

Chapter 1

Introduction

Julia Sloth-Nielsen

1 Introduction	1
2 Background to the African Children's Charter	2
3 Legal interpretation	5
4 Role of civil society	6
5 Agenda 2040	7
6 Conclusions	8

1 Introduction

It is now 25 years since the entry into force of the African Charter on the Rights and Welfare of the Child (African Children's Charter).¹ This *Commentary* therefore is in celebration of that event, and it brings together African scholars who have contributed to the jurisprudence that has built up over the decades. Upon adoption in 1990, it required the ratification of 15 Organisation of African Unity (OAU) member states before it could enter into force. Almost a decade passed before the required number of states ratified the African Children's Charter, causing it to enter into force on 29 November 1999. The text was adopted without dissention. Since the advent of the African Union (AU), the successor to the OAU, the African Children's Charter has been brought into the fold of the new continental organisation. The Charter has now been ratified by 51 member states of the AU, with only four (at the time of writing) remaining to ratify.²

The Children's Charter has enjoyed increasing academic interest, and the twenty-fifth anniversary of the adoption of the Charter in November 2015 was celebrated by a high-level conference attended by more than 400 non-governmental organisations (NGOs), practitioners and academics.³

As Arts noted, distinctive African concerns for collective rights, the balance between rights and duties, African cultural values, the plight of persons displaced as a consequence of external aggression, occupation, foreign domination or events disturbing public order, occupied the OAU for some time prior to the adoption of the African Children's Charter.⁴

1 African Charter on the Rights and Welfare of the Child (African Children's Charter), adopted July 1990, entered into force 29 November 1999, OAU Doc.CAB/LEG/24.9/49 (1990).

2 South Sudan, Tunisia, Somalia, and Morocco. Much was made historically of the fact that it took nine years to get 15 countries to ratify the African Children's Charter and so bring the Convention into force. In 2002 Gose noted the negative impact of mishaps connected with the Children's Charter, such as the Charter being quoted under the wrong name; the dates and years of the drafting, adoption and coming into effect of the instrument being confused; and the initial difficulty of obtaining a copy of the instrument as well as information relating to its ratification. M Gose 'The African Charter on the Rights and Welfare of the Child' Community Law Centre (2002) 12 & 13.

3 J Sloth-Nielsen 'African Children's Charter' in CJ Boezaart *Child law in South Africa* (2017) 426.

4 K Arts 'The international protection of children's rights in Africa: The 1990 OAU Charter on the Rights and Welfare of the Child' (1993) 5 *African Journal of International and Comparative Law* 143.

The African Charter on Human and Peoples' Rights (African Charter) is regarded as the 'mother treaty'⁵ in relation to the African Children's Charter. In several respects, the African Charter provided the inspiration for Charter provisions, notably article 31 (duties of the child), and the wider mandate of the African Committee of Experts on the Rights and Welfare of the Child (African Children's Committee), discussed in the final chapters of this volume. An enormously important step forward⁶ was the communications procedure provided for in article 44 of the African Children's Charter,⁷ a mechanism that could not be achieved within the United Nations (UN) until the adoption of the third Optional Protocol to the Convention on the Rights of the Child (CRC) in 2011.⁸

By implication, and explicitly, the African Charter provides for the protection of children. It deals with the rights of 'every individual' and of 'peoples' under the jurisdiction of a state party. A plain language interpretation supports the conclusion that children are also protected, both as 'individuals' and as 'peoples' (members of a group).

The African Charter provides special or specific protection to children in three respects:

- (a) Some rights in the African Charter, such as the right to education, are of much greater relevance to children than to any other sector of the population.
- (b) The African Charter proclaims the family as 'the natural unit and basis of society'.⁹ States have a duty to assist the family and protect its 'physical health and morals'. The care of children in the context of the family is seen as a 'virtue' in the African 'historical tradition'.
- (c) State parties to the African Charter are further under obligation to 'ensure the protection of the rights of the child as stipulated in international declarations and conventions'.¹⁰

This chapter reviews the background to the drafting of the African Children's Charter; its core tenets as an African human rights document; areas on which the Charter is silent; and the involvement of civil society in the Charter's development and implementation. It also provides an overview of the structure of the chapters in this *Commentary*.

2 Background to the African Children's Charter

In a now well-documented history, it is evident that the impetus for the Children's Charter in fact was the then nearly-completed CRC after a drafting process that had lasted for a decade. African states had barely been involved in the development of CRC,¹¹ hence the call for a home-grown continental treaty more reflective of African values,¹² and African concerns.¹³

5 The term used by Viljoen (F Viljoen *International human rights law in Africa* (2012) 396).

6 In the words of Arts (n 4).

7 Also modelled on the communications procedure under the African Charter.

8 Adopted on 19 December 2011 by General Assembly Resolution A/RES/66/13, entry into force 14 April 2014. See <https://www.ohchr.org/en/instruments-mechanisms/instruments/optional-protocol-convention-rights-child-communications> (accessed 24 May 2024).

9 Art 18.

10 Sloth-Nielsen (n 3).

11 Only Algeria, Morocco, Senegal and Egypt meaningfully participated in the drafting process. Sloth-Nielsen notes that for at least five of the nine years that the CRC working group took to draft a final proposal, only three African states participated. However, by 1989 nine African states were participating in the activities of the working group (Sloth-Nielsen (n 3)).

12 The Preamble stresses the cultural context of the Charter thus: 'Taking into consideration the virtues of their cultural heritage, historical background and the values of African civilisation which should inspire and characterise their reflection on the concept of the rights and welfare of the child'.

13 Thompson records that '[t]his major human rights document is a radical departure from African cultural traditionalism. It represents a significant shift in African political thinking on the controversial subject of the relevance of the human

Two further reasons for the adoption of a dedicated regional charter were that potentially divisive and emotive issues were omitted in the search for consensus between states from diverse backgrounds in the lead up to finalisation of CRC. Third, 'specific provisions on aspects peculiar to Africa fell victim to the overriding aim of reaching a compromise, and were not sufficiently addressed in the UN instrument'.¹⁴

The OAU deliberated and decided that a supplementary instrument would be required in order to guarantee the implementation of CRC in African countries, tailored to the local situation, for example, the socio-economic conditions; widespread occurrence of armed conflict and resultant displacement of populations; factors disadvantaging the girl child are specifically considered, which was not the case with CRC, and, at the time, apartheid was still in its heyday.¹⁵ Additionally, the use of children as soldiers and the institution of a compulsory minimum age for military service are issues of great importance in Africa; the position of children in prison and that of expectant mothers caught up in the criminal justice system was not regulated in CRC.¹⁶

Further motivation for regional specificity were:

- practices that are prevalent in African society, such as female genital mutilation and circumcision, were not mentioned explicitly in CRC;
- problems of internal displacement arising from internal conflicts had received scant attention;
- the community's inability to engage in meaningful participation in the planning and management of basic programmes for children was not taken into account;
- the African conception of the community's responsibilities and duties had been neglected;
- CRC negates the role of the family (also in its extended sense) in the upbringing of the child.¹⁷

The first vocal opposition to the UN process was raised in Africa in 1988 at a workshop and conference entitled 'Children in situations of armed conflict in Africa', organised by the African Network for the Prevention and Protection Against Child Abuse and Neglect (ANPPCAN) and the United Nations Children's Fund (UNICEF).¹⁸ Pursuant to the meeting, the OAU, in collaboration with ANPPCAN and UNICEF, set up a working group of African experts.¹⁹ This group produced a draft charter, which formed the basis of the eventual African Children's Charter.²⁰

rights ideal to Africa.' B Thompson 'Africa's Charter on Children's Rights: A normative break with cultural traditionalism' (1992) 41 *International and Comparative Law Quarterly* 432, 433.

- 14 F Viljoen 'Supra-national human rights instruments for the protection of children in Africa: The Convention on the Rights of the Child and the African Charter on the Rights and Welfare of the Child' (1998) 31 *Comparative and International Law Journal of Southern Africa* 205.
- 15 O Ekundayo 'Does the African Charter on the Rights and Welfare of the Child (ACRWC) only underline and repeat the Convention on the Rights of the Child (CRC)'s provisions?: Examining the similarities and the differences between the ACRWC and the CRC' (2015) 5 *International Journal of Humanities and Social Science* 143, quoting OAU Report of the Intergovernmental Expert Group Meeting on the Draft African Charter on the Rights and Welfare of the Child 17-21 April 1990, Addis Ababa, Ethiopia.
- 16 These grounds were forwarded by Muthoga 'Introducing the African Charter on the Rights and Welfare of the African Child and the Convention on the Rights of the Child' paper delivered at the International Conference on the Rights of the Child, Community Law Centre, University of the Western Cape, during 1992; and S Wako 'Towards an African Charter on the Rights of the Child' paper delivered at a workshop on the Draft Convention on the Rights of the Child, Nairobi, Kenya, 9-11 May 1988; see Sloth-Nielsen (n 3).
- 17 Quoted in Viljoen (n 14).
- 18 This took place from 9 to 11 May 1988 in Nairobi, Kenya.
- 19 The working group was chaired by Lee Muthoga; Viljoen (n 14) 207.
- 20 Sloth-Nielsen (n 3).

Sadly, little to no information could be located on the drafting history of the Charter, how the formulation of the rights developed, what was omitted and why.²¹ Although sources could not be found, it is understood that the OAU did not merely rubber stamp the text as introduced, but did debate (with insight) its contents. Where the text as introduced was in any way altered during these deliberations is not known. Records (which would have been paper records at that time) do not seem to exist.²²

The African Children's Charter draws a great deal from CRC and the two instruments are wholly complementary, although there may be instances where one will provide more protection to children than the other.²³ These similarities and differences are substantively elaborated in the chapters that follow. However, at the outset, it is worth noting that the formulation of rights in the Charter commence with 'every child', thereby emphasising the child as rights bearer and subject.²⁴ CRC, however, commences the elaboration of rights with reference to the duty bearer – state parties.²⁵ Nevertheless, the Preamble to the Charter explicitly acknowledges as one key source of inspiration for African states the collective recognition of the rights and welfare of African children and the efforts of the UN in the field of children's rights. Additionally, the Preamble acknowledges three regional instruments as additional sources of inspiration: the OAU Charter itself; the African Charter;²⁶ and the Declaration of the Rights and Welfare of the African Child, 1979, adopted by the OAU.²⁷

The Preamble to the Charter explains the principal rationale for adopting a regional treaty as follows:

The situation of most African children remains critical due to the unique factors of their socio-economic, cultural, traditional and developmental circumstances, natural disasters, armed conflicts, exploitation and hunger, and on account of the child's physical and mental immaturity he or she needs special safeguards and care.

- 21 A Kaviani Johnson & J Sloth-Nielsen quoting P Veerman *The rights of the child and the changing image of childhood* (1991) 279 record that the delegate from Sudan commented on the vagueness of the African Children's Charter and its similarity to CRC, while the delegate from Senegal stated that the Preamble was unsatisfactory and that the text should reflect the social and economic conditions in Africa more adequately. The representative from Nigeria mentioned that the rights of 'illegitimate children' were not covered by the draft Charter. The representative of Swaziland wanted parents' rights to be mentioned, and that of Botswana wanted the draft rewritten to be comprehensible to children. The representatives of Uganda, Lesotho, Tunisia and Ethiopia had comments about the need for an implementation strategy. 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* 643.
- 22 One fact that has been verified is that art 31 (duties of the African child) was deliberately placed last, after the enumeration of the child's rights and entitlements. This was confirmed by the then head of ANPCANN, who participated in the drafting process. See J Sloth-Nielsen & B Mezmur 'A dutiful child: The implications of article 31 of the African Children's Charter' (2008) 52 *Journal of African Law* 159.
- 23 Hence the notion of a zero-sum game developed by Mezmur (B Mezmur 'The African Children's Charter versus the UN Convention on the Rights of the Child: A zero-sum game?' (2008) 23 *SA Public Law* 1).
- 24 The Preamble stresses that the promotion and protection of the rights of the child imply the performance of duties on the part of everyone (Preamble para 7).
- 25 Mezmur (n 23). Viljoen records that implementation is much stronger in the African Children's Charter, due to the powers to receive communications and to conduct investigations; Viljoen (n 14) 210.
- 26 The Charter does not provide extensively for children's rights. In fact, children are only referred to on one occasion, as an afterthought, in the context of women's rights: 'The State shall ensure ... the protection of the woman and the child as stipulated in international declarations and conventions' (art 18(3)).
- 27 Adopted by the Assembly of Heads of State and Government of the OAU at its 16th ordinary session in Monrovia, Liberia. Thompson notes that 'the Declaration provided the new impetus for the recognition of the "need to take all appropriate measures to promote and protect the rights and welfare of the African child"' (Thompson (n 13)). See Preamble paras 1, 2 & 8.

There is an overwhelming body of literature and other evidence that indicates that the emphasis on the group – the idea of communitarianism – is a distinct feature of traditional African culture.²⁸ The notion of protection of the individual is a great advance over its absolutist antecedents, but the African human rights conception highlights that it needs to be balanced by the acknowledgment that the individual is embedded within a community. Thus, the African human rights conception, both traditional and contemporary, recognises the importance of the group simultaneously with the significance of the individual. This spirit is reflected in the Preamble as well as in discrete Charter articles, such as articles 18, 19 and 31²⁹ as is reflected in article 31's exhortation to work towards the cohesion of the family is underpinned by the centrality of the extended family in African custom and practice.³⁰

The rationale for a regional treaty to build on the special place of children in African families and kinship groups was expressed in paragraph 5 of the Preamble with reference to the 'unique and privileged position' that the child enjoys 'in the African society', and notes that 'for the full and harmonious development of his personality, the child should grow up in a family environment in an atmosphere of happiness, love, and understanding'. Further, paragraph 6 of the Preamble highlights the virtues of the African cultural heritage, historical background and values of African civilisation, which 'should characterise the reflection on the concept of the rights and welfare of the child'. These initial statements contribute to enhancing the African flavour of the treaty.

The Preamble continues to explain that the child, due to the needs of his physical and mental development, 'requires particular care with regard to health, physical, mental, moral and social development, and requires legal protection in conditions of freedom, dignity and security'.³¹

3 Legal interpretation

As was the case under CRC from the deliberations of the early meetings of the CRC Committee, the African Children's Committee has highlighted the rights to non-discrimination (article 3); the paramount principle of the best interests of the child (article 4(1)); the child's right to survival and development (article 5); and the right to participate (articles 4(2), 7 and 12) as the four pillars of the African Children's Charter.³² State parties are encouraged to provide relevant information on the application of these principles in the implementation of all other Charter articles. The four principles have also informed the organisation of the General Comments so far developed by the African Children's Committee. These are respectively discussed in chapters 4, 5, 6 and 8 of this volume.

It has been pointed out that there are a few textual mistakes in the Children's Charter as adopted. For instance, article 27 on sexual exploitation contains one subarticle, but no second one. The formulation of article 11, further, has some editorial issues, for instance, 'convention' instead of 'conventions' in

28 Sloth-Nielsen & Mezmur (n 22).

29 Sloth-Nielsen and Mezmur (n 22), noting that art 18 establishes the family as the 'natural unit and basis of society' and that, as such, the family is entitled to 'the protection and support' of the state for its establishment and development. They suggest that the concept of family is broad, encompassing more than just parents, and that this is obvious from a reading of art 18(2), which refers specifically and, more narrowly, to 'spouses', in the context of equality of rights, responsibilities towards their children, and the possible dissolution of a union.

30 Sloth-Nielsen & Mezmur (n 22).

31 Preamble para 5.

32 See eg para 11 of the Guidelines on initial state reports, <https://www.acerwc.africa/sites/default/files/2022-06/ACERWC-Guidelines-on-Initial-State-reports-English.pdf>. See also E Fokala 'Calibrating children's rights to participate in a family setting 30 years after the adoption of the Convention on the Rights of the Child and the African Children's Charter' (2020) 34 *Speculum Juris* 188. See also https://www.acerwc.africa/sites/default/files/2022-10/ACERWC%20Guidelines%20on%20Child%20Participation_English.pdf (accessed 24 May 2024).

article 11(2)(b), and ‘achievements’ instead of ‘achievement’ in article 11(2)(f).³³ These small textual errors should not be seen to in any way detract from the normative content of the Charter.

Thirty-four years after its adoption, there obviously are emerging issues with which the Charter does not deal. Notably, three can be identified: climate change;³⁴ the role of private sector actors and businesses in relation to children’s rights; and the impact of the digital era and artificial intelligence upon children’s rights.³⁵ The impact of the digital environment in relation to sexual exploitation of children, however, has been addressed by the African Children’s Committee in its General Comment on that article (article 27). The broader ramifications of children’s rights in the digital era have surfaced in relation to the right to privacy (discussed in chapter 11 of this volume), and the question of digital access in the context of education was dealt with elaborately by the African Children’s Committee in its recent continent-wide study on the impact of COVID-19 upon the rights and welfare of children in Africa.³⁶

The first two gaps have been partially addressed by the African Children’s Committee. It has created working groups focused on business and children’s rights and on climate change, respectively. These working groups comprise designated committee members, and some outside experts. They aim, in a broad sense, to deepen conversations around these issues. The African Children’s Committee also published a wide-ranging report on the impact of business, both in the formal and informal sector, on children’s rights on the continent.³⁷ The creation of working groups and commissioning of studies is elaborated further in chapters 33 and 34 of this volume.

4 Role of civil society³⁸

Civil society was instrumental in advocating, and shepherding into being, the African Children’s Charter. The relationship between the African Children’s Committee and civil society has remained in place, and can principally be traced to five discrete and identifiable initiatives.

These are discussed in turn. First, as noted above, the Children’s Charter was developed in tandem with an NGO, ANPPCAN. This has paved the way for an ongoing relationship between the African Children’s Committee and civil society. Second, characteristic of this relationship is the slot dedicated to partners that features at the commencement of all committee meetings, during which partners, including NGOs, are invited to share insights and update the African Children’s Committee on their activities. Many avail themselves of this opportunity.

33 During the course of preparing this volume, it came to light that there is more than one version of the Charter text. Relying on the version available on the website of the African Children’s Committee, it was stated that art 16 (protection against child abuse and torture) erroneously refers to the protection of the child ‘while in the care of the child’, instead of referring to adult caregivers. This was discovered to be an error, as communication with the Secretariat confirmed that the version of the Charter is that recorded on the AU website, which does contain a formulation equivalent to that of CRC, is the official version, as recorded by the AU legal counsel. However, some punctuation marks remain missing in art 16(2).

34 Although art 11(2)(g) of the African Children’s Charter, on ‘the aims of education’, indicates that ‘[t]he education of the child shall be directed to the development of respect for the environment and natural resources’. R Nanima & E Durojaye ‘The adequacy of the African Charter on the Rights and Welfare of the Child in the risky trinity of climate change, food security and children’ in AO Jegede & O Adejonwo (eds) *Climate justice and human rights: An African perspective* (2022) 77-95, identifying those aspects of the normative framework in the Charter that can be harnessed in climate change and food insecurity debates. They also argue that the African Children’s Committee should increase the traction of the steps it has taken to popularise issues of climate change and food security (94).

35 While there may be many more, these three stand out.

36 https://www.acerwc.africa/sites/default/files/2022-09/Continental-assessment-Impact-of-Covid-19-January_2022-English.pdf 20-22 (accessed 24 May 2024).

37 https://www.acerwc.africa/sites/default/files/2023-08/Study_Children%27s%20Rights%20and%20Business_English.pdf (accessed 24 May 2024).

38 Sloth-Nielsen (n 3).

Third, there is a formal means by which civil society can associate itself with the African Children's Committee, namely, by an application for observer status.³⁹ The framework of cooperation between the Children's Committee and NGOs or CSOs is outlined in the Committee's Rules of Procedure (Rules 34, 37, 81 and 82). Moreover, the Committee has developed criteria⁴⁰ for granting observer status to NGOs and associations. CSOs with observer status are required to submit analytical reports on their activities every two years. At the time of writing, 41 organisations are listed as having been granted observer status.⁴¹ Several national human rights institutions (NHRIs) have also been granted observer status.

Fourth, the African Children's Committee also receives complementary reports from CSOs and CSO coalitions, which are ordinarily considered at a pre-session (in a private session) before the formulation of the list of issues upon which the Children's Committee desires the state party to provide further information. The Committee approved Guidelines for CSO reports,⁴² explaining the desired length and format, and advising CSOs how to conduct themselves and what to expect during their participation in the pre-session meeting of the Committee.⁴³ The state party reporting procedure, generally, is the subject of chapter 34 of this volume.

Fifth, the African Children's Committee meetings are routinely preceded by a civil society forum, during which recommendations for consideration by the Children's Committee are developed. This is akin to the practice surrounding meetings of the African Commission on Human and Peoples' Rights (African Commission), which are similarly preceded by NGO fora. The CSO forum and the Committee's current engagements with CSOs is elaborated in more depth in chapter 33 of this volume.

5 Agenda 2040

The African Children's Committee developed Africa's Agenda for Children 2040 (Agenda 2040) in 2015. Although the development of the Agenda was inspired by the conference held in commemoration of the twenty-fifth anniversary of the African Children's Charter, the Agenda emerged 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 AU document.

Agenda 2040 establishes aspirations for children for the ensuing 25 years based on the lessons learnt from the past 25 years. The Agenda sets out the following ten aspirations, to be achieved by 2040, against a brief background contextualising the particular issue.

- Aspiration 1: The African Children's Charter, as supervised by the African Children's Committee, provides an effective continental framework for advancing children's rights.
- Aspiration 2: An effective child-friendly national legislative, policy and institutional framework is in place in all member states.
- Aspiration 3: Every child's birth and other vital statistics are registered.

39 The NGOs/associations should be registered in a state party, or if it is an NGO of the diaspora (as recognised by the AU), it should submit the names of at least two AU member states or civil society organisations recognised by the Union that are well acquainted with the organisation and are willing to certify its authenticity: Guidelines on Observer Status of Non-Governmental Organisations (NGOS) and Associations, Guideline 4. See further ch 33 in this *Commentary*.

40 <https://www.acerwc.africa/sites/default/files/2023-05/Guidelines-on-Observer-Status-of-Non-Governmental-Organisations-NGOS-and-Associations.pdf> (accessed 24 May 2024).

41 <https://www.acerwc.africa/en/networks/csos?page=1> (accessed 24 May 2024).

42 http://www.acerwc.org/download/csos_reporting_guidelines_under_the_charter/?wpdmdl=8729 (accessed 7 February 2017).

43 The Guidelines are available on the African Children's Committee website.

- Aspiration 4: Every child survives and has a healthy childhood.
- Aspiration 5: Every child grows up well-nourished and with access to the basic necessities of life.
- Aspiration 6: Every child benefits fully from quality education.
- Aspiration 7: Every child is protected against violence, exploitation, neglect and abuse.
- Aspiration 8: Children benefit from a child-sensitive criminal system.
- Aspiration 9: Every child is free from the impact of armed conflicts and other disasters or emergency situations.
- Aspiration 10: African children's views matter.

The implementation of Agenda 2040 is to be carried out phase-by-phase at five-yearly intervals. The African Children's Committee also undertakes an assessment of implementation of Agenda 2040 in each phase, with a long list of monitoring and evaluation measures for each aspiration. Assessment of the first phase of implementation of Agenda 2040 (2016-2020) was published in 2021,⁴⁴ identifying progress achieved and challenges faced by member states in implementing the aspirations of Agenda 2040 at the domestic level. The report also serves to determine priority areas that need intervention and to guide future endeavours towards the protection and promotion of children's rights in Africa.

6 Conclusions

As Viljoen highlights, '[w]hat the Charter indeed unequivocally succeeds in achieving is to set a higher threshold and give better protection to children in Africa than the UN instrument has done'.⁴⁵ Although it resonates with African realities and sometimes steers very close to its mother text, the African Charter, the philosophy underlying the African Children's Charter is not one of 'difference or otherness' but rather 'the need for complementarity and contextualisation'.⁴⁶ It is an instrument 'both in keeping with African traditions and values and well-suited to its unique social, economic, political and cultural environment, whilst at the same time, maintaining its universalist outlook'.⁴⁷ Seeking to provide a definitive legal interpretation of constituent elements of the Children's Charter so far, this volume takes this journey a step further.

The chapters in this *Commentary* each deal with a specific substantive article, save the collection of articles in Part 11 of the African Children's Charter, establishing the African Children's Committee, which are grouped together.

Each chapter commences with a contextualising introduction to the issue at hand (for instance, the definition of a child, or children and armed conflict). In this part, the significance of the article is addressed, as well as the relevant current context, that is, the real-life situation at present in African context. Information may also be given about any AU programmes and policies that may be relevant, such as ending child and maternal mortality or combating child marriage. The next part reviews any links to other Charter articles that may be relevant, highlighting the most important of these. Obviously, all articles in one way or another relate to article 1, the general implementation provision, so this article is not always necessarily flagged. However, there are clear links between, for instance, the right to health (article 14) and protection of children from drug abuse (article 28), as also between the various articles dealing with children in the family environment, such as articles 18, 19, 20 and 25.

The part that follows examines – briefly – the relevant comparable provisions in other human rights treaties. Here the main focus is on the global children's rights treaty, namely, CRC. However,

44 <https://www.acerwc.africa/en/page/agenda-2040-implementation-report> (accessed 24 May 2024).

45 Viljoen (n 14).

46 Viljoen *International human rights law in Africa* (2012) 396.

47 As above.

depending on the issues at stake, other human rights standards may be reflected, notably those of the African human rights system more broadly, those of other UN treaty bodies, and as regards child labour, those of the International Labour Organisation (ILO). Where the CRC provisions are discussed, the intention is to draw out similarities but, more crucially, differences in the African Children's Charter text. The significance of these differences often constitutes the essence of the enhanced contribution that the African Children's Charter makes to the realm of international children's rights law.

What follows thereafter is a legal interpretation of the constituent elements of the article in question. This is undertaken principally to unpack the nature and scope of the state party obligation with reference to that domain (for instance, protection from abuse, or education). It is often substantiated with jurisprudence from the African Children's Committee itself, in the form of General Comments, or Concluding Observations to state party reports, or findings on communications that have been adjudicated by the Children's Committee.

Most chapters also include a following part dealing with some aspects of domestication in national legal systems, or interpretations by national courts. In concluding parts, an assessment of the 'state of play' related to the article at hand is considered and, from time to time, recommendations are provided.

It is hoped that the chapters, individually and collectively, will provide both inspiration and support to the many actors concerned with children's rights in Africa: scholars, state parties, NGOs and CSOs, and more. About the authors: The authors of the chapters, wherever they now find themselves, all have roots in Africa (with one exception). Although the representation of French and North African contributors would have been desirable, the choice was not motivated by a need to ensure regional representation; rather by previous association with the editors, or with the Centre for Human Rights, University of Pretoria. The involvement of the Secretariat of the African Children's Committee in this project is particularly welcomed, and our deepest thanks must be recorded to them.

Our deep appreciation must go to external reviewers Dr Meda Couzens, University of Western Sydney, and Prof Sonia Human, University of Stellenbosch, for their insightful comments on each chapter of this volume.