

# Training Toolkit on the African Charter on the Rights and Welfare of the Child



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2015 ■

## The African Child Policy Forum (ACPF)

The African Child Policy Forum (ACPF) is an independent, not-for-profit, pan-African institution of policy research and dialogue on the African child.

ACPF was established with the conviction that putting children first on the public agenda is fundamental to the realisation of their rights and wellbeing, and to bringing about lasting social and economic progress in Africa.

ACPF's work is rights-based, inspired by universal values and informed by global experiences and knowledge; and it is guided by the UN Convention on the Rights of the Child, the African Charter on the Rights and Welfare of the Child, and other relevant regional and international human rights instruments. Specifically, ACPF aims to contribute to improved knowledge on children in Africa; to monitor and report progress; to identify policy options; to provide a platform for dialogue; to collaborate with governments, intergovernmental organisations and civil society in the development and implementation of effective pro-child policies and programmes; and to promote a common voice for children in and out of Africa.

## The African Committee of Experts on the Rights and Welfare of the Child (ACERWC)

The African Committee of Experts on the Rights and Welfare of the Child (ACERWC) is the treaty monitoring body of the African Charter on the Rights and Welfare of the Child (African Children's Charter). The Committee is established under article 42 of the African Children's Charter. The Secretariat of the ACERWC is situated within the Department of Social Affairs of the African Union.



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### Disclaimer

This Toolkit is intended to act as a broad and informative guide to the African Charter on the Rights and Welfare of the Child. It is not to be considered the opinion of the Committee on the interpretation of the Charter.

The Toolkit reflects information available as at the end of 2014, and may be updated in subsequent years to reflect relevant developments and alternative interpretations of the African Children’s Charter that may have been adopted.



**Save the Children**

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## Abbreviations

Acronym	Description
<b>ACCP</b>	African Children's Charter Project
<b>ACERWC</b>	African Committee of Experts on the Rights and Welfare of the Child
<b>ACHPR</b>	African Charter on Human and Peoples' Rights
<b>ACJHR</b>	African Court of Justice and Human Rights
<b>ACmHPR</b>	African Commission on Human and People's Rights
<b>ACPF</b>	African Child Policy Forum
<b>ACRWC</b>	African Charter on the Rights and Welfare of the Child
<b>ACtHPR</b>	African Court on Human and People's Rights
<b>AEC</b>	African Economic Community
<b>ANPPCAN</b>	African Network for the Prevention and Protection Against Child Abuse and Neglect
<b>APSA</b>	African Peace and Security Architecture
<b>AU</b>	African Union
<b>CARMMA</b>	Campaign on Accelerated Reduction of Maternal, New-born and Child Mortality
<b>CEN-SAD</b>	Community of Sahel-Saharan States
<b>COMESA</b>	Common Market for Eastern and Southern Africa
<b>CRC</b>	Convention on the Rights of the Child
<b>CSO</b>	Civil Society Organisation
<b>DAC</b>	Day of the African Child
<b>DCI</b>	Defence for Children International
<b>DGD</b>	Day of General Discussion
<b>EAC</b>	East African Community
<b>ECCAS</b>	Economic Community of Central African States
<b>ECOSOCC</b>	Economic, Social and Cultural Council

Acronym	Description
<b>ECOWAS</b>	Economic Community of West African States
<b>FGM</b>	Female Genital Mutilation
<b>HRSA</b>	Human Rights Strategy for Africa
<b>ICCPR</b>	International Covenant on Civil and Political Rights
<b>ICESCR</b>	International Covenant on Economic, Social and Cultural Rights
<b>IGAD</b>	Intergovernmental Authority on Development
<b>LRA</b>	Lord's Resistance Army
<b>NANHRI</b>	Network of African National Human Rights Institutions
<b>NGO</b>	Non-Governmental Organisation
<b>NHRI</b>	National Human Rights Institution
<b>OAU</b>	Organization of African Unity
<b>PAP</b>	Pan-African Parliament
<b>PRC</b>	Permanent Representatives Committee
<b>PRWA</b>	Protocol on the Rights of Women in Africa
<b>PSC</b>	Peace and Security Council
<b>RECs</b>	Regional Economic Communities
<b>SADC</b>	Southern African Development Community
<b>UMA</b>	Arab-Maghreb Union
<b>UNCRC</b>	United Nations Convention on the Rights of the Child



## Executive Summary

This Tool Kit was developed to guide the training of civil society organisations working for children, government officials responsible for children's matters, and focal person on children's rights in the Regional Economic Communities (RECs) in Africa, on the African Charter on the Rights and Welfare of the Child (ACRWC of African Children's Charter). The Tool Kit provides participants with training modules and take-home study materials aimed at equipping them with first-hand knowledge of the provisions of the African Children's Charter and the work of the African Committee of Experts on the Rights and Welfare of the Child (ACERWC or Committee of Experts).

The training module is intended to be engaging and interactive and is geared towards these objectives:

- » To guide the training of civil society child rights actors, government officials and RECs child rights focal persons towards increased knowledge of the ACRWC and ACERWC, including the ratification and reporting processes and monitoring of implementation at national level;
- » To elaborate on the engagement of RECs child rights focal points with their Member States; educate government officials on the obligations of State Parties; and inform civil society actors on the mechanisms for engaging with the ACERWC;

By the end of the training programme, it is expected that participants would have increased their knowledge of the African Children's Charter and the Committee of Experts and their position in the broader African human rights system. They would also have become better equipped to apply the Charter in national policy planning and law reform, programme development, implementation monitoring, State Party and alternative reporting on progress, and enforcement through communications and advocacy. It is further anticipated that the training will also broaden their network by forming lasting partnerships with each other as participants towards strengthening the respect, promotion, protection and fulfilment of children's rights nationally and regionally in Africa.

On 11<sup>th</sup> July 1990, Africa made history in the world by becoming the first continent to adopt a regional treaty specifically on children. The ACRWC was developed to respond to some specific rights and welfare needs of children in Africa, which had not been fully catered for in the United Nations Convention on the Rights of the Child (UNCRC). Over the last 24 years, the African Children Charter has largely shaped the continental agenda for the respect, promotion, protection and fulfilment of children's rights. The ACERWC has also strengthen its institutional base and advance its programmatic objectives through collaboration with AU Organs and institutions, civil society child rights defenders and government agencies responsible for children since it was first appointed in 2001.

Africa is a fast-changing continent – economically, culturally, socially and politically. While the continent often carried the highest rates of the global burdens of poverty, disease, maternal and child mortality, it is fast-moving out of this description with significant progress in the economy, trade and investment, ending conflict and political stability, improving nutrition, access to health care, reducing maternal and child mortality and improving access to education. UNICEF estimates that with current global trends, by the year 2050, 41% of all children born in the world, 40% of all children under five and 37% of all children (under 18 years) will be in Africa.

This demographic outlook presents new challenges but also new opportunities for African countries to invest in the children of today to secure the future of those unborn. While national strategies will be pursued, collaboration with continental bodies such as the AU, ACERWC and RECs will become crucial. Success in this direction will also be dependent on knowledge, information and the capacity to use the legal and programmatic framework available through the African Children’s Charter and other regional treaties affecting children. It is in this vein that the training of key actors becomes critical, hence the necessity of adequate capacity-building tools.

In pursuit of strengthening the promotion and protection of children’s rights and welfare in Africa, this Tool Kit was developed in line with article 42 of the African Children’s Charter which calls upon the Committee ‘to cooperate with other African, international regional institutions and organizations concerned with the promotion and protection of the rights and welfare of the child.’ Cooperation towards the promotion and protection of the rights and welfare of the child is anchored on having adequate information about the African Children’s Charter and how it can be used to resolve the problems that confront children. In addition, civil society actors, government officials and RECs focal persons on children’s rights share an important collaborative relationship, which if consistently nurtured and effectively harnessed, will greatly improve the implementation of the African Children’s Charter, monitoring of the implementation of the Charter, and expedite ratification of the Charter by AU Member States that have not yet ratified.

The Human Rights Strategy for Africa (HRSA) emphasises the importance of a collaborative relationship between these three child rights actors. The HRSA notes that among the current challenges of the African human rights system is inadequate coordination and collaboration among AU and RECs organs and institutions and the limited capacity of human rights institutions. To address these challenges, the specific objectives of the HRSA include the enhancement of policy, programmes and institutional coordination and coherence among AU, RECs and Member States, the strengthening of the capacity of institutions at continental, regional and national levels, and accelerated ratification, domestication and effective implementation of human rights instruments as well as reporting. In achieving these objectives, stakeholder training is noted as one of the key activities.

In January 2014, the Committee of Experts launched a two-year campaign for the

universal ratification and reporting on the African Children's Charter. The campaign was informed by the fact that only 47 AU Member States had ratified the Charter, and only 23 of the 47 had submitted at least one Report to the Committee as required by the Charter. The Campaign is therefore aimed at ensuring achieving universal ratification of the ACRWC by 2015; and receiving at least one Report by all State Parties whose reports are due; increasing the visibility of the ACRWC and the ACERWC; and lobbying State Parties who have entered reservations to the ACRWC to withdraw same. To realise these targets, the Committee of Experts identified the opportunity available for engaging with RECs, given their strategic closeness to State Parties. The Committee therefore sought to partner with the RECs to ensure that they mainstream child rights issues into their programming and engagement with their respective Member States to facilitate better implementation of the ACRWC.

Recognising the limited engagement of RECs in the child rights discourse in Africa and the opportunities for a broader partnership network with CSOs and government officials, the Committee of Experts developed this Tool Kit to guide the training of RECs focal persons on children's rights, CSOs and government officials. The training is aimed at increasing awareness on the ACRWC, facilitating ratification and reporting processes as well as monitoring the implementation of children's rights in the Member States of the RECs.

The Tool Kit provides a guiding framework for the training of RECs focal persons on child rights, government officials and civil society actors working on children's issues, with a view to increasing their knowledge of and use of child rights norms in Africa. In this regard, the Tool Kit presents modules which cover the substantive content of the African Children's Charter, its relationship with other human rights instruments of the African Union (AU) and the United Nations (UN) Convention on the Rights of the Child (CRC). It also addresses the treaty-monitoring mechanism – that is the ACERWC, its structure, mandate and functioning, its relationship with other AU human rights bodies such as the African Commission on Human and People's Rights (ACmHPR), the African Court on Human and People's Rights (ACtHPR), as well as the relationship with AU Organs and institutions.

The Tool Kit consists of four parts. The first part is an introduction to the Tool Kit, providing a background and outlining its purpose and objectives. Part two presents the modular curriculum. Each module is structured as follows:

- » Overview of Module
- » Objectives
- » Learning outcomes
- » Topic Summaries
- » Relevant group exercise, role play or discussion question(s)
- » Questions for self-evaluation

The first module covers the African Children’s Charter and its substantive normative content. The second module addresses the ACERWC – its establishment, structure and functioning. The third module takes a closer look at the ACERWC within the African human rights system, focusing on its relationship with AU Organs, other continental human rights bodies, RECs, National Human Rights Institutions (NHRIs) and Civil Society Organisations (CSOs). Module four is dedicated to the specific aspects of the ACRWC and ACERWC relevant to each of the three stakeholders targeted by the Tool Kit. The modular curriculum ends with a proposed 2-day training schedule. Part three of the Tool Kit is a bibliography for further reference for both participants and facilitators. It also provides notes to the facilitator on presentations, conduct of group exercises and role plays. The fourth and final part is a feedback implementation matrix to assist the ACERWC in tracking how participants are using the information and knowledge gained from the training.

The Toolkit is an updatable tool, and may be revised to reflect emerging developments in the interpretation, monitoring and implementation of the Charter, as well as institutional changes that are relevant to the implementation of the Charter.

# Part A

## Introduction to the Tool Kit



# Introduction

## Introduction

This Tool Kit is intended for:

- » The civil society person working for children
- » The government official responsible for children's matters; and
- » The focal person on children's rights in the Regional Economic Communities (RECs) of Africa.

This Tool Kit will provide trainees with training modules and take-home study materials aimed at equipping CSOs working for children, Government Officials with responsibility for children's matters and RECs child rights Focal Persons with first-hand knowledge of the provisions of the ACRWC (also known as the African Children's Charter) and the work of the African Committee of Experts on the Rights and Welfare of the Child (ACERWC). The ACERWC (also known as the Committee of Experts) is established by the African Children's Charter to monitor the implementation of the Charter. The training module is intended to be engaging and interactive. Thus, while trainees gain knowledge through the instructional lectures, they will also actively participate in the sessions through hands-on experience with case studies, group work, questions for self-evaluation and a feedback matrix on how they are applying the knowledge gained in their work. In sum, the Tool Kit is geared towards these objectives:

- » To guide the training of civil society child rights actors, government officials and RECs child rights focal persons towards increased knowledge of the rights and duties provided in the ACRWC and ACERWC on ratification and reporting processes and monitoring of implementation at national level;
- » To elaborate on the engagement of RECs child rights focal points with their Member States in as far as the implementation of the Charter is concerned; educate government officials on the obligations of State Parties; and inform civil society actors on the contents of the Charter as well as the mechanisms for engaging with the ACERWC;

By the end of the training programme, it is expected that trainees would have increased their knowledge of the African Children's Charter and the Committee of Experts and their position in the broader African human rights system. Trainees would also become better equipped to apply the Charter in national policy planning and law reform, programme development, implementation monitoring, State Party and alternative reporting on progress, and enforcement through communications and advocacy. It is further anticipated that trainees will broaden their network by forming lasting partnerships with each other as participants from civil society, government and RECs towards strengthening the respect, promotion, protection and fulfilment of children's



rights nationally and regionally in Africa.

Trainees are therefore encouraged to engage actively with the training and make effective use of the materials provided in addition to the wealth of resources they will be exposed to in the training.

### Background

On 11<sup>th</sup> July 1990, Africa made history in the world by becoming the first continent to adopt a treaty specifically on children. The ACRWC was developed to respond to some specific rights and welfare needs of children in Africa, which had not been fully catered for in the United Nations Convention on the Rights of the Child (UNCRC). Over the last 25 years, the African Children's Charter has largely shaped the continental agenda for the respect, promotion, protection and fulfilment of children's rights. Key children's rights policy initiatives of AU such as the 'African Common Position on Children – the Declaration and Plan of Action towards an Africa Fit for Children' and the Campaign on Accelerated Reduction of Maternal, New-born and Child Mortality (CARMMA) are anchored on the African Children's Charter. The ACERWC has also worked to strengthen its institutional base and advance its programmatic objectives through collaboration with AU Organs and institutions, civil society child rights defenders and government agencies responsible for children since when it was first appointed in 2001. Through the Day of the African Child (DAC), consideration of communications and State Party Reports, engagement with civil society on Alternative Reports, and development of General Comments, the ACERWC has strived to enhance the use of the Charter in addressing the challenges of children.

Africa is a rapidly growing continent – economically, culturally, socially and politically. While the continent often carried the highest rates of the global burdens of poverty, disease, maternal and child mortality, it is fast-moving out of this description with significant progress in the economy, trade and investment, ending conflict and political stability, improving nutrition, access to health care, reducing maternal and child mortality and improving access to education.<sup>1</sup> UNICEF estimates that with current global trends, by the year 2050, 41% of all children born in the world, 40% of all children under five and 37% of all children (under 18 years) will be in Africa.<sup>2</sup>

This demographic outlook presents new challenges but also new opportunities for African countries to invest in the children of today to secure the future of those unborn. While national strategies will be pursued, collaboration with continental bodies such as the AU, ACERWC and RECs will become crucial. Success in this direction will also be dependent on knowledge, information and the capacity to use the legal and programmatic framework available through the African Children's Charter and other .....

1 See generally, ACPF (2013). Africa's Children and the Post- 2015 Development Agenda Addis Ababa: The African Child Policy Forum. See also UNICEF, Generation 2030 /Africa – Child (2014) UNICEF: Division of Data, Research and Policy.

2 UNICEF Generation Africa p



regional treaties affecting children. It is in this vein that the training of key actors becomes critical, hence the necessity of adequate capacity-building tools.

## Rationale for the Tool Kit

In pursuit of strengthening the promotion and protection of children's rights and welfare in Africa, this Tool Kit was developed under the auspices of the Committee of Experts which has the mandate under article 42 of the African Children's Charter 'to cooperate with other African, international regional institutions and organizations concerned with the promotion and protection of the rights and welfare of the child.' Cooperation towards the promotion and protection of the rights and welfare of the child is anchored on having adequate information about the African Children's Charter and how it can be used to resolve the problems that confront children.

Civil society actors, government officials and RECs focal persons on children's rights share an important collaborative relationship, which has been consistently nurtured and effectively harnessed, will greatly improve implementation of the African Children's Charter, monitoring of compliance by State Parties and obtaining ratification by AU Member States which have not as yet ratified the Charter.

Indeed the Human Rights Strategy for Africa (HRSA) emphasises the importance of this collaborative relationship. The HRSA notes in its context that among the current challenges of the African human rights system are:

- » Inadequate coordination and collaboration among AU and RECs organs and institutions;
- » Limited capacity of human rights institutions;
- » Insufficient implementation and enforcement of human rights norms and decisions; and limited awareness and access to the African human rights mechanisms.<sup>3</sup>

To address these challenges, the specific objectives of the HRSA are:

- » Enhanced policy, programmes and institutional coordination and coherence among AU, RECs and Member States;
- » Strengthened capacity of institutions at continental, regional and national levels; Accelerated ratification, domestication and effective implementation of human rights instruments as well as reporting;
- » Increased promotion and popularization of African human rights norms.<sup>4</sup>

Stakeholder training is noted as one of the key activities expected to contribute to the .....

<sup>3</sup> Department of Political Affairs, African Union Commission, Human Rights Strategy for Africa p 7.

<sup>4</sup> Human Rights Strategy for Africa p 8.

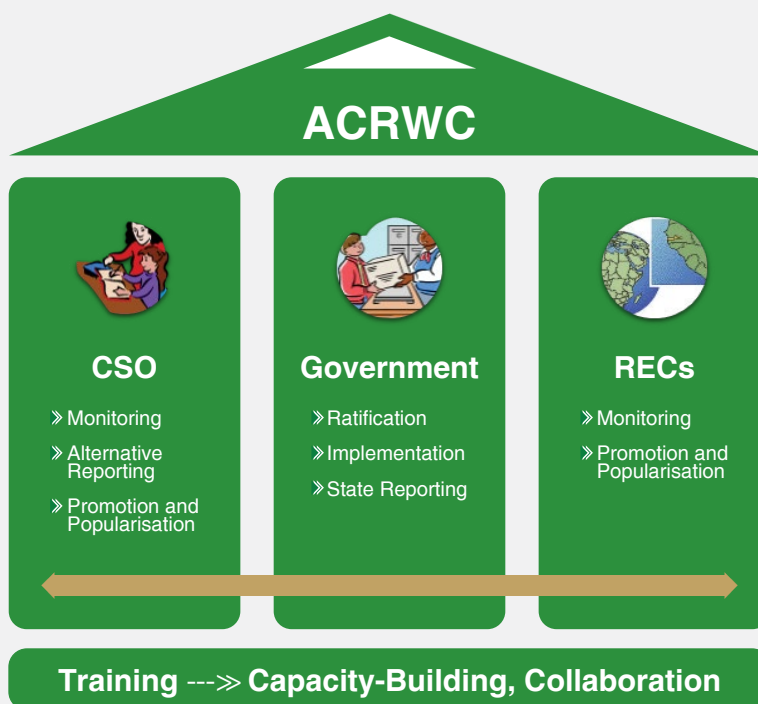




realisation of these objectives.<sup>5</sup>

The functional and collaborative relationship between civil society actors, RECs child rights focal points and government officials, founded on effective training (capacity-building and collaboration) can be illustrated in figure 1 below.

Figure 1: Relationship between CSO, Government and RECs towards ACRWC



Considering that 47 out of 54 AU Member States had ratified the Charter and only 23 State Parties had submitted at least one Report as of November 2013, the Committee of Experts launched a campaign for the universal ratification, increased reporting and implementation of the African Children’s Charter at its 22<sup>nd</sup> Ordinary Session held in Addis Ababa, Ethiopia from 4<sup>th</sup> to 8<sup>th</sup> November 2013. The two-year ‘Campaign for the Universal Ratification and Reporting on the African Charter on the Rights and Welfare of the Child’ was thus launched on 29<sup>th</sup> January 2014 in Addis Ababa during the Summit of the AU Assembly. The Campaign will end with the celebration of the 25<sup>th</sup> anniversary of the adoption of the ACRWC.

The Campaign’s objectives are to achieve universal ratification of the ACRWC by 2015; receive at least one Report by all State Parties whose reports are due; increase the visibility of the ACRWC and the ACERWC; and lobby State Parties who have entered reservations to the ACRWC to withdraw the reservations. To realise these

.....  
<sup>5</sup> Department of Political Affairs, African Union Commission, Human Rights Strategy for Africa Action Plan 2012 - 2016 p 2.



targets, the Committee of Experts identified the opportunity available for engaging with RECs, given their strategic closeness to State Parties. The Committee also looked to partnering with the RECs to ensure that they mainstream child rights issues into their programming and engagement with their respective Member States to facilitate better implementation of the ACRWC.

Recognising limited engagement of RECs in the child rights discourse in Africa and the opportunities for a broader partnership network with CSOs and government officials, the Committee of Experts developed this Tool Kit to guide the training of RECs focal persons on children's rights, CSOs and government officials. The training is aimed at increasing awareness of the ACRWC, ratification and reporting processes as well as monitoring the implementation of children's rights in the Member States of the RECs.

### Purpose of the Tool Kit

The Tool Kit provides a guiding framework for the training of RECs focal persons on child rights, government officials and civil society actors working on children's issues, with a view to increasing their knowledge of and use of child rights norms in Africa. In this regard, the Tool Kit presents modules which cover the substantive content of the African Children's Charter, its relationship with other human rights instruments of the African Union (AU) and the UNCRC. It also addresses the treaty-monitoring mechanism – the ACERWC, its structure, mandate and functioning, its relationship with other AU human rights bodies such as the African Commission on Human and People's Rights (ACmHPR), the African Court on Human and People's Rights (ACtHPR), as well as the relationship with AU Organs and institutions.

Under the guidance of the Tool Kit, it is expected that the training session will stimulate networking and partnership between the RECs, CSOs, government representatives, the ACERWC and other regional and international child rights monitoring bodies. The Tool Kit and the subsequent training will also increase the participants' awareness of the ACRWC and build their capacity to effectively monitor the implementation of the continent's child rights treaty through the reporting, communications and investigation mechanisms of the ACERWC and other regional and national processes for monitoring implementation.

### Scope of the Tool Kit

The Tool Kit is largely dedicated to training on the ACRWC and the mandate of the ACERWC. However, other relevant instruments and treaty-monitoring bodies are considered as mentioned in the preceding section. The target participant group for the training sessions, as noted earlier, would be child rights focal persons in RECs, government representatives, and CSOs. The normative content will cover the various rights protected under the ACRWC, comparison of the ACRWC with the CRC and jurisprudential developments. The structural and functional aspects will cover the mandate and work of the ACERWC, its working procedures, and its relationship with

other treaty-monitoring bodies.

## Structure

The Tool Kit consists of four parts. The first part is an introduction to the Tool Kit, providing a background and outlining its purpose and objectives. Part two presents the modular curriculum. The first module covers the African Children's Charter and its substantive normative content. The second module addresses the ACERWC – its establishment, structure and functioning. The third module takes a closer look at the ACERWC within the African human rights system, focusing on its relationship with AU Organs, other continental human rights bodies, RECs, National Human Rights Institutions (NHRIs) and Civil Society Organisations (CSOs). Module four is dedicated to the specific aspects of the ACRWC and ACERWC relevant to each of the three stakeholders targeted by the Tool Kit. The modular curriculum ends with a proposed 2-day training schedule. Part three of the Tool Kit is a bibliography for further reference for both participants and facilitators. It also provides notes to the Facilitator on presentations, conduct of group exercises and role plays. The fourth and final part is a feedback implementation matrix to assist the ACERWC in tracking how participants are using the information and knowledge gained from the training.

Each module is structured as follows:

- » Overview of Module
  - » Objectives
  - » Learning outcomes
  - » Topic Summaries
  - » Relevant group exercise, role play or discussion question(s)
  - » Questions for self-evaluation
-

# Part B

# Modular Curriculum

# Module One: The African Charter on the Rights and Welfare of the Child

## 1.1 Overview of Module

This module takes participants through the history and background of the African Children's Charter. Participants will learn about the key factors accounting for the development of an 'Africa'-specific treaty for children, including the low participation of African countries in the development of the CRC and non-inclusion of some issues peculiarly affecting children in Africa in the CRC. The module also addresses the four cardinal principles of child rights under the African Children's Charter. Thereafter participants are introduced to the substantive rights and responsibilities of the child under the Charter. The module then discusses the ACRWC in comparative perspective with the CRC and the African Charter on Human and People's Rights (ACHPR).

## 1.2 Objective of Module

This module aims to provide participants with a foundational theoretical knowledge of the African Children's Charter. This foundation will be important to understanding and engaging with the rest of the Modules. It is therefore critical that participants take this module seriously and participate fully. As the foundational module, it is also the first module to be delivered in the training workshop.

## 1.3 Learning Outcomes

### By the end of this Module, trainees will know:

- » Why and how the African Children's Charter came into existence
- » How the four cardinal principles of children's rights are incorporated in the African Children's Charter
- » What the rights of the child are under the African Children's Charter
- » How the responsibilities of the child should be understood under the African Children's Charter
- » The differences, similarities and complementarity between the African Children's Charter and the UN CRC
- » How the African Children's Charter can be compared with the African Charter on Human and People's Rights



## 1.4 Topic Summaries

### 1.4.1 History and Background of the African Children's Charter

Many years before the idea of an African treaty on children was conceived, the OAU had placed children on its agenda when it adopted a Declaration on the Rights and Welfare of the Child in 1979. The Declaration urged Member States to take legislative and other measures to safeguard the rights of the child and address the inequalities between male and female children

The discussion on a continent specific treaty for children began from Eight years later at the Conference on Children in Situations of Armed Conflict organised by the African Network for the Prevention and Protection against Child Abuse and Neglect (ANPPCAN) with the support of UNICEF in 1987.

Alongside the ANPPCAN initiative was an ongoing discussion that few African countries (Algeria, Morocco, Senegal and Egypt) had taken part in the drafting of the CRC. There was also a call to address specific issues affecting African children which had not been fully captured by the CRC (e.g. children living under apartheid, severely depressed economic situation of children, unequal treatment of female children, female genital mutilation (FGM), responsibilities of children in African cultural values, and responsibilities of States towards refugee children).

Following these developments, a working group of African specialists was appointed by the OAU to collaborate with ANPPCAN and draft a Charter to cater for the issues peculiar to African children. The new Charter would complement the CRC which was being drafted at that time. The new Charter was thought to facilitate the ratification and implementation of the CRC once it was adopted.

Expert papers were invited from legal, medical and social science experts to inform the draft Charter. A final expert document was prepared and circulated. The OAU working group then developed a draft Charter from the expert document with suggested measures of implementation. The working group agreed that the Charter would complement the CRC and not be treated as a lesser document. The working group submitted its draft to the OAU legal team for final drafting. The completed text was submitted to all OAU Member States by the Secretary-General. The African Charter on the Rights and Welfare of the Child was finally approved and adopted by the 26<sup>th</sup> Ordinary Session of the OAU in Addis Ababa on 11<sup>th</sup> July 1990. It thereafter took nine years for the African Children's Charter to obtain the 15 ratifications necessary for it to come into force. The Charter consequently entered into force on 29<sup>th</sup> November 1999.

### 1.4.2 Principles of Child Rights under the African Children's Charter

The CRC – as the first global instrument on children's rights – established a framework in which all persons working for and with children should be realised. This framework

comprises the four cardinal principles of children's rights. These are:

- » The best interest of the child;
- » The right to life, survival and development;
- » The freedom from discrimination; and
- » The right to participation and to be heard.

The four cardinal principles can be found in the African Children's Charter under the following articles:

- » Article 3 – Non-discrimination
- » Article 4 – Best interest of the child
- » Article 5 – Life, survival and development
- » Articles 7 and 12 – Participation

The principle of non-discrimination in article 3 of the African Children's Charter demands that every child enjoys the rights enshrined in the Charter without any distinction on the basis of the child's parents or legal guardians, race, ethnic group, colour, sex, language, religion, political opinion, national and social origin, fortune, birth or other status. The inclusion of 'other status' makes the Charter 'forward-looking' and give the opportunity to consider other grounds not explicitly mentioned, on which a child could be discriminated against.

The best interest of the child principle requires that in dealing with, taking decisions, developing programmes or carrying out any other action for a child, the sum total of all factors, options and implications of the action are considered and a conclusion that is most in favour of the child's well-being be adopted. A key distinction to note with the best interest principle in article 4(1) of the African Children's Charter is that, whereas the CRC provides that the best interest of the child shall be 'a' primary consideration, the Charter requires that it should be 'the' primary consideration in all matters to do with the child. This distinction has often been argued by scholars and child rights practitioners that the African Children's Charter makes the application of the principle mandatory. However under the CRC, applying the principle may be one of the things to consider. Article 4(2) of the Charter adds another element to the best interest principle by requiring that in all judicial and administrative proceedings, a child who is capable of expressing and communicating his or her views and opinions, should be given the opportunity to do so. These views and opinions should then be taken into account by the relevant authority in accordance with the appropriate national laws. This facet of the best interest principle is also gives expression to the principle of child participation and the right to be heard.

The principle of life, survival and development requires safeguarding the child's right to life and ensuring the child's development which encompasses the physical,



psychological, emotional, social and spiritual aspects of his or her life. Article 5 of the African Children's Charter thus enjoins the State to protect the right to life by law, apply its resources to the maximum extent possible in guaranteeing the child's survival, protection and development, and lastly, prohibits the imposition of the death penalty on the child.

The fourth principle of child participation is captured in articles 7 and 12 of the African Children's Charter. Article 7 guarantees the child's freedom of expression and the right to disseminate his or her views and opinions in accordance with the relevant national laws. Article 12 provides among others, the child's right to fully and freely participate in cultural life and arts. The article goes further to place an obligation on the State respect and promote this right as well as encourage the provision of appropriate and equal opportunities for cultural, artistic, recreational and leisure activity.

These basic principles are inspired by the core principles of human rights in general. These principles are:

- » Universality of rights (that all human rights apply equally in all cultures, traditions, social and political systems);
- » Inter-dependence and interconnectedness of rights;
- » Non-discrimination and equality;
- » Participation of all stakeholders as a right (both rights-holders and duty-bearers to ensure ownership and sustainability); and
- » Accountability of duty-bearers and respect for the rule of law.

The four cardinal principles – together with these underlying principles of human rights – not only set standards but they also form the basis of a **child rights approach** to working with and for children. **A child rights approach builds the capacity of duty-bearers to fulfil their obligations and empowers rights holders (children) to claim their rights.**

Any person working with and for children has to ensure that all these principles are at all times adhered to and applied.<sup>6</sup> Duty bearers are those who have obligations under the CRC, African Children's Charter and other international instruments on children. The State is the primary duty bearer, ensuring that it establishes legislative and other measures to ensure the promotion, protection, respect and fulfilment of children's rights. This duty may be delegated to other persons in the state such as Government officials and some civil society organisations. Parents and care-givers are also duty-bearers and are sometimes referred to as secondary duty-bearers. They have specific responsibilities for children such as their basic care and upbringing. Other secondary duty-bearers like the members of the community in which a child lives, will have moral and normative responsibilities to the child as their customs and mores demand.

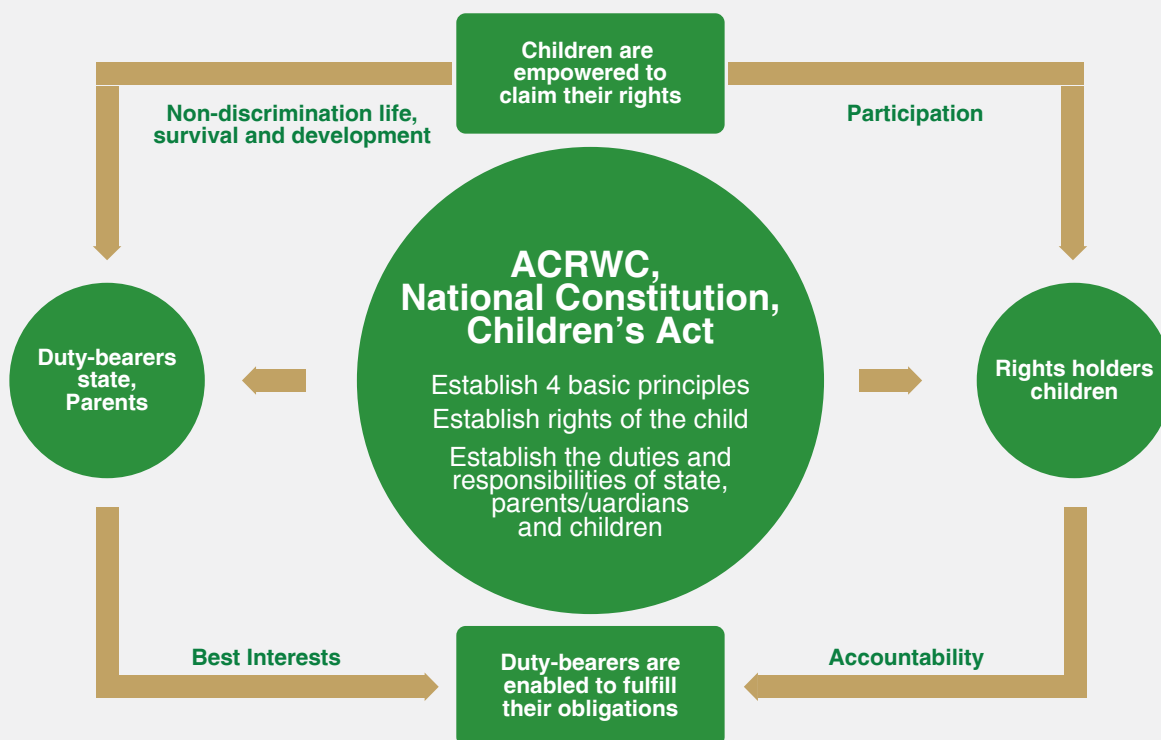
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<sup>6</sup> Save the Children, *Getting it Right for Children – A practitioner's guide to child rights programming* (2007) p 10.





The rights-holder is one who demands and claims his or her rights from the duty-bearer. Children are rights-holders and should be encouraged and assisted to claim their rights from duty-bearers. This is where child participation, for instance, becomes very important. Children as rights-holders also have an obligation to respect the rights of others. This is strongly reflected in the responsibilities of the child under the African Children's Charter.

As duty-bearers undergoing this training, it is also important to understand how our responsibilities intersect with these principles. This is illustrated in the figure below:



Both duty-bearers and rights-holders would derive their obligations and rights from the African Children's Charter, the National Constitution or the Children's Act, which ever may be applicable to the country. Children as rights-holders through **participation** are empowered to claim their rights. Claiming their rights often concerns matters related to **non-discrimination, life, survival and development**. When the duty-bearers respond, they have to take into account the **best interest of the child**. Duty-bearers are also able to effectively respond to children's needs when their capacity is built through programmes such as this training workshop. In the end, they are **better accountable** to children, the rights-holders.

### 1.4.3 Rights of the Child under the African Children's Charter

The African Children's Charter provides for variety of rights of the child. These rights include the following:



- **Article 1:** State Parties are enjoined to adopt legislative and other measures to give effect to the Charter. No distinction is made between economic and social rights, and civil and political rights with no limit as to availability resources for the fulfilment of these rights. Through this article, the Charter also welcomes the application of any other treaties or international child rights standards that are more conducive to the realisation of children's rights. Article 1 also expressly outlaws customs, traditions and religious practices inconsistent with the Charter.
- **Article 2:** Clearly defines a child as a person under 18 years with no qualification.
- **Article 3:** Entitles the child to enjoy all the rights and freedoms provided in the Charter with no distinction as to the child's or his or her parents or legal guardians' race, ethnic group, colour, sex, language, religion, political or other opinion, national and social origin, fortune, birth other status.
- **Article 4:** Mandates that in all actions concerning the child undertaken by any person or authority, the child's best interest shall be 'the' primary consideration. Further, in all judicial and administrative proceedings, a child who is capable of expressing him or herself, should be given the opportunity to do so freely. The views expressed should then be taken into account.
- **Article 5:** Guarantees the child's right to life which must be protected by law. The State is further required to ensure the child's survival, protection and development to the maximum extent possible. The imposition of the death penalty on children is also expressly prohibited under this article.
- **Article 6:** Every child is guaranteed the right to a name from birth, to be registered immediately after birth and to acquire a nationality. Right to a name and nationality. The State has a duty to establish a legal framework that would enable a child born on its territory and whose nationality is not known, to acquire the nationality of that State. This is to prevent child statelessness.
- **Article 7:** The child who is capable of communicating his or her views, is guaranteed the right to express his or her opinion on all matters freely and disseminate such opinions in accordance with the relevant national laws.
- **Article 8:** The child is guaranteed the freedom of association and peaceful assembly in accordance with the law.
- **Article 9:** Grants to every child, the right to freedom of thought, conscience

and religion and places a duty on parents and legal guardians to guide and direct children in the exercise of this right, having due regard to their evolving capacities and the best interest of the child. The State is also required to respect the right of parents and legal guardians to provide the child with guidance and direction in the exercise of this right in accordance with the law.

- **Article 10:** Prohibits the arbitrary or unlawful interference with a child's privacy, family home or correspondence as well as any attack on his or her honour or reputation. Parents and legal guardians are however not prevented from exercising reasonable supervision over the conduct of their children by virtue of this article. The article also guarantees the child's right to protection of the law against such interference or attacks on his or her privacy.
- **Article 11:** The right to education – which is guaranteed to every child – must be geared towards the total development of the child, enable the child to respect human rights and fundamental freedoms, promote positive African values, and promote African unity and solidarity. The State has a duty under this article to ensure free and compulsory basic education and progressively make secondary education free and accessible to all persons. Higher education should also be made accessible to all on the basis of capacity and ability by every means. The article also requires the State to take special measures to ensure access to education for 'female, gifted and disadvantaged children' and guarantees the right of pregnant girls to remain in school. Under this article, the State is further enjoined to respect the right of parents and legal guardians to choose schools for their children.
- **Article 12:** Provides for the child's right to rest, leisure, play and engage in recreational activities appropriate to the child's age as well as the right to participate in cultural life and the arts. In this regard, the State has a duty to respect and promote the child's right to fully participate in cultural and artistic life and provide appropriate and equal opportunities for the child to enjoy this right.
- **Article 13:** Guarantees to every child with a disability, the right to special measures of protection by the State. It also places a duty on the State – subject to the availability of resources – to ensure that children with disabilities have access to training, preparation for employment and recreational opportunities in a manner that is conducive to the child attaining the fullest possible social integration, individual, cultural and moral development. The State is also to progressively ensure that children with physical and mental disabilities have access to public buildings and



highways.

- **Article 14:** Guarantees to every child the right to the best attainable state of physical, mental and spiritual health. The State is enjoined to take measures to fully implement this right, among others, to reduce the rate of infant and child mortality; provide the necessary health care to all children, particularly primary health care; fight disease and malnutrition; provide appropriate health care for nursing and expectant mothers; develop preventive health care and family life education; integrate basic health service programmes into national development plans; ensure that all sectors of society have access to access to information and education on various health concerns; ensure the meaningful participation of non-governmental organisations, local communities and beneficiary populations in the planning and management of basic health service programme; and provide technical and financial support to mobilise local community resources to develop primary health care for children.
- **Article 15:** Protects the child from economic exploitation and hazardous work that interferes with the total development of the child. The State has a duty to ensure full implementation of this right through legislative and other measures. It is thus expected to establish by law, minimum wages for employment; appropriate hours and other conditions of work; appropriate sanctions for violations of this right; and promote the dissemination of information on the dangers of child labour.
- **Article 16:** Requires the State to take specific legislative, administrative, social and educational measures to protect the child from all forms of torture, inhuman and degrading treatment especially physical and mental abuse including maltreatment, neglect and sexual abuse. Examples of such protective measures include special monitoring units to address the needs of child victims of abuse.
- **Article 17:** Guarantees to every child in conflict with the law, the right to special treatment and the due process of law in a manner that preserves the dignity and worth of the child and instils in the child, the respect for fundamental human rights and freedoms of others. The State is also to ensure that a child in conflict with the law is not detained with adults; is protected from torture and inhuman and degrading treatment or punishment; has access to legal representation and is informed in a language he or she understands of the reasons for his or her apprehension; not tried in public; and benefits from a speedy trial. The State is to further establish a minimum age of criminal responsibility by law.
- **Article 18:** The State is to measures to protect and support the family which is described in the article as the natural unit and basis of

society. The State is therefore to take steps to ensure the equal rights and responsibilities of spouses towards their children both during the pendency of their marriage, upon its dissolution and thereafter, provision being made for the care and maintenance of their children. No child is to be deprived of maintenance on the basis of his or her parent's marital status.

- **Article 19:** Guarantees to every child the right to parental care and protection including the right to reside with his or her parents. In the event of separation, the child has a right to maintain personal relations and contact with either or both parents. The State – where it is responsible for the separation of the child's parents – has a duty to ensure that the child or another family member receives information about the whereabouts of the absent parent. Where a child is apprehended by the State, his or her parents should be notified as soon as possible of such apprehension.
- **Article 20:** Places the primary responsibility for the upbringing and development of the child on the parent or other persons responsible for the child. This involves ensuring the best interest of the child at all times, secure the necessary living conditions of the child with all available resources and administer domestic discipline with humanity in a manner consistent with the inherent dignity of the child. The State also has a responsibility to assist parents and caregivers – especially those in need – with material support in nutrition, health, education, clothing and housing; provide assistance to parents and care-givers in child-rearing; and provide children of working parents with care services and facilities.
- **Article 21:** Places a duty on the State to eliminate all forms of harmful social and cultural practices which affect the welfare, dignity, normal growth and development of the child, especially customs that are harmful to the health of the child and are discriminatory on the grounds of sex and other status. The article also prohibits child marriage and requires States, by law, to set the minimum age for marriage at 18 years and make the registration of marriages compulsory.
- **Article 22:** Requires State to ensure that the rules of international humanitarian law in armed conflict are respected in armed conflicts that affect the child. The article also prohibits the engagement of all children in armed conflict, either partaking directly in hostilities or being recruited. The State has a duty as well to protect civilian populations from all armed conflict and take all necessary measures to protect children affected by conflict, both internal and external.
- **Article 23:** Enjoins the State to ensure that child refugees or those seeking refugee status, whether accompanied by parents and care-givers or not,



receive protection and humanitarian assistance in enjoying the rights set out in the Charter. The State shall also cooperate with other international organisations to assist refugee children unite with their families, or where they cannot be found, protect the child as they would a child permanently or temporarily deprived of a family environment. Children who are internally displaced are also entitled to the protection and assistance of the State as would be extended to refugee children.

- **Article 24:** Requires the State to ensure that adoption is carried out by competent authorities in the best interest of the child and in accordance with the law and with the informed consent of the parents, relatives and other care-givers. The State is also to regulate inter-country adoption in accordance with the law, ensuring that it is done as a last resort and that the child's well-being is safeguarded in the State of his or her adoptive parents. Inter-country adoption should not be used to foster financial gain or trafficking. The State has a duty to enter into bilateral and multilateral agreements with other States to facilitate the implementation of this article.
- **Article 25:** Guarantees the right of a child separated from his or her parents to special protection and assistance. The State has a duty to provide alternative care including foster care and appropriate institutional care for a child who is either permanently or temporarily deprived of his or her family environment. The State is also required to take all necessary measures to trace and re-unite children separated from their parents due to internal and external displacement from armed conflict and natural disasters, ensuring that the best interest of the child is considered in the process. Alternative care must also be considered with the best interest of the child against the backdrop of continuing the child's upbringing, age, ethnicity, religious or linguistic background.
- **Article 26:** State parties have a duty individually and collectively to highly prioritise the special needs of children living under apartheid or in a State under military destabilisation as a result of apartheid. This duty is also extended to the special needs of children living in States practising racial, ethnic religious or other forms of discrimination or facing military destabilisation. States are also expected to provide material assistance, whenever possible, to children living under apartheid or other forms of discrimination and military destabilisation and make effort to eliminate all discrimination and apartheid from the continent.
- **Article 27:** Requires the State to take measures to protect children from all forms of sexual exploitation and sexual abuse, in particular, coercing or luring children to engage in sexual activity, using children in prostitution

and other sexual activity and in pornographic activities.

- **Article 28:** Enjoins the State to take appropriate measures to protect children from the use of narcotic drugs and the use of children in producing and trafficking such substances.
- **Article 29:** The State has a duty to protect children from abduction, sale and trafficking in any form and for any purpose as well as being used for all forms of begging.
- **Article 30:** This requires the State to provide special treatment to expectant mothers and mothers of infants or young children who have been accused or convicted of criminal offences. Some of these measures include incarceration as a last option, alternative measures to institutional confinement, establishment of alternative institutions for such mothers, non-imprisonment of the mother with her child, non-imposition of the death penalty and promoting reformation in the correctional system to ensure that the mother is rehabilitated and reintegrated with her family.
- **Article 31:** Sets out the duties and responsibilities of the child to the family, society, State and international community, subject to the child's evolving capacities. The child is required to place his physical and mental abilities towards building social and national cohesion, strengthening African values, preserving national independence and integrity and promoting African unity.

#### 1.4.4 Unique Features of the African Children's Charter

The African Children's Charter is unique in a number of ways, mainly because one of the main reasons for its development was to address the peculiar needs of the African child. For this reason, it is possible to identify some distinguishing aspects of the instrument in the way it reflects the needs of the African child. These features include the following:

- » No distinction is made between economic, social and cultural rights on the one hand and civil and political rights on the other as can be seen generally with other international human rights treaties.
- » There is no limit as to the availability of resources for the fulfilment of the rights under the ACRWC as can be seen with other treaties which require States to fulfil the rights progressively according to the availability of their resources.
- » The ACRWC expressly outlaws customs, traditions and religious practices inconsistent with it.
- » A child is defined as a person under 18 years with no qualification.



- » The State is required to take special measures to ensure access to education for female, gifted and disadvantaged children.
- » The Charter prohibits harmful social and cultural practices and sets the age of marriage at 18 years.
- » The Charter provides for parental responsibilities and obligates the State to support parents in performing their responsibilities under the Charter.
- » The rights of children living under apartheid and other discriminatory systems of governance are protected.
- » Children of imprisoned mothers are also to be provided with special treatment and care.

A major distinctive feature of the African Children's Charter is the inclusion of the responsibilities of the child. This is in line with the African conceptualisation of human rights which emphasises that while the individual claims his or her rights from the duty-bearer or the society, he or she owes reciprocal duties and obligations to ensure the holistic development of the community in which he or she lives.

This concept is provided for in article 31 of the African Children's Charter. Under this article, every child is expected to have responsibilities towards his family, society, the State and other legally-recognised communities and the international community. The duties of the child are however subject to the **age and ability** of the child and other limitations that may be necessary. Accordingly, duty-bearers should note that the African Children's Charter should not be used as justification to get children to engage in child labour and other activities which impact negatively their development. Furthermore, the rights of the child are not dependent on the child's performance of the duties. This means that whereas the Charter recognises the responsibilities of children, it does not call for punitive measures to enforce the duties. The Committee is in the process of elaborating on article 31 of the Charter through its third General Comment.

The duties of the child under the Charter include the following:

- » Working for the family cohesion, respect for parents, superiors and elders and to assist them in time of need;
- » Serving the national community with his or her physical and intellectual abilities;
- » Preserving and strengthening social and national solidarity;
- » Preserving and strengthening African cultural values in relations with society, in a spirit of tolerance, dialogue and consultation, and contributing to the moral well-being of the society;
- » Preserving and strengthening national independence and integrity; and



- » Contributing to the best of his or her abilities and at all levels to the promotion and achievement of African Unity.

### 1.4.5 The ACRWC and the CRC in Comparative Perspective

This topic would be effectively addressed in a group exercise by participants. This will provide a good opportunity for participants to become familiar with the ACRWC and the CRC, and to understand the differences, similarities and gaps in both instruments. The details of the exercise are provided in the box below.

#### Group Exercise 1: ACRWC and CRC in Comparison

In this exercise, participants will identify the differences and similarities between the ACRWC and the CRC. This is to be done in two groups, after which the groups will reconvene and discuss their findings in a plenary session.

##### Instructions:

1. *Divide the trainees into two groups – Group 1 and Group 2*
2. *Each Group will appoint its own Facilitator and Rapporteur*
3. *Group 1 will identify all the similarities between the CRC and ACRWC*
4. *Group 2 will identify all the difference between the CRC and ACRWC*
5. *Both Groups will also identify any other rights which they think are critical for children, but which cannot be found in either treaty.*
6. *The time allotted will be 15 minutes*
7. *Each group will be provided with copies of the CRC and ACRWC, Flip Chart paper and markers*
8. *Each Group will list its finding on the Flip Chart and put them up on the wall of the training room*
9. *Both Groups will convene in the plenary session where together the class will discuss the similarities, differences and gaps identified.*
10. *In conclusion, participants will make recommendations on how best the two instruments can be used together harmoniously.*
11. *The whole exercise in total should not last for more than 30 minutes*



### 1.4.6 The ACRWC and the ACHPR in Comparative Perspective

The African Charter on Human and People's Rights (ACHPR or African Charter) was the first human rights instrument to be adopted by the OAU in 1981. The ACHPR entered into force six years later in 1987. The African Charter was born out of increasing international focus on human rights in the 1970s and the then mounting criticism of Africa's poor human rights record in the same period. The Charter has been ratified by all the Member States of the AU, except the Republic of South Sudan, which joined the AU recently.

The African Charter was unique at its creation for combining all the three 'generations' of rights into one document. These 'generations' of human rights are:

- » First generation – civil and political rights;
- » Second generation – economic, social and cultural rights; and
- » Third generation – group rights or collective rights.

Generally in international human rights law, the first generation rights are found in the International Covenant on Civil and Political Rights (ICCPR) and second generation rights in the International Covenant on Economic, Social and Cultural Rights (ICESCR). The African Charter then emphasised the third generation rights when it provided for rights such as the right of access to public services, right of access to public property, the equality of peoples, the existence of peoples, the freedom of peoples to dispose of their wealth, the right of peoples to national and international peace, and the right to the environment. These rights are meant to be enjoyed collectively or in the interest of a group of people.

The African Charter however does not simply present these three generations of rights in one document; it also emphasises that these rights are indivisible and interdependent on each other. The ACHPR also establishes a clear obligation on States to adopt legislative and other measures to give effect to the rights in the Charter. The Charter does not also allow states to derogate from any of its provisions.

The ACHPR also provided for the concept of duties of the individual towards his family, society and state. The inclusion of duties is one of the unique features of the ACHPR. Highlighting duties alongside rights in the ACHPR reflects the African understanding of human rights, which is that the individual's enjoyment and exercise of his or her rights always goes hand-in-hand with the performance of some duties for the benefit of his or her community or society. In other words, as the individual 'draws' his or her rights from his society, he or she 'owes' a duty in return.

The only provision in the ACHPR which provides for children's rights is article 18(3). Under this article, the State has an obligation to eliminate every discrimination against women and children and ensure the protection of their rights as provided in international declarations and conventions. From this article, some scholars and activists argue on

one hand that through the African Charter, other child rights treaties like the CRC can be applied to protect children. For that matter, we do not need to have another treaty for children. Others argue on the other hand, that the African Charter is wholly inadequate (by providing only one article to protect children). While there are no right or wrong answers on this observation, it will be interesting to engage the minds of participants on the subject and to come to a conclusion on how best the two instruments can be used effectively for the benefit of children.

To conclude this section of the module, participants will have a brief plenary session to discuss how the ACHPR and the African Children's Charter complement each other.

### Discussion Question 1

In what ways do the African Charter on the Rights and Welfare of the Child and the African Charter on Human and Peoples' Rights complement each other?

**Instructions:**

- 1. The session should last not more than 15 minutes*
- 2. A volunteer from the participants would list the responses on a flip chart sheet*

## 1.5 Conclusion

This module has introduced trainees to the African Children's Charter, its history, development, underlying principles, substantive rights and duties of the child. Trainees have also been informed of the differences and similarities between the African Children's Charter and the CRC and discussed how the African Children's Charter and the ACHPR complement each other.



### 1.5.1 Points to Remember

Before moving on to Module Two, remember the following key points from this Module

- » The low participation of African States in the development of the CRC and the latter's failure to address issues specific to African children led to the development of the African Children's Charter
- » The African Children's Charter is underpinned by four key principles. Under the Charter, the 'best interest of the child' principle is mandatory in all matters to do with the child
- » The African Children's Charter provides both rights and duties of the child, reflecting the African concept of human rights
- » Although the African Children's Charter and the CRC are different, they are similar in many ways and complement each other
- » In a similar way, the African Children's Charter and the African Charter on Human and People's Rights complement each other and can be effectively used to protect the rights and welfare of the child

### 1.5.2 Questions for Self-Evaluation

- » Can I identify at least one reason why we have the ACRWC?
- » Can I list the four principles of child rights under the ACRWC?
- » How can I better perform my role as a duty-bearer using a rights-based approach?
- » Can I list at least ten rights protected by the ACRWC?
- » Can I list at least two duties of the child under the ACRWC?
- » How best can I use the ACRWC and CRC in my work to protect the rights and welfare of the child?
- » How best can I use the ACRWC and the ACHPR in my work to protect the rights and welfare of the child?

# Module Two: The African Committee of Experts on the Rights and Welfare of the Child

## 2.1 Overview of Module

In this module, participants learn about the treaty-monitoring body of the African Children's Charter – the African Committee of Experts on the Rights and Welfare of the Child (ACERWC or Committee of Experts). The module covers the establishment, structure, mandate and operations of the ACERWC. Participants will have an opportunity do some practical work on key aspects of the Committee's mandate such as the consideration of communications. They will also learn about the State Reporting process, share their experiences with the process and discuss how best they can contribute to increase in reporting by their individual and other countries. Throughout the module, participants will also identify the various challenges and opportunities present in monitoring the implementation of the ACRWC.

## 2.2 Objective of Module

The objective of this module is to introduce ACERWC and its work in ensuring the implementation of the African Children's Charter. By knowing and understanding how the Committee of Experts functions, it is expected that participants will work towards establishing a relationship with the Committee so they can increase its visibility and operation in their respective countries, sub-regions and areas of work.

## 2.3 Learning Outcomes

### **By the end of this Module, trainees will know:**

- » How the ACERWC is established
- » What the mandate and functions of the ACERWC are
- » Who the members of the ACERWC are
- » The core mandates of the ACERWC – promotion, protection & interpretation of the ACRWC
- » How the ACERWC carries out its mandate through Committee Members and the Secretariat



## 2.4 Topic Summaries

### 2.4.1 Establishment, Structure and Mandate of the ACERWC

#### Establishment

The African Children's Charter establishes in article 32, an 'African Committee of Experts on the Rights and Welfare of the Child' within the OAU to promote and protect the rights and welfare of the child.

Article 33 provides that the Committee of Experts will be made up of 11 members of high moral standing, impartiality, integrity and be experts in matter of the rights and welfare of the child. Committee members serve in their individual capacity, even though they are nominated and elected by AU Member States. They are formally appointed by the Assembly of the AU. Members of the Committee of Experts serve for only five years and are not eligible to be re-elected.

The first 11 members of the ACERWC were appointed during the 37<sup>th</sup> Session of the Assembly of Heads of State and Government of the then OAU in July 2001. The ACERWC then held its inaugural meeting from 29<sup>th</sup> April to 2<sup>nd</sup> May 2002 in Addis Ababa.<sup>7</sup>

#### Structure

Article 38 of the African Children's Charter provides for a Bureau of the ACERWC which serves for a period of two years. Under the same article, the Committee of Experts can establish its own Rules of Procedure. Consequently, the Committee has developed Rules governing its mandate, operations and core functions such as consideration of communications, conduct of investigations and consideration of State Party Reports.

The Bureau of the ACERWC is currently composed of a Chairperson, three Vice-Chairpersons and a Rapporteur. Under the Committee's Revised Rules of Procedure (2014), the Bureau coordinates and supervises the promotion and protection mandate of the Committee and the work of its special mechanisms; oversees the work of the Secretariat; and makes recommendations to the Committee on the appointment of the Secretary, conducts the annual assessment of the Secretary and submits the assessment to the Committee for consideration. The Chairperson performs various functions as stipulated by the ACRWC, the Committee's Rules of Procedure, and decisions of the Committee, the AU Assembly and Policy Organs. He or she directs the work of the Committee, convenes and presides over its sessions and meetings, represents the Committee at various forums, oversees the work of the Secretariat and maintains the Committee's relations and collaboration with the AU Policy Organs, AU Commission and its departments and institutions. The Chairperson is assisted in his functions by the Vice-Chairpersons who also act in the Chairperson's absence. The Rapporteur is responsible for all the key documents of the Committee, including its reports, communication, decisions, and resolutions. The Rapporteur also works closely

<sup>7</sup> ACERWC, 'African Committee of Experts on the Rights and Welfare of the Child – Work Plan 2003 – 2004' p 4.

with the Secretariat. He or she is also assisted by the Deputy Rapporteur who acts in the Rapporteur's absence. All members of the Committee are also Focal Persons on selected thematic areas on children.

Below the Committee is its Secretariat, which is established by article 40 of the African Children's Charter. The Secretariat is headed by a Secretary who is appointed by the Chairperson of the AU Commission. Other staff of the Secretariat are also appointed by the AU Commission. The Secretariat is the main operational arm of the Committee. It is responsible for the planning and implementation of the Committee's activities, prepares and services its sessions and meetings, prepares reports, statements and other relevant documents of the Committee. The Secretariat is also responsible for processing Communications and facilitating investigation missions. The Committee is currently staffed by a Secretary, Child Rights Legal Researcher, Child Rights Officer, Senior Social Worker and Communications Officer. Apart from the Secretary, the remaining staff are currently being supported by the Committee's partner institutions and donors due to the resource constraints it faces. The Secretariat is presently located in the Department of Social Affairs of the AU Commission.

## Mandate

The mandate of the Committee of Experts is provided in article 42 of the ACRWC covering:

- » Promotion and protection of the rights enshrined in the ACRWC, particularly to collect and document information, commission interdisciplinary assessment of situations on African problems relating to rights and welfare of the child, organise meetings, encouraging national institutions working on the rights and welfare of the child, and where necessary give its views and recommendations to governments
- » Formulation of principles and rules aimed at protecting the rights and welfare of the child.
- » Monitoring the implementation of the ACRWC
- » Interpretation of the ACRWC at the request of a State Party, institution of the AU or any other person or institution recognised by the AU or any State Party
- » Other tasks assigned to the Committee by the Assembly of the AU

In addition to this mandate stated in article 42, the Committee of Experts can receive and consider communications under article 44 of the Charter and under article 45, resort to any appropriate method of investigations to address any matter under the ACRWC. The ensuing sections of this Module will elaborate the mandate of the Committee of Experts under four main categories of Promotion, Protection, Interpretation and Operations.



## 2.4.2 The Promotion Mandate

The promotion of children's rights and welfare is one of the core functions of the Committee of Experts as can be seen from articles 32 and 42 of the ACRWC. The Committee performs this promotional mandate through information-gathering, research, capacity-building programmes, promotional missions and visits to State Parties and encouraging the effective implementation of the Charter by both state and non-state institutions. The Committee of Experts also fulfils its promotion mandate by formulating and laying down principles and guidelines aimed at protecting the rights and welfare of the child.

Some activities have over time become notable aspects of the Committee's promotion mandate. These activities are briefly described here.

### Missions

The Committee occasionally embarks on missions to State Parties to create awareness of its work and the existence of the African Children's Charter, undertake advocacy for ratification and submission of State Party Reports, and improved implementation of the ACRWC. Missions provide the Committee Members with an opportunity to meet with relevant government officials, civil society organisations and children, all of whom are stakeholders in the implementation of the African Children's Charter. Missions have also covered other aspects of the Committee's mandate such as investigations and communications.

The Committee's first fact-finding mission was to Northern Uganda in 2005 to investigate children being used by the Lord's Resistance Army (LRA). The Committee's report was presented by the AU Commission to the Executive Council, the Permanent Representatives Committee and to the AU Assembly. The latest mission was an advocacy mission to the Republic of South Sudan in July 2014, in the wake of the 15<sup>th</sup> December 2013 conflict in the country.

### Studies

The Committee of Experts has also commissioned studies on various themes around children. The notable studies undertaken for the Committee are the study on the principle of the 'Best Interest of the Child' and the study on the scope of Article 31 of the ACRWC on the duties and responsibilities of the child.

### Day of the African Child

The Day of the African Child (DAC) is one of the most important programmes on the ACERWC's agenda. The DAC was instituted by the OAU in 1991 to commemorate the events of 16<sup>th</sup> June, 1976, the day on which thousands of school children in South Africa marched in protest against the inferior education system imposed on them by the apartheid government and also demanded the right to be taught in their own language. The police opened fire on the children, killing many of them including Hector Peterson,





whose death became iconic of the events of that day. The children's protest became the start of the long, violent struggle for freedom in South Africa.

The 16<sup>th</sup> of June every year has since been used by the OAU, and now the AU, to draw the attention of Member States to the situation of children in Africa. The occasion is used both to celebrate African children and to soberly reflect on the daunting challenges they face. The DAC also calls on Member States to take concrete steps to address these challenges and improve their implementation of the ACRWC and other treaties concerning children.

To mark the DAC, the Committee of Experts selects a theme which is elaborated in a Concept Note, which is shared with Member States. The Concept Note gives guidance on how the Day should be celebrated and requires States to report back to the Committee on the activities undertaken that day and in the future on the thematic subject.

Themes for the DAC have covered the following:

- » Right to Birth Registration (2003)
- » The African Child and the Family (2004)
- » African Orphans: Our Collective Responsibility (2005)
- » Right to Protection: Stop Violence Against Children (2006)
- » Combat Child Trafficking (2007)
- » Right to Participate: Let Children be Seen and Heard (2008)
- » Africa Fit For Children: Call for Accelerated Action Towards Their Survival (2009)
- » Budgeting for Child Rights (2010)
- » All Together for Urgent Action for Street Children (2011)
- » The Rights of Children with Disabilities: The Duty to Protect, Respect, Promote and Fulfil (2012)
- » Eliminating Harmful Social and Cultural Practices Affecting Children: Our Collective Responsibility (2013)
- » A Child-friendly, Quality, Free and Compulsory Education For All Children In Africa (2014)
- » 25 Years after the Adoption of the African Children's Charter: Accelerating our Collective Efforts to End Child Marriage in Africa (2015)

### **Day of General Discussion**

The Day of General Discussion (DGD) is a programme usually found in the UN human



rights system and undertaken by the treaty-monitoring bodies. The DGD is a forum that brings together Government officials, NGOs, UN human rights bodies, UN Bodies and specialised agencies, national human rights institutions, academic institutions and individual experts to discuss specific issues or topics with a view to achieving a deeper understanding of the contents of a particular treaty. From the discussions, strategies may be developed to address the issue or issues central to the DGD.

The Committee of Experts has adopted the DGD as one of its promotional programmes. The Committee held its first DGD on discrimination and violence against girls in Africa', during the 22<sup>nd</sup> Ordinary Session held in Addis Ababa, Ethiopia from 4<sup>th</sup> to 8<sup>th</sup> November 2013. The second DGD was held during the 23<sup>rd</sup> Ordinary Session in Addis Ababa from 9<sup>th</sup> to 16<sup>th</sup> April 2014 on the elimination of ending child marriage in Africa.

### Discussion Question 2

Having discussed these aspects of the ACERWC's promotion mandate, what do you think are some of the challenges the Committee faces in effectively fulfilling this mandate?

#### Instructions:

- 1. The session should last not more than 10 minutes*
- 2. A volunteer from the participants would list the responses on a flip chart sheet*



### Case Study: Celebration of the DAC 2012

The DAC 2012 was celebrated under the theme, 'The Rights of Children with Disabilities: the Duty to Protect, Respect, Promote and Fulfil'. UNICEF documented how the day was commemorated in 28 countries. Below are some of the innovative activities carried out in some of the countries

Country	Activity
<b>Ethiopia</b>	AU-led events also involved children with disabilities (CWD) from Kenya, Angola, and The Gambia. CWD participated actively in Quiz, Literature, Art. CWD in other parts of the country also exhibited their talents and special gifts and engaged in different sporting activities.
<b>Botswana</b>	A debate that offered children an opportunity to voice their opinions on CWD
<b>DRC</b>	The UN CRC was translated into Braille
<b>Lesotho</b>	Participants painted their hands on a giant flag as a sign of support for people with disabilities
<b>Senegal</b>	Caravans attracted attention and created awareness on the rights of CWD
<b>Zimbabwe</b>	Prominent persons such as musician, Oliver Mtukudzi supported the DAC as a way of promoting child rights
<b>Uganda</b>	The U-Report posted a question to 100,000 U-Reporters asking, 'Do you think the Government has done enough to promote inclusive education for children and youth living with disabilities?' Of the 13,000 responses, 59% said 'Yes', 30% said 'No' and 11% gave other responses.
<b>Swaziland</b>	A regional dialogue and conference was held, marking a departure from the usual programmatic interventions where the key target audience, children, participate actively and are part of advocacy interventions.

Think of some of the innovative ways in which you could celebrate the DAC in your country.



### 2.4.3 The Protection Mandate

The Committee of Experts is also vested with a mandate to ensure the protection of children's rights and welfare. The protection mandate has mainly been carried out through the receipt and consideration of communications, conduct of investigations and consideration of State Party Reports. Each of these is discussed in this section.

#### The Communications Procedure

A Communication in human rights law and practice is a petition presented by either a State or an individual to an international or regional human rights protection body, which alleges violations of human rights protected under a treaty to which the offending is a party and thus seeks a remedy. Communications have therefore become an effective way in which individuals and other States can hold one State accountable for wrongs committed, which violate international human rights norms. Treaty bodies which are mandated to receive and consider communications often lay down rules to guide their submission and consideration.

The Committee of Experts was the first child rights treaty body in the world mandated to consider Communications. Article 44(1) of the African Children's Charter mandates the Committee to receive Communications. In 2014, a third Optional Protocol to the CRC on the Communications Procedure entered into force, granting the Committee on the Rights of the Child, competence to also receive and consider communications. To date, the Committee has received three Communications and considered two of them fully on their merits. The first decision of the Committee on the merits of a Communication was given in March 2011 in *Comm 002/09 Institute for Human Rights and Development in Africa (IHRDA) & Open Society Justice Initiative (OSJI) on behalf of Nubian Children v Kenya*.

The ACERWC's rules guiding the consideration of Communications are provided in the '**Revised Guidelines for Consideration of Communications by the African Committee of Experts on the Rights and Welfare of the Child**'(2014)(the Communications Guidelines).

The Communications Guidelines define a Communication as follows:

**“Communications” shall be understood to be any complaint received by the Committee in accordance with Article 44 of the African Charter.**

This definition is quite broad and provides a good opportunity for a wide group of stakeholders to present any key issue affecting the rights and welfare of the child to the Committee of Experts. It can also be observed further from this definition, read together with article 44 of the African Children's Charter that the persons entitled to present Communications include:

- » Individuals, including the victimised child, his parents or guardians or legal representatives, and any other natural or legal person;



- » Intergovernmental or non-governmental organisations legally-recognised by one or more Member States of the AU, State Party to the ACRWC or the UN; and
- » Specialised agencies of the AU or UN.

The complainant submitting the Communication may designate an attorney or another person to represent him or her before the Committee.

The Guidelines also provide that a Communication may be presented on behalf of a child or victim without his or her consent provided the author shows that it is in the supreme interest of that child or victim to do so. A victimised child who is capable of expressing himself shall be informed of the Communication filed on his or her behalf.

A Communication being submitted to the Committee of Experts should meet these formal conditions:

- » It must not be anonymous;
- » It must be written in one of the official languages of the Committee (usually English and French);
- » It must not concern a State that is not a party to the African Children's Charter; and
- » It must be duly signed by the complainant or his or her representative or both.

The Guidelines however provide that the Committee of Experts may admit a Communication against a non-party State to the ACRWC if it is in the best interest of the child to do so. In admitting such a Communication, the Committee will collaborate with other bodies implementing treaties to which the ACRWC non-party State is a party to.

The Communication must also contain the following information:

- » Particulars of the complainant and the State Party against whom the Communication has been filed;
- » Name of the victim (where he or she is not the complainant) and the names of any public official or authority who is apprised of facts or violation alleged;
- » Whether or not the complainant or victim wishes to be anonymous;
- » The State alleged to have violated the African Children's Charter;
- » An account of the facts, indicating the act or situation that led to the violation, specifying places and dates of the alleged violations;
- » The provisions of the Charter alleged to have been violated;



- » The remedies sought by the complainant;
- » The steps taken by the complainant to exhaust domestic remedies or whether it has been impossible to do so or the remedies would be ineffective;
- » An indication of whether the Communication has been submitted to another international adjudicatory body; and
- » Contact details for correspondence with the Committee.

When the Secretariat of the Committee receives a Communication, it will process it in the following manner:

- » Assign a title and number, register it, endorse it with the date of receipt and acknowledge receipt to the complainant within 21 days of the date of receipt;
- » Ascertain that the Communication meets the conditions as to form and content of Communications under section II of the Guidelines;
- » Should the Communication not meet the requirements of section II, a request to the complainant or his or her representative to ensure compliance with the rule within 30 days.
- » Where the Secretariat is in doubt as to whether the Communication complies with the section II of the Guidelines, it shall consult the Chairperson of the Committee;
- » Having satisfied itself that the Communication complies with the Guidelines, it will forward the Communication to the Committee.

If the Communication shows evidence of serious or massive violations or a case of emergency, the Secretariat would immediately notify the Committee for the latter to consider any provisional measures. Provisional measures are actions and processes that the Committee requires a State Party against whom a Communication has been filed or about to be filed to take to prevent irreparable harm from being done to a child victim of violations under the African Children's Charter.

In making a decision on whether or not to request that a State adopt provisional measures, the Committee would take these factors into account, as required by the Guidelines:

- » The gravity and urgency of the situation;
- » The irreparable nature and imminence of the harm;
- » Whether the relevant authorities are aware of the situation or harm or any reasons why it has not been possible to inform them;
- » Whether the potential beneficiary or beneficiaries of the provisional



measures can be identified individually or collectively; and

- » Whether the necessary consent of the potential beneficiary or beneficiaries of the provisional measures has been obtained.

Where the Committee decides to adopt provisional measures, it shall do so within 21 days of the matter being brought to its attention. The State requested to implement the provisional measures is required by the Guidelines to report back to the Committee on the implementation within 15 days of receipt of the request. The Committee would also periodically monitor the implementation of the measures to determine whether to maintain them or adopt follow-up measures.

For a Communication to be considered by the Committee, it must first pass the test of admissibility. Unlike the ACHPR, the African Children's Charter is silent on the requirements for admissibility. That notwithstanding, the Committee's Guidelines on Communications draws inspiration from the ACHPR and sets out these criteria for admissibility:

- » The Communication is compatible with the provisions of the Constitutive Act of the AU or with the ACRWC;
- » The Communication is not exclusively based on information circulated by the media or is clearly baseless;
- » The issues in the Communication have not been considered, previously settled or pending by or before another international investigation procedure or adjudicatory body;
- » The author has exhausted all the available legal remedies at the national level unless it is shown that these remedies are unduly prolonged or ineffective;
- » The Communication is presented within a reasonable period after remedies at the national level have been exhausted; and
- » The wording of the Communication is not offensive.

Having met these conditions for admissibility and those of form as noted earlier, the Communication is ready to be considered by the Committee. For admissibility, the Committee would follow these steps:

- » The Committee would send a copy of the Communication to the respondent State Party, although the complainant may have requested anonymity;
- » If necessary, a copy of the Communication will be sent to the victim's State if it is different from the respondent State Party as well as to any other entity whose intervention is necessary for the consideration of the Communication;



- » The identity of a victim or complainant who has requested anonymity would not be revealed;
- » The respondent State Party would submit its response to the Communication to the Committee within 60 days of being requested to respond. The State may seek an extension of this period but it must do so before the end of the 60-day period. A maximum extension of 30 days may be granted only once;
- » If the Committee is of the view that the life of a child victim is in danger, it may request the respondent State Party to submit its response within the shortest possible time;
- » Having received the State's response, the Committee will forward a copy to the complainant within 14 days of receiving the response. The complainant may reply within 30 days of receiving the response. Where the complainant is unable to do so, he or she may request an extension before the expiry of the 30 day-period. The Committee may grant only one extension for 14 days.
- » Before deciding on the admissibility of the Communication, the Committee may invite the parties to submit any further information. Whatever information is provided by one party will be transmitted to the other party by the Committee.

Having received all the relevant information and submissions from the parties, the Committee would deliberate on the admissibility of the Communication and give its decision within 90 days of the conclusion of its consideration. The parties will be given written copies of the decision with the Committee's reasoning. The decision on admissibility would also be included in the Committee's annual report to the AU. A decision on admissibility is without prejudice to the merits of the case. The Committee may also decide to defer its decision on admissibility until the final determination of the Communication on the merits. In this instance, the Committee will formally notify the parties of its resolution to defer the decision on admissibility.

Once the Committee decides to admit a Communication, it will proceed to examine it on the merits. The procedure for consideration on the merits can be summarised in these points:

- » The respondent State Party will submit its arguments and evidence on the merits of the Communication to the Committee within 60 days;
- » Before the Committee commences its consideration on the merits, it may set a period for the parties to express their interest in reaching an amicable settlement;
- » If the respondent State Party submits any written statements, these would be transmitted to the complainant, who will have 30 days within





which to submit any additional information or observations;

- » The Committee will generally consider requests for extension of time by the parties once they are made before the lapse of the original period. However, no extension would exceed 30 days and be granted more than once to a party.

The Committee may decide to hold a hearing for a Communication during which the parties and any other relevant person including witnesses, experts and interested parties would oral submissions, testify or provide any relevant information to the Committee for the resolution of the matter. If a party seeks a hearing, it should make its request to the Committee within 90 days prior to the Session at which the Communication will be considered.

A child is also permitted to participate in the proceedings. The Committee is required by the Guidelines to take measures to ensure the effective and meaningful participation of a child victim in the consideration of the Communication. A child who is capable of expressing his or her views, should be heard by the Committee.

A respondent State Party is also required to give an undertaking not to victimise the complainant, victim or any other person who has given testimony or provided information to the Committee on the Communication.

The Committee will keep a record of all hearings and may make a copy available to the parties upon request, unless in the Committee's view, doing so would result in harm to the persons who have provided information to it.

If a respondent State Party fails to make any submissions within the stipulated periods under the Guidelines, the Committee would proceed to consider the Communication without the State Party. If necessary, it will conduct its own investigations to obtain any relevant information for determining the Communication.

Parties to a Communication are at liberty to settle their dispute amicably, however the Committee may also seek an amicable resolution of a Communication, appointing one or more of its members to facilitate the process. If successful, the Committee will adopt a report on the amicable settlement, which has been endorsed by the parties. However, the Committee will not pursue an amicable settlement if the matter does not lend itself to such resolution, if any of the parties doesn't consent to an amicable resolution, chooses not to continue with a settlement, or is unwilling to reach a settlement. Further, Committee will not amicably settle a Communication involving serious and massive violations of children's rights.

During the consideration of a Communication, a Committee Member may not take part if any of these situations is applicable:

- » Is a national of the respondent State Party;



- » the Member has any personal interest in the case;
- » the Member has participated in any decision-making process concerning the case relating to the communication; or
- » has publicly expressed views which prejudices the impartiality of the Committee Member.

The Committee will consider any issue of the non-participation of a Committee Member in the consideration of a Communication without the member concerned. A Committee may also voluntarily decline from considering a Communication and duly inform the Chairperson of the Committee. After consulting with the other Committee Members on these situations, the Chairperson would formally acknowledge the withdrawal of the Committee Member concerned and inform him or her accordingly.

In considering a Communication on the merits, the Committee may conduct on-site investigations in the respondent State Party, allow parties to raise preliminary objections and allow third parties to make interventions or submit *amicus curiae* ('friend of the court') briefs.

At the conclusion of the consideration on the merits, the Committee will deliberate on the facts and evidence before it and adopt a report on its deliberations. From the deliberations, the Committee will give its decision within 90 days from the conclusion of its deliberations. The Guidelines provide a format for the Committee's decisions as follows in section XIX(1)(ii):

- a) The title of the communication;
- b) The date on which decision is delivered;
- c) The identity of the parties or their representatives subject to requirement of anonymity;
- d) A Summary of the proceedings
- e) A summary of the submissions of the parties
- f) The relevant steps taken by the Committee in its consideration of the communication including any precautionary measures adopted, on-site investigations conducted and any hearings held;
- g) The relevant facts and law examined
- h) reasoned decision on the admissibility of the communication with full analysis of facts and law;
- i) The reasoned decision on the merits with full analysis of facts and law;
- j) The conclusions of the Committee
- k) recommendations of the Committee on actions to be taken by the parties to remedy the violations found by the Committee;



- l) The operative aspects of the decisions;
- m) The signature of the Chairperson

The Committee's Secretariat will notify the parties of the decision within 30 days of its adoption. It will also include the decision in its annual report to the AU. The decision will only be made public after the AU Assembly has given the necessary approval for the publication of the Committee's report according to article 45(3) of the African Children's Charter. The non-publication of the report, pending the Assembly's approval will not affect any steps towards implementation of the decision.

The Committee may on its own initiative or at the written request of a party review its decision upon the grounds provided in section **XX** of the Guidelines. A respondent State Party has 180 days from the date of receiving the Committee's decision to report back to the Committee on the progress of implementation. If State Party does not provide this report, the Committee will notify it and give the State a further 90 days within which to report back. If there is still no report, the Committee will refer the matter to the AU Assembly for its appropriate action.

The Committee will also appoint one of its Members to monitor the implementation of the decision and receive progress reports from the Member at each Session. The Committee will also draw the attention of the AU's Permanent Representatives Committee (PRC) and the Executive Council to any instances of non-compliance with its decisions by a State Party.

Where necessary, at the Committee's own initiative or at the request of a complainant, the Committee will facilitate access to legal assistance for the complainant in the interest of justice and within the Committee's resources. The Committee will only facilitate access to legal assistance if it is convinced that it is essential to the consideration of the Communication and ensures equality between the parties, and if the complainant is unable to meet all or part of the costs involved in pursuing the Communication.



### Case Study: Suggested Format for a Communication

Drawing from the Communications submitted to the ACmHPR and the ACERWC, the following format is usually followed in putting together a Communication.

- » The author of the Communication. This may be a CSO, NGO, law firm, etc. (noting if anonymity is requested)
- » Victim(s) on whose behalf Communication is being brought.
- » State Party against whom the Communication is being brought.
- » Statement of the facts.
- » Statement of the provisions of the ACRWC that have been violated.
- » Arguments for admissibility (describe measures taken to exhaust local remedies or state arguments for falling under exceptions to the rule)
- » Under admissibility, indicate compliance with the requirements as to form and content.
- » Full presentation of the facts and evidence, describing the time, place and dates of events and the various rights that these facts have violated. Indicate the persons who have committed the violations (agents of the State).
- » Arguments in support of the evidence. Draw on African regional and international human rights jurisprudence. (Refer to Article 46 of ACRWC).
- » Indicate the urgency of the matter and if necessary, request provisional measures.
- » State the remedies you require. Be as specific as possible.

For evidential support, these sources are recommended:

- » Collect affidavits from victims (a very good source of first-hand information)
- » Documentary evidence
- » Audio-visual evidence
- » Media reports
- » Reports of international organisations (UN, AU agencies, international NGOs)



## Role Play 1: Consideration of a Communication

In this exercise, participants will receive a hypothetical case (annexed to this Tool Kit) on alleged violations of children's rights. Participants will then simulate the preparation, submission and consideration of a communication by playing the roles of authors of the Communication, State Party and the Committee of Experts. At the end of the exercise, participants will discuss their observations and ask questions.

### Instructions:

1. Divide the class into three groups
2. Group 1 will be the ACERWC (11 members) and its Secretariat (4 staff)
3. Group 2 will be Representatives of the State Party (one half of the class after selecting the ACERWC and its Secretariat)
4. Group 3 will be authors of the Communication (the remaining half of the class after selecting the Representatives of the State Party)
5. Group 3 will prepare a short Communication in short bullet points according to the Guidelines on Communications
6. Group 2 will prepare its response to the Communication
7. Group 1 will convene a hearing to consider the Communication. The hearing will last for 30 minutes. Groups 2 and 3 will have 10 minutes each to present their arguments. Group 1 will have 10 minutes to deliberate and give its decision on the Communication
8. The Committee Secretariat Staff from Group 1 will facilitate the conduct of the hearing and transmission of information between the parties.
9. For the role play, participants are to be provided with the following:
  - a) Hypothetical Case
  - b) Flip Chart Sheets on which to note short bullet points
  - c) ACERWC Guidelines on Communications
10. Participants should preferably be divided into the Groups and given the materials for the exercise on day 1 of the Training Programme and the exercise conducted on day 2. This will give them enough time to study the case and prepare adequately.
11. At the end of the role play, participants will discuss the exercise, making their observations about the process, nature of arguments, response from the Committee (decision and recommendations made) and strategies for implementing the decision, noting the challenges and prospects. This should last for about 20 minutes.
12. Total time allotted for the exercise will be 1 hour.



## Investigations

The Committee of Experts is also empowered by article 45 of the African Children's Charter to adopt any appropriate method of investigating any matter falling within its mandate. To enable it carry out such investigations effectively and efficiently, the Committee has developed and adopted the '**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 (ACERWC/8/5)**' (the Investigations Guidelines).

The Investigations Guidelines define an investigation mission as 'a team of the Committee of Experts on the Rights and Welfare of the Child to a State Party of the Charter to gather information on the situation of the rights of the child in the State Party.'

From this definition, one is able to identify the key aims of an investigation mission as these:

- » To assess the state of children's rights in a country;
- » To clarify facts and establish the responsibility of individuals and the State arising out of any violations of child rights; and
- » To promote the implementation of the ACRWC in the country.

There are three main types of investigations that the Committee carries out, as provided for in article 4 of the Investigations Guidelines. These are:

- » Investigation on issues referred to the Committee;
- » Investigations initiated by the Committee (arising out of a Communication for example); and
- » Investigations at the invitation of a State Party.

The conduct of investigations begins with the composition of the investigation team. This the Committee does by establishing a sub-committee or ad-hoc working group to prepare for the investigations. The team would be made up of a Head of Mission, Rapporteur and Independent Experts. The Committee or its Chairperson would decide on the size of the investigation team, depending on the nature of the issues and the urgency. A Committee Member cannot take part in an investigation if he or she is a national of the State Party to be investigated; resides in the territory of the State Party concerned; or where the mission is to a State Party that nominated the Member concerned for election to the ACERWC.

Having selected an investigation team, the team gets down to preparing a Pre-Mission Report which will address all the preparatory matters concerned with the mission. These preparatory matters include mission dates, places to visit, organisations and individuals to meet and other related issues.

During an investigation mission, the team will interact with relevant persons, children, institutions and collect all the information it needs. Depending on the type of mission, the Committee may also carry out or participate in activities to promote the African Children's Charter or other child rights standards.

At the conclusion of an investigation mission, the team prepares a Mission Report which it submits to the Committee for its consideration and approval. The approved Mission Report will form part of the Committee's Report to the AU Assembly. In line with the African Children's Charter, when the Assembly has approved the Committee's Report and authorised its publication, all State Parties will be obliged to publish the Report widely in their territories. In this way, the Committee's findings from the investigations will also be well-disseminated.

After the publication of the Mission Report, the Committee would monitor the State Party's progress in addressing the findings and recommendations of the Committee from the investigations. In the case of an investigation on matters referred to the Committee, the State Party concerned shall report back to the Committee on measures taken within six months, where the investigations arise out of a Communication. The Committee may also independently gather information on the progress being made by the State Party, or the State Party may be requested to include measures taken in its State Party Report to the Committee.

Where the investigations are initiated by the Committee itself, it would periodically monitor the measures undertaken through the State Party Reports. It may also invite specialised institutions and CSOs to furnish it with information on the measures taken.

Investigations by the Committee are guided by certain principles. The Guidelines lay down these principles as follows:

- » Impartiality and independence;
- » Collection of all necessary information;
- » Conformity to the mission mandate;
- » Respect for the four basic principles of child rights;
- » Respect for local laws and regulations by the mission team;
- » Protection of victims by violations by the State Party;
- » Right of the State Party to comment on the information collected by the investigation team at every stage of the mission.



### Discussion Questions 3 and 4

- » How can I as a CSO, Government Official or REC Child Rights Focal Person contribute to an investigation mission by the Committee?
- » What are some of the challenges that affect the effective use of investigation missions by the Committee?

#### Instructions:

1. *The session should last not more than 10 minutes*
2. *A volunteer from the participants would list the responses on a flip chart sheet*

### Consideration of State Party Reports

One of the most important obligations of the State under the African Children's Charter is to regularly provide an update on the progress it is making to realise the rights under the Charter and fulfil its obligation thereunder. Article 43 of the African Children's Charter requires State Parties to undertake to submit a report to the Committee of Experts through the Chairperson of the AU Commission, on the measures they have taken to give effect to the provisions of the Charter as well as the progress made in the enjoyment of the rights. An initial report should be submitted by the State within two years of ratifying the Charter and thereafter, once every three years.

The State Reporting process therefore involves three key steps. First, the preparation and submission of the Report to the Committee. Second, the consideration of the Report by the Committee and feedback to the State Party in the form of Concluding Observations. Third, follow up by the Committee on the State Party's progress in the implementation of the Charter and recommendations made in the Concluding Observations. All these processes take place in the context of a **constructive dialogue** between the Committee and State Party concerned. Although the State Reporting process is intended to make States accountable for their obligations under the African Children's Charter, it is not meant to be a 'witch-hunting' or adversarial engagement with the State Party. As can be gleaned from article 43 of the Charter, through the State Party Report, the Committee is able to identify successes and challenges encountered by the State in implementing the Charter and together work to consolidate the successes and mutually find solutions to the constraints. To sustain this dialogue and interaction with the Committee, the Revised Rules of Procedure of the Committee provide in rule 68(3) that State Parties may provide complementary reports and information at the request of the Committee in between the set reporting periods.

It is also important to note that while the Government leads the process of the preparation of the State Party's report and presents the report to the Committee, the report is not a 'Government' report. Rather, it is a 'State' report and should therefore reflect the active



participation of both governmental and non-governmental entities, particularly children. As will be seen later on, this characteristic is one of the requirements to be fulfilled by the report.

State Reporting is useful in many ways but notably, it provides a medium through which the ACERWC is able to monitor implementation of the Charter. It affords an opportunity for dialogue with State Parties and CSOs to identify challenges and develop solutions to address them. State Reporting is also an accountability mechanism through which States can be held responsible for the state of child rights and welfare on their territories.

The preparation, submission and consideration of State Party Reports are governed by two of the working documents of the Committee, namely:

- » Guidelines for Initial Reports of States Parties (Prepared by the African Committee of Experts on the Rights and Welfare of the Child Pursuant to the Provision of Article 43 of the African Charter on the Rights and Welfare of the Child) Cmttee/ACRWC/2 II. Rev2; and
- » Guidelines on the Form and Content of Periodic State Party Reports to be Submitted Pursuant to Article 43(1)(b) of the African Charter on the Rights and Welfare of the Child (2014).

The Guidelines on Initial Reports situate the preparation and presentation of the Report within the context of article 43 of the African Children's Charter. Accordingly, the Report is to provide the Committee with information on the legal and policy framework for the promotion and protection of children's rights and welfare in the State Party. The Guidelines require that the Report be accompanied by the text of any key laws on children as well as relevant statistical information. To facilitate the preparation of the Initial Report, the Guidelines require State Parties to present the information under the following headings:

- » General Measures of Implementation (dealing with measures taken pursuant to article 1 of the Charter);
- » Definition of the Child (providing information relevant to article 2 of the Charter);
- » General Principles (providing information on the four cardinal principles of child rights under articles 3, 4, 5, 7, 12 and 26);
- » Civil Rights and Freedoms (covering articles 6, 7, 8, 9, 10, and 16);
- » Family Environment and Alternative Care (covering articles 16, 18(3), 19(2) & (3), 20, 20(1), 25(2)(b) and 27);
- » Health and Welfare (covering articles 5, 13, 14, 20(2)(a)-(c), and 26);
- » Education, Leisure and Cultural Activities (covering articles 11 and 12);



- » Special Protection Measures (covering articles 15, 16, 17, 17(2)(a), 17(3), 21(1)(a) and (b), 21(2), 22, 23, 25, 26, 27, 28, 29, 29(b), 30 and 30(d) and (f)); and
- » Responsibilities of the Child (covering article 31).

The Guidelines permit States which have already submitted Reports to the UN Committee on the Rights of the Child to present information already contained in those Reports in their Reports to the Committee of Experts. In so doing however, they are to ensure that they have addressed the provisions that are specific to the African Children's Charter. Further, the Report to the Committee must address any recommendations made to the State by the UN Committee on the Rights of the Child or the Committee of Experts.

While the Committee makes this concession to facilitate the reporting process, it is important that State Parties do not just prepare one report and title it differently for the Committee of Experts and the UN Committee on the Rights of the Child, as has been done by some States in the past. Although the two treaties on children have some similarities and the two monitoring Committees collaborate on their respective mandates, it is crucial to respect the differences between the two systems and adequately respond to the requirements of the two instruments.

Having submitted an Initial Report, the time comes three years thereafter when the State must submit a Periodic Report. As noted previously, the preparation and submission of the Periodic Report is regulated by the Draft Guidelines on the Form and Content of Periodic State Party Reports to be Submitted Pursuant to Article 43(1) (b) of the African Charter on the Rights and Welfare of the Child (2014) (Guidelines on Periodic Reports). The first important aspect to note about these Guidelines on Periodic Reports are the conditions given relating to format. These conditions are as follows:

- » The Report must be concise and structured, using clear and free-flowing language;
- » The Report must not exceed 80 pages or 35,000 words in length, excluding any annexes;
- » The Report must be accompanied by copies of the relevant provisions of any legislative, judicial or administrative texts referred to;
- » The Report must be submitted in at least one official language of the AU; and
- » The Report must provide the full meaning of any abbreviations used which would not be immediately understood outside the State Party.

The next important requirement of the Guidelines relates to the drafting process. The Periodic Report must provide information on the drafting process, noting that it must be



**consultative** and **inclusive**, although it is led by Government agencies. The Report must particularly show the involvement and participation of children, indicating parts of the process that were child-led. The role and involvement of CSOs, NGOs and other non-governmental entities must also be shown.

As regards the content of the Periodic Report, the main thrust – as can be gleaned from the Guidelines – is that the Report must update information provided in the Initial or earlier Periodic Report and show progress. Consequently, the Committee will expect to receive information on the following:

- » Legislative, judicial or administrative measures taken to give effect to the Charter;
- » Institutional measures for national monitoring;
- » Challenges and difficulties encountered in implementation; and
- » Goals, targets and plans to improve implementation in the future.

The Report will then address the substantive areas of the African Children's Charter under these 11 thematic headings:

- » General measures of implementation (article 1)
- » Definition of a child (article 2)
- » General principles (articles 3 and 26, 4, 5, 7 and 12)
- » Civil rights and freedoms (articles 6, 7, 8, 9, 10 and 16)
- » Family environment and family care (articles 16, 18, 19, 20, 23, 24, 25, 26, and 27)
- » Health and welfare (articles 5, 13, 14, 20 and 25)
- » Education, Leisure and cultural activities (articles 11 and 12)
- » Special protection measures (articles 15, 16, 17, 21, 22, 23, 26, 27, 28, 29, 30)
- » Harmful Practices (article 21)
- » Child Justice
- » Responsibility of the child (art 31)

The Report must also provide the relevant statistical data on these thematic areas.

Having prepared and submitted either the Initial or Periodic Report, the Committee sets in motion its processes for considering the Report. Under rule 69 of the Committee's Revised Rules of Procedure, the Secretariat – having received the Report – may share parts or the whole of it with UN Agencies, AU Regional or Sub-Regional bodies, National Human Rights Institutions (NHRIs) or NGOs/International NGOs with Observer Status. Under this rule also, the Secretariat may request interested parties or other specific



institutions to also submit any relevant information and also notify such parties that the Report will be considered by the Committee.

The next step is to notify the State Party of the time set down to consider the Report. Rule 70 of the Revised Rules of Procedure requires that the State Party should be notified at least 60 days to the Session at which the Report will be considered. The State Party in turn has to nominate its representatives attending the Session and notify the Committee at least 30 days to the Session. If the State Party representative is absent, the Committee may postpone the consideration of the Report. If after duly notifying the State Party of its absence through its representative, no action is taken, the Committee may proceed to consider the Report without the State Party present. During the consideration, the Committee may also seek further information or clarification from the State Party or from other institutions (mainly NGO Alternative Reports, UN Agencies, etc.).

Having considered the Report, the Committee adopts Concluding Observations within 30 days. The purpose of the Concluding Observations is to assist the State Party in implementing the provisions of the African Children's Charter and to respond to the implementation gap identified by the Committee during the consideration of the Report. The Committee also follows up on the Concluding Observations with the State Party to track the progress being made.

State Reporting is useful in many ways. Importantly, it gives the Committee a framework and basis to carry out its monitoring mandate. State Reporting also establishes a platform for the Committee, State Parties and civil society to mutually deliberate on ways to advance children's rights. It affords an atmosphere for identifying problems, design solutions and evaluate the impact of those solutions. The State Reporting system also establishes a framework for accountability, through which the commitment of States to realising children's rights under the African Children's Charter can be assessed.

In spite of these benefits, the effectiveness of State Reporting is constrained by a number of factors, notable among which are these. First, States have a number of reporting obligations under different treaties with varying reporting periods on the average between 2 and 3 years. Thus, the relevant State institutions responsible for producing these reports and following up on implementation have short time gaps in between. A possible solution is to work towards simplifying reporting formats at the national level to encourage stakeholder institutions to provide information in a timely and concise manner.

In some instances, State Parties are also constrained by resources – financial, technical and human – in producing good quality Reports. The expertise to conduct research and compile data on a regular basis may be lacking, in addition to expertise in drafting the Reports. This leads to the third problem of low quality of Reports. If the Report is inadequate, the Committee does not have ample opportunity to scrutinise



and analyse developments in the State Party. In some cases, the Report may be good but the information would not be comprehensive, presenting the same difficulties for the Committee. In this regard, continuous capacity-building for the appropriate national stakeholders is critical. Fourth, resource constraints of the Committee itself may result in delays in considering Reports and getting Concluding Observations back to State Parties. Perhaps, the biggest challenge to the State Reporting process is the failure of State Parties themselves to report regularly and on time. Reporting under the African Children's Charter has been poor. To date, only 25 Reports have been submitted to the Committee of which 2 are Periodic Reports, out of 48 State Parties to the Charter.

### **Alternative/Complementary Reporting**

Although the African Children's Charter is silent on reporting by non-State institutions, the Committee has encouraged the practice of such institutions submitting reports to it. CSOs and NGOs have often been the main actors presenting reports to human rights bodies such as the Committee of Experts. In the course of their work, such reports have been a very useful source of information for human rights bodies. They have made use of such information in evaluating the information provided by the State Party in its Report, filling in gaps or affording an alternative perspective on the State's Report. Rule 69 of the Committee's Revised Rules of Procedure permits the Committee to receive alternative Reports and information.

Reports presented by non-State institutions have been known variously as 'shadow', 'complementary', 'alternative', supplementary, 'NGO', etc. Report. The term 'shadow' Report is however no longer being encouraged as it tends to have a negative connotation. For consistency, this Tool Kit will use the term Alternative Report.

It is important to note from the outset that while the Committee welcomes Alternative Reports from CSOs, it strongly encourages State Parties to adopt a participatory and inclusive approach towards developing the State Party Report. For this reason, non-State stakeholders must actively participate in preparing the State Party Report rather than to withhold any relevant information only to present it in an Alternative Report, when it is obvious that its earlier inclusion in the State Party Report will not in any way undermine the Alternative Report or the work of the stakeholders concerned.

To facilitate and guide the preparation, submission and consideration of Alternative Reports, the Committee adopted the 'Civil Society Organizations (CSOs), Complementary Report, Conduct and Participation of CSOs in ACERWC Pre-session Guidelines' (Alternative Reporting Guidelines) on 15<sup>th</sup> November 2012. The Alternative Reporting Guidelines then came into effect on 14<sup>th</sup> December 2012.

The Alternative Reporting Guidelines sets out three main purposes of the Alternative Report, namely:

- » To provide the Committee with additional specific, credible and



objective information, corroborating or complementing information provided by the State Party;

- » To provide the Committee with a holistic view on the status of implementation of the Charter in the State Party; and
- » To provide the Committee with a limited number of concrete, country-specific, time-bound, realistic and implementable recommendations to enhance the status of children and implementation of the African Children's Charter in the State Party.

The Alternative Reporting Guidelines go further to lay down some principles and values that should underscore the preparation and submission of the Alternative Report. They are as follows:

- » Information provided must be factual, reliable, objective and supported by verifiable evidence.
- » The preparation of the Report must be broad, collective and participatory.
- » The Report must enhance the constructive dialogue between the Committee and the State Party, rather than be antagonistic, judgmental or condemnatory.
- » Using few words, the Report should focus more on implementation of the Charter and the challenges thereto. It must employ reliable and verifiable illustrations to demonstrate the case being made, clearly citing sources relied upon.
- » An Alternative Report about children should always include them in its preparation.

As regards the content and format of the Alternative Report, the Guidelines require that it should exactly follow the format of the State Party Report, be it an Initial Report or a Periodic Report, whichever the Alternative Report is based on. In the case of an Alternative Report to a Periodic Report however, the Guidelines require the following additional elements:

- » Non-duplication of information already given in the Initial Report (such as demographic information), unless it is relevant to the Periodic Report;
- » Provision of concrete examples of steps and measures taken by the State Party to implement recommendations of the Committee;
- » Provision of information on the State Party's failure or inability to implement the Committee's recommendations;
- » Provision of information on any progressive or regressive measures taken by the State Party which impact positively or negatively on the



rights and welfare of the child in the State; and

- » Provision of any other information required by the Guidelines on Periodic Reports.

The Alternative Report will then present the information under these thematic headings:

- » General Measures of Implementation
- » Definition of the Child
- » General Principles (non-discrimination; best interest of the child; life, survival and development; child participation)
- » Specific Cluster of Rights
  - Political rights and freedoms
  - Abuse and torture
  - Family and alternative care
  - Health and welfare
  - Education, leisure and cultural activities
  - Special protection measures
  - Responsibilities of the child

The Report must not exceed 7500 words or 30 pages, whichever comes first. It must include a 3-page Executive Summary and be as succinct as possible regarding issues raised and recommendations to address them. 15 hard copies of the Report must be submitted to the Committee Secretariat in English and French. Soft copies may also be sent by email. The Report must be submitted at least 6 months to the Session at which the State Party Report will be considered or at least 3 months to a Pre-Session. The authors of an Alternative Report must specifically request in the Report to be invited to the Pre-Session. Alternative Reports are also kept confidential, unless the Committee in its discretion decides to make it public, unless the authors request complete privacy. In the event that an Alternative Report presented to the UN Committee on the Rights of the Child has not been largely overtaken by events, the authors may present the same Report to the Committee, however provisions specific to the African Children's Charter must be fully addressed.

Having compiled and submitted the Alternative Report, the next stage of the process begins. This is the Pre-Session. The Alternative Reporting Guidelines outline the purpose of the Pre-Session as a forum to conduct a preliminary review of the State Party Report and to examine any complementary information. Further, it is to identify and address areas of concern which will be developed into questions to be put to the State Party during the presentation of its Report and finally, to finalise preparations for the consideration of the State Party Report.

Participation in the Pre-Session is strictly by invitation and at the discretion of the



Committee. Any request to attend a Pre-Session must be sent to the Committee at least three months before the date of the Pre-Session. The Committee may at its own discretion extend an invitation to AU and UN Agencies and bodies with information relevant to the Pre-Session. It may also invite NGOs, CSOs and individuals who have submitted Alternative Reports or other relevant information to the Committee and have requested to be present at the Pre-Session as well as any other individual or organisation which in the Committee's opinion, has relevant input to make at the Pre-Session. Invitations are strictly limited to the State Party whose Report will be considered for which the Pre-Session has been convened.

The proceedings in the Pre-Session are directed by the Chairperson of the Committee's Pre-Session Working Group. Where an Alternative Report has been prepared or submitted by a group of persons or institutions, they will nominate one person to liaise with the Committee regarding preparations for the Pre-Session and participation therein. During the Pre-Session itself, the Chairperson would make some opening remarks and then invite participants and other parties such as UN and AU Agencies and bodies present to also make opening statements. These should be limited to the issues concerned with the preparation and content of the Alternative Report. These statement should not last more than 10 minutes. After this initial interaction, the Chairperson of the Pre-Session will invite Committee Members to ask questions or make some remarks. Responses to the questions should not exceed 5 minutes.

Pre-Sessions are conducted in accordance with the rules governing Closed Sessions of the Committee. They proceedings are strictly confidential and any breach of these rules will be considered a matter for disciplinary action by the Committee. Pre-Sessions are invitations to participate in them would be done at least 3 months before the date for consideration of the State Party Report.

Alternative Reporting is important and beneficial in many respects. State Party Report would not be able to provide all the necessary information that the Committee requires to make a meaningful assessment of implementation of the Charter by the State. The Alternative Report helps to fill in the gaps in information to provide the Committee with holistic and balance view of developments in the State Party. The Alternative Report also gives the Committee a diversified information base to enhance its child rights monitoring mandate. The process preparing the Alternative Report itself helps to build consensus and strengthen national collaborative efforts of civil society institutions working for and with children. Finally the Alternative Report itself becomes a strategic advocacy document for civil society to use in its engagement with the State Party and the Committee of Experts.

#### 2.4.4 The Interpretation Mandate

The African Children's Charter also mandates the Committee of Experts to interpret the provisions of the Charter at the request of a State Party, an institution of the AU, any





other person or institution recognised by the AU or any other State Party. Interpreting the Charter helps in providing clarity on the provisions and guides States in effectively carrying out their obligations under the Charter. By this interpretation mandate, the Committee is also able to bring the Charter in line with contemporary developments in child rights as well as address situations in the present time which were not or could not have been foreseen at the time of drafting the Charter.

Although the Committee is yet to receive any requests for interpretation of the Charter, it has taken the initiative to explain the import of some of the provisions of the Charter through General Comments on the one hand and Principles and Guidelines on the other. The two methods have been borrowed from the UN human rights system and the African human rights system respectively.

### **General Comments**

General Comments are statements or directives which are issued by human rights treaty monitoring bodies to interpret or clarify specific provisions or themes in the treaties under their supervision with a view to guiding States in their implementation of the treaty concerned. General Comments began in the UN human rights system with the first General Comment being issued in 1972 by the Committee on the Elimination of Racial Discrimination on State obligations under the Convention on the Elimination of Racial Discrimination. Since then, other UN human rights treaty bodies have regularly issued General Comments. In the African human rights system, the ACmHPR was the first to develop a General Comment in 2012 on article 14(1)(d) and (e) of the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (PRWA).

The ACERWC adopted its first General Comment on article 30 of the African Children's Charter on the rights of children of imprisoned mothers during the 22<sup>nd</sup> Ordinary Session in Addis Ababa, Ethiopia held from 4<sup>th</sup> to 8<sup>th</sup> November 2013. The General Comment explains the intent of article 30 and encourages States to undertake constitutional and other legislative reforms to improve their protection of children of incarcerated mothers. One of the innovative features of this General Comment is the expansion of the meaning of 'mother' in the Charter to the primary or sole care-giver of the child who is not the biological parent of the child.

The second General Comment is on article 6, the right to birth registration, name and nationality. The Committee adopted this General Comment during its 23<sup>rd</sup> Ordinary Session held in Addis Ababa from 7<sup>th</sup> to 16<sup>th</sup> April 2014. This General Comment also discusses the content of article 6 and the obligation of the State to prevent statelessness. It also provides guidance on remedies for violations of the article and makes recommendations to States for the effective implementation of article 6.

### **Principles and Guidelines**

In furtherance of its interpretation mandate, the Committee also issues Principles and



Guidelines similarly on specific articles and themes in the African Children's Charter. Like the General Comments, these Principles and Guidelines set standards that assist with interpreting and applying the Charter to various situations affecting children's rights and welfare. They also ensure uniformity in implementation by States and provide the Committee with a common benchmark for measuring the progress made by States in fulfilling their obligations under the Charter. A good example of such Principles and Guidelines developed under the auspices of the Committee of Experts is the Child-friendly Justice Principles in Africa by the African Child Policy Forum (ACPF) and Defence for Children International (DCI).

### 2.4.5 Operations

The African Committee of Experts on the Rights and Welfare of the Child, like any other AU institution, carries out its mandate through a system of operational programmes and units. Similar to other human rights treaty bodies in the AU and UN systems, the Committee organises its work around its Sessions (Pre-Sessions, Ordinary Sessions, Extraordinary Sessions and Joint Sessions), Bureau, Focal Persons (usually known as Special Rapporteurs in other treaty bodies), Secretariat and Working Documents. These operational elements are briefly discussed.

#### Sessions

Sessions are the main meetings of the Committee during which it discusses a host of issues related to its mandate. Under the revised Rules of Procedure of the Committee adopted in 2014, Sessions are covered under Chapter VI. Rule 25 under this Chapter provides that the Committee may hold Ordinary or Extraordinary Sessions for the effective conduct of its work in accordance with the African Children's Charter. These Sessions may be either Open or Closed.

When a Session is Open, deliberations of the Committee are held in public and are accessible to all persons entitled to attend Sessions of the Committee. Open Sessions usually cover the formal opening and closing of Sessions, presentation of statements by CSOs, NGOs, persons and institutions working with the Committee or invited to its Sessions, presentation of studies and launching of programmes, documents and other initiatives of the Committee, and presentation of State Party Reports, among others.

Closed Sessions are held *in camera*, i.e. in private and not open to the public attendance, except to persons specifically invited or requested by the Committee to be present. Consideration of Communications, deliberations on State Party Reports, internal organisational matters of the Committee, deliberations on and adoption of agenda of Sessions, election of a Bureau and Pre-Sessions with CSOs and NGOs on Alternative Reports are examples of some of the issues addressed in Closed Sessions.

The Committee usually holds Ordinary Sessions twice a year, in March or April and then in October or November. Under the Rules of Procedure, the Committee would ordinarily

hold its Sessions at its headquarters, unless a State Party invites the Committee to meet on its territory. Extraordinary Sessions may be convened by the Chairperson of the Committee, upon a written request by simple majority of the Committee Members, upon a written request by a State Party or at the Request of the AU Commission. The Committee may also hold Joint Sessions with other AU human rights treaty bodies. Sessions of the Committee are chaired by the Chairperson of the Committee.

Notification of Committee Sessions are done by its Secretariat at least 30 days before the Session. The notification would usually indicate the date, venue and provisional agenda for the Session. It is a good practice to maintain regular contact with the Secretariat of the Committee to find out when a Session is going to be held and to know which Sessions one can participate in. If one has a part to play in the Session, it is important to ensure that one is adequately prepared with the necessary documents, etc. to ensure effective participation.

### **Elections and Bureau**

As required by article 38(2) of the African Children's Charter, the Committee shall elect a Bureau to serve for a period of two years. The Bureau of the Committee is currently made up of a Chairperson, three Vice-Chairpersons and a Rapporteur. The names of the Members comprising the Bureau is provided under the section on the Structure of the Committee in this Module. Under the new Rules of Procedure, the Bureau will be comprised of a Chairperson, two Vice-Chairpersons, a Rapporteur and Deputy-Rapporteur. Provisions on the Bureau are found in Chapter II of the new Rules.

The Bureau oversees the implementation of the mandate of the Committee. It also supervises and coordinates the work of the Committee's Secretariat and makes recommendations to the Chairperson on the appointment of the Secretary as well as conducts an annual assessment of the Secretariat's work for consideration by the full Committee.

### **Focal Persons**

To further ensure effective delivery on its mandate, the Committee appoints from among its members, Focal Persons on selected thematic areas of children's rights and welfare covered by the African Children's Charter. The Focal Persons lead the Committee's strategies and interventions in their respective thematic areas within the context of the promotion and protection mandate. The work of the Focal Persons is therefore akin to those of Special Rapporteurs of the UN and AU human rights bodies. During the Sessions, Focal Persons report back to the Committee on the work they have undertaken during the inter-Session period. The thematic areas identified for the Committee's Focal Persons are as follows:

- » Survival and Development;
- » Integrated Development of Early Childhood;



- » Juvenile Justice;
- » Registration of Children;
- » Family Responsibilities and Child Responsibilities;
- » Orphaned and Other Vulnerable Children;
- » Child Education;
- » Child Participation;
- » Child Abuse and Exploitation;
- » Violence Against Children;
- » Children in Armed Conflict and Natural Disasters, Refugee and Displaced Children.

### Secretariat

Article 40 of the African Children's Charter provides for the Secretariat of the Committee. The revised Rules of Procedure of the Committee also provides for the Secretariat in Chapter III. The Secretariat is the Committee's main operational hub. The Committee's Secretariat is currently hosted by the AU Commission at its headquarters in Addis Ababa, Ethiopia within the Commission's Department of Social Affairs (DSA).

According to Rule 15 of the revised Rules of Procedure, the Secretariat shall be composed of the Secretary and other professional, technical and administrative staff as the Committee may require for the effective execution of its mandate. Pursuant to article 40 of the African Children's Charter, the Secretary is appointed by the Chairperson of the AU Commission. Other staff of the Secretariat are also appointed through the AU Commission. The current Secretary and staff of the Secretariat are provided under the section on the Structure of the Committee in this Module.

The Secretariat is responsible for the day-to-day operations of the Committee. It receives State Party Reports, Alternative Reports and all other relevant documentation for the attention of the Committee. It assists the Committee with the conduct of its Sessions, ensuring that Members receive all necessary information and documents to be considered. It sends out notification of Sessions and invitations to all persons and institutions entitled to attend. It is also the main liaison between the Committee and both State and non-State institutions that work with the Committee. The Secretariat is therefore a crucial part of the Committee's work. Given the magnitude of the Committee's mandate, its Secretariat is currently under-staffed and needs the support of State Parties and the AU at large to strengthen its capacity and resource base to enable it effectively and efficiently support the Committee in carrying out its functions.

### Working Documents

The Committee of Experts is empowered under article 38(1) of the African Children's



Charter to establish its own Rules of Procedure. In so doing, the Committee has developed a core set of rules to guide its central operations as well as a number of other guiding documents regulating its relationship with civil society and other national, sub-regional and regional institutions concerned with the promotion and protection of child rights and welfare. In addition to these documents, the Committee has also developed or is in the process of finalising other strategies and plans of action in furtherance of its mandate under the African Children's Charter. Together these documents form the working documents of the Committee. It is important for persons working with the Committee to be familiar with these documents and know when to apply them when engaging with the Committee. The following is a list of the principal working documents of the Committee:

- » Revised Rules of Procedure of the African Committee of Experts on the Rights and Welfare of the Child (2014);
- » Revised Guidelines for Consideration of Communications by the African Committee of Experts on the Rights and Welfare of the Child (2014);
- » Guidelines for Initial Reports of States Parties (Prepared by the African Committee of Experts on the Rights and Welfare of the Child Pursuant to the Provision of Article 43 of the African Charter on the Rights and Welfare of the Child) Cmttee/ACRWC/2 II. Rev2;
- » Draft Guidelines on the Form and Content of Periodic State Party Reports to be Submitted Pursuant to Article 43(1)(b) of the African Charter on the Rights and Welfare of the Child (2014);
- » 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 (ACERWC/8/5);
- » 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 (ACERWC/8/6);
- » Civil Society Organizations (CSOs), Complementary Report, Conduct and Participation of CSOs in ACERWC Pre-session Guidelines (2012);
- » Collaborative Plan of Action between the ACERWC and RECs;
- » The ACERWC Communications Plan (2013 – 2017);
- » Action Plan to Increase Collaboration Between the African Peace and Security Architecture and the African Committee of Experts on the Rights and Welfare of the Child (2014);
- » Action Plan for Collaboration between the African Commission on Human and Peoples' Rights and the African Committee of Experts on



the Rights and Welfare of the Child (2012).

- » Draft Document of the Working Methods of the ACERWC, (2014)

## 2.5 Conclusion

In this second Module, trainees have been introduced to the African Committee of Experts on the Rights and Welfare of the Child and its establishment, structure and mandate. The key objective has been to equip trainees with knowledge of the Committee and its work to enable them engage with it effectively and develop concrete strategies for collaborating with the Committee to advance child rights and welfare at the national and sub-regional levels.

### 2.5.1 Points to Remember

- » The African Committee of Experts on the Rights and Welfare of the Child is the 11-Member independent body of experts appointed by the African Union to ensure the promotion and protection of children's rights in Africa
- » The Committee of Experts exercises its mandate in three principal ways – promotion, protection and interpretation of the African Children's Charter
- » The functioning of the Committee of Experts is directed by the Bureau and supported by the Secretariat of the Committee
- » Key aspects of the Committee's mandate include the Day of the African Child, consideration of Communications, conduct of Investigations, consideration of State Party Reports and Alternative Reports by CSOs
- » The Committee is guided in its work by a set of working documents aimed at ensuring effective delivery on its mandate

## 2.5.2 Questions for Self-Evaluation

- » Can I name at least **three** current members of the ACERWC?
- » Can I list the **three** core mandates of the ACERWC?
- » Can I list at least **two** functions under each of the three core mandates of the ACERWC?
- » Can I identify at least **three** key elements of a Communication?
- » Can I identify at least **four** thematic areas to be covered in a State Party/Alternative Report?
- » In what innovative ways can I celebrate the Day of the African Child in my country?
- » How best can I support the ACERWC on an investigation mission?



# Module Three: The African Committee of experts on the Rights and Welfare of the Child within the African Union System

## 3.1 Overview of Module

This third module discusses the place of the Committee of Experts in the AU. It begins by giving participants a brief history of the AU and then outlines the major institutions that have a relationship with the Committee of Experts. For each of these institutions, their relationship with the Committee of Experts is identified. Accordingly, the module covers the Organs of the AU, namely the Assembly, Executive Council, Permanent Representatives Committee, Peace and Security Council, Pan-African Parliament and African Union Commission. The module also addresses relationship between the Committee of Experts and the human rights monitoring bodies, the ACmHPR and the ACtHPR. It then discusses the relationship with RECs, NHRIs and CSOs, all of who play a critical role in the functioning of the AU.

## 3.2 Objective of Module

The module aims to give participants an overview of what the AU and its principal institutions are. Its objective is to help participants know and understand how the Committee of Experts fits into the AU framework and how it interacts with these key institutions. Having gained this knowledge, it is expected that participants will be better placed to target their advocacy, treaty implementation activities, monitoring and reporting with the collaboration and support of these AU institutions which work with the Committee of Experts

## 3.3 Learning Outcomes

### By the end of this Module, trainees will know:

- » What the AU is
- » What the major institutions of the AU are
- » Where the ACERWC fits in the AU
- » How the ACERWC interacts with the major institutions of the AU

## 3.4 Topic Summaries

### 3.4.1 Brief History of the African Union

The AU was established in Durban, South Africa in July 2002 to succeed the



Organization of African Unity (OAU). The OAU had been established in May 1963 by the then independent African States to promote regional integration under the ideological banner of Pan-Africanism. The OAU was essentially a political organ, whose main principles included non-interference in the internal affairs of Member States; respect for the sovereign integrity of Member States; and the peaceful settlement of disputes.

Having been experienced the pain of colonialism and subjugation as well as enjoying their new-found independence, it was not surprising that the founding nations of the OAU set among their key objectives, the following:

- » Defence of the sovereign and territorial integrity of independent states;
- » Obtaining and safeguarding independence for colonised states; and
- » Eliminating all colonialism and apartheid on the African continent.

In its years of existence, the OAU was able to end colonialism and apartheid in Africa with South Africa's return to full democratic rule in 1994. Unfortunately the OAU was not able to fully protect and guarantee the fundamental human rights of the individual.

In the 1990s, with the winds of democratic governance, the end of the Cold War, economic growth, globalisation and increasing focus on the protection of human rights, African leaders came to the realisation that the OAU could not adequately meet the challenges that these major developments came with. The OAU therefore established the African Economic Community (AEC) to pursue economic integration guided by sound democratic principles. In this regard the AEC Treaty provided for institutions such as the Pan-African Parliament, Court of Justice, Secretariat and Specialised Technical Committees.

The Member States of the OAU continued to work towards realising the objectives set out in the AEC Treaty and to reform the OAU to make it more responsive to global trends and the needs of Africans. Consequently, the OAU Summit in Sirte, Libya in 2000 called for the establishment of an African Union to accelerate the process of regional integration and economic development to meet the pace of globalisation. From 2000 to 2002, the process of merging the OAU (a largely political body) with the AEC (an economic integration framework) was undertaken, leading to the birth of the African Union in Durban.

The AU was established by its Constitutive Act, which had earlier on been adopted by the OAU in Lome, Togo in 2000. The Constitutive Act outlined the principles, objectives, organs, structure and functioning of the AU. Unlike the Charter of the OAU, the Constitutive Act clearly made references to the promotion and protection of human rights in its principles and objectives and established institutions that would have responsibilities in this regard. Some of the references to human rights promotion and protection in the Constitutive Act are these:

- **Preamble (para 9):** 'Determined to promote and protect human and



people's rights, consolidate democratic institutions and culture... ensure good governance and the rule of law....'

- **Objectives (Article 3h):** 'promote and protect human and people's rights in accordance with the African Charter on Human and People's Rights and other relevant human rights instruments'
- **Principles (Article 4h):** 'right of Union to intervene in a member State' in serious cases of war crimes, genocide and crimes against humanity'
- **(Article 4m):** 'respect for democratic principles, human rights, the rule of law and good governance'
- **(Article 4p):** 'condemnation and rejection of unconstitutional changes of government'
- **Article 30:** Suspension of governments which assume power unconstitutionally (coups, uprising, rebel activity, insurgency, etc.)

Having been established as the successor of the OAU, the AU therefore continued the treaties and institutional framework of the OAU, making the necessary reforms to reflect the changes brought about by the Constitutive Act. Thus, for example, the OAU Secretariat became the AU Commission. The human rights bodies like the ACmHPR and the ACERWC were also included within the framework of the AU. It is important to note that the both the ACHPR and the African Children's Charter had clearly stated that the two bodies would be established within the OAU. Consequently, the AU continued their existence and operation within its framework. The rest of the module will therefore describe the main institutions of the AU and how the Committee of Experts relates to them in the promotion and protection of children's rights.

### 3.4.2 African Union Organs and the ACERWC

#### The Assembly of the AU

The Assembly of the AU is the highest organ of the AU and is established by article 6 of the Constitutive Act. It is made up of Heads of State and Government of the Members States of the Union. It is the highest decision-making body and final authority on all matters affecting the AU. The Assembly meets twice a year for its Ordinary Sessions but also meets occasionally in Extraordinary Sessions when the need arises.

The Assembly appoints the members of the Committee of Experts after they have been elected. It also appoints the members of the ACmHPR and the judges of the ACtHPR. It receives and considers the Reports of the ACERWC, ACmHPR and ACtHPR and approves their publication. Most importantly, the Assembly is responsible for implementing the recommendations and decisions made by the ACERWC and its sister treaty-monitoring bodies.

## The Executive Council

The Executive Council is established by article 10 of the Constitutive Act. It is composed of the Foreign Ministers of AU Member States. The Executive Council advises the Assembly on all its decisions and directives to Member States and the functioning of the AU as a whole. The Council meets twice a year before the Sessions of the Assembly. It also holds extraordinary sessions when necessary. The Executive Council also receives and deliberates on the activity reports of the ACERWC, ACmHPR and ACtHPR before they are considered by the Assembly. The Executive Council elects the members of the ACERWC, ACmHPR and judges of the ACtHPR before they are formally appointed by the Assembly. Under the Protocol to the African Charter on Human and Peoples' Rights on the Establishment of an African Court on Human and Peoples' Rights, the Executive Council is responsible for monitoring the execution of the judgments of the ACtHPR. The Council therefore plays a crucial role in ensuring that decisions on Communications, Investigation Missions and judgments on matters concerning children are effectively implemented.

## Permanent Representatives Committee

The Permanent Representatives Committee (PRC) is established by article 21 of the Constitutive Act. The PRC is made up of the ambassadors and permanent representatives of AU Member States to the AU. The PRC usually meets once a month at the headquarters of the AU in Addis Ababa. The PRC mainly works as an advisory body to the Executive Council. Beyond that, it plays a very important role in the liaising between and facilitating the work of the Executive Council and Assembly on one hand and the Commission, specialised agencies, treaty bodies and institutions on the other. The PRC works mainly through plenary sessions and committees. The PRC is therefore one of the most active Organs of the AU. The PRC is the hub for all the key policy formulation and implementation activities of the AU. The PRC does the preparatory work of the Executive Council before the latter's meetings and implements the decisions and directives of the Council channelled to the Committee. It prepares the agenda and key decision points for the Executive Council's meetings, and serves as the main channel of communication between the AU Commission and Member States. It considers and reviews the budget, programmes and other administrative matters of the AU Commission and makes recommendations thereto to the Executive Council for its approval. Key appointments to the AU Commission, consideration of candidates for election to treaty bodies such as the ACERWC are done by the PRC.

The PRC is therefore essential to the work of the Committee of Experts. The budgetary and other resource allocation to the Committee for its effective operation is determined by the PRC. It considers and approves the annual calendar of activities of the Committee, ensuring that it is well-harmonised with the AU's calendar and performs indirect supervisory functions over the Secretariat of the ACERWC through the AU's Department of Social Affairs.



Since the PRC is made up of members who are permanently present in Addis Ababa, the Committee's Secretariat liaises a lot with the PRC. However, to ensure that the Committee maintains close collaboration with the PRC directly, it has developed strategic plans of action for this purpose and to guide Committee members on the most efficient and effective ways to work with the PRC. These plans are also intended to help the PRC prioritise issues affecting children and in turn, strengthen their engagement with the ACERWC.

### **Peace and Security Council**

The Peace and Security Council (PSC) is the AU's Organ charged with maintaining peace, security and stability on the continent. The Constitutive Act of the AU establishes the PSC under a new article 20 by virtue of article 9 of the Protocol on Amendments to the Constitutive Act of the African Union (2003), as a permanent body for the prevention, management and resolution of conflicts. A more detailed instrument spelling out the functions of the PSC – the Protocol Relating to the Establishment of the Peace and Security Council of the African Union (PSC Protocol) – was adopted in July 2002 by the AU. The PSC is also the principal organ of the African Peace and Security Architecture (APSA), which has been established by the AU together with the RECs to address conflict prevention, management and resolution on the continent. The PSC also meets regularly at the AU's headquarters to deliberate on matters within its mandate and as directed to it by the Assembly or the Executive Council.

The PSC's work with the Committee of Experts is founded on article 17(4) of the PSC Protocol which enjoins the PSC to 'cooperate and work closely with other relevant international organisations on issues of peace, security and stability in Africa'. These organisations would include the ACERWC. Article 19 of the PSC Protocol specifically obligates the PSC to collaborate with the ACmHPR in all matters relevant to its objectives and mandate. By extension, this relationship can be extended to the Committee of Experts, which shares a similar mandate with the ACmHPR, albeit specifically on children. The ACERWC in turn is required by article 42(a)(iii) of the African Children's Charter to 'cooperate with other African, international and regional institutions concerned with the promotion and protection of the rights and welfare of the child'.

As a result of these provisions, the ACERWC and the PSC have been working together towards establishing a more permanent working relationship in which the PSC prioritises children's rights on its agenda. In 2014, the ACERWC developed an 'Action Plan to Increase Collaboration between the African Peace and Security Architecture [APSA] and the African Committee of Experts on the Rights and Welfare of the Child' to progressively enhance its engagement with the PSC. The Action Plan builds on some foundations already laid such as the Executive Council's decision at its 21st Session that the PSC, PRC and RECs actively engage with the Committee of Experts, as well as the PSC's invitation to the Committee to discuss issues affecting

children in armed conflict and how best the two institutions can forge a more regular and sustained working relationship. The Action Plan therefore puts forth strategies for putting children on the agenda of the broader APSA framework as a first step towards increased collaboration. It then recommends ways in which the ACERWC and APSA could incorporate each other's concerns into their respective mandates and finally sets targeted and measurable goals to be achieved in building this collaboration and a budget for implementing the plan. It will be useful for participants to study the Action Plan in greater detail after the course to know how best to advocate for its implementation from their respective areas of work.

### **Pan-African Parliament**

The Pan-African Parliament (PAP) is established both under the Constitutive Act in article 17 and the Protocol to the Treaty Establishing the African Economic Community relating to the Pan-African Parliament. The PAP Treaty was adopted by the AU Assembly in Sirte, Libya on 2nd March 2001 and entered into force on 14th December 2003. The PAP is based in Midrand, South Africa. Article 17(1) of the Constitutive Act establishes the PAP as to 'ensure the full participation of African peoples in the development and economic integration of the continent.' The Preamble of the PAP Protocol also notes that the PAP is established to provide a common platform for African people at all levels to be more involved in discussions and decision-making on the problems and challenges facing Africa.

The PAP was also established to commence functioning as a consultative and advisory body. From this point, the PAP is expected to ultimately develop into a Parliament with full legislative powers and whose members are elected by universal adult suffrage. Presently, and in accordance with article 4 of the PAP Protocol, the PAP is composed of five members of Parliament or the National Assembly from each AU Member State, one of whom must be a woman.

Among the objectives and functions of the PAP is the promotion of human rights and democratic governance through its deliberations and advice on the AU's policy and programmatic interventions. The promotion and protection of children's rights would therefore fall within this ambit of the PAP's work. In this regard, the PAP has a Committee on Human Rights which has reached out the Committee of Experts to explore ways in which the two institutions could work effectively to promote and protect children's rights through their respective mandates, as envisaged by article 11(1) of the PAP Protocol.

### **AU Commission**

The AU Commission is established by article 20 of the AU Constitutive Act. The Commission is the Secretariat of the AU, coordinating all its activities, programmes, policies, treaties and its day-to-day operations. The Commission is headed by a Chairperson with a Deputy Chairperson and 8nine Commissioners. Together, they work like a 'Cabinet' in a national government, providing direction to the development



and implementation of policies and programmes. The 8 Commissioners head the 8 Departments of the Commission, which are:

- » Peace and Security;
- » Political Affairs;
- » Social Affairs;
- » Infrastructure and Energy;
- » Human Resources;
- » Science and Technology;
- » Trade and Industry;
- » Rural Economy and Agriculture; and
- » Economic Affairs.

The AU Commission is most closely related to the Committee of Experts in its work. The Committee's Secretariat is hosted by the Commission's Department of Social Affairs. The Department provides staff and logistical support to the Secretariat to ensure the smooth functioning of the Committee. Until the Committee was able to negotiate a separate budget for its activities, its budget was subsumed under that of the Department of Social Affairs. The Committee's Sessions and inter-Session activities such as promotional visits, investigation missions, and commemoration of the Day of the African Child are all carried out through its Secretariat with the support of the AU Commission's Department of Social Affairs. It is very important for all stakeholders working with the Committee to establish and sustain a strong relationship with the AU Commission in general and the Department of Social Affairs in particular.

### 3.4.3 The ACERWC and AU Human Rights Mechanisms

#### African Commission on Human and Peoples' Rights

The African Commission on Human and Peoples' Rights (ACmHPR) is the continent's pioneer human rights treaty body. The Commission is established by article 30 of the African Charter on Human and Peoples' Rights (ACHPR) within the AU and charged with the promotion and protection of human and peoples' rights in Africa. The ACmHPR is made up of 11 members appointed from among Africans of the highest reputation, high moral character, integrity, impartiality and competence in matters of human and peoples' rights. The first set of Commissioners were formally inaugurated on 2<sup>nd</sup> November 1987. The ACmHPR is headquartered in Banjul, The Gambia, which is the birthplace of the ACHPR.

The ACmHPR shares a mandate similar to that of the Committee of Experts but with a focus on human and peoples' rights. Article 45 of the ACHPR outlines the mandate of the ACmHPR as follows:

- » Promotion of human and peoples' rights, mainly through documentation, research and studies of human and people's rights problems in Africa, educational programmes (workshops, conferences, seminars and symposia), and encouraging national institutions for the protection of human rights;
- » Formulation of principles and rules to resolve human rights legal problems and to provide a foundation for States on which to base their legislation;
- » Protection of human and peoples' rights in accordance with the ACHPR;
- » Interpretation of the ACHPR at the request of a State Party, institution of the AU or an African organisation recognised by the AU; and
- » Other tasks assigned to the Commission by the Assembly of the AU.

The ACmHPR, like the Committee of Experts also meets twice a year in Ordinary Sessions but holds Extraordinary Sessions when necessary.

The ACmHPR and the Committee of Experts have since 2009 been working actively to institute and maintain a strong working relationship between themselves for the advancement of children's rights. The ACHPR in article 18(3) provides for the protection of children's rights as provided for in international instruments. Under this banner, and recognising the fact that there is an AU body like the ACERWC tasked with the promotion and protection of children's rights, the ACmHPR adopted a Resolution in 2009 to establish a formal working relationship with the Committee of Experts. The Resolution appointed the ACmHPR Special Rapporteur on Women as its Focal Point on children's rights and its liaison with the ACERWC and CSOs working on children.

The Resolution became a very important catalyst to building the relationship between the two bodies. Since its adoption, members of the ACmHPR and the Committee of Experts have taken part in each other's Sessions. Members of the ACERWC have also participated in ACmHPR Sessions to understudy key aspects of their mandate such as the consideration of Communications.

The Committee of Experts has also drafted an Action Plan on Collaboration between the Commission and itself, all in a bid to harness their strengths and capabilities towards better protection of children's rights.

Together with the ACtHPR, the ACERWC and the ACmHPR met in December 2013 to review their Rules of Procedure with a view to harmonising them to facilitate better engagement with the three bodies by persons and institutions approaching them.

### **African Court on Human and Peoples' Rights**

The African Court on Human and Peoples' Rights (ACtHPR) is established by



article 1 of the Protocol to the African Charter on Human and Peoples' Rights on the Establishment of an African Court on Human and Peoples' Rights (African Court Protocol). Although the idea of having a Court as part of the human rights enforcement mechanism of the OAU had been mooted at the time of developing the ACHPR in the late 1970s, the Court finally came into being with the adoption by the OAU of the African Court Protocol in 1998. The Protocol entered into force in 2004 and the first set of judges were appointed by the AU in 2006. The seat of the Court is currently in Arusha, Tanzania.

Article 2 of the African Court Protocol states the purpose of the ACtHPR as complementing the protection mandate of the ACmHPR, especially in the enforcement of decisions made on cases of violations of human and peoples' rights. This is against the background of challenges encountered over the years by the ACmHPR in getting AU Member States who have been found to have violated the ACHPR to implement recommendations made by the Commission. Conventionally, these recommendations have been considered non-binding by States. With a judicial institution like the Court – vested with powers to make final and binding decisions – it is envisaged that the Commission will be greatly assisted in the enforcement aspect of its mandate.

The jurisdiction of the ACtHPR is provided for in article 3 of the African Court Protocol. It extends to all cases and disputes concerning the interpretation and application of the ACHPR, the Protocol itself and any other relevant human rights instrument ratified by the State concerned, including the African Children's Charter. The Court has power to decide whether it has jurisdiction in a particular case. The ACtHPR can give advisory opinions on any legal matter relating to the ACHPR or other relevant human rights treaties at the request of an AU Member State, the AU itself or any of its Organs, or any African organisation recognised by the AU, as long as the opinion is not related to any matter pending before the ACmHPR. The Court is also specifically granted jurisdiction by article 27 of the African Court Protocol to interpret the provisions of the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (Maputo Protocol).

Article 5 of the African Court Protocol lists the entities that can submit cases to the Court. They include the following:

- » The ACmHPR
- » A State Party which has submitted a complaint to the ACmHPR;
- » A State Party against which a complaint has been submitted to the ACmHPR;
- » A State Party whose citizen has suffered human rights violations;
- » African Inter-governmental Organisations;
- » A State Party with an interest in the case before the Court (but only upon prior request to and permission granted by the Court to such a



State); and

- » Relevant NGOs with Observer Status before the ACmHPR and individuals, provided that their States have made a declaration as required by article 34(6) of the African Court Protocol accepting the competence of the Court to receive cases from such NGOs and individuals.

As can be seen from the description of the ACtHPR above, there is no specific mention of its engagement with the Committee of Experts. The Court is neither stated as complementing the protection mandate of the Committee nor the Committee listed as being entitled to submit cases to the Court. Although the Court could exercise jurisdiction over the African Children's Charter by virtue of article 3 of the African Court Protocol, the Protocol is silent on the Court's engagement with the Committee.

Children's rights – as rights peculiar to any other group of persons – are fully recognised within the human rights normative framework of the AU and for that matter, some scholars have argued that the complementary relationship between the Court and the ACmHPR should necessarily extend to the Committee of Experts which shares a lot in common with the Commission. To clarify this position and to facilitate its work with the Court, the Committee itself has taken the initiative to submit an application for an Advisory Opinion to the Court on the Committee's standing before the Court. The Court is yet to give its decision on the matter.

Beyond the determination of the formal relationship between the two bodies, the Court and the Commission have informally worked towards collaboration. Judges of the Court and members of the Committee have participated in each other's Sessions. As noted earlier, the Committee, ACmHPR and the Court have met to review and harmonise their Rules of Procedure. In addition, the three bodies have also discussed an action plan on collaboration.

To ensure efficiency and improve the effectiveness of the AU's judicial Organ, the AU Assembly adopted the Protocol on the Statute of the African Court of Justice and Human Rights on 1<sup>st</sup> July 2008. The Protocol merges the ACtHPR and the AU Court of Justice provided for under the Constitutive Act into one Court - the African Court of Justice and Human Rights (ACJHR). As its name suggests, the ACJHR would have two chambers, one for general matters of international law and the law governing the AU and the other for human and peoples' rights.

The Statute of the Court has provided for the Committee of Experts to submit cases to it in article 30(c). The article also specifically names the African Children's Charter as one of the instruments over which the ACJHR will exercise jurisdiction. It is therefore hoped that the question of the Committee's standing before the AU's judicial body will be put to rest once the ACJHR's Protocol enters into force.



### 3.4.4 The ACERWC and Regional Economic Communities

One of the fundamental building blocks of the AU are the Regional Economic Communities (RECs). The history of the OAU/AU shows that efforts at regional integration in Africa have grown out of regional groupings and blocks formed on economic and political lines. In negotiating a continental union, some of these blocks were subsumed into the OAU, while others maintained their character and existence. All in all, both the OAU and the AU have welcomed and recognised RECs as fundamental to the growth of the union and a very useful platform for building consensus among Member States who share commonalities in geo-political location, language, colonial history, economic structure, security and defence.

Currently on the continent, there are these RECs operating within the framework of the AU:

- » Arab-Maghreb Union (UMA);
- » Common Market for Eastern and Southern Africa (COMESA);
- » Community of Sahel-Saharan States (CEN-SAD);
- » East African Community (EAC);
- » Economic Community of Central African States (ECCAS);
- » Economic Community of West African States (ECOWAS);
- » Intergovernmental Authority on Development (IGAD);
- » Southern African Development Community (SADC).

Although these RECs mostly started out with chiefly economic, political, peace and security objectives, there has been an increasing realisation of the importance of human rights promotion and protection in achieving their goals. To this end, RECs institutions are emerging with a strong focus on human rights such as the Community Court of Justice of ECOWAS. Human rights focal persons and desks are being established in the RECs in recognition of the impact thereof on the strategic development of the RECs. In the case of children's rights, ECOWAS and SADC for example have policy frameworks to address matters affecting children and youth. RECs such as COMESA in the past (in 2008) have sent a delegation to attend a Session of the Committee of Experts in a bid to familiarise itself with the work of the Committee and to discuss matters connected with Members States of COMESA as they relate to children. At the level of the AU itself, the Human Rights Strategy for Africa, prioritises the involvement of RECs as a major stakeholder in the implementation of the Strategy.

In recognition of this trend in the RECs, the Committee of Experts has also taken measures to work more closely with them on issues affecting children. The Committee has held meetings with some RECs like ECOWAS to explore opportunities for collaboration and prioritisation of children's issues on the agenda of the regional body.

The Committee has adopted a 'Collaborative Plan of Action between the ACERWC and the RECs to guide it in this process. Some of the key strategies the Plan will utilise in this collaborative effort are information sharing, capacity-strengthening, alliance-building, recognition of performance and phasing of collaboration with RECs. This training Tool Kit itself is part of the interventions under these strategies.

### 3.4.5 The ACERWC and NHRIs

Another important institution in the promotion and protection of human rights in Africa are National Human Rights Institutions (NHRIs). Indeed, article 26 of the ACHPR enjoins State Parties to establish national institutions entrusted with the promotion and protection of human and peoples' rights. The ACmHPR was the first human rights mechanism of the AU to establish a formal working relationship with NHRIs through the granting of Affiliate Status to NHRIs. NHRIs are also recognised as one of the key actors under the Human Rights Strategy for Africa. NHRIs in Africa have established a Network of African Human Rights Institutions (NANHRI) with its headquarters in Nairobi, Kenya. NANHRI holds meetings every two years to address issues affecting NHRIs on the continent and ways to improve their efficiency and impact at the national level.

The Committee of Experts is yet to establish a system for engaging with NHRIs formally, however the Committee's track record since its establishment shows that it is very open to expanding its network and bringing on board new partners. NHRIs have therefore been welcomed into the spaces in which the Committee of Experts works. For example, in 2009, a delegation from Nigeria's Human Rights Commission participated in the Civil Society Forum on the ACERWC, which the Committee has endorsed and actively participates in itself.

### 3.4.6 The ACERWC and CSOs

Civil Society Organisations (CSOs) and Non-Governmental Organisations (NGOs) have been one of the longest standing partners of the Committee of Experts. It must be noted from the outset that although the AU's Economic, Social and Cultural Council (ECOSOCC), is the Organ meant to spearhead civil society partnership and participation in the AU, it has not been the main vehicle through which the Committee of Experts has built its relationship with CSOs. Among the varied reasons is notably the fact that ECOSOCC is yet to be fully operational. Notwithstanding this, the Committee works with CSOs through a range of avenues, the major ones being presented in this Module.

#### Observer Status

Observer status is a formal recognition of partnership granted by the Committee of Experts to an organisation working with and for children. Observer status confers on an organisation certain privileges and in return requires some obligations to be performed.



It must also be noted from the beginning that an organisation does not necessarily need to have observer status before dealing with the Committee. Any organisation is free to submit a communication, request an investigation mission or promotional visit, attend the open Sessions of the Committee and work with the Committee on any other aspect of its mandate. Having observer status just brings added value to what exists already in establishing a relationship with the Committee by bringing an organisation closer to its work in a formal and structured manner.

The Committee grants observer status to organisations in accordance with its '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'.

Having observer status entitles an organisation to the following benefits:

- » Invitation to be present at all opening and closing ceremonies of Committee Sessions;
- » Participation in some discussions of the Committee as authorised by the Chairperson;
- » Access to non-confidential documents of the Committee, particularly those that affect institutions with observer status;
- » Invitation to attend closed sessions to consider issues affecting organisations with observer status;
- » To make statements at Committee Sessions, with the authorisation of the Chairperson, on issues affecting children;
- » Respond to questions posed by the Committee to organisations with observer status; and
- » Request that issues of particular interest be included on the Committee's agenda

In return, CSOs with observer status are expected to maintain a close relationship with the Committee and consult with it regularly. They are also expected to submit a report on their activities to the Committee every two years.

An organisation seeking observer status with the Committee will have to submit the following:

- » An Application Letter;
- » Profile of the organisation stating the vision, mission, activities, staff, board of directors and sources of funding;
- » Summary of the organisation's activities;
- » Supporting documents including certificate of incorporation, operating permits, certificate to commence business, NGO registration, etc.;

- » Copy of signed audited financial statements.

To be eligible to apply for observer status as required above, an organisation should at least satisfy the following criteria:

- » Support the work and spirit of the AU and the Committee;
- » Preferably apply as part of a coalition of organisations with similar interests;
- » Be registered in an ACRWC State Party for at least three years with the necessary authorisation to work on children's issues in the State Party;
- » Have a recognised Head Office;
- » Have democratically-adopted statutes;
- » Have a representative structure with democratic and transparent decision-making processes;
- » Have an administration with African citizens or African diaspora in the majority and also have a children's representative;
- » Be able to provide information on sources of funding; and
- » Not practice discrimination against children or employ child labour.

An application for observer status must be submitted to the Committee Secretariat at least three months before a Session. The application must be submitted in English and French and in sufficient copies for all Committee Members.

Having received the application, the Committee will appoint one or more of its members to study the application and if necessary, request further information or clarification from the organisation concerned. Once the Committee is satisfied that it has all the relevant information to make a decision, it will deliberate on the application and make a final decision to grant observer status or otherwise. The Committee through its Secretariat will formally communicate its decision to the organisation, which henceforth will enjoy observer status.

### CSO Forum

In 2008, a small group of NGOs who had been attending Sessions of the Committee conceived the idea of starting a civil society forum on the African Children's Charter to provide a platform for networking, capacity-building and interaction around the Charter and the work of the Committee. The idea saw the light of day when the first CSO Forum on the ACRWC was organised in March 2009 in Addis Ababa, Ethiopia. Since then, the CSO Forum has been held annually prior to the Sessions of the Committee. The Committee is always invited to participate in the CSO Forum and Committee members have made presentations and contributed meaningfully to the deliberations.



The Forum usually ends with recommendations addressed to the Committee, which the latter considers in its deliberations.

The Forum is organised by a Management Committee made up of CSO representatives drawn from the geographical regions of the AU and with the active support of the Committee's Secretariat.

### Partnership with CSOs

In order to support the ACERWC in its work to advance children's rights in Africa, a consortium of five child-focused organisations undertook a project entitled, the African Children's Charter Project (ACCP). The ACCP run from 2011 to 2014 and had three key objectives, namely:

- » Strengthening the capacity of the Committee of Experts to implement its strategic plan (2010-2014);
- » Promoting children's rights and welfare in African Union institutions, bodies and mechanisms; and
- » Strengthening civil society to use AU mechanisms, and especially the ACERWC's mechanisms, to promote children's rights and welfare in Africa.

The ACCP has therefore been a very useful medium through which the Committee has partnered with CSOs in specific and strategically-targeted activities to implement its mandate. The ACCP has also helped to broaden the network of CSOs working on children's rights and enhanced their engagement with the Committee. For participants on this course, the ACCP will be a good model to study in their efforts to develop specific programmatic interventions with the Committee.

### 3.5 Conclusion

In this Module, trainees have been educated on how the Committee of Experts fits into the AU. This exercise began with a history of the AU and what its objectives are. They were then taken through the main institutions and how they interact with the Committee of Experts. The Module has also introduced trainees to the ACmHPR and the ACtHPR and how the Committee also collaborates with these two human rights bodies. Other stakeholders in human rights and child rights like the RECs, NHRIs and CSOs have been discussed in this Module. With this knowledge and information, it is expected that by the end of the training, trainees will now be able to know which institution or stakeholder to approach for what, in their engagement with the Committee.

### 3.5.1 Points to Remember

Some of the key points to remember from this Module are:

- » The AU succeeded the OAU in 2002 with a new focus on regional integration guided by good governance, human rights and accelerated economic development in a fast globalised world.
- » The ACERWC works within the framework of the AU and relates to all the key Organs of the AU.
- » The AU Commission's Department of Social Affairs is the closest to the ACERWC as it hosts its Secretariat and supports the day-to-day operations of the ACERWC.
- » The ACERWC collaborates with the ACmHPR and the ACtHPR. The ACERWC's relationship with the ACtHPR has been clarified in the new Protocol establishing the ACJHR.
- » The ACERWC is also building its relationship with RECs, NHRIs and has a very good relationship with CSOs. One of the main ways in which CSOs can work with the Committee is by obtaining Observer Status

### 3.5.2 Questions for Self-Evaluation

- » Can I name at least **three** AU Organs which relate to the ACERWC and how.
- » Can I identify at least **two** ways in which the ACERWC works with the ACmHPR?
- » Can I name at least **three** RECs on the continent apart from those which my country belongs to?
- » In what ways can I encourage my State to ratify the Protocol on the Statute of the ACJHR to enable the ACERWC to submit cases to the Court? Can I identify at least **four** thematic areas to be covered in a State Party/Alternative Report?
- » In what innovative ways can I celebrate the Day of the African Child in my country?
- » How best can I encourage my organisation or other organisations working for children to apply for observer status with the ACERWC?



# Module Four: Stakeholder-Specific Issues

## 4.1 Overview of Module

This Module gives participants the opportunity to lead parts of the training workshop relevant to their work and areas of expertise. Having gained the foundational knowledge of the ACRWC, the ACERWC and how they work in tandem with the broader AU system, this Module highlights some issues specific to the target group of this Tool Kit. The Module addresses issues concerning the work of RECs, Government Officials and CSOs in promoting and protecting children's rights. Where some of the issues raised have been already dealt with in the earlier Modules, participants will be directed to the information already provided therein. The Module involves a number of discussion questions intended to engender deliberations among participants to find practical ways of enhancing the implementation of the ACRWC in their respective areas of work.

## 4.2 Objective of Module

The primary purpose of this Module is to highlight aspects of working with the ACRWC and the ACERWC which are relevant to the work of RECs, Government Officials and CSOs. The Module will principally be led by the respective stakeholder groups either leading the discussions or making valuable input to presentations that include the issues raised in this Module. This is expected to foster knowledge and experience sharing and networking for future action among participants.

## 4.3 Learning Outcomes

### By the end of this Module, trainees will know:

- » Key issues relevant to the work of RECs, Government Officials and CSOs in promoting and protection children's rights under the ACRWC
- » How to collaborate as RECs Child Rights Focal Points, Government Officials and CSOs effectively towards improved implementation of the ACRWC

## 4.4 Topic Summaries

### 4.4.1 Issues Specific to RECs

#### Establishment of sub-regional standards on child rights

As had been noted previously in Module 3 in outlining the Committee's relationship with RECs, there is a growing realisation of the importance of human rights to the overall economic, social, cultural and political development of RECs. The increasing



influence of human rights also includes an increasing focus on children's rights.

As part of the larger AU framework for regional integration, RECs are also expected to encourage, support and urge their Member States to uphold the continent's human rights and child rights standards – for the purposes of this training – the ACRWC and the ACHPR and its Maputo Protocol. Nevertheless, RECs are also encouraged to develop their own normative standards for child rights. As earlier mentioned, RECs like SADC and ECOWAS have put in place some of these standards. The judicial institutions of RECs like the ECOWAS Community Court of Justice have also given decisions which have advanced the rights of the child, for example, the case of *Hadijatou Mani v Niger*, which dealt with the protection of the girl-child from early marriage and slavery.

Although RECs are developing these standards, a lot of them remain largely unknown. For that matter, it will be useful for RECs Focal Points on child rights to be more engaged with institutions in their respective Member States responsible for children's issues. The starting point from this training will be to identify which standards exist and how they can be implemented at the national level. This is done in the exercise below, led by the RECs Focal Points on child rights.

### Group Exercise 2: Identifying Child Rights Standards in RECs

In this exercise, participants are going to identify child rights standards that exist in RECs. Priority should be given to standards that have been developed by the RECs themselves. The exercise should be led by the RECs Child Rights Focal. The exercise will be done in plenary.

#### Instructions:

1. *Each of the RECs Child Rights Focal Persons participating will list the standards available in their REC*
2. *The RECs Child Rights Focal Persons will note at least three key characteristics of each of the standards identified*
3. *All participants will discuss the extent to which the standards are aligned to the ACRWC and the similarities and differences between the standards identified from the different RECs*
4. *This exercise should last not more than 20 minutes*

### Advocacy for implementation of the African Children's Charter

Advocacy is one of the tools that has often been used across the world in human rights to get States to implement treaties and fulfil their obligations thereunder. Advocacy for implementation of the ACRWC will therefore be a strategic and targeted process of urging a State to go beyond merely ratifying a treaty to putting in place concrete



measures to give effect to the terms of the treaty.

Realising children's rights requires on the one hand planning and allocating adequate resources to meet the needs of children and on the other hand ensuring that other persons do not violate the rights of children. These two facets form the core of implementation of child rights treaties. Effective implementation leads to meaningful change in the lives of children. Advocacy is one of the useful ways in which we can effect this change. When done properly, advocacy can yield some good results such as:

- » Enabling children, their families and communities to participate in and become key actors in decisions that affect their lives;
- » Establishes a basis for tracking the impact of changes in laws, policies and practice on improving children's lives;
- » Establishes the culture of a rights-based approach by the State to fulfilling their obligations to children.

With society being a dynamic entity, change is constant. Advocacy will consequently not be one in a one-off or one-time event. It is and will be an ongoing process, moving in tandem with the obligation of the State to continually improve the situation of children as envisaged by article 1 of the African Children's Charter. Having finished one set of advocacy processes or strategies to achieve a given objective, the cycle starts again to achieve higher objectives and better results.

The increasing focus of RECs on children's issues in Africa is a welcome development which should encourage all stakeholders to seize the opportunity of the RECs strengths and strategic positioning with State Parties to advance children's rights. Bringing together smaller groups of AU Member States, it is perhaps easier and more efficient to obtain consensus, develop policies, encourage ratification of treaties, harmonise laws affecting children and establish monitoring and evaluation systems to track progress. It is therefore laudable that RECs have appointed focal persons or points on child rights, who will lead or facilitate these initiatives for children.

Both the AU and the Committee of Experts are keen to see the universal ratification of the African Children's Charter as has happened in the case of the ACHPR. Universal ratification sends a strong message about Member States' unity of purpose and commitment to protecting and promoting the rights and welfare of children. With less than 10 countries left to ratify the African Children's Charter, every effort must be made to give the Charter a befitting 25<sup>th</sup> anniversary gift of universal ratification. Beyond ratification, the implementation record has not been very impressive. Less than one-third of AU Member States have submitted at least one Report to the Committee of Experts. Without reporting, it is difficult to track and measure their progress. CSOs and non-governmental entities cannot also present the 'alternative voice' through the complementary report.

It therefore becomes imperative that RECs – as one of the foundation blocks – of the AU develop strategies to bring about a change in these circumstances. Advocacy therefore becomes one of the tools of the focal point on child rights. How can they do this effectively? Below are some suggested steps adapted from some leading international child rights organisations:

- » Situate your advocacy in a child-rights based approach;
- » Clearly identify what you aim to achieve and the change you want to effect;
- » Get a good situational analysis to inform the change you want to bring about;
- » Identify the target of your advocacy (who do you want to influence to bring about the change?) and your allies (who can help you influence your target?);
- » Clearly set out your goals and objectives;
- » Identify opportunities that can help you communicate your message to your targets and allies;
- » Diversify. Use different strategies for different targets. Remember, not all your targets are the same. Keep your central theme but vary your messages to suit your targets;
- » Carefully plan your activities and how you implement them. Identify who does what, apportion tasks and responsibilities with time-lines, mobilise resources, and establish your benchmarks to measure progress;
- » Implement your planned activities;
- » Track your progress. Has anything changed as a result of your advocacy? What do you need to do better or what approach has not worked?
- » Review the advocacy. Revise your plans, modify your aims and objectives, change strategies and activities and time-frames for completing them.

There are a number of ways of doing advocacy. Accordingly, there are different approaches around which specific activities and strategies can be developed. These includes lobbying, campaigning, events, media work, awareness-raising, action-oriented research, policy analysis, sharing best practice, strategic meetings, slogans and other forms of targeted messaging and, information dissemination and building coalitions and partnerships. These can be used alone or in combination. In most cases and in practice, a combination of approaches is used. The ultimate aim is to get the target of the advocacy (be it the State Party, REC or the ACERWC) to carry out the



necessary actions for implementation of the African Children's Charter.

### **Mainstreaming children's rights in the economic agenda**

As their name suggests, RECs are in essence concerned with economic integration. Recognising that economic issues are affected by security, human rights, political, social and cultural developments, RECs have expanded their mandates to address pertinent aspects of these issues, yet they have kept focus on their core economic objective.

Although national economies prioritise sectors which have a strong bearing on children such as education and health care, there is still a wide gap between full 'basket' of children's rights and welfare matters and other national sectors such as defence, international relations, trade and industry. In most African countries, budgetary allocation and spending on direct services to children remains very low.

At the level of the RECs, the pursuit of economic development and integration has yielded efforts to promote free or less restricted movement of persons, goods and services across borders, intra-sub-regional trade, establishing currency and customs unions among others. Although laudable, these present problems for children who are caught in trafficking for child labour and sexual exploitation, separation from parents through the pursuit of better economic opportunities across borders, violence and refugee situations as a result of conflict. In most cases, all these problems are underpinned by one form of economic consideration or the other.

Prioritising children's concerns in the economic integration and development agenda of the RECs would be one of the key items on the agenda of the child rights focal person. Other actors such as government officials and CSOs will also play a key role in ensuring that this is done. The implementation of the economic policies and programmes of the RECs will fall on government officials, while CSOs would play the usual role of monitoring implementation.

At this juncture, it will be useful for participants to share ideas and experiences around the mainstreaming of children's issues in the economic agenda of RECs. The discussion question below should guide the debate and participants should aim at developing actionable outcomes from their deliberation.

### Discussion Questions 5 and 6

- » What are some of the key economic policy frameworks and programmes of the RECs and what are their provisions on children, if any?
- » What are some practical ways in which children's issues can be mainstreamed in RECs economic agenda?

#### Instructions:

1. *The session should last not more than 15 minutes*
2. *A volunteer from the RECs participants would list the responses on a flip chart sheet*

### Institutionalising RECs engagement with the Committee of Experts

As previously noted, the Human Rights Strategy for Africa aims to foster closer collaboration between AU human rights bodies and RECs in strengthening implementation of human rights bodies. In this direction, the Committee of Experts has reached out to RECs to explore ways in which they could collectively improve the situation of children on the continent.

Having gone through the first three Modules of this training, participants have a good knowledge of how the Committee of Experts operates and the expectations from its mandate. With the benefit of child rights focal persons from the RECs participating in the course, it will be useful for all stakeholders to brainstorm and come up with creative ideas on how RECs and the ACERWC could establish a permanent working relationship to ensure that the African Children's Charter is fully integrated into the agenda of the RECs and their Member States. Some ideas that participants could consider include:

- » A RECs Focal Point in the Committee of Experts to liaise with the child rights focal persons in the RECs;
- » Standing invitations to the Committee of Experts to RECs Summits and relevant meetings to make presentations on children and the work of the Committee;
- » Standing invitations to RECs to participate in the Sessions of the Committee of Experts;
- » Members of the Committee of Experts undertaking joint missions and visits with RECs officials to Member States on matters which have a bearing on children.

These ideas and more can be discussed and noted in a plenary discussion for about 10 minutes by participants. Key action points should be noted for follow up by RECs



child rights focal persons.

#### 4.4.2 Issues Specific to Government Officials

##### Ratification of child rights treaties

Ratification is an act by which a State gives its clear and final indication to be bound by a treaty that it has signed. The ratification is done in different ways by different countries, depending on the requirements of their Constitutions and other national laws. However in all cases, a State's ratification of a treaty is complete when it deposits a document called an Instrument of Ratification with the inter-governmental body like the AU or UN under whose auspices the treaty was developed and signed.

Ratification of a treaty then makes a state legally bound to perform its obligations under the treaty. It provides the basis on which persons entitled to benefit from the performance of those obligation, can hold the State accountable when it fails to do so.

In most cases a treaty would indicate the mode of its entry into force. Usually, it would specify a certain number of ratifications and a period after the last ratification, whereupon the treaty will enter into force and become operative. Ratification therefore plays a key role in giving life to the treaty. It is of no use if a treaty is beautifully crafted and adopted yet the required number of States who have to ratify has not been attained. It is therefore important to urge one's State to take steps to ratify treaties quickly. The African Children's Charter for example was adopted in 1990 but it took nine years to get the 15 ratifications needed for it to enter into force, finally becoming operational in 1999. The Maputo Protocol on the rights of women in Africa, hold the record in Africa as being ratified in the shortest time – within two years after its adoption in 2003.

When a treaty is drafted, debated and finally adopted, the States which took part in that process or any State interested in the treaty would first commit itself by **signing** the treaty. Signing is an intention of interest in ratifying the treaty at some point in the future. Some States may sign and ratify immediately. States are also at liberty to ratify the treaty both before and after it has entered into force.

In other cases, a State may not have signed a treaty previously but would still ratify it. This approach is known as **accession**. Accession has the same legal and political effect as ratification after signature. As with ratification also, the State can accede to a treaty before or after it has entered into force.

When States are signing, ratifying or acceding to treaties, they may indicate that they do not agree with certain parts of the treaty and would therefore not consider themselves bound by those provisions. This act is known as entering a **reservation**. A reservation is founded on the freedom of parties to a contract or an agreement to enter into legal obligations which they chose. However, there are rules governing the entering of reservations. A very important rule is that a State should not enter a reservation that



goes to the very heart of the treaty, i.e. which does not accept its object and purposes or fundamental principles. As much as possible, States are encouraged and urged not to ratify treaties with reservations, particularly treaties that promote and protect human rights. If they have entered reservations, then they are also urged to withdraw them as soon as possible.

Some AU Member States have entered reservations to the African Children's Charter. The table below lists these countries and the reservations they have entered.

Member State	Reservation
<b>Botswana</b>	Does not consider itself bound by article 2 which defines a child
<b>Egypt</b>	<ul style="list-style-type: none"> <li>» Does not consider itself bound by article 24 on adoption;</li> <li>» Does not consider itself bound by article 30 on the rights of children of imprisoned mothers;</li> <li>» Does not consider itself bound by article 44 on the consideration of communications;</li> <li>» Does not consider itself bound by article 45(1) which grants the Committee power to conduct investigations</li> </ul>
<b>Mauritania</b>	Does not consider itself bound by article 14 on the freedom of thought, conscience and religion

### Implementation of child rights treaties

The starting point for implementation of child rights treaties like the African Children's Charter is the Charter itself. Although the State assumes the responsibility upon ratification to give effect to the rights enshrined in the Charter, article 1 provides two broad pillars for implementation – legislative measures and other necessary measures. Legislative measures often include constitutional provisions, statutes, legislative instruments and regulations, depending on the legal system of the State concerned. Other measures cover policies, government directives, administrative decisions and processes.

The overarching goal of all these measures is to give effect to the provisions of the Charter. Implementation in this regard calls for specific resource allocation to the rights and welfare of children. Budgeting for children, for example, becomes a very important component of implementation in this regard.

Legislative measures must aim to bring national law in conformity with the provisions of the Charter and achieve harmonisation between the regional and national standards. There should be no inconsistencies in the age of the child, for example, as occurs in some countries. Other measures to give effect to the Charter should also aim to ensure



the total wellbeing and development of the child, underpinned by the four cardinal principles of child rights.

Implementation of the African Children's Charter is also informed by a child rights approach to ensuring the welfare and development of children. A child rights approach recognises children on the one hand as holders of rights who are entitled to claim these rights and entities like the State, parents and care-givers on the other hand who have to respect, protect, promote and fulfil the rights of the child. Thus, a child rights approach seeks to empower child are the 'rights-holders' to claim their rights and build the capacity of the 'duty-bearers' to ensure that those rights are realised. Implementation in this direction would therefore call for the establishment of mechanisms that would allow children to hold the State and other duty-bearers accountable for violations of their rights or to demand positive action to realise those rights.

It is important to also ensure that in implementing the African Children's Charter and other child rights treaties, children are actively involved in the measures taken. The right to be heard and to participate is one of the four foundational principles of child rights which comes to play in this regard. Every effort must be made to ensure that children effectively participate in decision-making on national issues which affect their lives and that the views, opinions, ideas and recommendations they put forward are included in the final outcomes.

### **State Reporting**

Having gained knowledge on State Reporting in the Module 2, this part of the Module encourages participants from Government institutions to share their experiences around the challenges faced in reporting to treaty bodies such as the Committee of Experts. It will be useful in this direction to note the specific challenges being faced with reporting under the African Children's Charter. The ideas put forward will be of great benefit to the Committee as it will provide valuable feedback on why the State Party reports have been few and trickling in.

Participants should also share experiences on best practice on State Reporting. Some countries for example, have been able to devise innovative ways to collect data regularly and efficiently, which greatly assists the reporting process. These laudable approaches should be shared and documented for participants to facilitate peer learning and adaption to specific national needs to improve reporting.

### **Working with the Interpretation Mandate of the Committee of Experts**

As learned earlier in Module 2, the Committee of Experts is mandated under article 42 to interpret the provisions of the African Children's Charter at the request of a State Party, institution of the AU or any other person or institution recognised by the AU or any State Party. Closely linked to mandate is clause 42(a)(ii), which states one of the Committee's functions as formulating and laying down principles and rules to protect the rights and welfare of children in Africa. Together, these aspects of the Committee's



work can be termed its Interpretation mandate, given that they provide an opportunity for the Committee to clarify the terms of the Charter where necessary.

There has been little or no requests for interpretation from State Parties to the Committee. The Committee on its own has supported and endorsed the development of principles such as the Child-Friendly Justice Principles in Africa.

The interpretation mandate is however a very strategic and useful way to seek guidance on implementation from the Committee. It is also an opportunity for countries working together in RECs, for example, to obtain the Committee's direction on the establishment of sub-regional standards to ensure they are in conformity with the Charter. The guidelines, principles and rules laid down by the Committee in exercise of this mandate are also for developing national legal and policy frameworks for children.

As of 2014, the Committee of Experts had issued two General Comments, which have been introduced to participants earlier on in Module 2. It is very important that government entities apprise themselves with these documents as they touch on two pertinent issues affecting children. The first General Comment on the rights of children of imprisoned mothers provides guidance to States on how to address the problem of innocent children being incarcerated with their mothers and care-givers who have come into conflict with the law. With the daunting challenges of inadequate facilities to cater for such children and their mothers, the General Comment comes in handy to help States which want to establish the right laws, policies and infrastructure in this regard.

The second General Comment on the right to nationality also affirms the child's right to nationality and registration at birth within the terms of article 6 of the African Children's Charter. State Parties will therefore have a strong legal basis to improve national systems for collecting vital statistics and the setting up of the necessary infrastructure to ensure that children are registered promptly at birth and have their nationality determined early on in life. Proper and well-functioning registration systems also help in planning interventions for children, particularly those in rural and peri-urban areas who are often in most need of the basic necessities such as food, health care, nutrition, shelter and clothing.

### **Facilitating in-country work of the Committee of Experts (e.g. Investigation Missions and Promotional Visits)**

A very important aspect of the Committee's work is direct engagement with State Parties through visits to the country for purposes of promoting the African Children's Charter or undertaking investigations. Such visits give the Committee an opportunity to collect first-hand information on the situation of children in a given country. It also gives children, CSOs, NGOs, government officials and institutions to share their experiences, concerns, challenges, best practice and other issues on the situation of children with the Committee members. In sum, the Committee's physical in a State Party presents



a myriad of advantages for the State Party, Committee, children and the wider society as a whole, for which reason government officials must make every effort to facilitate the Committee's in-country work.

To help the Committee with its in-country work, these ideas could be considered by government officials, working in partnership with CSOs and children.

- » Extend an invitation to the Committee to undertake a promotional visit the State Party. Due to resource constraints, the whole Committee may not be invited however a Member or two will be adequate.
- » Invite Committee Members to capacity-building programmes, activities for the DAC, national children's day celebrations, opening of children's parliaments, and other similar activities. Government officials from the home countries of Committee Members should start with those Members who would already be in the country.
- » To facilitate communication and planning for visits, there should be a designated focal person or office to liaise with the Committee's Secretariat. Sometimes the Secretariat has difficulty in finding the right persons at the national level to deal with.
- » Commensurate with their diplomatic status under the AU, Committee Members on a visit to a country should be accorded all the necessary courtesies and protection to facilitate their mission.
- » Ensure that the Committee Members on a visit are able to meet and interact with as many stakeholders from both governmental and non-governmental institutions as well as children.
- » Should the Committee require any administrative and logistical support, ensure that there are office facilities, vehicles, and staff available to assist the Committee, where necessary.

These ideas and others to be identified by participants could be further explored and concrete resolutions made to implement them. The feedback and implementation matrix should help participants record their progress in this regard and report back to the Committee.

### 4.4.3 Issues Specific to CSOs

#### Alternative/Complementary Reporting

In Module 2, participants were trained on Alternative (or Complementary) Reporting to the ACERWC. With the information and knowledge gained, participants from CSOs can continue the discussion of Alternative Reporting under this Module with experience sharing by those who have had the opportunity to draft a Complementary Report. This will be a good opportunity for peer learning as participants who have previously been

involved in the process can share their practical experience with other participants. In sharing these experiences, participants can also consider these suggestions for the preparation and submission of an Alternative Report.

- » Adopt a national collaborative approach to preparing the Alternative Report. It helps to give the Report credibility and build consensus among CSOs partners.
- » Prepare the Alternative Report based on the State Party Report, rather than in isolation.
- » Conduct research to verify information in the State Party Report and compare with information collected for the Complementary Report.
- » Use the media effectively in spreading information about the reporting process.
- » Involve children in the preparation of the Report and document their participation and views.

## Advocacy

Advocacy lies at the heart of CSOs work with and for children. The growing recognition of the rights of the child has necessitated change in duty-bearers' approach to dealing with children. A lot of the efforts made in this regard have been influenced by civil society advocacy.

Previously in this module, we have discussed advocacy for implementation of the African Children's Charter by RECs Child Rights Focal Persons. The types, methods and approaches to advocacy presented earlier on are also applicable to CSOs. Indeed, CSOs have had many more years of experience with advocacy, as they have been at the forefront of urging the implementing of child rights treaties by States. In addition, CSOs have used advocacy to draw attention to and obtain solutions to various problems of child welfare and development.

Under this section of this Module, CSO participants can share some of their success stories with advocacy along these lines:

- » What was the issue, problem or challenge identified?
- » Why was advocacy chosen as a means to address it?
- » What advocacy method was selected and used?
- » What was the result and impact of the advocacy method used?

While discussing success stories, participants are also encouraged to share experiences of failure with advocacy. Although the success stories are captivating and motivating, the stories of failure also teach useful lessons on how 'not to do advocacy' and identifying different reasons why a particular method or strategy adopted did not



yield the expected result.

CSOs have also been at the forefront of advocacy for the election and appointment of suitable candidates as Members of the Committee of Experts. The membership of the Committee of Experts, since its inauguration in 2001, has largely been made up of persons drawn from civil society or have had a strong connection with CSOs. With a firm foundation in their work as child rights defenders, the CSO-affiliated Committee Members have helped to deepen the Committee's relationship with the non-governmental sector working or children's rights. They have also been able to strengthen the relationship between government and civil society working for the benefit of children. In this regard, CSO advocacy around appointments to the Committee can be discussed in this section. Participants, led by CSOs, can share their experiences in advocacy for nomination and election of members to the ACERWC.

### **Identifying and submitting Communications**

Throughout the history of the Communications Procedure in international human rights law and practice, there have been more individual Communications submitted to the treaty-monitoring mechanisms than those submitted by States. Further, most individual Communications have been submitted by the victim or author with the support of an NGO or CSO. In the history of the Committee of Experts, all the Communications received, have been submitted by NGOs. This makes the role of civil society and non-governmental institutions in identifying violations of human rights and child rights in particular, very critical. By the nature of their work, CSOs and NGOs would be close to victims of violations, incidence of violation, and have the ability to collect and analyse information which could be useful to the preparation and submission of a Communication.

Flowing from this strategic position of CSOs in relation to the Communications Procedure, this section delves deeper into how CSOs can more actively participate in the protection mandate of the Committee by identifying, preparing and submitting more Communications for consideration by the Committee.

Participants have previously had both theoretical and practical knowledge of the Communications Procedure in Modules 2 and 3. Building on the knowledge and experience gained, the following points in the table below can be considered to assist in developing Communications:

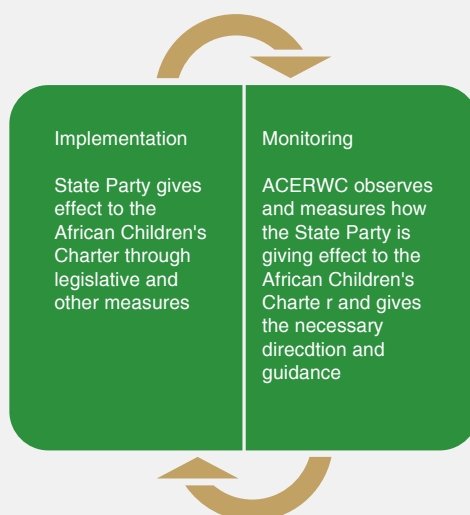
Stage		Points to Consider
Identification	<b>Facts</b>	1. Have you witnessed or received a report of an incident, event, action occurred which violates the rights and welfare of the child under the ACRWC?
		2. Have you witnessed or received a report of any action which should have been carried out to realise the rights and welfare of the child under the ACRWC but which was not done?
		3. Is (are) the perpetrator(s) linked to the State in any way (either as government officials or working for institutions that can be directly linked to the State)?
	<b>Evidence</b>	4. Are there any other witnesses to the incident or event?
		5. Are there any documents, reports, videos, audio recordings that prove the incident of event?
		6. Have you interviewed any affected children, their parents or caregivers?
		7. Have you obtained any statements from other witnesses or relevant persons whose testimony is relevant to the issues?
Submission	<b>Preparation</b>	8. What legal avenues are available to address the violations identified?
		9. What efforts have been made to use the legal avenues and what is the outcome?
		10. Have you prepared a draft of the Communication, stating the facts, the rights of the ACRWC which have been violated, the evidence in support and the remedies sought?
		11. Have you been able to translate the Communication into other AU languages, particularly French?
		12. Have you ensured that you can and will submit the Communication at least 3 months before the upcoming Session of the Committee?



In addition to these points, participants can also discuss possible and actual challenges that they may encounter in developing Communications. Together, they can identify solutions to these constraints.

### Supporting Monitoring and Implementation of the African Children's Charter

A very important part of the ACERWC's mandate is to regularly monitor the implementation of the African Children's Charter by State Parties. Understandably, the 11-member Committee of Experts cannot be present in all AU Member States at the same time or visit each of the States throughout its term. Thus, the Committee needs the support of other partners to carry out this monitoring role. Allied to monitoring is the implementation of the Charter by State Parties. Having signed, ratified or acceded to the Charter, the State concerned is duty bound immediately to give effect to the Charter by implementing its provisions. In a sense, implementation by the State Party triggers monitoring by the Committee of Experts. Through the monitoring, the Committee is able to give the State Party direction on its implementation of the provisions, ensuring that the State is able to use its resources most effectively and efficiently for the benefit of children as depicted below



One of the key partners of both the Committee and State in monitoring and implementing the African Children's Charter are CSOs. CSOs are involved in direct service provision to children. In some of the core aspects of economic, social and cultural rights of children, CSOs provide health care, education and training, recreation, food and nutrition, shelter, protection from violence, harm and exploitation, among others, to complement the efforts of the State. CSOs also carry out advocacy to ensure that the State and parents/care-givers are able to ensure the respect, protection, fulfilment and promotion of children's rights in real terms. All these activities help the State in its implementation of the Charter.

With regard to monitoring of implementation, again CSOs play vital roles thereto. Through advocacy, alternative reporting, submission of communications and supporting investigation missions, CSOs put the 'performance' of the State – as it were – in the

spotlight to help the Committee of Experts in its evaluation of the State's implementation of the Charter. By participating in activities such as the development and validation of State Party Reports, CSOs are able to directly interact with government officials on the State's progress as far as implementation of the African Children's Charter is concerned.

At the national level, there are other ways in which CSOs can support monitoring and implementation of the ACRWC. Some suggestions are given in the table below, however it will also be useful for participants to discuss ways in which CSOs can better support monitoring and implementation.

Monitoring	Implementation
<ul style="list-style-type: none"> <li>Identify any goals and targets set for implementing the ACRWC</li> </ul>	<ul style="list-style-type: none"> <li>Advocate for and support the passage of laws and the development of policies and programmes that promote, protect, respect and fulfil the rights of the child</li> </ul>
<ul style="list-style-type: none"> <li>Identify any monitoring and evaluation frameworks at national level which would be useful for assessing the State's progress</li> </ul>	<ul style="list-style-type: none"> <li>Participate in activities around the ACRWC such as the Day of the African Child and ensure the active participation of children in such activities</li> </ul>
<ul style="list-style-type: none"> <li>Identify key national laws, policies and programmes on children</li> </ul>	<ul style="list-style-type: none"> <li>Advocate for increased focus on children in national priorities such as budgeting, collection of vital statistics and data, and law reform</li> </ul>
<ul style="list-style-type: none"> <li>Evaluate the extent to which the laws, policies and programmes give effect to the provisions of the ACRWC using the four cardinal principles of children's rights and other rights in the Charter as a benchmark</li> </ul>	<ul style="list-style-type: none"> <li>Develop and implement programmes and activities that raise public awareness on the rights and welfare of the child</li> </ul>
<ul style="list-style-type: none"> <li>Identify any good practices and success stories from the State's interventions which advance the ACRWC and assess how these can be replicated across the country, if necessary</li> </ul>	<ul style="list-style-type: none"> <li>Initiate and participate actively in the preparation and submission of complementary reports to the ACERWC</li> </ul>



Monitoring	Implementation
<ul style="list-style-type: none"> <li>Identify any challenges, constraints or drawbacks to the implementation of the Charter and make recommendations for solutions, to the State</li> </ul>	<ul style="list-style-type: none"> <li>Support promotional visits by the ACERWC to one's country and provide information, where necessary, to the ACERWC to facilitate its interaction with government officials</li> </ul>
<ul style="list-style-type: none"> <li>Document the progress of the State in reporting to the ACERWC, i.e. noting the number of reports submitted, reports outstanding, Concluding Observations on reports submitted and the extent to which the State has implemented the recommendations in the Concluding Observations</li> </ul>	<ul style="list-style-type: none"> <li>Provide direct support services to children who are most vulnerable as well as parents and care-givers who live in extreme poverty and other vulnerable situations</li> </ul>

The list above is by no means exhaustive. It is intended to stimulate experience-sharing and discussion by participants – led by those from CSOs – on how monitoring and implementation can be better concretised. This interaction should be documented and the ideas put forward taken up to be tried. The implementation and feedback matrix of this Tool Kit will further enable participants to document their experiences with the suggestions and recommendations made in this section of the training.

### 4.5 Conclusion

This final module has been an interactive one in which trainees have led the discussion around key aspects of their work. They have also had the benefit of input from other participants on ways in which their work for children – guided by the ACRWC – can be done better and achieve more effective results. What remains from this point onwards is A-C-T-I-O-N and feedback to the Committee of Experts on the usefulness of this training and how much progress trainees are making in supporting the implementation of the African Children's Charter. It is envisaged that through their efforts, no matter how small, trainees will improve the lives of children in their States and in their Sub-regions.



### 4.5.1 Points to Remember

As trainees end this training with this final Module, remember these key points from the Module.

- » As RECs are increasing their focus on human rights, they are also developing child rights standards, notably in ECOWAS and SADC.
- » Advocacy is one of the key tools used in getting State Parties to ratify and implement child rights treaties. Advocacy can be done in a number of ways including campaigning, lobbying, awareness-raising and media work.
- » As States ratify treaties, they are encouraged not to enter reservations or withdraw any reservations they have entered.
- » Implementation of child rights treaties should be underscored by a 'child rights-based approach.
- » Alternative or Complementary Reporting should preferably be done in a collaborative manner.
- » Monitoring and implementation of child rights treaties are interrelated and CSOs play vital roles in ensuring the success of both.

### 4.5.2 Questions for Self-Evaluation

- » Can I name at least **three** child rights standards of RECs in Africa?
- » Can I identify at least **three** forms of Advocacy?
- » What is meant by **signature, ratification, accession** and **reservation** to a treaty?
- » What is meant by a child rights-based approach to implementation?
- » Can I list at least **four** points to consider in preparing and submitting a Communication?
- » In what **two** ways are monitoring and implementation of child rights treaties interrelated?



# Training Schedule

## Two-Day Training Workshop Programme

DAY 1			DAY 2		
Time	Activity	Facilitator	Time	Activity	Facilitator
08:00-08:30	<ul style="list-style-type: none"> <li>» Registration</li> <li>» Welcome Remarks</li> <li>» Opening of Workshop</li> <li>» Introduction of Participants</li> </ul>	<ul style="list-style-type: none"> <li>» Workshop Organiser</li> <li>» Workshop Organiser</li> <li>» Invited Guest</li> <li>» Participants</li> </ul>	08:30-09:30	<b>Module 2:</b> Communication Exercise	» Trainer
08:30-08:45	<b>Introduction to the Training</b> » (Structure, Objectives, Outcomes)	» Trainer	09:30-10:30	<b>Module 3:</b> <b>The African Committee of Experts on the Rights and Welfare of the Child in the African Union System</b>  » History of the AU » ACERWC & AU Organs	» Trainer
08:45-10:30	<b>Module 1:</b> <b>The African Charter on the Rights and Welfare of the Child</b>  » Background & History » Principles & Rights » Responsibilities of the Child	» Trainer			
10:30-10:45	<b>Tea Break</b>				



DAY 1			DAY 2		
Time	Activity	Facilitator	Time	Activity	Facilitator
10:45-12:00	<b>Module 1: The African Charter on the Rights and Welfare of the Child (cont.)</b> <ul style="list-style-type: none"> <li>» Responsibilities of the Child</li> <li>» ACRWC &amp; CRC in Comparative Perspective</li> <li>» ACRWC &amp; ACmHPR in Comparative Perspective</li> </ul>	» Trainer	10:45-12:00	<b>Module 3: The African Committee of Experts on the Rights and Welfare of the Child in the African Union System (cont.)</b> <ul style="list-style-type: none"> <li>» ACERWC &amp; AU Human Rights Mechanisms</li> <li>» ACERWC &amp; RECs</li> <li>» ACERWC &amp; CSOs</li> </ul>	» Trainer
12:00-13:00	<b>Module 2: The African Committee of Experts on the Rights and Welfare of the Child</b> <ul style="list-style-type: none"> <li>» Establishment, Structure &amp; Mandate</li> <li>» Promotion Mandate</li> <li>» Protection Mandate                             <ul style="list-style-type: none"> <li>» Consideration of Communications</li> </ul> </li> </ul>	» Trainer	12:00-13:00	<b>Module 4: Sector-specific Issues</b> <ul style="list-style-type: none"> <li>» Issues related to RECs                             <ul style="list-style-type: none"> <li>» Establishing sub-regional child rights standards</li> <li>» Advocacy for ACRWC Implementation</li> <li>» Mainstreaming child rights in the economic agenda</li> <li>» Institutionalising RECs engagement with ACERWC</li> </ul> </li> </ul>	» Trainer/ » RECs Participants
13:00-14:00	<b>LUNCH</b>				



DAY 1			DAY 2		
Time	Activity	Facilitator	Time	Activity	Facilitator
14:00-15:30	<b>Module 2: The African Committee of Experts on the Rights and Welfare of the Child (cont.)</b> <ul style="list-style-type: none"> <li>» Protection Mandate (cont.)                             <ul style="list-style-type: none"> <li>» Conduct of Investigations</li> <li>» State Reporting</li> <li>» Alternative or Complementary Reporting</li> </ul> </li> </ul>	» Trainer	14:00-15:00	<b>Module 4: Sector-specific Issues (cont.)</b> <ul style="list-style-type: none"> <li>» Issues related to Government Officials</li> <li>» Ratification of ACRWC</li> <li>» Implementation of ACRWC</li> <li>» State Reporting</li> <li>» Working with ACERWC Interpretation Mandate</li> <li>» Facilitating ACERWC in-country work (investigation missions, promotional visits, etc.)</li> </ul>	» Trainer/ » Government » Participants
15:30-15:45	<b>Tea Break</b>				
15:45-17:00	<b>Module 2: The African Committee of Experts on the Rights and Welfare of the Child (cont.)</b> <ul style="list-style-type: none"> <li>» Interpretation Mandate</li> <li>» Operations</li> </ul>	» Trainer	15:00-16:00	<b>Module 4: Sector-specific Issues (cont.)</b> <ul style="list-style-type: none"> <li>» Issues related to CSOs                             <ul style="list-style-type: none"> <li>» Alternative Reporting</li> <li>» Advocacy for child rights</li> <li>» Identifying and submitting Communications</li> <li>» Supporting monitoring and implementation of ACRWC</li> </ul> </li> </ul>	» Trainer/ » CSO » Participants



DAY 1			DAY 2		
Time	Activity	Facilitator	Time	Activity	Facilitator
17:00-17:30	<ul style="list-style-type: none"> <li>» Distribution and explanation of Communications Exercise</li> <li>» Closing</li> </ul>	» Trainer	16:00-17:00	<ul style="list-style-type: none"> <li>» Networking and action planning for future collaboration among participants</li> <li>» Workshop Evaluation</li> <li>» Formal Closing of Workshop</li> </ul>	<ul style="list-style-type: none"> <li>» Trainer</li> <li>» Participants</li> <li>» Invited Guest</li> </ul>

# Part C

## Additional Materials

## Additional Materials

This part provide a bibliography for both participants and facilitators for preparation towards the training as well as further reading. It begins with a brief guidance note to facilitators on the conduct of the training workshop.

### 1. Note to the Trainer

This training Tool Kit serves both as a background reading document on the African Children's Charter and the work of the Committee of Experts, as well as foundation on which the trainer can build his or her own presentation upon. This approach is in view of the fact that the African child rights system is dynamic and periodically witnesses new developments. Thus, trainers are encouraged to expand on the information provided in the Tool Kit, where necessary, to enable participants become abreast with current developments in the normative standards, practices, working documents and methods of the Committee of Experts and developments at the broader AU level. The Tool Kit is written in simple, language that can be easily grasped by participants and trainers and aims to assist trainers in putting together their presentations. The take-home Power Point Slides attached to the Tool Kit are meant to ensure standardisation in the preparation of the trainers' lectures as well as provide the participants with a quick summary of the Tool Kit and lectures. Accordingly, it is expected that trainers will find the Tool Kit a user-friendly and handy resource for capacity-building on the African child right system.

#### 1.1 Presentation of Modules

The information provided in the topic summaries under the modules have been captured in take-home Power Point Slides for participants. Trainers are to use these Slides in the lectures, noting that they are at liberty to add any other relevant information. The Slides provide foundational information and therefore trainers are urged not to take out any information, unless it is obsolete or has been modified to meet current developments.

Lectures are to be presented in simple, language. The sessions are intended to be interactive, thus trainers are advised to engage the participants in discussions, questions, debates and experience-sharing as much as possible. In so doing, trainers are to be mindful of the time allocations for the sessions in the suggested course timetable. This would ensure that participants are able to cover all the topics in the Tool Kit. A suggested outline for presentation of lectures is as follows:

- » Outline the learning outcomes
- » Present the topic and module under which it falls
- » Present the lecture using the Power Point Slides, interspersed with relevant discussions, questions, debates and experience-sharing
- » Conduct any exercise, role play or group discussion if necessary



- » Conclude the lecture with a re-cap of the key points
- » Encourage participants to answer the questions for self-evaluation

## 1.2 Discussion Questions, Exercises and Role Plays

The Tool Kit includes discussions questions, exercises and role plays in some modules as appropriate. These are intended to sustain the interactive atmosphere of the training workshop, to give participants hands-on experience in working with the African Children's Charter and the Committee of Experts, and to assess the extent to which they participants have understood and grasped the knowledge being shared.

Detailed instructions are already provided under the various exercises to facilitate their conduct and administration. Trainers are advised to ensure that the time allotted for an exercise is adhered to.

Trainers are to ensure that all the participants receive all the relevant materials for the exercises. This will include copies of the African Children's Charter and other relevant treaties, working documents of the Committee of Experts, flip chart papers and markers for group work and report-back sessions. The reports on group work and the exercises should be displayed around the training room for easy reference as the training progresses. At the conclusion of the training, these reports are to be submitted to the organisers for future improvement of the Tool Kit.

## 2. Illustrative reference list

The list of materials indicated in this section is not exhaustive. The instructor as well as participants may include other materials that are relevant for the training.

### Books

1. Heyns Christof & Killander Magnus, Compendium of Key Human Rights Documents of the African Union<sup>5</sup> Ed (2013) Pretoria University Law Press (PULP): Pretoria. Available at [www.pulp.up.ac.za/pdf/2013\\_05/2013\\_05.pdf](http://www.pulp.up.ac.za/pdf/2013_05/2013_05.pdf)
2. O'Neill, Kathryn Getting it Right for Children: A practitioners' guide to child rights programming (2007) Save the Children UK. Available at <http://www.savethechildren.org.uk/resources/online-library/getting-it-right-children-practitioners%E2%80%99-guide-child-rights-programming>
3. Sheahan, Frances Advancing Children's Rights: A Guide for Civil Society Organisations on how to engage with the African Committee of Experts on the Rights and Welfare of the Child.<sup>2</sup> Ed (2010) Save the Children Sweden; Plan International. Available at <http://resourcecentre.savethechildren.se/sites/default/files/documents/4520.pdf>



4. Viljoen, Frans International Human Rights Law in Africa 2 Ed (2012)  
Oxford University Press

### Websites

1. African Commission on Human and Peoples' Rights. Available at [www.achpr.org](http://www.achpr.org)
2. African Committee of Experts on the Rights and Welfare of the Child. Available at [www.acerwc.org](http://www.acerwc.org)
3. African Child Policy Forum, 'The African Child Information Hub'. Available at [www.africanchildinfo.net/](http://www.africanchildinfo.net/)
4. African Court on Human and Peoples' Rights. Available at [www.african-court.org/en](http://www.african-court.org/en)
5. African Union. Available at [www.au.int](http://www.au.int)
6. Institute for Human Rights and Development in Africa, 'African Human Rights Case Law Analyser'. Available at <http://caselaw.ihrda.org>

### International legal instruments

1. African Charter on Human and Peoples' Rights, 1981
2. African Charter on the Rights and Welfare of the Child, 1990
3. Constitutive Act of the African Union, 2000
4. Charter of the Organisation of African Unity, 1963
5. Treaty Establishing the East African Community, 2001
6. Treaty of the Southern Africa Development Community, 1992
7. Treaty of the Economic Community of West African States, 1975
8. UN Convention on the Rights of the Child, 1989

# Part D

## Implementation and Feedback Matrix



# Implementation and Feedback Matrix

## 1. TRAINING WORKSHOP ON THE AFRICAN CHARTER ON THE RIGHTS AND WELFARE OF THE CHILD IMPLEMENTATION AND FEEDBACK MATRIX FOR CIVIL SOCIETY ORGANISATIONS

### 1A. PARTICIPANT DETAILS\*

<b>Name</b>						
<b>Organisation</b>						
<b>Address</b>						
<b>Country</b>						
<b>Designation</b>						
<b>Telephone</b>	<b>Work:</b>		<b>Email(s):</b>			
	<b>Cell:</b>					
<b>Course Dates</b>	<b>From:</b>		<b>To:</b>			
	DD	MM	YYYY	DD	MM	YYYY

\*Please indicate you wish to remain anonymous in the ACERWC's communication with State Parties regarding information provided in this matrix.

### 1B. MONITORING OF NATIONAL IMPLEMENTATION OF ACRWC

Legal, Policy and Programmatic Framework	
Can you list any laws that cover any of provisions of the ACRWC?	
Are there any existing laws being amended or new ones being developed which give effect to the ACRWC? If so, state them.	



### Legal, Policy and Programmatic Framework

Can you list any national policies that give effect to the ACRWC?	
Can you list any national programmes that give effect to the ACRWC?	
What challenges, if any, can you identify in the implementation of the laws, policies and programmes you have stated?	
Have you identified any successes or best practice in the implementation of the laws, policies and programmes you have stated?	

### Monitoring of national activities for the commemoration of the Day of the African Child (DAC)

Has the commemoration of the DAC been formally launched in the State?	
How widely has the DAC Concept Note been circulated in the State?	
What major activities have been planned for the DAC?	



### Monitoring of national activities for the commemoration of the Day of the African Child (DAC)

<p>Have children been involved in the planning and implementation of the activities? If so, how would you estimate the level of children's participation in the planning and implementation?</p>	
<p>To what extent do the planned activities reflect the theme of the DAC and the areas of concern raised in the DAC Concept Note?</p>	
<p>What has been the impact of the DAC activities on the areas of concern and recommendations made in the DAC Concept Note on the theme?</p>	

## 1C. ADVOCACY FOR THE PREPARATION OF STATE PARTY REPORTS

### Preparation of the State Party Report

<p>Is the State on schedule with its reporting obligation to the ACERWC?</p>	
<p>How many Reports have been submitted and how many are overdue?</p>	
<p>Have any measures been taken to prepare a State Party Report?</p>	
<p>What challenges have been faced by the State in preparing its Report?</p>	



### Preparation of the State Party Report

What advocacy measures have been taken to get the State to prepare its Report?	
What has been the impact of the advocacy measures taken to get the State to prepare its Report?	
If the State has commenced preparation of its Report, to what extent have children and non-governmental entities been involved in the process?	
Do you or your organisation have access to a copy of the Report?	
To what extent does the Report meet the requirements of the Guidelines for Initial or Periodic Reports, where applicable?	
To what extent does the Report address any issues raised by the ACERWC or the UN Committee on the Rights of the Child in Concluding Observations on any previous Reports?	
At what stage is the preparation of the Report?	
What are the next steps planned by the State in the process of preparing its Report?	



### Submission of State Party Report

Can you or your organisation indicate when the State intends to submit its Report?	
Are you or your organisation aware that the State has in fact submitted its Report to the ACERWC and when?	
Are you or your organisation aware of any invitation from the ACERWC to the State to formally present its Report?	

## 1D. PREPARATION OF COMMUNICATIONS

### Preliminary Issues

Have you identified any issue or incident which you or your organisation wish to present to the ACERWC in a Communication? If so, please provide details.	
Have you or your organisation undertaken any research to ascertain the facts and gather the necessary evidence in support?	



<p>Have you or your organisation made attempts to address the issue or incident through your national judicial institutions? If so, what is the result? If not, give the reasons why.</p>	
<p>Have you or your organisation prepared a draft of the Communication you intend to submit?</p>	

**Preparation and Submission**

<p>Has your draft Communication been finalised with all the relevant evidence attached?</p>	
<p>Has your Communication been translated into any of the AU official languages, particularly French?</p>	
<p>Have you or your organisation submitted your Communication to the ACERWC Secretariat?</p>	
<p>Have you received any response to the submission of your Communication to the ACERWC Secretariat?</p>	





## 1E. SUPPORT TOWARDS INVESTIGATIVE MISSIONS

Pre-Mission Matters	
Have you or your organisation received any information about an impending Investigative Mission by the ACERWC to your State?	
Have you or your organisation identified any issue in your State for which you or your organisation think the ACERWC should investigate?	
If you or your organisation have identified an issue for investigation, have you or your organisation taken steps to request the ACERWC to undertake an Investigation Mission to your State? If so, what has been the ACERWC's feedback?	
List any measures or activities you or your organisation have planned in support of an Investigation Mission by the ACERWC to your State?	



### Support during and after the Mission

<p>Have you or your organisation participated directly in an Investigative Mission by the ACERWC to your State? If so, kindly list your specific activities/tasks/obligations or support offered to the ACERWC during the Mission?</p>	
<p>What is the outcome of the Mission and what role have you or your organisation played in compiling the Report of the Mission?</p>	
<p>What role, if any, are you or your organisation going to play in the implementation of the recommendations of the ACERWC to the State following the Mission?</p>	

## 1F. PREPARATION TO ATTEND PRE-SESSIONS AND SESSIONS

### Pre-Session

<p>Have you or your organisation received any information about the Pre-Session to consider your State Party report? If so, through what medium did you receive the information?</p>	
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### Pre-Session

Have you or your organisation received any invitation from the ACERWC Secretariat to attend the Pre-Session?	
Have you or your organisation provided the Committee Secretariat with copies of your Complementary Report?	
Did you or your organisation attend the Pre-Session?	
What did you or your organisation like most about the Pre-Session?	
What did you or your organisation like least about the Pre-Session?	
In what ways do you or your organisation think the Pre-Session could be improved?	
Any additional comments on the Pre-Session you or your organisation would like to bring to the Committee's attention?	



### Session

<p>Have you or your organisation received information about the upcoming Session of the Committee? If so, through what medium did you receive the information?</p>	
<p>Did you or your organisation attend the Session?</p>	
<p>Did you or your organisation make any Statement to the Committee during the Session?</p>	
<p>What did you or organisation like most about the Session?</p>	
<p>What did you or your organisation like least about the Session?</p>	
<p>In what ways do or your organisation think the Session can be improved?</p>	
<p>Any additional comments on the Session you or your organisation would like to bring to the Committee's attention?</p>	



## 1G. IMPACT OF THE TRAINING WORKSHOP

Which topics covered in the training workshop have been most helpful to you or your organisation in your work?	
Which topics covered in the training have been least helpful to you or your organisation in your work?	
What issues have you or your organisation encountered in your work which were not covered in the training and which you would like to see covered?	
Would you recommend the training for any other stakeholders in children's rights? If so, kindly indicate which stakeholder?	
Do you have any other comments on the impact of the training on you or your organisation's work?	



## 2. TRAINING WORKSHOP ON THE AFRICAN CHARTER ON THE RIGHTS AND WELFARE OF THE CHILD IMPLEMENTATION AND FEEDBACK MATRIX FOR CHILD RIGHTS FOCAL PERSONS IN REGIONAL ECONOMIC COMMUNITIES (RECs)

### 2A. PARTICIPANT DETAILS\*

<b>Name</b>						
<b>Address</b>						
<b>Regional Community</b>	<b>Economic Community</b>					
<b>Designation</b>						
<b>Telephone</b>	<b>Work:</b>		<b>Email(s):</b>			
	<b>Cell:</b>					
<b>Course Dates</b>	<b>From:</b>		<b>To:</b>			
	DD	MM	YYYY	DD	MM	YYYY

\*Please indicate you wish to remain anonymous in the ACERWC's communication with State Parties regarding information provided in this matrix.



## 2B. MONITORING OF NATIONAL AND RECS' ACTIVITIES TO COMMEMORATE THE DAY OF THE AFRICAN CHILD (DAC)

### Monitoring of national activities

Has the commemoration of the DAC been formally launched in the Member States of your REC?	
What major activities have been planned for the DAC? In the Member States of your REC?	
To what extent do the planned activities reflect the theme of the DAC and the areas of concern raised in the DAC Concept Note?	
What has been the impact of the DAC activities on the areas of concern and recommendations made in the DAC Concept Note on the theme?	

### Monitoring of REC activities

Has the commemoration of the DAC been formally launched in your REC?	
How widely has the DAC Concept Note been circulated by your REC?	
What major activities have been planned by your REC for the DAC?	



### Monitoring of REC activities

<p>Have children been involved in the planning and implementation of the activities? If so, how would you estimate the level of children's participation in the planning and implementation?</p>	
<p>To what extent do the planned activities reflect the theme of the DAC and the areas of concern raised in the DAC Concept Note?</p>	
<p>What has been the impact of the DAC activities on the areas of concern and recommendations made in the DAC Concept Note on the theme?</p>	

## 2C. ADVOCACY FOR THE PREPARATION OF STATE PARTY REPORTS

<p>How many State Parties in your REC are on schedule with their reporting obligation to the ACERWC?</p>	
<p>How many State Party Reports have been submitted from your REC and how many are overdue?</p>	





<p>Has your REC taken any measures to encourage Member States to submit their Reports to the ACERWC? If so, what are these measures?</p>	
<p>What challenges have been faced by Member States of your REC in preparing their Reports to the ACERWC?</p>	
<p>What advocacy measures have been taken by your REC to urge Member States to prepare their Reports to the ACERWC?</p>	
<p>What has been the impact of the advocacy measures taken by your REC to urge Member States to prepare their Reports to the ACERWC?</p>	
<p>To what extent have children and non-governmental entities been involved in your REC's advocacy measures to urge Member States to prepare their Reports to the ACERWC?</p>	



## 2D. ACERWC PARTICIPATION IN RECs' ACTIVITIES AND PROGRAMMES

<p>Has your ever REC invited the ACERWC to participate in any event, activity or programme organised by or associated with the REC?</p>	
<p>Has the ACERWC ever been asked to play any role in any event, activity or programme organised by or associated with the REC?</p>	
<p>Has your REC and the ACERWC jointly planned, organised or implemented any event, activity or programme?</p>	
<p>What factors have made collaboration between your REC and the ACERWC successful which in your view, should be encouraged?</p>	
<p>What challenges have your REC experienced in collaborating with the ACERWC which should be addressed?</p>	
<p>What has been the impact of collaboration between your REC and the ACERWC the advocacy measures taken by your REC to urge Member States to prepare their Reports to the ACERWC?</p>	



<p>What other suggestions or recommendations would you have for strengthening collaboration between your REC and the ACERWC?</p>	
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## 2E. IMPACT OF THE TRAINING WORKSHOP

<p>Which topics covered in the training workshop have been most helpful to you or your REC in your work?</p>	
<p>Which topics covered in the training have been least helpful to you or your REC in your work?</p>	
<p>What issues have you or your REC encountered in your work which were not covered in the training and which you would like to see covered?</p>	
<p>Would you recommend the training for any other stakeholders in children's rights? If so, kindly indicate which stakeholder?</p>	
<p>Do you have any other comments on the impact of the training on you or your organisation's work?</p>	



### 3. TRAINING WORKSHOP ON THE AFRICAN CHARTER ON THE RIGHTS AND WELFARE OF THE CHILD IMPLEMENTATION AND FEEDBACK MATRIX FOR GOVERNMENT OFFICIALS

#### 3A. PARTICIPANT DETAILS\*

<b>Name</b>						
<b>Government Institution</b>						
<b>Address</b>						
<b>Country</b>						
<b>Designation</b>						
<b>Telephone</b>	<b>Work:</b>		<b>Email(s):</b>			
	<b>Cell:</b>					
<b>Course Dates</b>	<b>From:</b>		<b>To:</b>			
	DD	MM	YYYY	DD	MM	YYYY

\*Please indicate you wish to remain anonymous in the ACERWC's communication with State Parties regarding information provided in this matrix.

#### 3B. MONITORING OF NATIONAL IMPLEMENTATION OF ACRWC

Legal, Policy and Programmatic Framework	
Can you list any laws that cover any of provisions of the ACRWC?	
Are there any existing laws being amended or new ones being developed which give effect to the ACRWC? If so, state them.	



### Legal, Policy and Programmatic Framework

Can you list any national policies that give effect to the ACRWC?	
Can you list any national programmes that give effect to the ACRWC?	
What challenges, if any, can you identify in the implementation of the laws, policies and programmes you have stated?	
Have you identified any successes or best practice in the implementation of the laws, policies and programmes you have stated?	

### Monitoring of national activities for the commemoration of the Day of the African Child (DAC)

Has the commemoration of the DAC been formally launched in the State?	
How widely has the DAC Concept Note been circulated in the State?	
What major activities have been planned for the DAC?	



### Monitoring of national activities for the commemoration of the Day of the African Child (DAC)

<p>Have children been involved in the planning and implementation of the activities? If so, how would you estimate the level of children's participation in the planning and implementation?</p>	
<p>To what extent do the planned activities reflect the theme of the DAC and the areas of concern raised in the DAC Concept Note?</p>	
<p>What has been the impact of the DAC activities on the areas of concern and recommendations made in the DAC Concept Note on the theme?</p>	

## 3C. PREPARATION AND SUBMISSION OF STATE PARTY REPORTS

### Preparation of the State Party Report

<p>Is the State on schedule with its reporting obligation to the ACERWC?</p>	
<p>How many Reports have been submitted and how many are overdue?</p>	
<p>Have any measures been taken to prepare a State Party Report?</p>	
<p>What challenges have been faced by the State in preparing its Report?</p>	



### Preparation of the State Party Report

What administrative or policy measures have been taken to get the State to prepare its Report?	
What has been the impact of the administrative or policy measures taken to get the State to prepare its Report?	
If the State has commenced preparation of its Report, to what extent have children and non-governmental entities been involved in the process?	
Do you or your office/agency/ministry have access to a copy of the Report?	
To what extent does the Report meet the requirements of the Guidelines for Initial or Periodic Reports, where applicable?	
To what extent does the Report address any issues raised by the ACERWC or the UN Committee on the Rights of the Child in Concluding Observations on any previous Reports?	
At what stage is the preparation of the Report?	



### Preparation of the State Party Report

What are the next steps planned by the State in the process of preparing its Report?

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### Submission of State Party Report

Can you or office/agency/ministry indicate when the State intends to submit its Report?

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Are you or office/agency/ministry aware that the State has in fact submitted its Report to the ACERWC and when?

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Are you or office/agency/ministry aware of any invitation from the ACERWC to the State to formally present its Report?

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## 3D. STATE RESPONSE TO COMMUNICATIONS

### Preliminary Issues

Have you or your office/agency/ministry been informed of any communication filed against your State before the ACERWC? If so, please provide details.

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### Preliminary Issues

<p>Have you or your office/agency/ministry undertaken any research to ascertain the facts and evidence put forward in the Communication?</p>	
<p>Have you or office/agency/ministry made attempts to address the Communication through your national judicial institutions? If so, what is the result? If not, give the reasons why.</p>	
<p>Have you or office/agency/ministry prepared a draft of the State's response to the Communication? If not, kindly give the reasons why.</p>	

### Preparation and Submission

<p>Have you or your office/agency/ministry finalised the State's Response to the Communication with all the relevant evidence attached?</p>	
<p>Has the State's Response to the Communication been translated into any of the AU official languages, particularly French?</p>	



### Preparation and Submission

Have you or your office/agency/ministry submitted your State's Response to the Communication to the ACERWC Secretariat?

Have you or your office/agency/ministry received any response to the submission of the State's Response to the Communication to the ACERWC Secretariat?

### 3E. SUPPORT TOWARDS INVESTIGATIVE MISSIONS

#### Pre-Mission Matters

Have you or office/agency/ministry received any information about an impending Investigative Mission by the ACERWC to your State?

List any measures or activities you or office/agency/ministry have planned in support of an Investigation Mission by the ACERWC to your State.

List any other State offices, agencies or ministries which have been identified and mandated to support the ACERWC during its Investigation Mission to your State.



### Support during and after the Mission

<p>Have you or office/agency/ministry participated directly in an Investigative Mission by the ACERWC to your State? If so, kindly list the specific activities/tasks/obligations or support offered to the ACERWC during the Mission?</p>	
<p>What is the outcome of the Mission and what role have you or your office/agency/ministry played in compiling the Report of the Mission?</p>	
<p>What role, if any, are you or your office/agency/ministry going to play in the implementation of the recommendations of the ACERWC to the State following the Mission?</p>	

### 3F. PARTICIPATING IN SESSIONS

<p>Have you or your office/agency/ministry received information about the upcoming Session of the Committee?</p>	
<p>Did you or your office/agency/ministry attend the Session?</p>	



<p>Did you or your office/agency/ministry make any Statement to the Committee on behalf of the State during the Session? If so, what was the content of the Statement?</p>	
<p>What did you or office/agency/ministry like most about the Session?</p>	
<p>What did you or your office/agency/ministry like least about the Session?</p>	
<p>In what ways do or your office/agency/ministry think the Session can be improved?</p>	
<p>Any additional comments on the Session you or your office/agency/ministry would like to bring to the Committee's attention?</p>	

### 3G. NATIONAL APPLICATION OF GENERAL COMMENTS, PRINCIPLES AND GUIDELINES

<p>Can you list any General Comments, Principles and Guidelines of the ACERWC which you are aware of?</p>	



<p>Are there any existing laws being amended or new ones being developed which give effect to the General Comments, Principles and Guidelines of the ACERWC? If so, state those, indicating which General Comment, set of Principles or Guidelines apply to which law.</p>	
<p>Can you list any national policies that give effect to the General Comments, Principles or Guidelines of the ACERWC?</p>	
<p>Can you list any national programmes that give effect to the General Comments, Principles or Guidelines of the ACERWC?</p>	
<p>What challenges, if any, can you identify in the implementation of the laws, policies and programmes you have stated as a result of applying the General Comments, Principles and Guidelines as a part?</p>	



Have you identified any successes or best practice in the implementation of the laws, policies and programmes you have stated as a result of applying the General Comments, Principles and Guidelines to them?

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### 3H. IMPACT OF THE TRAINING WORKSHOP

Which topics covered in the training workshop have been most helpful to you or your office/agency/ministry in your work?

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Which topics covered in the training have been least helpful to you or your office/agency/ministry in your work?

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What issues have you or your office/agency/ministry encountered in your work which were not covered in the training and which you would like to see covered?

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Would you recommend the training for any other stakeholders in children's rights? If so, kindly indicate which stakeholder?

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Do you have any other comments on the impact of the training on you or your organisation's work?



## Annex: Communications Exercise – Hypothetical Case

1. Zonto is a West African coastal country. Zonto has a warm tropical climate, lush green tropical forests and a white sandy beach which attracts many tourists every year. Zonto also exports timber, cocoa, gold and diamonds. However the tourism and export industry is mainly run by foreign companies. Zonto's economy has an average growth rate of 5% each year. Zonto has a population of 21 million made up of 4 main ethnic groups: the Banana (55%), the Miringi (24%), the Impinda (15%) and the Tarato (6%). Though Islam and Christianity are the main religions, a lot of people are closely attached to their traditional practices. The Government of Zonto, under President Lumka Daboya, has been waging a strong campaign to end early marriages and female genital mutilation (FGM), which commonly practiced by the Banana and Impinda tribes.
2. At the end of military rule in 2000, Zontonians approved a new constitution in a referendum. The 2001 2<sup>nd</sup> Republican Constitution of Zonto has a Bill of Rights in Chapter 5. Zonto is also a member of the Economic Community of West African States (ECOWAS), African Union (AU) and United Nations (UN). Zonto has ratified the African Charter on the Rights and Welfare of the Child (ACRWC), the African Charter on Human and Peoples' Rights (ACHPR) and its Protocol on the Rights of Women in Africa (PRWA) and the key human rights instruments of the UN, including the Convention on the Rights of the Child (CRC). The Zontonian Parliament passed its Children's Act in 2002. The Act codifies a lot of the rights in the ACRWC and CRC.
3. Amina Zinzi, a young Impinda woman, was raped by her cousin in 1999. She was then 13 years old. He threatened to kill her if she told anyone. Amina's fears worsened when she discovered she was pregnant. Soon, she could not hide the pregnancy anymore and was confronted by her mother. For fear of being killed by her cousin, she refused to mention him as being responsible. Consequently, Amina was banished from her village and she fled to the capital city, Linda, where she worked as a porter in the market. Amina delivered a beautiful baby girl but due to her inability to obtain ante-natal care, her baby was born blind. She named her Rahina, which means 'blessing' in her Impindu language. Though blind, Rahina was a very brilliant child but Amina, who was still a porter, could not afford to take her to school. A former classmate of Amina, who was a teacher taught Rahina in the evenings but could not continue when she was transferred to a village school. Rahina was then 8 years old. From her small savings, Amina registered Rahina in the Linda Girls Public Primary School near the market. Rahina's performance was so exceptional that the Headmistress offered to use part of the school's funds to



provide educational materials in Braille for Rahina. She discussed the issue with the other teachers of the School who refused on the ground that the School should not provide special treatment for Amina, when other children had an equal need for books. They argued that there was a very good school for children with disabilities in Tingi, a small town which was 400 kilometres from Linda. The Headmistress stood her ground, however the staff reported the matter to the Ministry of Education and Children's Affairs. The Ministry agreed with the teachers and instructed the Headmistress to withdraw her decision or be dismissed.

4. The Tingi School for Children with Disabilities was a boarding school. Though there were excellent facilities, many parents complained of ill-treatment of their children by the school authorities. They also argued that the school was far away and therefore difficult for them to see their children often. The Minister for Education and Children's Affairs instructed the Linda Girls Public Primary School to transfer Rahina immediately to the Tingi School for Children with Disabilities. For fear of losing her daughter, Amina kept Rahina at home. Rahina became moody and cried a lot because she could not go to school. Amina appealed to the Headmistress to intervene but she declined for fear of losing her job. She further appealed to the Regional Education Office but was turned away. With the assistance of the Women's Legal Aid Centre (WOLAC), an NGO, Amina managed to meet the Minister. He informed Amina that the State would be willing to give Rahina a scholarship of 60% of her fees and feeding, if she allowed Rahina to go to school in Tingi. Amina refused arguing that Rahina had no one except her. She was also scared that Rahina would be maltreated in the school at Tingi. She argued that as a blind child, Rahina needed love and attention in addition to regular education. Having been banished from her village, Rahina could not be cared for by her relatives who were just 20 kilometres away from Tingi. Further, children with disabilities were considered an abomination in Amina's village and were killed at birth.
5. WOLAC decided to file a case at the High Court on behalf of Amina and Rahina to compel the State to provide special care for Rahina at the Linda Girls Public Primary School. WOLAC lost the case from the High Court, through the Court of Appeal to the Supreme Court. The Supreme Court ruled that Rahina should be sent to Tingi where the Republic of Zonto had provided facilities for children with disabilities. Amina is not satisfied and is still arguing that it is Rahina's best interest that she stays with her mother.
6. WOLAC has approached you to assist Amina to prepare a communication on behalf of Amina to the African Committee of Experts on the Rights and Welfare of the Child.



