campaigns to help needy children were carried out.

The Child Parliament had its first session in October 2002. This Parliament is non-political; its function is to facilitate children's participation in issues affecting them.

Meetings took place between the Minister of Social Affairs and UNICEF to establish a framework for Parliament.

Mr Ahnee (Mauritius)

Preparation to harmonise legislation with the Children's Charter had been instigated and is in the process of adopting a Bill on Children in Conflict with the Law. A Children's Parliament had been proposed, but the Ministry opposed this motion.

¹⁰ CRC/C/15/Add 147, 21 February 2001, <<http://www.un.org>> (accessed 31 July 2003).

Mr Nsanzabaganwa (Rwanda)

Mr Nsanzabaganwa stated that the Committee and the Children's Charter are still not well known, and that there exists a need for the advocacy and the popularisation of both.

Three documents were distributed during the DAC 2002: the UN Convention, which had been translated into local languages; the Children's Charter, which had been translated into English and French; and the National Law on the Rights of the Child against Violence. Sensitisation campaigns were launched in four districts and children's drawings of the DAC were published.

5 Update on activities relating to children by the African Union

The representative of the AU explained the new structure of the AU and stated that children's issues would fall under the remit of the Social Affairs Directorate and Division of Social Welfare. The following activities have been undertaken, in collaboration with relevant partners:

- Operationalising the African Committee of Experts on the Rights and Welfare of the Child:
- Short-term recruitment of a temporary secretary to work with the AU Children's Unit on a part-time basis. It is anticipated that a regular budget for the Committee would be approved in the interim budget being considered by the AU;
- Advocacy to encourage member states to ratify the Children's Charter.
- Preparation of a child-friendly version of the Children's Charter. English copies have already been printed and it was anticipated that French versions would follow soon. The Committee was called upon to discuss the launching and dissemination of the booklet.
- The AU participated in the Rabat, Morocco Regional Meeting on the theme 'Child Labour: Prevention and Eradication of the Worst Forms in the Middle East and North Africa'.
- Active participation in drafting of the Plan of Action to Combat Trafficking in Humans, especially Women and Children, adopted by the Second Africa-Europe Ministerial Conference in Ouagadougou, December 2002.
- 2002 celebrations to mark the DAC. Only a few countries forwarded reports. Thus, it was impossible to prepare an evaluation report. Preparation for 2003 would begin after an appropriate theme is chosen during the course of the second meeting.
- An introductory course conducted by UNICEF for AU staff on Child-INFO, a computer programme for quick access and analysis of data on goals and indicators on global and continental commitments on children and other vulnerable groups in November 2002.

- In collaboration with partners, preparations were underway to formulate Africa's contribution to the commemoration of the International Year of the Family in 2004.

6 Day of the African Child, 16 June¹¹

The OAU Council of Ministers resolved at the 52nd ordinary session in Addis Ababa in July 1990 that 16 June is to be commemorated every year in every member state with a special programme.¹² This is an optimal date for the Committee to popularise the Children's Charter, and is a means to ensure that its objectives are translated into reality. Celebrations are carried out at all levels: the AU; governmental; NGOs; and at grass-roots level — for example within schools, children's clubs and at village festivals.

Suggestions were made that the theme of DAC should be anchored to certain articles of the Children's Charter. Professor Tshiwula stated that a relevant theme would be 'Peace and Healing'. The Charter is aimed at protecting children by virtue of their inherent vulnerability, yet within this group of people there are even more vulnerable people, such as the girl child. The impact of any action in improving the position of the girl child would implicitly provide for all provisions of the Children's Charter and all problems children face. Birth registration was highlighted as a very significant area of children's rights, as this is the first step to obtaining a legal entity. It was suggested that the Committee keep a 'Portfolio of Ideas' for reflection on the variety of themes available for the DAC.

The following themes were suggested for the DAC:

- | | |
|----------------------------------|------------------------------|
| ● Who is a child? | ● Refugee children |
| ● Name and nationality | ● Children and war |
| ● Non-discrimination | ● Harmful social practices |
| ● Care and protection by parents | ● Harmful cultural practices |
| ● Health | ● Sexual exploitation |
| ● Languages | ● Torture |
| ● Education | ● Orphans |
| ● Freedom of expression | ● Handicapped children |
| ● Separation of children | ● Children and the law |
| ● Child labour | ● My duty as a child |

¹¹ Council of Ministers 52nd ordinary session, 3–8 July 1990; 'Resolution on African Decade for Child Survival, Protection and Development', CM/Res 1290 (LII), <<http://www.africa-union.org>> (accessed 31 July 2003).

¹² The Council of Ministers decided on 16 June in memory of the killing of children in Soweto.

The agreed theme for DAC 2003 was 'The Right to Registration at Birth'. This was celebrated at the level of the AU at the headquarters in Addis Ababa, Ethiopia. NGOs, UNICEF, international organisations, members of the Diplomatic Corps, AU representatives and staff members, the media, students and teachers and child performers attended.

7 Popularisation strategies

It was decided that the Chairperson should write a letter to each of the 14 Regional Economic Communities (RECs), requesting them to include an item on the popularisation of the Children's Charter on the Agenda of the Summit Sessions.

The media, 'goodwill' ambassadors and icon personalities are to be utilised to advocate and promote the Children's Charter and the Committee.

Communities, families, the army, law enforcement personnel, as well as school children are to be sensitised and trained on the Children's Charter, which is to be included in the school curricula.

Each Committee member will be responsible for approximately four focal areas. These have been divided according to geographic location and linguistic considerations. No member shall be responsible for monitoring and evaluating his or her own country.¹³ The Committee shall also use these focal areas to designate one of its members to review a state party's report.

¹³

Member	Focal Points
Kenya	Uganda, Tunisia, Ethiopia and Eritrea
Mauritius	Seychelles, Madagascar, Comores
Lesotho	Botswana, Mozambique, Swaziland, South Africa, Zambia
South Africa	Angola, Lesotho, Malawi, Mauritius, Namibia, Zimbabwe
Uganda	Kenya, Egypt, Tanzania, Rwanda
Rwanda	Burundi, Sudan, Djibouti, Algeria, Libya, Somalia
Cameroon	Chad, Equatorial Guinea, Guinea, Central African Republic, Gabon, Nigeria
Guinea	Cameroon, Cape Verde, Burkina Faso, The Gambia, Ghana, Benin
Togo	Niger, Côte d'Ivoire, Mali
Chad	DRC, Liberia, Guinea Bissau, Senegal, Liberia
Senegal	Mauritania, Sierra Leone, Sao Tome & Principe, Togo

Only one country, the Sahrawi Arab Democratic Republic (SADR), is to be confirmed.

8 Schedule for the coming year

The Committee discussed the schedule during the inaugural meeting. The issues of armed conflict, child labour, child trafficking, sexual abuse and exploitation of children, orphans affected and infected by HIV/AIDS, children's right to education, formulation of national plans for children where it does not exist and resource mobilisation were identified. The popularisation of the Children's Charter and also how to secure further ratification for the Charter from member states, and reporting by member states were priority issues.

The following priorities were identified for 2003–2004:¹⁴

- Popularise the Charter at local, national and international levels. This is to be achieved by translating the Charter into all local African languages, by advocacy and awareness raising, dissemination of all information, focal points are to be used and documentation need to be requested. Committee members are primarily responsible for overseeing this task and will call for the assistance of RECs, UN Agencies, NGOs, Civil Society Organisations (CSOs), media and other stakeholders. This task is viewed as immediate and ongoing.
- Mobilise communities to raise awareness on the rights and welfare of the African child.
- Sensitise member states to ratify and implement the Charter in collaboration with the RECs and other relevant partners.
- Mobilise resources in collaboration with the African governments, UN agencies and other stakeholders. This will be achieved by elaborating and submitting the budget, projects, and funding proposals. This exercise is regarded as immediate and ongoing.
- Promote sub-regional, regional and international networking for sustainable promotion of the rights and welfare of the African child.
- Establish an effective secretariat for the Committee to ease communication and co-ordination of activities.
- Follow-up and monitor the implementation by African governments of their commitments under the Children's Charter.

¹⁴ The Committee discussed the work plan for 2003–2004 in a closed session. They reported back to the observers their conclusions and recommendations, which were formally noted by the Rapporteur for the Report to be submitted to the AU Summit in July 2003. The work plan was presented in a table format, identifying the priority areas, strategic activities for each area, the actors responsible, the time frame, the means of verification and the budget required to fulfil the proposed activities.

- Collaborate with the UN Committee in Geneva in implementing the provisions of the Convention on the Rights of the Child.
- Advocate and follow up on the goals of the African Common Position on Children (ACP), the World Fit for Children and other global and continental commitments on children.
- Collaborate with the AU Social Affairs Directorate to promote child welfare issues in the AU Commission in general and the relevant Specialised Technical Committees dealing with children and youth matters, in particular:
 - Advocate the incorporation of a children and youth agenda in the New Partnership for Africa's Development's (NEPAD) priority programme and the inclusion of the ACP into the African Peer Review Mechanism (APRM).
 - Give special attention to children in difficult circumstances in accordance with the criteria enshrined in the Children's Charter and the CRC, follow up and report on non-compliance thereof.
- In relation to the control of HIV/AIDS and other major causes of ill health and death of Africa's children:
 - Monitor and report on the impact of HIV/AIDS, and other pandemics on children, particularly orphans, in the context of child rights, the ACP, World Fit for Children, Abuja Declaration and Plan of Action of HIV/AIDS and the UN Declaration of Commitments on AIDS;
 - Monitor the activities of governments to ensure the rights of AIDS orphans and children affected by HIV/AIDS in collaboration with the UN agencies and other related partners.

A one-year work plan was agreed upon, with a vision to adopt a longer term strategy at the next meeting when budgets and structures would be better established. The following areas were discussed:

- A consultant needs to be hired to finalise the work plan and draft project proposals for the implementation with the assistance of partners and donors.
 - The UNICEF agreed to sponsor a short-term consultant to work on the work plan and the proposal. Two focal persons from the Committee would be designated to liaise with the consultant.
 - There was a need to have clear terms of reference for the consultant. The Committee agreed to work on a draft with the AU team before the end of the session. The members from Uganda and Rwanda worked on the details of the terms of reference and the work plan for the consultant.
- A need to have a permanent Secretary to assist the work of the Committee was raised.
- The author offered to assist the Committee from May to September 2003, if local costs in Addis Ababa were met.
- Ms Victoria Kioko Nzisa offered to assist the Chairperson in Nairobi.

- The African Network for the Prevention and Protection Against Child Abuse and Neglect (ANPPCAN)¹⁵ reiterated its willingness to assist with the popularisation of the Charter.
- The International Organisation for Migration (IOM) representative expressed a willingness to assist the Committee, and in particular in popularising the Charter.

9 State reporting

In accordance with article 43(1) of the Children's Charter and paragraph 1 of the Guidelines, state parties are obliged to submit their initial reports within two years of ratification.¹⁶ Thereafter they are obliged to submit reports every three years.¹⁷

Twenty-six out of 31 reports are now overdue.¹⁸ The Committee decided to distribute the Guidelines on state reporting to the respective governments by mid-March 2003,¹⁹ with additional information highlighting the differences between the provisions articulated in the CRC and the Children's Charter. Paragraph 24 of the Guidelines was designed to alleviate the dual-reporting burden on state parties. It states specific provisions for the reporting process: If a state party has already submitted an initial report to the UN Committee, whether that report has been reviewed by the UN Committee or not, that state party will be invited to update the information already submitted and add information on the extra provisions contained in the Children's Charter. If a state party's initial report has been reviewed by the UN Committee, recommendations may be considered by the Committee when preparing a list of issues for the government and when adopting its own concluding observations and recommendations. If a state party has not yet submitted an initial report to the UN Committee, the state party will be invited to prepare a complete report on all of the provisions of the Children's Charter to the Committee.

The following strategies were identified for state reporting:

¹⁵ <<http://www.anppcan.org>> (accessed 31 July 2003).

¹⁶ Following the entry into force of the Children's Charter.

¹⁷ As opposed to every five years, as required under the UN CRC.

¹⁸ The following reports were due in 2001: Angola, Benin, Burkina Faso, Cameroon, Cape Verde, Lesotho, Malawi, Mali, Mauritius, Niger, Senegal, Seychelles, Togo, Uganda and Zimbabwe. The following reports were due in 2002: Chad, Eritrea, Guinea, Kenya, Libya and South Africa. The following reports were due by July 2003: Botswana, Egypt, The Gambia and Rwanda. Ethiopia and Sierra Leone will be required to submit in 2004 and Equatorial Guinea, Nigeria and Tanzania will be required to submit by 2005.

¹⁹ It has not been communicated by the Committee or AU whether this has actually taken place.

- The Chairperson should write to member states to request that they submit their reports.
- Guidelines for preparations of initial reports should be distributed to all member states to enable them to prepare their reports.
- Member states should be made aware of the differences between the Children's Charter and the CRC for the purposes of reporting under the Charter.
- The AU should be given the mandate to finalise the Rules of Procedure and the Guidelines for initial state reports and send them to the member states.
- A time frame of six months for obtaining the states' reports was proposed and agreed upon.
- A document on the differences between the Children's Charter and the CRC is to be attached to the guidelines and sent to the member states when it is requested.
- The Guidelines are to be translated into all the AU official languages, although initially only the English and French versions would be forwarded to member states.

The Guidelines adopted by the Committee are almost identical to their UN counterpart. The main difference relates to the additional provisions contained in the Children's Charter,²⁰ some of which have provoked criticism from UN agencies.²¹

The Guidelines reflect the different approach taken by the OAU in the drafting of the Children's Charter, as compared to the CRC, albeit to a limited extent. The Guidelines regard African society as a resource and paragraph 3 states that the process of preparing a report should encourage and facilitate popular participation and public scrutiny of government policies, private sector practices and generally the practices of all sectors of society towards children. The UN CRC guidelines only go so far as scrutinising government policies.

Under the General Measures of Implementation section of the Guidelines, the Children's Charter requests states to provide relevant information²² on the measures taken to realise the rights and welfare of the child in the law of the state party or in any other international convention or agreement in force in that state. States should also include measures taken to promote positive cultural values and traditions and discourage those that are inconsistent with the rights, duties and obligations contained in the Children's Charter. These measures are not required by the state reports of the CRC.

²⁰ Namely arts 1(3), 14(2)(g), (i) & (j), 20(1)(b) & (c), 23, 26, 31 & 44 of the Children's Charter.

²¹ UNICEF, 2nd session. The main criticisms were directed at the addition of Responsibilities and Duties of the Child.

²² Pursuant to art 1 of the Children's Charter.

Under the General Principles section, the Guidelines include an additional sub-paragraph²³ relating to the provision of information to children and the promotion of their participation. This is omitted from the UN CRC guidelines.

Under the Special Protection Measures section, the Guidelines call for states to include relevant information on the principal legislative, judicial, administrative and other measures in respect of children of imprisoned mothers, drawing particular attention to articles 30, 30(d) and 30(f). Furthermore, the Guidelines state that information should be provided on child victims of harmful social and cultural practices affecting the welfare, dignity, normal growth and development of the child, directly referring to the betrothal of girls and boys, early and forced marriage, any form of female genital mutilation and any other form of harmful social and cultural practices.²⁴

Generally, the Guidelines adopted by the Committee are more detailed than the UN guidelines. For example, under the section on Family Environment and Alternative Care, the African Committee elaborated on the provision for the separation from parents, expressly stating separation from parents, separation caused by a state party, caused by internal displacement arising from armed conflicts, civil strife or natural disasters,²⁵ thus, explicitly asking state parties to submit information on issues particularly apparent in Africa.

If either of the Committees intends to change its guidelines, a consultative process should be developed between them.²⁶ The African Committee and the UN Committee need to establish modalities for co-operation, otherwise there will be a lot of repetition on state reporting, which could affect the credibility of the Committee and squander sought-after resources.

10 Modalities for the co-operation with partners

A co-ordination mechanism between the partners and the Committee needs to be formulated. This would be accomplished easiest through a website. It was decided that, while awaiting the construction of a website, the partners and Committee members should communicate directly with each other. Two further proposals were made for the co-ordination mechanism: A task force could be established with all partners based in Addis Ababa, and secondly, a meeting with all partners should be scheduled one day before the Committee's meeting to discuss collaboration between the Committee and partners.

²³ Para 11(e).

²⁴ Arts 21(2), 21(1)(a), 21(1)(b) & 26 respectively.

²⁵ Para 14(c) Guidelines of the Committee and para 16(c) UN CRC Guidelines.

²⁶ Para 24(d) Guidelines.

Save the Children (Sweden) reconfirmed its commitment to continue to support the work of the Committee and pledged financial support. The ICRC also expressed its willingness to collaborate with the Committee and to bring in technical support.

UNICEF pledged technical and financial support for the Committee at continental, sub-regional and national levels. The modalities for this assistance would be worked out with the AU. It was explained that assistance could be given on two levels: on co-functioning and on projects. It was stressed that UNICEF was ready to provide financial assistance on well-articulated and implementable projects.

11 Conclusion

The Committee was advised that in the report to be submitted to the Maputo Summit in July 2003,²⁷ the Chairperson could raise crucial issues affecting children on the continent. In this regard, it was agreed the Chairperson would prepare a draft which will be circulated to Committee members for their input.²⁸ The draft comprised six points:

- The Rules of Procedure for the Committee have been formally adopted and are now being translated into the official languages of the AU.
- The Guidelines for Initial Reporting by State Parties have also been formally adopted and are being translated into the official languages of the AU.
- The AU Secretariat engaged a Secretary for the Committee on a temporary basis, yet the Committee still urges for a permanent Secretary.
- The Committee had its 2nd session in February 2003 and produced a budget and plan of action.
- The Committee requested that funds be allocated to it so that it can undertake its activities contained in its plan of action.
- The Committee continues to urge member states who have not yet done so, to urgently ratify the Children's Charter.

The next meeting is scheduled to take place during the second fortnight in October 2003 in Cameroon, to fit in with the meeting of the African Commission, in order to forge a close working relationship between commissioners and Committee members. Should this prove impossible, a meeting will be convened during the same period at the AU headquarters in Addis Ababa. The AU and the Committee have not confirmed the date and venue of the next meeting.

²⁷ AU Doc EX/CL/Dec 57 (III), <<http://www.africa-union.org>> (accessed 31 July 2003).

²⁸ Circulated by e-mail on 10 June 2003 and requesting members to raise additional points to be included in the report.

Following the 2nd ordinary session, the terms of office of four of the Committee members expired in July 2003. The initial term of these members was two years. Elections took place at the AU Summit, held from 4 to 12 July 2003 in Maputo, Mozambique. Four members were elected:²⁹

- Professor Peter Onyekwere Ebigbo — Nigeria
- Dr Asseffa Bequela — Ethiopia
- Mr Jean Baptiste Zoungrana — Burkina Faso
- Ms Nakpa Polo — Togo

Currently there are four women and five men representing the Committee. The election of the new members has not jeopardised the gender, linguistic or geographic balance. There remain two unconfirmed places on the Committee, those of Senegal and Chad, serving five and four-year terms respectively. According to Rule 14(4) of the Rules of Procedure, pursuant to sub-paragraphs 1 and 2 of this Rule, the Chairperson of the Commission of the AU requests the state party which had nominated the original member to appoint another expert from among its nationals within *two* months of the position becoming vacant to serve for the remainder of the predecessor's term of office. With reference to article 39 of the Children's Charter, the new appointee is subject to the approval of the Assembly. The vacancies have been known by the AU and the Committee since at least February 2003 and replacements have not yet been provided. The Committee should comprise 11 members; currently there are only nine members. This could impair the credibility of the Committee and it is difficult to perceive how it can operate effectively when it is two people short.

The composition of the second serving Committee is as follows:

Lady Justice Aluoch	Kenya	4 year term	Expiry 2004
Mr R Soh	Cameroon	4 year term	Expiry 2004
Mr S Nsanzabaganwa	Rwanda	4 year term	Expiry 2004
Prof L Tshiwula	South Africa	4 year term	Expiry 2004
Mr LPR Ahnee	Mauritius	4 year term	Expiry 2004
Prof PO Ebigbo	Nigeria	5 year term	Expiry 2008
Dr A Bequela	Ethiopia	5 year term	Expiry 2008
Mr JB Zoungrana	Burkina Faso	5 year term	Expiry 2008
Ms N Polo	Togo	5 year term	Expiry 2008
Member 10 — to be nominated	Chad	4 year term	Expiry 2004
Member 11 — to be nominated	Senegal	5 year term	Expiry 2005

²⁹ AU DOC EX/CL/58 (III).

The terms of office for the officers of the Committee³⁰ is for two years, thus the terms expired in July 2003. The 3rd session of the Committee should deal with the nomination of the new officers; those who have already served can be re-elected.

³⁰ The Chairperson, the First Vice-Chairperson, the Second Vice-Chairperson, the Rapporteur and the Deputy Rapporteur; Rule 17 of the Rules of Procedure.