

Revisiting the role of the African Commission on Human and Peoples' Rights in eradicating child labour in Africa

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Abstract

Child labour remains one of the most persistent human rights challenges in Africa, undermining children's rights to education, health, and development as enshrined in regional and international human rights instruments. Despite the existence of comprehensive legal frameworks such as the African Charter on the Rights and Welfare of the Child (ACRWC) and the African Charter on Human and Peoples' Rights (African Charter), millions of children across the continent continue to be subjected to exploitative and hazardous work. This chapter revisits the role of the African Commission on Human and Peoples' Rights (ACHPR) in eradicating child labour in Africa, assessing its effectiveness, limitations, and potential for transformative impact. It critically analyses the ACHPR's promotional, protective, and interpretative mandates, focusing on its use of state reporting and concluding observations, special mechanisms and collaborations,

and communications procedures, to advance children's rights. The chapter further explores the synergies between the ACHPR and the African Committee of Experts on the Rights and Welfare of the Child (ACERWC) in addressing systemic violations of children's rights through joint initiatives and advocacy. The Chapter finds that while the ACHPR has made notable strides in mainstreaming children's rights into its broader human rights agenda, challenges such as limited enforcement powers, inadequate state compliance, and resource constraints hinder its effectiveness. The chapter concludes that strengthening institutional collaboration, enhancing monitoring mechanisms, and ensuring greater accountability of state parties in addressing root causes are critical to enabling the ACHPR to play a more decisive role in eradicating child labour and upholding children's rights in Africa.

Keywords: *Child Labour, African Commission on Human and Peoples' Rights, Children's Rights, African Charter on the Rights and Welfare of the Child, Human Rights, Enforcement.*

1 Introduction

Child labour¹ remains a critical human rights challenge across Africa despite decades of international and regional efforts to eliminate it.² Globally, the International Labour Organisation (ILO) and United Nations Children's Fund (UNICEF) estimate that 160 million children are engaged in child labour, with the highest concentration in Africa.³ In fact, one in five African children, approximate 72 million children,

1 According to the ILO, the term 'child labour' is often defined as work that deprives children of their childhood, their potential and their dignity, and that is harmful to physical and mental development. It refers to work that is mentally, physically, socially or morally dangerous and harmful to children, and/or interferes with their schooling by depriving them of the opportunity to attend school; obliging them to leave school prematurely; or requiring them to attempt to combine school attendance with excessively long and heavy work. See International Labour Organisation 'What is child labour', <https://www.ilo.org/topics-and-sectors/child-labour> (accessed 15 March 2025).

2 International Labour Organisation and UNICEF 'Child labour: Global estimates 2020, trends and the road forward' ILO and UNICEF joint publication, <https://data.unicef.org/resources/child-labour-2020-global-estimates-trends-and-the-road-forward/> (accessed 15 March 2025).

3 As above.

are involved in child labour, including over 31 million that are involved in hazardous work.⁴ Such exploitation deprives children of education,⁵ harms their health and development,⁶ and perpetuates cycles of poverty.⁷ Recognising these impacts, Africa, as a region, established legal frameworks and mechanisms to protect children from child labour, one of which is the African Commission on Human and Peoples' Rights (African Commission).⁸ Established under the African Charter on Human and Peoples' Rights (African Charter),⁹ the African Commission occupies a critical role in advancing human rights on the continent. Although the African Charter does not explicitly prohibit child labour, article 18(3) obligates state parties to ensure children's rights protection in line with international standards. The African Commission leverages its broad mandate to address child labour through state reporting mechanisms, thematic resolutions and engagement with various stakeholders, including the African Committee of Experts on the Rights and Welfare of the Child (African Children's Committee).¹⁰ Yet, despite these efforts, significant implementation gaps remain. Many African states have enacted comprehensive national laws and policies aligned with international norms, yet enforcement remains weak, particularly within informal sectors such as agriculture, mining and domestic labour.

This chapter examines the role of the African Commission in combating child labour, analysing the effectiveness of its monitoring and advocacy roles, exploring case studies from selected African countries, and providing recommendations for enhancing its impact. It argues that

4 As above.

5 O Thévenon & E Edmond 'Child labour: Causes, consequences and policies to tackle it' (2019) Organisation for Economic Cooperation and Development (OECD), OECD Social Employment and Migration Working Papers 235, OECD Directorate for Employment, Labour and Social Affairs (ELS) 40.

6 P Roggero and others 'The health impact of child labour in developing countries: Evidence from cross-country data' (2007) 97 *American Journal of Public Health* 271.

7 A Verma 'Child labour: The effect on child' (2018) 3 *International Journal of Advanced Educational Research* 83.

8 The African Commission was inaugurated on 2 November 1987 in Addis Ababa, Ethiopia, <https://achpr.au.int/en/about> (accessed 4 June 2025).

9 African Charter, adopted 1 June 1981 and entered into force 21 October 1986, <https://au.int/en/treaties/african-charter-human-and-peoples-rights> (accessed 4 June 2025).

10 African Committee of Experts on the Rights and Welfare of the Child (African Children's Committee), <https://www.acerwc.africa/en> (accessed 4 June 2025).

the African Commission's strength lies not only in articulating human rights standards, but also in fostering collaborative strategies with regional bodies, governments, civil society and international organisations to ensure that commitments translate into tangible improvements in the lives of African children.

2 International and regional legal frameworks on child labour

2.1 International framework on child labour

The fight against child labour in Africa is grounded in a robust set of international legal instruments. Foremost among these is the United Nations (UN) Convention on the Rights of the Child (CRC), which nearly all African countries have ratified.¹¹ Article 32 of CRC explicitly recognises the right of the child to be protected from economic exploitation and from performing any work that is likely to be hazardous or to interfere with the child's education, or to be harmful to the child's health or development.¹² To realise this right, article 32 requires state parties to take legislative, administrative, social and educational measures, including setting minimum wages for employment, regulating work conditions and providing penalties for violations.¹³ CRC's provision establishes a universal baseline, where children must not be compelled to work in ways that threaten their well-being or education, and governments are obligated to prevent and punish such exploitation.¹⁴

Complementing CRC are the International Labour Organisation (ILO) fundamental conventions on child labour. ILO Convention 138 on the Minimum Age for Employment¹⁵ sets the general minimum age for admission to employment or work at 15 years,¹⁶ the minimum age for hazardous work at 18, while the age of 16 is allowable under certain strict

11 UNCRC, adopted by General Assembly Resolution 44/25 of 20 November 1989, entered into force 2 September 1990.

12 Art 32 CRC art 32.

13 Arts 32(2)(a), (b) & (c) CRC.

14 Art 32 CRC.

15 ILO Convention 138 Concerning Minimum Age for Admission to Employment, adopted by the General Conference of the ILO, having been convened at Geneva by the Governing Body of the International Labour Office, and having met in its 58th session on 26 June 1973, entered into force 19 June 1976.

16 Art 2(3) ILO Convention 138.

conditions.¹⁷ It also provides for the possibility of initially setting the general minimum age at 14, where the economy and educational facilities are insufficiently developed.¹⁸ In the same vein, ILO Convention 182 on the Worst Forms of Child Labour requires the immediate elimination of the worst forms of child labour, including slavery, trafficking, forced labour, child soldiering, prostitution and pornography, and hazardous work likely to harm the health, safety or morals of children.¹⁹ These ILO conventions have achieved nearly universal acceptance.²⁰ The vast majority of African Union (AU) member states have ratified Convention 182 and Convention 138, reflecting a continent-wide commitment to international labour standards.²¹

In addition to binding treaties, global development agendas reinforce the legal mandate to end child labour. Notably, Sustainable Development Goal (SDG) 8 includes Target 8.7 which calls for the end of child labour in all its forms by 2025.²² This global goal has galvanised multistakeholder initiatives, such as Alliance 8.7, in which several African countries participate, to coordinate actions against child labour.²³ International pressure and monitoring, through mechanisms

17 Art 3 (1) ILO Convention 138.

18 Art 2(4) & (5) ILO Convention 138.

19 ILO Convention 182 Concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour, adopted by the General Conference of the ILO having been convened at Geneva by the Governing Body of the International Labour Organisation, and having met in its 87th session on 17 June 1999, entered into force 19 November 2000.

20 ILO Conventions on Child Labour, <https://www.ilo.org/international-programme-elimination-child-labour-ipecc/what-child-labour/ilo-conventions-child-labour> (accessed 16 July 2025).

21 ILO Ratification Status of ILO Convention 138 on Minimum Age, https://normlex.ilo.org/dyn/nrmlx_en/f?p=NORMLEXPUB:11300:0::NO:11300:P11300_INSTRUMENT_ID:312283:NO (accessed 11 March 2025); ILO Ratification Status of ILO Convention 182 on Worst Forms of Child Labour, https://normlex.ilo.org/dyn/nrmlx_en/f?p=NORMLEXPUB:11300:0::NO:11300:P11300_INSTRUMENT_ID:312327:NO (accessed 11 March 2025).

22 The full text reads: 'Take immediate and effective measures to eradicate forced labour, end modern slavery and human trafficking and secure the prohibition and elimination of the worst forms of child labour, including recruitment and use of child soldiers, and by 2025 end child labour in all its forms' SDG Goal 8 Target 8.7. UN General Assembly Transforming our world: The 2030 Agenda for Sustainable Development, A/RES/70/1, 21 October 2015, <https://www.refworld.org/legal/resolution/unga/2015/en/111816> (accessed 10 March 2025).

23 Alliance 8.7 'Joining forces for the eradication of forced labour, modern slavery, human trafficking and child labour', <https://www.alliance87.org/about> (accessed 10 March 2025).

such as CRC and the ILO's supervisory system, have kept child labour high on national agendas.²⁴ The broad international consensus is that child labour is a violation of fundamental human rights, requiring cohesive action through law and policy.²⁵ These global norms provide the foundation upon which African regional frameworks build, tailoring the fight against child labour to the continent's context.²⁶

2.2 African regional instruments and institutions

African states have not only embraced international conventions but also developed regional instruments that underscore and elaborate on the protection of children from labour exploitation. The African Charter, the continent's primary human rights treaty, contains a general provision relevant to children's rights.²⁷ Article 18(3) of the African Charter mandates that states ensure the elimination of all discrimination against women and also ensure the protection of the rights of women and children as stipulated in international declarations and conventions.²⁸ This clause effectively integrates global child rights standards, such as those of CRC and ILO, into the African Charter's framework.²⁹ Although the African Charter does not explicitly mention 'child labour', article 18(3) places an obligation on state parties to uphold children's rights, which implicitly includes freedom from exploitative labour in line with international norms.³⁰ The African Charter thereby provides a broad human rights basis for addressing child labour as part of states' duties to protect vulnerable groups.³¹ The African Commission, as the

24 See generally ILO Organisation for Economic Cooperation and Development, International Organisation for Migration and United Nations Children's Fund 'Ending child labour, forced labour and human trafficking in global supply chains' (2019), <https://mneguidelines.oecd.org/Ending-child-labour-forced-labour-and-human-trafficking-in-global-supply-chains.pdf> (accessed 16 July 2025); ILO and International Programme on Elimination of Child Labour (IPEC) (2005) International Training Centre of the ILO, <http://www.ilo.org/public/english/standards/ipec/publ/> (accessed 10 March 2025).

25 Art 32(2) CRC.

26 See generally CRC; ILO Conventions 138 and 182; and SDG 8 Target 8.7.

27 Art 18(3) African Charter.

28 As above.

29 See generally CRC; ILO Conventions 138 and 182; and SDG 8 Target 8.7; African Charter.

30 Art 18(3) African Charter.

31 As above.

supervisory body of the African Charter, has the authority to monitor and guide states in fulfilling this obligation,³² as discussed later in this chapter.

More directly focused on children is the African Charter on the Rights and Welfare of the Child (African Children's Charter), a region-specific treaty.³³ The African Children's Charter was adopted by the Organisation of African Unity (OAU) (now the AU) to complement CRC with African perspectives on children's rights.³⁴ It explicitly prohibits child labour in terms similar to CRC but with nuanced differences.³⁵ Article 15 of the African Children's Charter states that every child shall be protected from all forms of economic exploitation and from performing any work that is likely to be hazardous or to interfere with the child's physical, mental, spiritual, moral or social development.³⁶ Furthermore, article 15 requires state parties to take all appropriate legislative and administrative measures to ensure this protection, covering both formal and informal employment sectors.³⁷ It calls on states to incorporate ILO standards by stipulating minimum wages for employment, regulating work hours and conditions, and imposing penalties for violators.³⁸ In essence, the African Children's Charter reinforces global standards against child labour while stressing their implementation in African contexts, such as the informal economy where many working children are found.³⁹ All but a few African states have ratified the Children's Charter, binding themselves to eliminate child labour as a legal obligation under African law in addition to international law.⁴⁰ The African Children's Committee⁴¹ monitors

32 Parts II and III African Charter.

33 African Charter on the Rights and Welfare of the Child (African Children's Charter), adopted 1 July 1990 and entered into force 29 November 1999.

34 Preamble African Children's Charter.

35 Art 15 African Children's Charter.

36 Art 15(1) African Children's Charter.

37 Art 15(2) African Children's Charter.

38 Arts 15(2)(a), (b), (c) & (d) African Children's Charter.

39 Art 15(2) African Children's Charter.

40 African Children's Committee 'Ratifications table', <https://www.acerwc.africa/en/member-states/ratifications> (accessed on 10 March 2025).

41 Following the entry into force of the African Children's Charter on 29 November 1999, the African Children's Committee was established in July 2001, in accordance with art 32 of the African Charter. The Committee is an AU organ mandated to monitor the implementation of the African Charter as well as promote and protect children's rights in Africa. The Committee is peculiar as it is a regional quasi-judicial treaty body that is tasked only with children's issues.

compliance with the African Children's Charter and plays a key role alongside the African Commission in protecting children from labour exploitation, a relationship explored later in this chapter.

Beyond treaties, the AU has demonstrated political commitment to ending child labour through various policy initiatives and declarations. In 2019, the AU launched the Ten-Year Action Plan on Eradication of Child Labour, Forced Labour, Human Trafficking and Modern Slavery,⁴² aligning with Target 8.7 of the SDGs. This continental action plan recognises that Africa has the highest prevalence of child labour and outlines coordinated strategies for governments to address root causes such as poverty, lack of access to education and weak enforcement.⁴³ It builds on earlier regional efforts, such as the Ouagadougou Action Plan to Combat Trafficking in Human Beings, Especially Women and Children,⁴⁴ which included child labour aspects, and commitments within sub-regional bodies, for example, the Regional Action Plan for the Elimination of Child Labour of the Economic Community of West African States (ECOWAS).⁴⁵ Moreover, the AU's Agenda 2063⁴⁶ and the associated Agenda 2040 for Children's Rights include aspirations to eliminate violence and exploitation against children. Agenda 2040: Fostering an Africa Fit for Children, adopted by the African Children's Committee and endorsed by the AU, explicitly calls for an Africa where 'no child is subjected to exploitative labour' by the year 2040, envisioning that all children are free from forced work and other

42 AU 'Draft ten-year action plan on eradication of child labour, forced labour, human trafficking and modern slavery in Africa (2020-2030): Agenda 2063-SDG target 8.7', https://au.int/sites/default/files/newsevents/workingdocuments/40112-wd-child_labour_action_plan-final-english.pdf (accessed 14 March 2025).

43 As above.

44 Ouagadougou Action Plan to Combat Trafficking in Human Beings, Especially Women and Children, as adopted by the Ministerial Conference on Migration and Development, Tripoli, 22-23 November 2006, https://au.int/sites/default/files/pages/32899-file-3_ouagadougou_action_plan_to_combat_trafficking_en_1.pdf (accessed 15 March 2025).

45 ECOWAS 'ECOWAS labour ministers adopt ECOWAS regional action plan on the elimination of child labour and forced labour in west Africa' Press release issued on 10 March 2023, <https://ecowas.int/ecowas-labour-ministers-adopt-ecowas-regional-action-plan-on-the-elimination-of-child-labour-and-forced-labour-in-west-africa/> (accessed 10 March 2025).

46 AU 'Agenda 2063: The Africa we want', <https://au.int/en/agenda2063/overview> (accessed 10 March 2025).

abuses.⁴⁷ While largely aspirational, these policy frameworks reflect a consensus among African leaders on the urgency of ending child labour and create opportunities for shared learning and resource mobilisation.⁴⁸ The African Commission and the African Children's Committee draw upon these commitments in their dialogues with states, reminding governments of their pledges and pressing for concrete implementation.

3 Limitations of the African Children's Committee in addressing child labour

The African Children's Committee is an AU organ mandated to monitor the implementation of the African Children's Charter as well as to promote and protect children's rights in Africa.⁴⁹ In deriving its mandate from articles 32 to 45 of the African Children's Charter, the African Children's Committee plays an essential role in the efforts towards eradicate child labour.⁵⁰ Nevertheless, significant gaps persist within its mechanisms, justifying this chapter's examination of the role played by the African Commission in addressing child labour in Africa.

First, the enforcement of the African Children's Committee's recommendations suffers from significant deficiencies.⁵¹ Although the Committee has issued important decisions and observations, such as in

47 With a view to fostering an Africa fit for children, the African Children's Committee developed Africa's Agenda for Children 2040 (Agenda 2040) in 2015. The development of the Agenda was inspired by a conference held in 2015 as part of the commemoration of the 25th anniversary of the African Children's Charter to assess the situation of children in Africa in past 25 years. The Agenda emerged as an outcome of the conference but mainly as an elaboration of the bigger part of Agenda 2063 which aims at empowering African children through the full implementation of the African Children's Charter. Agenda 2040 has been adopted by the Executive Council of the AU through its decision EX.CL/Dec.997(XXXI) as an Africa Union document, <https://www.acerwc.africa/en/page/agenda-2040> (accessed 15 March 2025).

48 See generally the AU Ten-Year Action Plan on Child Labour; Ouagadougou Action Plan to Combat Trafficking in Human Beings, Especially Women and Children; ECOWAS regional action plan on the elimination of child labour and forced labour in west Africa; Agenda 2063; Agenda 2040.

49 African Committee of Experts on the Rights and Welfare of the Child (African Children's Committee), <https://www.acerwc.africa/en> (accessed 29 May 2025).

50 As above.

51 H Dube and others 'Communications to the African Committee of Experts on the Rights and Welfare of the Child: Challenges and prospects (2017) 18 *Child Abuse Research in South Africa* 57.

the notable *Senegalese Talibés* case, involving child begging in Senegal,⁵² its recommendations lack enforcement mechanisms, relying heavily on state willingness to comply voluntarily.⁵³ This enforcement gap leaves many recommendations and observations unimplemented,⁵⁴ highlighting the need for additional oversight and advocacy provided by the African Commission. The Commission's mandate per article 45 of the African Charter allows it to establish rapport with international organisations and other regional bodies, positioning it uniquely to amplify the African Children's Committee's recommendations, increasing their visibility and encouraging compliance.⁵⁵

Moreover, the African Children's Committee's scope is somewhat limited by its specific child-rights mandate. Its mandate confines its interventions strictly to violations explicitly articulated in the African Children's Charter, which are subject to constant change.⁵⁶ The African Commission, with its broader human rights framework under the African Charter, addresses child labour in the context of related issues, such as poverty alleviation, access to education and socio-economic rights.⁵⁷ Thus, it complements the African Children's Committee by tackling underlying structural causes of child labour, such as inadequate enforcement of labour regulations and insufficient investment in social programmes.⁵⁸

Lastly, fragmented efforts between the African Children's Committee and other regional bodies have historically limited the development of coherent regional responses to child labour.⁵⁹ Although recent steps have been taken to enhance collaboration, previously

52 *Centre for Human Rights (University of Pretoria) and La Rencontre Africaine pour la Defense des Droits de l'Homme v Senegal*, No 3/Com/001/2012, decided 15 April 2014 (*Senegalese Talibés*).

53 Dube and others (n 51) 57.

54 A Adeola 'Moving beyond baby steps? An examination of the domestic implementation of Concluding Observations from state parties' reports on the African Children's Charter' (2023) 26 *Potchefstroom Electronic Law Journal* 20.

55 Art 45 African Charter.

56 A Kaviani Johnson & J Sloth-Nielsen 'Child protection, safeguarding and the role of the African Charter on the Rights and Welfare of the Child: Looking back and looking ahead' (2020) 20 *African Human Rights Law Journal* 650.

57 Eg, in pursuance of arts 17, 20, 21 and 22 of the African Charter.

58 Thévenon & Edmond (n 5) 40.

59 RB Bernard 'The regional regulation of child labour laws through harmonisation within COMESA, the EAC and SADC' (2023) 23 *African Human Rights Law Journal* 48-74.

isolated operations between the African Children's Committee and the African Commission, resulted in inconsistent and fragmented human rights messaging to states.⁶⁰ Enhanced cooperation with the African Commission under recently signed memoranda of understanding (MoUs) represents an important step forward.⁶¹ Still, this initiative highlights past gaps in unified advocacy and coordinated intervention that the African Commission can continue to address.⁶²

Collectively, the highlighted gaps substantiate this chapter's discussion of the African Commission's role in the protection of children against labour exploitation, emphasising the need for a multi-faceted, collaborative approach to effectively address and eradicate child labour across Africa.

4 The African Commission's role in monitoring and eradicating child labour

As the premier human rights oversight body in Africa, the African Commission plays a pivotal role in monitoring states' compliance with their child labour obligations and in advocating stronger action to protect children.⁶³ The African Commission's mandate, derived from the African Charter, includes promoting human rights, protecting those rights, through measures such as communications, state reporting procedures and interpreting the Charter.⁶⁴ While the Charter itself does not enumerate child labour as a specific right, the African Commission has consistently treated severe child labour and related abuse as falling under states' duties to protect children, per article 18(3) of the African Charter and other Charter rights such as the right to education, protection from slavery and the right to health.⁶⁵

In practice, the African Commission addresses child labour through several avenues, including the state reporting process and Concluding

60 As above.

61 AU organs sign MoUs to enhance efforts towards the promotion and protection of human and peoples' rights, <https://achpr.au.int/en/news/press-releases/2023-07-16/african-union-organs-sign-mous-enhance-efforts-towards-promotion#:~:text=African%20Commission%20on%20Human%20and,Meeting%20of%20the%20African%20Union> (accessed 3 June 2025).

62 As above.

63 Art 18(3) & Part II African Charter.

64 Part II African Charter.

65 Arts 5, 16, 17, 18(3) & 25 African Charter.

Observations, thematic resolutions and declarations, consideration of communications, and engagement with other stakeholders including the African Children's Committee, civil society and international organisations.⁶⁶ These avenues are discussed below to illustrate how the African Commission's multi-faceted nature is leveraged to eradicate child labour in Africa.

4.1 State reporting and Concluding Observations: Spotlight on child labour

One of the African Commission's primary functions is to examine periodic reports submitted by state parties under article 62 of the African Charter. These reports are meant to detail measures taken to implement the African Charter's provisions, and the African Commission, in turn, issues Concluding Observations with its findings, concerns and recommendations.⁶⁷ The African Commission capitalises on the state reporting mechanism to assess the progress made by African states in implementing relevant conventions and protocols, highlighting areas of concern and issuing recommendations for improvement.⁶⁸ For example, Uganda's periodic report submitted to the African Commission highlighted both progress and persistent challenges in addressing child labour.⁶⁹ In its Concluding Observations, the African Commission praised Uganda's efforts to eliminate child labour, including the creation of a National Steering Committee on Child Labour composed of ministries, the Federation of Ugandan Employers and the National Organisation of Trade Unions.⁷⁰ The African Commission further welcomed the efforts made by the government of Uganda to organise non-governmental organisations (NGOs) and other partners to guide and oversee the implementation of the child labour programme

66 Part II African Charter.

67 Art 62 African Charter.

68 EA Ankumah *The African Commission on Human and Peoples' Rights: Practices and procedures* (2023) 80.

69 Concluding Observations and Recommendations on the Second Periodic Report of the Republic of Uganda, The Gambia Consideration of Reports submitted by State Parties under the Terms of Article 62 of the African Charter on Human and Peoples' Rights, 40th ordinary session 15-29 November 2006, Banjul, <https://achpr.au.int/en/state-reports/concluding-observations-recommendations-uganda-2nd-2000-200> (accessed 15 March 2025).

70 As above.

activities.⁷¹ However, the Commission expressed concern over the enforcement of these laws, especially in rural and conflict-affected areas where child labour remains rampant.⁷² The African Commission then recommended that Uganda strengthen its child protection systems by taking concrete actions to give effect to the provisions of the African Charter,⁷³ and to ensure that the rights of all vulnerable groups, including children, are respected.⁷⁴

Additionally, in 2021, the African Commission reviewed the report for Malawi, where child labour is prevalent, particularly in the agricultural and informal sectors.⁷⁵ The Commission noted several positive aspects in Malawi's efforts towards the fulfilment of its obligations under the African Charter.⁷⁶ Specifically regarding the elimination of child labour, the African Commission commended Malawi's efforts, including the development of the List of Hazardous Work for Children Order, containing specifications of works that children aged between 5 and 17 years are prohibited from doing; the adoption of the National Code of Conduct and National Action Plan on child labour; and the implementation of various programmes, including Child Labour Elimination in Action for Real Change (CLEAR) and Achieving Reduction of Child Labour in Support of Education (ARISE).⁷⁷ In its Concluding Observations, the Commission recommended that Malawi strengthens its legal frameworks for child protection services to better combat child labour.⁷⁸ The kind of assessment and feedback loop illustrated in the contexts of Uganda and Malawi is crucial in pushing

71 As above.

72 Concluding Observations and Recommendations (n 69) 5.

73 As above.

74 Concluding Observations and Recommendations (n 69) 6.

75 CC Mudzongo & CM Whitsel 'Determiners of child labour in Malawi and Tanzania' (2013) 3 *Journal of Community Positive Practices* 4.

76 Concluding Observations and Recommendations on the 2nd and 3rd Combined Periodic Report of the Republic of Malawi on the Implementation of the African Charter on Human and Peoples' Rights (2015-2019) and Initial Report on the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women (2005-2013), 70th ordinary session of the African Commission, 23 February-9 March 2022 3, <https://achpr.au.int/en/state-reports/concluding-observations-and-recommendations-2nd-and-3rd-combined-periodic> (accessed 15 March 2025).

77 Concluding Observations and Recommendations (n 76) 8.

78 Concluding Observations and Recommendations (n 76) 15.

states to align their domestic policies with international human rights standards aimed at proscribing child labour.

4.2 Communications: The African Commission's jurisprudence on child labour

Another way in which the African Commission addresses child labour issues is through its communications procedure.⁷⁹ Individuals, NGOs and state parties are encouraged to submit communications emanating from violations of the African Charter, which the African Commission adjudicates and issues its decisions.⁸⁰ While not many communications focus solely on child labour, some landmark communications address practices akin to child labour, such as child slavery or trafficking, thus contributing to a body of quasi-jurisprudence on the issue.

For example, the African Commission has dealt with communications on child trafficking and slavery in Mauritania, where descent-based slavery ensnared children into forced labour. In *Malawi African Association* the African Commission found Mauritania in violation of the African Charter due to practices of slavery, and recommended their cessation.⁸¹ Although not framed in terms of child labour, these cases involved children born into slavery who were forced to work without remuneration, described as the worst form of child labour.⁸² The African Commission's robust stance in condemning slavery and servitude, violations of article 5 on the right to dignity and freedom from slavery, indirectly reinforced protections against child labour in its severest forms. Likewise, cases concerning the trafficking of girls for domestic servitude or prostitution would fall under the Commission's purview as breaches of African Charter rights, including the article 18(3) child protection clause, and the prohibition on exploitation.

79 Part II Chapter III African Charter.

80 As above.

81 *Malawi African Association & Others v Mauritania* (2000) AHRLR 149 (ACHPR 2000).

82 As above.

4.3 Special mechanisms and collaboration with stakeholders

The African Commission enhances its impact on child rights to remedy child labour through special mechanisms such as special rapporteurs and working groups, and by collaborating with other human rights bodies and civil society.⁸³ While the African Commission does not currently have a special rapporteur dealing exclusively with children's rights, it has other mechanisms that intersect with child labour issues.⁸⁴ For example, the Special Rapporteur on the Rights of Women in Africa addresses issues bordering on girls' exploitation in domestic work or trafficking.⁸⁵ Further, the Special Rapporteur on Refugees, Asylum Seekers, Internally Displaced Persons and Migrants in Africa also addresses child labour in contexts of displacement.⁸⁶ Additionally, the African Commission's Working Group on Economic, Social and Cultural Rights' mandate allows it to monitor rights such as education and decent work, which indirectly relate to child labour.⁸⁷

In addition to special mechanisms, one of the most significant developments in recent years is the closer collaboration between the African Commission and the African Children's Committee. Recognising that protecting children's rights is a shared responsibility, the two bodies sought ways to complement each other's work. In July 2023, the African Commission and African Children's Committee formally entered into a memorandum of understanding (MoU) to strengthen their cooperation.⁸⁸ This MoU, signed alongside agreements with the Pan-African Parliament and the Economic, Social and Cultural Council, aims to forge synergies and collaboration among organs of the AU with a human rights mandate.⁸⁹ Specifically, a technical

83 African Commission Special Mechanisms, <https://achpr.au.int/en/special-mechanisms> (accessed 11 March 2025).

84 As above.

85 Special Rapporteur on the Rights of Women in Africa, <https://achpr.au.int/en/mechanisms/special-rapporteur-rights-women-africa> (accessed 11 March 2025).

86 Special Rapporteur on Refugees, Asylum Seekers, Internally Displaced Persons and Migrants in Africa, <https://achpr.au.int/en/mechanisms/special-rapporteur-refugees-asylum-seekers-internally-displaced-persons-and-migrant> (accessed 11 March 2025).

87 Working Group on Economic, Social and Cultural Rights, <https://achpr.au.int/en/mechanisms/working-group-economic-social-and-cultural-rights> (accessed 11 March 2025).

88 African Union organs sign MOUs (n 61).

89 As above.

meeting between the African Commission and the African Children's Committee in December 2022 identified areas of joint action to advance human and children's rights and developed a strategy for institutionalised engagement.⁹⁰

Through this partnership, the African Commission and the African Children's Committee now have a basis for sharing information from state reports, so that each is informed of the other's recommendations to a country, can undertake joint promotional missions or seminars on child labour, and release joint statements on significant developments.⁹¹ This is a welcome evolution because, in the past, there was some fragmentation: The African Commission oversaw the African Charter, while the African Children's Committee oversaw the African Children's Charter, leading to separate silos of recommendations. With formal cooperation, the two institutions now present a united front.⁹² A complementary approach was evident when, for instance, the African Commission's Concluding Observations on Kenya in 2015 urged Kenya to implement the reporting guidelines of the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (African Women's Protocol), and also implicitly supported the implementation of children's rights,⁹³ while the African Children's Committee's own observations for Kenya, from its 2014 review, had detailed child-specific issues including child labour.⁹⁴ Through these mechanisms and collaborations, the African Commission functions as both a watchdog and a catalyst. It monitors state conduct, provides guidance on fulfilling obligations, and brings various actors together to push the agenda of eradicating child labour.

That said, the African Commission's effectiveness is constrained by considerable challenges and limitations, discussed as follows:

The African Commission's intervention is marred by inconsistent and delayed reporting. Irregular submission of reports or outright

90 As above.

91 As above.

92 As above.

93 African Commission Concluding Observations and Recommendations on the 8th to 11th Periodic Report of the Republic of Kenya, <https://achpr.au.int/en/state-reports/concluding-observations-and-recommendations-kenya-combined-8th-11th-period> para 55 (accessed 4 June 2025).

94 Concluding Observations and Recommendations of the African Children's Committee on Kenya's 1st Periodic Report on the Status of Implementation of the African Children's Charter para 45, https://www.acerwc.africa/sites/default/files/2022-06/kenya_Concluding_Observation_final.pdf (accessed 15 March).

non-submission is a problem about which the African Commission has always complained.⁹⁵ A considerable number of state parties fail to submit their periodic reports as required by the African Charter, which makes it difficult for the African Commission to make an assessment of human rights situations in those states.⁹⁶ Even though the Commission was constituted in 1987, the first state report was submitted to it by Libya in January 1990, and two years later, only an additional eight state parties had submitted their initial reports.⁹⁷

In acknowledging this problem, the General Assembly of the OAU at its 28th ordinary session adopted the resolution of the African Commission on 'Overdue reports' which, among others, urged state parties to the African Charter that had not yet submitted their reports to submit these without delay, and requested that states should report not only on the legislative or other measures taken to give effect to each of the rights and freedoms recognised and guaranteed by the African Charter, but also on the problems encountered in giving effect to these rights and freedoms.⁹⁸ However, this effort proved futile, as state reporting under the African Charter system has not been reformed.⁹⁹

Additionally, implementation of the African Commission's recommendations is another problem. In fact, during its 22nd session, the Chairperson of the African Commission stated that none of the decisions on individual communications taken by the African Commission and adopted by the Assembly had ever been implemented.¹⁰⁰ Further, on another occasion, the African Commission stated that the attitude of

95 LW Kembabazi 'The role of the African Commission in enhancing compliance with its decisions on communications' (2024) 24 *African Human Rights Law Journal* 781-803.

96 Kembabazi (n 95) 787.

97 As above; African Commission on Human and Peoples' Rights Annual Activity Report (1998) vol 1 107.

98 Resolution on Overdue Reports, 28th ordinary session of the Assembly of Heads of State and Government of the OAU, 29 June-1 July 1992, Dakar, Senegal.

99 F Viljoen & L Louw 'State compliance with the recommendations of the African Commission on Human and Peoples' Rights, 1993-2004' (2009) 7 *International Journal of Civil Society Law* 25.

100 22nd ordinary session of the Assembly of Heads of State and Government of the Organisation of African Unity, 2-11 November 1997, The Gambia, <https://achpr.au.int/en/sessions/22nd-ordinary>; see also R Murray 'Report on the 1997 sessions of the African Commission on Human and Peoples' Rights-21st and 22nd sessions, 15-25 April and 2-11 November 1997' (1998) 19 *Human Rights Law Journal* 169.

state parties, except that of Cameroon, has been to generally ignore its recommendations.¹⁰¹ Many governments are hesitant to implement the African Commission's recommendations, fearing that doing so may expose them to criticism or undermine their sovereignty.¹⁰² This reluctance is often rooted in a desire to maintain control over domestic policies and avoid external pressure to reform.¹⁰³

Further, the lack of enforcement powers and mechanisms is another fundamental flaw that impedes the execution of the African Commission's decisions.¹⁰⁴ In *Malawi African Association*¹⁰⁵ the African Commission expressed its concern that it has no power to enforce its decisions but merely to pronounce on allegations of violations of the human rights protected by the African Charter. Even the implementation of its Concluding Observations on child labour has been inconsistent as some states treat the reporting outcome as a mere periodic formality.¹⁰⁶ Unlike other regional and global human rights bodies,¹⁰⁷ the African Commission is yet to establish follow-up mechanisms to ensure implementation of its recommendations.

Lastly, the African Commission's efforts are hampered by resource and capacity constraints. The Commission has a broad mandate covering all human rights issues in Africa with a very modest budget and Secretariat support.¹⁰⁸ It cannot possibly investigate or comment on every incident of child exploitation in the 54 state parties in real-time. Its focus comes mainly through the episodic state reporting cycle or a few communications.¹⁰⁹ In contrast, child labour is a continuous, pervasive problem requiring day-to-day monitoring, something that falls

101 Viljoen & Louw (n 99) 25.

102 A Uwazuruike 'A proposal for the effective implementation of the protective mandate of the African Commission on Human and Peoples' Rights' (2018) 11 *African Journal of Legal Studies* 181.

103 As above.

104 R Eno 'The place of the African Commission in the new African dispensation' (2002) 11 *African Security Studies* 65-68.

105 *Malawi African Association* (n 81).

106 Eno (n 104) 65-68.

107 See, eg, the UN Committee on Economic, Social and Cultural Rights, the Human Rights Committee, the Committee against Torture, <https://www.ohchr.org/en/treaty-bodies/follow-concluding-observations> (accessed 15 March 2025).

108 Part II African Charter.

109 Arts 47-63 African Charter.

more on national authorities and international agencies.¹¹⁰ The African Commission highlights issues and urge action, but enforcement depends solely on a state party's commitment to channel resources towards implementation.¹¹¹

5 Recommendations for enhancing the African Commission's impact on child labour

Building on the analysis above, this part proposes several recommendations on how the African Commission can strengthen its role in eradicating child labour in Africa. These recommendations aim to leverage the African Commission's unique position and to address some of the challenges identified, in order to translate commitments into better protection for children.

5.1 Deepen collaboration with the African Children's Committee

The recent MoU between the African Commission and the African Children's Committee should be operationalised with concrete joint actions focusing on child labour.¹¹² The two bodies, for example, can establish a joint working group or liaison team that meets regularly to share information on states of concern.¹¹³ Additionally, the African Commission and African Children's Committee can issue joint pronouncements, for example, a joint General Comment or statement clarifying state obligations to eliminate child labour, which will carry normative authority from both the African Charter and the African Children's Charter's perspectives.¹¹⁴ Such synergy will remedy duplication, send a strong unified message to states, and also make better use of the African Children's Committee's technical expertise on children's issues to inform the African Commission's broader human rights oversight.¹¹⁵ The collaboration can also extend to working with the

110 A Admassie 'Explaining the high incidence of child labour in sub-Saharan Africa' (2002) 14 *African Development Review* 251.

111 L Glanville 'The responsibility to protect beyond borders' (2012) 12 *Human Rights Law Review* 13.

112 African Union organs sign MOUs (n 61).

113 As above.

114 As above.

115 As above.

African Court, ensuring that communications bordering on egregious child labour are escalated to the African Court.¹¹⁶

5.2 Leverage special mechanisms and thematic research

The African Commission should consider establishing a special mechanism dedicated to children's rights, or at least explicitly expand the mandate of an existing mechanism to cover child labour in depth.¹¹⁷ For example, establishing a Special Rapporteur on Children or on Vulnerable Groups, who will specifically investigate issues such as child labour, child trafficking and the impact of harmful labour practices on children. The establishment of a dedicated special mechanism aligns with the African Commission's practice of creating specialised mandates to address critical human rights issues.¹¹⁸ This Rapporteur will, among other duties, undertake fact-finding missions to countries with high child labour prevalence and provide authoritative reports with recommendations to the African Commission and the African Children's Committee, which in turn will guide policy and state action.¹¹⁹

Even without a new mechanism, the African Commission has the mandate to initiate a thematic study or General Comment on article 18(3) of the African Charter as it pertains to children.¹²⁰ A General Comment interpreting article 18(3) will clarify state obligations to protect children from labour exploitation such as regulating informal sector, aligning with previous interpretative practices of the African Commission as mandated by the African Charter.¹²¹ The process of

116 The African Court is a continental court established by African states to ensure the protection of human and peoples' rights in Africa. It complements the functions of the African Commission. The African Court was established pursuant to art 1 of the Protocol to the African Charter on the Establishment of an African Court on Human and Peoples' Rights (African Court Protocol) which was adopted by member states of the then OAU in Ouagadougou, Burkina Faso, in June 1998. The Protocol entered into force on 25 January 2004. See arts 2, 6 and 7 of the Court Protocol on the African Court's complementary relationship with the African Commission.

117 African Commission Special Mechanisms, <https://achpr.au.int/en/special-mechanisms> (accessed 11 March 2025).

118 As above.

119 See generally RH Murray & D Long *The implementation of the findings of the African Commission on Human and Peoples' Rights* (2015); art 45(1)(a) African Charter.

120 Art 18(3) African Charter.

121 African Charter art 45(3).

developing a General Comment is likely to involve experts, governments, civil society and input by the African Children's Committee, thereby enriching the African Commission's understanding of the nuances of child labour and keeping the topic in the spotlight.¹²²

5.3 Advocate addressing root causes in a human rights framework

The African Commission should continue to employ deliberate efforts to emphasise that eradicating child labour is intertwined with realising other rights in the African Charter, including the right to education, health, adequate standard of living, and to be free from exploitation.¹²³

In its dialogues with states, the African Commission can push for holistic approaches, including improving free education quality so that parents see schooling as a better alternative than work for their children, expanding birth registration to prevent under-age labour through age verification, and strengthening social protection schemes so that poverty or loss of parents does not necessitate child labour.¹²⁴ The African Commission should further recommend that states increase budgets for labour inspection and child protection services, and through its cooperation with AU and international institutions, do follow-ups on whether international aid earmarked for child labour programmes, for instance, from ILO, is effectively used.¹²⁵ Encouraging regional peer learning is another recommendation. As part of its promotional mandate, the African Commission can convene a panel where a country, such as South Africa or Tunisia, with relatively low child labour rates, shares lessons with higher-prevalence countries on enforcement techniques and social programmes.¹²⁶

Through these recommendations, the African Commission can enhance its role of being the ultimate monitor of legal compliance but also a driver of collaborative action and an advocate for the deep changes needed to eliminate child labour.¹²⁷ The ultimate test of these efforts will

122 African Union organs sign MOUs (n 61).

123 Arts 5, 16, 17 & 18(3) African Charter.

124 Thévenon & Edmonds (n 5) 40.

125 Art 45(1)(c) African Charter; H Bui 'Human rights budgeting: Making governments accountable for economic, social and cultural rights' (2015) 2 *Human Rights Law Review* 109-132.

126 Art 45 African Charter.

127 See generally Murray & Long (n 119).

be when fewer children in Africa are found working in fields, mines and workshops, and more are found in classrooms and playgrounds, enjoying their childhood as they have a right to.¹²⁸ The concluding part reflects on the road ahead.

6 Conclusion

Child labour in Africa is a complex phenomenon rooted in historical, economic, and social factors, but it is fundamentally a violation of children's rights that Africa's legal and institutional framework is committed to ending. The African Commission, as a significant treaty body, plays an indispensable role in addressing child labour in Africa, leveraging its mandate under the African Charter to advocate enhanced compliance by African states with international and regional norms. Through its examination of state party reports and issuance of Concluding Observations, the African Commission highlights both progress and gaps, urging states to reinforce their legal and policy frameworks. Additionally, its proactive engagements complement efforts by the African Children's Committee, creating opportunities for a coordinated response to child labour in Africa.

However, the African Commission's effectiveness is constrained by structural challenges, including limited resources, absence of robust follow-up mechanisms, and reliance on state willingness to act on recommendations. Looking ahead, the Commission should strengthen its capacity and prioritise systematic follow-up to ensure state accountability. Developing targeted special mechanisms or thematic commentaries will clarify states' obligations and enhance enforcement. Moreover, deeper collaboration with the African Children's Committee and international stakeholders is critical to address the root causes of child labour comprehensively, encompassing education, poverty alleviation and stronger enforcement mechanisms.

Ultimately, eradicating child labour in Africa requires not only normative declarations but sustained political commitment, resource investment and practical enforcement. The African Commission should continue to leverage its normative authority and collaborative networks to ensure that the future envisioned by regional and global instruments, where no African child is subject to child labour, becomes a lived reality.

128 Verma (n 7) 83.