

Chapter 37

Article 45

Investigations by the Committee

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1. The Committee may resort to any appropriate method of investigating any matter falling within the ambit of the present Charter, request from the state parties any information relevant to the implementation of the Charter and may also resort to any appropriate method of investigating the measures the state party has adopted to implement the Charter.
2. The Committee shall submit to each ordinary session of the Assembly of Heads of State and Government every two years, a report on its activities and on any communication made under article 44 of this Charter.
3. The Committee shall publish its report after it has been considered by the Assembly of Heads of State and Government.
4. State parties shall make the Committee's reports widely available to the public in their own countries.

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1 Introduction

Article 45 is the final component of chapter 3 of the African Charter on the Rights and Welfare of the Child (African Children's Charter) which sets out the mandate and procedure of the African Committee of Experts on the Rights and Welfare of the Child (African Children's Committee). At

first glance, this provision imbues the African Children's Committee with a mechanism that gives it the power to 'resort to any appropriate method of investigating any matter falling within the ambit of the present Charter'.¹ Upon closer scrutiny, one finds that this provision functions additionally as an accountability mechanism. This takes the form of the obligation of the Committee to provide activity reports to be submitted to the ordinary session of the Assembly of Heads of State and Government every two years and for these reports to then be published by the Committee.² It further obliges state parties to make these reports 'widely available to the public in their own countries'.³ The significance of this provision thus is threefold in that it articulates three mechanisms, which are the investigation mechanism, the reporting mechanism and the publication mechanism.

In this chapter the significance of these mechanisms is discussed in relation to their relevant actors. For the investigation mechanism, a reciprocal obligation exists between the African Children's Committee and the relevant state party to act in compliance with the African Children's Charter and its relevant guidelines to facilitate the smooth investigation of any matter deemed to fall within the Charter's ambit, being the rights, protections and best interests of children in Africa and the obligations of states to uphold and promote the Charter's provisions.⁴ The reporting mechanism obliges the African Children's Committee to 'report on its activities and on any communication made under article [44] of this Charter' and for the ordinary session of the Heads of State and Government to duly receive and consider these reports every two years. The publication mechanism requires that the African Children's Committee ensures that its activity reports are published, and that state parties subsequently make these reports publicly available. It is trite that these are foundational occupational components for the functioning of the Children's Committee in collaboration with the state parties to the Charter, as well as the broader African Union (AU) oversight bodies.

An additional discussion in this chapter pertains to the links that article 45 has to other articles in the African Children's Charter and other human rights treaties. Its threefold implementation over the past 25 years is considered and assessed, and concluding recommendations are provided for each of the identified relevant actors.

1.1 Current relevant context

As stated by Mezmur, 'there is a need for the institutional empowerment of human rights supervisory organs on the continent to enable them to function effectively'.⁵ Mezmur emphasises the cruciality of establishing mechanisms for the monitoring of the implementation of the obligations undertaken by state parties under the African Children's Charter.⁶

To provide a brief context to the following discussion, it is useful to look back at the African Children's Charter and the history of article 45. The first mention of children under the African human rights system came in 1979 with the adoption of the Declaration on the Rights and Welfare of the African Child by the Assembly of Heads of State and Government in Monrovia, Liberia.⁷ This Declaration was made with the goal of encouraging 'increased national, regional and international

1 Art 45(1) African Children's Charter.

2 Arts 45(2) & (3) African Children's Charter.

3 Art 45(4) African Children's Charter.

4 See African Children's Committee 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.

5 BD Mezmur 'The African Committee of Experts on the Rights and Welfare of the Child: An update' (2006) 6 *African Human Rights Law Journal* 556.

6 Mezmur (n 5) 558.

7 Declaration on the Rights and Welfare of the African Child (AHG.ST.4 (XVI) Rev 1) (1979).

actions aimed at guaranteeing the rights and promoting the welfare of the child'.⁸ Following the adoption of the African Charter on Human and Peoples' Rights (African Charter) on 27 June 1981, which only refers to the child once throughout the document, it was necessary to establish a regional instrument to cater to the specific needs of the child.⁹ The 1979 Declaration served to inform the development of the African Children's Charter. The Children's Charter envisaged the creation of the African Children's Committee.¹⁰ The Committee was subsequently constituted on the election of its first 11 members during the thirty-seventh session of the Assembly of Heads of State and Government on 11 July 2001.¹¹ There is no available information on the drafting history of article 45, specifically.

1.2 Agenda 2063

Agenda 2063 is 'Africa's blueprint and master plan for transforming Africa into the global powerhouse of the future'.¹² At its core, it is arguable that article 45 seeks to ensure the effectiveness of the African Children's Committee. Aspiration 3 of Agenda 2063 envisages 'an Africa of good governance, democracy, respect for human rights, justice and the rule of law'.¹³ This aspiration necessarily entails that 'by 2063, Africa will ... have capable institutions and transformative leadership in place at all levels'.¹⁴ This includes the African Children's Committee, as well as its duty to oversee the progress of Aspiration 3 in state parties, insofar as it is relevant to children.

Aspiration 6 of Agenda 2063 further calls for 'an Africa, whose development is people-driven, relying on the potential of African people, especially its women and youth, and *caring for children*'. This is pertinently elaborated upon by the aim that 'African children shall be empowered through the full implementation of the African Charter on the Rights and Welfare of the Child'.¹⁵ This, by implication, includes article 45.

1.3 Agenda 2040

Agenda 2040 emerged 'mainly as an elaboration of Agenda 2063' towards making 'an Africa fit for children'.¹⁶ It is 'informed by and builds upon numerous existing legal and policy frameworks'.¹⁷ Aspiration 1 of Agenda 2040 envisages that 'the African Children's Charter, as supervised by the African Children's Committee, provides an effective continental framework for advancing children's rights'. The background to the Agenda provides that '[a]ccountability of the state – in the form of the current government – is based on the synergy between rights holders and duty bearers. The Children's Charter has given us a continental basis for State accountability to uphold the independent personhood of our children'.¹⁸

An effective article 45 ensures that the African Children's Committee monitors and encourages this necessary synergy.

8 Declaration (n 7) 3.

9 Art 18(3) African Charter on Human and Peoples' Rights (21 October 1986).

10 Art 32 African Children's Charter.

11 Centre for Human Rights *Guide to the African human rights system* (2021) 81.

12 African Union 'Agenda 2063: The Africa we want', <https://au.int/en/agenda2063/overview> (accessed 20 March 2024).

13 Aspiration 3 of Agenda 2063 (n 12).

14 Aspiration 3 (n 13) para 28.

15 Aspiration 3 (n 13) para 53.

16 African Children's Committee 'Agenda 2040', <https://www.acerwc.africa/en/page/agenda-2040> (accessed 18 March 2024).

17 African Union & African Children's Committee 'Agenda 2040: 10 Aspirations for an Africa fit for children' (2015) 7.

18 African Union & African Children's Committee (n 17) 2.

The background to Agenda 2040 highlights a reservation made by the Arab Republic of Egypt to the Committee's investigation mechanism under article 45(1).¹⁹ This will be considered in more detail later in this chapter. Remarking that the African Children's Committee was created to perform a supervisory function under the African Children's Charter, the Agenda notes that part of this supervisory function is undertaken in the form of the investigation mechanism and therefore 'provides for more intrusive monitoring, compared to the UN Committee on the Rights of the Child', which is only mandated under the Convention on the Rights of the Child (CRC) to examine state reports.²⁰ In outlining the components of Aspiration 1, the Agenda notes that the African Children's Committee has and continues to undertake country missions.²¹ A synopsis of some of these missions is provided later in this chapter.

It is also interesting to consider Aspiration 10 of the Agenda, which simply envisions that 'African children's views matter'.²² It states that by 2040, it should be the reality that 'children are involved in the monitoring and accountability process for this Agenda, the SDGs and the AU's Agenda 2063'.²³ In the context of article 45, this aim entails the involvement and consideration of children in the implementation of the article, such as in undertaking investigations, but also in the publication and preparation of mission reports. In line with this aspiration, children's involvement in these monitoring and accountability processes should be facilitated by the Children's Committee and state parties.

First published in 2015, the Agenda incorporates five phases of implementation, the end dates of these phases being 2020, 2025, 2030, 2035 and 2040. Each implementation phase begins with an action plan and ends with an implementation report. The first phase's action plan, and the first phase implementation report is briefly highlighted below. While there was not an explicit second phase action plan published, the key recommendations for the next monitoring period, included in the first phase implementation report, is considered.

1.4 First phase action plan

Under the first phase action plan, it is stated that by 2020 the African Children's Committee should have targeted the countries that had not submitted their country reports and, 'in the absence of a report, the African Children's Committee should have proceeded to examine the human rights situations in these countries, based on available information, including civil society reports'.²⁴ This mandate falls under the scope of article 45(1) and obliges the African Children's Committee to investigate state party compliance and implementation of the African Children's Charter beyond the consideration of state party reports.

The action plan further requires that by 2020, the African Children's Committee 'should have in place an effective system for the follow-up of recommendations in findings on communications and in Concluding Observations, including follow-up visits to states'.²⁵ The action plan further highlights that by 2020, the Committee 'should be widely published and visible in its activities; a complete and updated record of its activities, including state reports, Concluding Observations, mission reports and its annual reports, should be easily accessible on its website and other formats'.²⁶ This builds on

19 African Union & African Children's Committee (n 17) 3.

20 African Union & African Children's Committee (n 17) 3-4.

21 African Union & African Children's Committee (n 17) 11.

22 African Union & African Children's Committee (n 17) 39.

23 As above.

24 African Union & African Children's Committee (n 17) 47.

25 African Union & African Children's Committee (n 17) 48.

26 As above.

the requirements of article 45(3). Finally, in line with the above remark on child participation under Aspiration 10, it is stated that by 2020, the African Children's Committee 'should have developed and implemented platforms for children to participate in the monitoring of this Agenda'.²⁷

1.5 First phase implementation report

In the first phase implementation report, some of the key findings by the African Children's Committee noted that 'progress towards fulfilment of many Agenda 2040 goals is halting, uneven and sometimes slow or stagnant'.²⁸ Further emphasis was placed on the detrimental impact of the COVID-19 outbreak on children and the continent.²⁹

On the issue of monitoring the implementation of decisions on communications, the report notes:³⁰

Decisions on communications on the *Nubian* case, the *Northern Uganda* case and the *Senegalese* case have all benefited from *in situ* investigation or implementation follow-up made by the ACERWC. The cases against Kenya and Senegal were moreover made a subject of implementation hearings with government representatives during the Committee's 29th ordinary session in 2017.

While these can be characterised as measures provided for by the guidelines established in accordance with the African Children's Committee's mandate under article 44, it is arguable that these follow-ups also utilise the Committee's original investigative powers under article 45(1).³¹ In considering the progress made in establishing follow-up missions for the implementation of Concluding Observations, it is stipulated:³²

To give effect to its mandate under Article 45 of the Charter, the Committee developed comprehensive guidelines on the contents and procedure of investigation missions, guiding principles of investigation missions, preparation of mission reports and the following up on missions. During the reporting period, the Committee has conducted 5 follow-up missions to monitor the level of implementation of the Concluding Observations and recommendations issued to governments after consideration of their State Party reports. These missions were conducted in Liberia (2019), Guinea (2019), Mozambique (2018), Ethiopia (2018), Zimbabwe (2019), Rwanda (2017), Madagascar (2018) and Mali [no date provided].

It was noted that, in each mission, it was found that no country's Concluding Observations had been fully implemented.³³ This highlights the importance of the investigation mechanism, with particular reference to the powers afforded to the Committee to 'request any information relevant to the implementation of the Charter' and to 'resort to any appropriate method of investigating the measures the state party has adopted to implement the Charter'. Without these components of the investigation mechanism, no conception of the implementation of the Committee's recommendations can take form outside of the consideration of a country's subsequent reports, as well as those submitted by civil society organisations (CSOs).

²⁷ African Union & African Children's Committee (n 17) 67.

²⁸ African Children's Committee '2040 Agenda: Assessment of the first phase of implementation (2016-2020)' (2021) V.

²⁹ As above.

³⁰ African Children's Committee (n 28) 5.

³¹ African Children's Committee (n 28) 8-9.

³² African Children's Committee (n 28) 9.

³³ As above.

On the implementation of the component of Aspiration 1 that pertains to the development and accessibility of the African Children's Committee's activity reports, which is required by article 45(3), the use of the Children's Committee website was raised as a means for the fulfilment of this mandate.³⁴

It is also remarked upon that the African Children's Committee conducted the highest number of missions in a year during the period under review, and that this reflects the increasing support being given to the Children's Committee by the African Union (AU).³⁵ It is, however, a point of necessary reflection that 'additional human, financial and technical support is still needed to successfully carry out the mandate of the Committee'.³⁶

On the matter of child participation, it is stated that, as of the time of the writing of this report, the African Children's Committee had not developed platforms for children to participate in the monitoring of Agenda 2040 but makes the commitment to developing child participation guidelines. This subsequently came to fruition.³⁷

1.6 Key recommendations for the second phase of implementation

Key recommendations for the next monitoring period are included as an annexure to the first phase implementation report. Some relevant points include recommendations for the African Children's Committee to 'strengthen its follow-up on the implementation of its decisions on communications' and to 'increase advocacy tools for publication of children's rights'.³⁸ It remains to be seen what the second phase implementation report will reveal as the second phase reaches its end in 2025.

2 Links to other Charter articles

The implementation of article 45 bears relevance to all the substantive articles in the African Children's Charter. It is a core component and important elaboration of the African Children's Committee's quasi-judicial mandate insofar as it enhances the Committee's communication mechanism by providing the framework for follow-up and investigations based on these communications. As regards the investigation mechanism, the Committee's capacity to undertake investigations thus is relevant to the effective litigation of children's rights under the Committee's communication mechanism provided for by article 44.³⁹

Sloth-Nielsen describes this relationship, between the communication and investigation mechanisms, by referring to the Committee's first communication before it, which was ultimately decided against the Republic of Uganda, with particular reference to the Committee's undertaking of 'an investigative mission to the affected region to interview and consult with affected parties *in situ*'.⁴⁰ This was deemed necessary after the communication was declared admissible due to the Committee subsequently not being able to make a decision regarding the merits of the case because of a lack of evidence.⁴¹ The Committee, however, had to rely on the Ugandan government to fund a fact-finding mission to acquire

34 African Children's Committee (n 28) 26.

35 African Children's Committee (n 28) 38.

36 As above.

37 African Children's Committee (n 28) 153-154.

38 African Children's Committee (n 28) 172-173.

39 J Sloth-Nielsen 'Child rights litigation in the African region: Lessons from the communications procedure under the ACERWC' in T Liefwaard and JE Doek (eds) *Litigating the rights of the child: The UN Convention on the Rights of the Child in domestic and international jurisprudence* (2014) 253.

40 Sloth-Nielsen (n 39) 254.

41 As above.

the necessary evidence, which led to a long delay in deciding on the merits of the matter.⁴² This can be read as a proactive use of the component of the investigation mechanism that empowers the Committee to ‘resort to any appropriate method of investigating any matter falling within the ambit of the present Charter’. In requiring the Ugandan government to facilitate the Committee’s investigation of its own alleged violation of the Charter, the Committee proactively combines and enforces its mandates under article 45 in conjunction with articles 44 and 1. This prompts the consideration of the important link between article 1 and article 45 of the African Children’s Charter.

Article 1 outlines the obligations of state parties in respect of the Charter and obligates states, in article 1(1), to ‘undertake to the necessary steps, in accordance with their constitutional processes and with the provisions of the present Charter, to adopt such legislative and *other measures* to give effect to the provisions of this Charter’. This would include measures to facilitate the implementation of article 45. This not only includes ensuring that the Committee is able to investigate pertinent matters within that state under article 45(1), both as it pertains to the investigation of any matters falling within the Charter’s ambit, but also inasmuch as it relates to the investigation and ability to request information pertaining to a state party’s implementation of the Charter. This connection further extends to the obligation to make the Committee’s reports to the Assembly of Heads of State and Government widely available to the public in their own countries under article 45(4).

3 Links to other human rights treaties

It is well known that the African Children’s Charter holds a unique place in international law as the first and only region-specific child rights instrument in the world.⁴³ This uniqueness extends to article 45. While many treaties provide for a concomitant treaty-monitoring body, one would be hard pressed to find another treaty-monitoring body with original investigative powers of the same breadth. A brief consideration of other human rights treaties, and the various links these treaties have to the African Children’s Charter, is provided and reveals that this mechanism is totally unique under international law. An initial consideration of the relevant United Nations (UN) instruments is provided, followed by a closer consideration of other African human rights instruments and, finally, a brief look into the structure and functions of the Inter-American human rights system.

3.1 Convention on the Rights of the Child

The reporting obligations under CRC are outlined in article 44. Articles 44(4), (5) and (6) of CRC bear the most relevance to the African Children’s Charter’s article 45. These provide:

- (4) The Committee may request from states parties further information relevant to the implementation of the Convention.
- (5) The Committee shall submit to the General Assembly, through the Economic and Social Council, every two years, reports on its activities.
- (6) States parties shall make their reports widely available to the public in their own countries.

The difference between these provisions lies in the breadth of the African Children’s Committee’s investigative powers in comparison to those of CRC. CRC only empowers its Committee to request information under article 44(4), whereas article 45(1) provides for any appropriate method of investigation. While CRC requires that state parties publish and disseminate their own reports, it does not require state parties to do the same as is required for the African Children’s Committee’s activity reports. Interestingly, the African Children’s Charter does not specifically require state parties to make

⁴² As above.

⁴³ Mezmur (n 5) 549.

their own reports publicly available. However, this was subsequently provided for in section 9(b) of the African Children's Committee's Guidelines for Initial Reports of State Parties.

CRC also differs from the African Children's Charter in its establishment of a communication mechanism through an Optional Protocol.⁴⁴ While this Protocol is only applicable to state parties to CRC that have also become parties to the Optional Protocol, and only pertains to the consideration of communications, it does include pertinent follow-up (article 11) and inquiry procedures (article 13).

The inquiry procedure allows for the UN Children's Committee, where grave or systematic violations of CRC are alleged, to 'invite the state party to cooperate in the examination of the information [pertaining to the alleged violation] and, to this end, to submit observations without delay with regard to the information concerned'.⁴⁵ Then,

[t]aking into account any observations that may have been submitted by the state party concerned, as well as any other reliable information available to it, the Committee may designate one or more of its members to conduct an inquiry and to report urgently to the Committee. Where warranted and with the consent of the state party, the inquiry may include a visit to its territory.⁴⁶

Thereafter, a follow-up to the inquiry procedure is provided for in article 14 of the Optional Protocol. This is more far-reaching, and arguably more similar in scope, than the power granted in article 44(4) of CRC, which extends merely to the request for information relevant to the implementation thereof. Its scope of applicability, nonetheless, is far more limited than the powers envisaged for the African Children's Committee under article 45(1) insofar as these powers only extend to the instance provided for in the Optional Protocol.

3.2 Other African human rights treaties

3.2.1 *African Charter on Human and Peoples' Rights*

The African Charter establishes the African Commission on Human and Peoples' Rights (African Commission), which has a broad mandate to promote and protect human rights in Africa. Like Article 45 of the African Children's Charter, the African Charter empowers the African Commission to investigate human rights violations, request information from state parties, and publish reports on its activities. Article 46 of the African Charter provides for the African Commission's investigation mechanism: 'The Commission may resort to any appropriate method of investigation; it may hear from the Secretary-General of the Organisation of African Unity or any other person capable of enlightening it.'

Article 54 of the African Charter contains the African Commission's reporting mechanism and requires it to 'submit to each ordinary session of the Assembly of Heads of State and Government a report on its activities'. This echoes the obligation set out in article 45(2) of the African Children's Charter.

It could be argued that articles 46 and 54 of the African Charter served as a useful foundation, upon which article 45 of the African Children's Charter came into being. Furthermore, the African Charter has been described as the 'parent African human rights document' to the African Children's

44 UNGA 'Optional Protocol to the Convention on the Rights of the Child on a communications procedure' General Assembly Resolution A/RES/66/138 (14 April 2014).

45 UNGA (n 44) art 13(1).

46 UNGA (n 44) art 13(2).

Charter.⁴⁷ However, it is important to consider the enhanced breadth of the power to investigate seen in the African Children's Charter when compared to the African Charter.

3.2.2 *Protocol to the African Charter on Human and Peoples' Rights on the Establishment of an African Court on Human and Peoples' Rights*

This Protocol establishes the African Court on Human and Peoples' Rights (African Court), which has jurisdiction to hear cases related to human rights violations in Africa brought by and against state parties to the Protocol.⁴⁸ While the Protocol does not have a provision identical to article 45 of the African Children's Charter, the African Court can request information from state parties and must submit reports on its activities, similar to the functions of other human rights monitoring bodies.⁴⁹

3.3 Inter-American human rights system

3.3.1 *American Convention on Human Rights*

The American Convention on Human Rights establishes the Inter-American Commission on Human Rights and the Inter-American Court of Human Rights.⁵⁰ The Inter-American Commission has the power to request the governments of its state parties to 'supply it with information on the measures adopted by them in matters of human rights'.⁵¹ This is reiterated in article 43 of the American Convention, which requires that state parties 'undertake to provide the Inter-American Commission with such information as it may request of them as to the manner in which their domestic law ensures the effective application of any provisions of this Convention'.

The Convention also establishes the Inter-American Court of Human Rights.⁵² This body may only, after declaring a petition or Communication admissible, 'request information from the government of the state indicated as being responsible for the alleged violations and shall furnish that government with a transcript of the pertinent portions of the petition or communication'.⁵³

This Court, therefore, functions quintessentially as a court of law and may only request information within the confines of its judicial procedures. The Commission, however, may request information more broadly, but this still does not come close to the scope of the African Children's Committee's investigative mandate.

It is further pertinent to consider that there is a difference between a power to request information and a power to investigate a matter. It is arguable that all other bodies, with the exception of the African Commission, are imbued with powers akin to requesting information, while the African Children's Committee holds the most powerful investigative mandate.

47 J Sloth-Nielsen 'The African Charter on the Rights and Welfare of the Child' in T Boezaart (ed) *Child law in South Africa* (2017) 426.

48 Art 3 of the Protocol to the African Charter on Human and Peoples' Rights on the Establishment of an African Court on Human and Peoples' Rights (25 January 2004) (African Court Protocol).

49 Arts 26(1) & 31 African Court Protocol (n 48).

50 Art 33 American Convention on Human Rights (18 July 1978).

51 Art 41(d) American Convention (n 50).

52 Art 33 American Convention.

53 Art 48(1)(a) American Convention.

4 Legal interpretation

Article 45 of the African Children's Charter holds significant importance as it establishes crucial mechanisms for the effective implementation and oversight of the Charter's provisions. This part covers the key concepts or concerns of article 45, as well as the nature and scope of state obligations in relation to this article. This is undertaken by dividing article 45 up into the three mechanisms for which it provides. For ease of reference, these are:

- (1) investigation mechanism (article 45(1)): Article 45(1) grants the African Children's Committee the authority to investigate any matter falling within the ambit of the Charter. This empowers the African Children's Committee to delve into issues related to children's rights violations and the implementation of state parties' obligations under the Charter, ensuring accountability and compliance by state parties. By allowing the Committee to resort to any appropriate method of investigation, this mechanism provides flexibility in addressing diverse challenges faced by children across Africa.
- (2) reporting mechanism (article 45(2)): Article 45(2) mandates the African Children's Committee to submit regular reports on its activities to the Assembly of Heads of State and Government. This reporting obligation ensures transparency and accountability in the Children's Committee's operations, providing a platform for state parties to be informed about the Committee's work and the status of children's rights in Africa.
- (3) publication mechanism (articles 45(3) and (4)): Articles 45(3) and (4) require the African Children's Committee to publish its reports and mandates state parties to make these reports widely available to the public within their respective countries. This mechanism promotes accessibility to information concerning children's rights, fostering awareness and advocacy efforts at the grassroots level.

Moreover, the significance of article 45 extends beyond its individual components. It serves as a cornerstone for the effective functioning of the African Children's Committee and the promotion of children's rights across Africa. By establishing robust mechanisms for investigation, reporting and publication, article 45 seeks to ensure that state parties uphold their obligations under the Charter and that violations are addressed promptly and transparently.

Furthermore, article 45 aligns with key agendas and priorities of the AU, such as Agenda 2063 and Agenda 2040, which emphasises good governance, democracy, respect for human rights, and the empowerment of African children through the facilitation of child participation. By promoting accountability and transparency, article 45 contributes to the realisation of these broader aspirations.

The key components of article 45 are now to be considered in more depth.

4.1 The investigation mechanism (article 45(1))

This part draws together and builds upon the observations made in this chapter that are relevant to this mechanism. Furthermore, various mission reports made available by the African Children's Committee will be considered, as well as a brief discussion of the nature and impact of Egypt's reservation to article 45(1).

The provision allows the Children's Committee to resort to any appropriate method of investigation, providing flexibility in how it conducts inquiries. This flexibility enables the Committee to adapt its approach on a case-by-case basis. The mechanism, however, is underscored by the importance of cooperation between the Committee and state parties in ensuring effective investigations. If properly

utilised and adhered to, the investigation mechanism serves as a vital tool for monitoring the implementation of the Charter's provisions beyond the consideration of state party reports.

The arguable scope of the investigation mechanism can be assessed in practice by considering the African Children's Committee's available mission reports. To be considered first are the Committee's Guidelines on the Conduct of Investigations.

4.2 Guidelines on the Conduct of Investigations

The Guidelines outline the process and procedures for investigation missions conducted by the African Children's Committee, since the African Children's Charter does not expressly stipulate the required procedures for investigations.⁵⁴ Investigations can be initiated by the Children's Committee or in response to any matter referred to it, including on the basis of a communication 'indicating serious and systematic violations of the rights of the child in a state party'.⁵⁵ The African Children's Committee may form sub-committees or designate special rapporteurs to lead missions, ensuring independence and impartiality.⁵⁶ Preliminary reports are prepared before missions, covering various aspects such as the country's legal system, ratification of international instruments, and major policies for children.⁵⁷ Mission programmes include meetings with government officials, civil society and affected children.⁵⁸ Investigation methods prioritise impartiality and adherence to national laws by the state party concerned, while ensuring the safety of victims and witnesses.⁵⁹ Final mission reports include detailed analyses of the child rights situation, recommendations for improvement, and dissemination to relevant stakeholders.⁶⁰ Follow-up mechanisms involve monitoring the implementation of recommendations through periodic evaluations and collaboration with specialised institutions and civil society organisations.⁶¹

4.3 Missions undertaken by the African Children's Committee

The African Children's Committee's ability to conduct missions is an elaboration of its investigation mechanism under article 45(1), in line with subsequent rules and guidelines. It is reported that early missions concerning the situations of children affected by armed conflict were undertaken to Northern Uganda and Darfur in the initial days of the Committee.⁶² It was thereafter that the Children's Committee developed its Guidelines on the Conduct of Investigations, described above.⁶³ The Committee now categorises its missions as follows:

- (1) follow-up missions: These are undertaken to assess the level of state party compliance with the Committee's recommendations, including those proffered in Concluding Observations, as well as its decisions. It is further provided for under rule 74 of the Rules of Procedure of the African

54 African Children's Committee Guidelines (n 4) 1.

55 African Children's Committee Guidelines (n 4) arts 3 & 4.

56 African Children's Committee Guidelines (n 4) art 5.

57 African Children's Committee Guidelines (n 4) arts 8 & 9.

58 African Children's Committee Guidelines (n 4) art 13.

59 African Children's Committee Guidelines (n 4) arts 18 & 19.

60 African Children's Committee Guidelines (n 4) arts 22 & 23.

61 African Children's Committee Guidelines (n 4) arts 26 & 27.

62 Sloth-Nielsen (n 47).

63 As above; African Children's Committee Guidelines (n 4).

- Children's Committee.⁶⁴ Since 2018 the African Children's Committee has published 12 follow-up mission reports.⁶⁵
- (2) fact-finding missions: These are carried out in the context of the ACERWC's Communications procedure to inform decisions made pertaining to requests for provisional measures but could also be used to inform other components of its decisions.⁶⁶ There is only one fact-finding mission report available on the African Children's Committee's website.⁶⁷
 - (3) investigation missions: These are carried out solely under the ambit of article 45(1) and is characterised by constructive dialogues held between the African Children's Committee and various organs of state, children's representatives, UN agencies, civil society organisations and other stakeholders.⁶⁸ Since 2014, five investigation mission reports have been published on the African Children's Committee's website.⁶⁹
 - (4) advocacy missions: These are undertaken to convey a key message to a state regarding children's rights issues, such as ratification or the withdrawal of reservations to provisions of the African Children's Charter, and the popularisation of the Charter, key documents and activities.⁷⁰ Since 2018, five advocacy mission reports have been published on the African Children's Committee's website.⁷¹

Therefore, there are a total of 23 mission reports, spanning the years 2014 to 2023, available for consideration. Most of these missions take the form of follow-up investigations. A table summarising the aim and outcomes of the 23 mission reports available on the African Children's Committee's website is provided:

Country	Type of mission	Date of mission	Objectives	Findings
Zambia	Follow-up	19-21 June 2023	The mission in Zambia aimed to assess progress, challenges, and opportunities in implementing the ACERWC's recommendations. It fostered collaboration among the government, UN agencies, CSOs, and stakeholders, expediting recommendation implementation and ensuring reporting cycle continuity.	The mission in Zambia facilitated the government's assessment of recommendation implementation progress, offering insights for future engagements with other state parties. It addressed implementation challenges and raised awareness about the Charter and reporting procedures among government organs and stakeholders. It reinforced the government's commitment to recommendations and timely reporting.

64 African Children's Committee 'Follow-up missions', <https://www.acerwc.africa/en/missions/follow-up-missions/list> (accessed 14 April 2024).

65 As above.

66 African Children's Committee 'Fact-finding missions', <https://www.acerwc.africa/en/missions/fact-finding-missions/list> (accessed 14 April 2024).

67 As above.

68 African Children's Committee 'Investigation missions', <https://www.acerwc.africa/en/missions/investigation-missions/list> (accessed 14 April 2024).

69 As above.

70 African Children's Committee 'Advocacy missions', <https://www.acerwc.africa/en/missions/advocacy-missions/list> (accessed 14 April 2024).

71 As above.

Sierra Leone	Follow-up	8-11 August 2023	The mission aimed to identify and share implementation achievements as best practices, address government challenges, seek stakeholder assistance, inform the ACERWC about interventions, foster CSO partnerships, highlight Charter implementation gaps, explore resource mobilisation, suggest government actions, and ensure reporting cycle continuity.	Sierra Leone's child protection measures demonstrate progress, yet challenges persist due to resource constraints, particularly affecting children with disabilities. Recommendations centre on aligning marriage laws, combating discrimination, and addressing juvenile justice and child poverty. Despite reforms and awareness efforts, sustained action is essential for upholding children's rights in Sierra Leone.
Zimbabwe	Follow-up	12-15 June 2019	The mission sought to establish constructive dialogue with Zimbabwe's government to assess progress, challenges, and opportunities in implementing ACERWC recommendations. It aims to foster collaboration among stakeholders and accelerate recommendation implementation while ensuring the reporting cycle continues.	Efforts to disseminate recommendations and enact legislation have been made, but institutional gaps persist, affecting child rights implementation. Budget constraints hinder child-friendly services, despite collaboration with CSOs. Progress is seen in age-related laws, but challenges persist in health, education, and protection measures, requiring sustained action for enforcement and prosecution.
Ghana	Follow-up	20-22 April 2022	The mission aimed to engage in dialogue with Ghana's government representatives to assess progress, challenges, and opportunities in implementing the ACERWC's recommendations. It sought to foster collaboration among government sectors, UN agencies, CSOs, and stakeholders, while enhancing recommendation implementation and maintaining the reporting cycle.	The mission allowed Ghana's government to recognise its progress in implementing recommendations and learn best practices for future engagements. It also identified and addressed implementation challenges while raising awareness about the Charter and the ACERWC. Furthermore, it reinforced Ghana's commitment to implementing recommendations and Charter provisions, ensuring timely periodic reporting.

Chad	Follow-up	17-19 February 2022	The mission aimed to assess Chad's progress in implementing recommendations from the ACERWC after reviewing its initial report on the African Charter on the Rights and Welfare of the Child. This evaluation followed the 29th session in Maseru, Lesotho, held from May 2 to 20, 2017.	The mission in Chad provided an opportunity for the government to evaluate progress in implementing recommendations and learn from best practices for future collaborations. It also helped identify and address implementation challenges, raised awareness about the Charter, the ACERWC's work, and Agenda 2040, and reinforced Chad's commitment to implementing recommendations and submitting periodic reports.
Namibia	Follow-up	1-3 December 2021	The mission in Namibia aimed to engage in constructive dialogue with government representatives to assess progress, challenges, and opportunities in implementing recommendations. It sought to foster collaboration among the government, UN agencies, CSOs, and stakeholders, aiming to enhance and accelerate recommendation implementation while ensuring the reporting cycle's continuity.	The mission allowed the Government of Namibia to assess its progress in implementing recommendations and learn best practices for future engagements. It identified and addressed implementation challenges, sensitised government organs and stakeholders about the Charter and the ACERWC, and reinforced Namibia's commitment to implementing recommendations and Charter provisions, ensuring timely periodic report submissions.
Ethiopia	Follow-up	16-17 October 2018	The mission aimed to engage in constructive dialogue with the Government of Ethiopia to assess progress, challenges, and opportunities in implementing ACERWC's recommendations. It sought collaboration among the government, UN agencies, CSOs, and other stakeholders to enhance and accelerate recommendation implementation and African Children's Charter compliance.	The findings highlight both efforts and challenges in implementing child rights in Ethiopia. Despite initiatives such as policy adoption and increased budget allocations, coordination gaps hinder effective implementation. Disparities persist, especially for vulnerable groups, with challenges including inadequate data collection and societal attitudes towards harmful practices. Efforts to address issues like child labour and abuse are underway, but comprehensive data and robust systems are needed to track and address violence against children.

Lesotho	Follow-up	14-17 June 2021	The mission aimed to engage in constructive dialogue with the government of Lesotho to assess progress, challenges, and opportunities in implementing the Committee's recommendations. It sought to foster collaboration among government entities, UN agencies, CSOs, and other stakeholders to accelerate recommendation implementation and maintain the reporting cycle.	The mission allowed the government of Lesotho to assess its progress in implementing recommendations and learn best practices for future engagement. It identified and addressed implementation challenges, raised awareness among government organs and stakeholders about child rights, and reinforced Lesotho's commitment to implementing recommendations and Charter provisions, including timely reporting.
Mozambique	Follow-up	3-4 December 2018	The mission aimed to engage in constructive dialogue with the government of Mozambique to assess progress, challenges, and opportunities in implementing ACERWC's recommendations. It sought to foster collaboration among government, UN agencies, CSOs, and other stakeholders, while aiming for enhanced and accelerated implementation of recommendations.	The findings underscore challenges in Mozambique's child rights implementation, including budget inefficiencies and rural service inequities. Inter-ministerial coordination gaps persist, though regulatory improvements are in progress. Birth registration and civil rights gaps persist, alongside concerns like child marriage and education quality. Protection measures against child labor, trafficking, and violence show progress, yet weak systems and resource limitations persist.

Madagascar	Follow-up	10-14 September 2018	To engage with relevant ministries, UN agencies, and civil society to discuss Madagascar's progress and challenges in implementing recommendations since submitting its initial report.	The findings underscore the importance of government policies and action plans to address key issues highlighted by the ACERWC's recommendations effectively. Civil society organisations (CSOs) should collaborate not only with the government but also with the private sector, communities, families, and youth for successful implementation. Amid Madagascar's electoral campaign, human rights CSOs must engage with all candidates to integrate child rights into their programmes. Additionally, the government's political commitment, legislative capacity, planning, and budget allocation are vital for safeguarding children's rights.
Guinea	Follow-up	25-27 September 2019	The mission aimed to engage in constructive dialogue with the Guinean government to assess progress, challenges, and opportunities in implementing the ACERWC's recommendations. It sought to foster collaboration among the government, UN agencies, CSOs, and other stakeholders to enhance and accelerate implementation of the recommendations and the African Charter of Rights and Welfare of the Child.	The findings highlight the pressing need to accelerate the adoption of the Children's Code and the dissemination of the Civil Code in Guinea. It emphasises the importance of coordinating with youth groups and government entities, enhancing institutional capacity, and decentralising the birth registration system. Additionally, efforts to improve basic social services, combat diseases and harmful practices, enhance education quality and accessibility, address child begging, and provide training for judges handling cases involving children are crucial for safeguarding child rights.

Liberia	Follow-up	6-8 November 2019	The mission sought constructive dialogue with Liberia's government to assess progress, challenges, and opportunities in implementing recommendations. It aimed to foster collaboration among the government, UN agencies, CSOs, and stakeholders, with a focus on enhancing and expediting recommendation implementation.	The findings stress a holistic approach for child rights implementation. Actions include periodic reporting, aligning marriage laws, banning harsh penalties, prohibiting corporal punishment, constitutional amendments, ratifying conventions, reallocating budgets, enhancing coordination, robust data collection, free primary education, adolescent health services, pregnant girls' support, inclusive schooling, expanded courts, female police training, tackling abuse causes, and explicit FGM bans, bolstering children's rights.
Sudan	Fact-finding	23-31 May 2021	The mission's objectives were to assess children affected by armed conflict in Sudan's Blue Nile and South Kordofan, determine conflict impact extent, review amicable settlement progress, and identify challenges in implementation. The focus included rebuilding affected children's lives and fostering collaborative responses.	Findings note challenges and progress in conflict-affected areas, praising the state's commitment but highlighting access limitations. Recommendations include disseminating agreements, negotiating access, demining, equitable reconstruction, prohibiting child recruitment, ratifying human rights instruments, and aiding affected children and communities.
Malawi	Fact-finding	29-31 August 2022	The ACERWC's mission in Malawi aimed to: assess child welfare violations; examine discrimination impacts; evaluate vulnerable groups' situations; monitor government responses; review healthcare provision for children with albinism; assess school accommodations and aids; offer policy recommendations; and evaluate the implementation of previous decisions regarding child welfare issues.	The findings stress the critical need for comprehensive support for children with albinism in Malawi. Recommendations include social protection programs, counseling centers, data collection, healthcare services, education access, justice, and positive image promotion. Collaboration, financial support, and monitoring are vital for effective implementation and ratification of protocols.

Mozambique	Fact-finding	23-27 May 2022	The ACERWC's mission in Cabo Delgado aimed to assess children's rights violations, the impact of conflict on education and health, and situations of separated and displaced children.	Recommendations include policy guidance for Mozambique's government to effectively address challenges faced by children affected by the conflict.
Tanzania	Investigation	10-14 August 2015	The mission in Tanzania aims to investigate rights violations against children with albinism, identify underlying causes, and engage stakeholders for better protection.	Children with albinism in Tanzania, notably those at Buhangija Centre, face severe risks due to societal beliefs, leading to attacks. Despite government efforts, Tanzania falls short in protecting their rights, with holding centers deemed inadequate. Urgent action is needed, stressing national collaboration for long-term solutions and family reunification.
Central African Republic	Investigation	14-21 December 2014	The mission's primary aim is to advocate for better protection of children affected by armed conflict in the Central African Republic. Specifically, it seeks to assess the conflict's impact on children and identify the requirements for better prevention and response measures to address their challenges.	The delegation acknowledged the government of the Central African Republic's efforts to uphold children's rights with support from various organisations. However, it highlighted the lack of state authority in ensuring overall security and welfare, especially for children. The national context is fragile, marked by numerous violations of fundamental children's rights.
South Sudan	Advocacy	3-7 August 2014	During its 23rd ordinary session in April 2014, the ACERWC passed a Resolution focusing on children in South Sudan and the Central African Republic affected by armed conflict. A mission was established to advocate for better protection and response to these children, with objectives including assessing the conflict's impact and identifying gaps in prevention and response resources.	The ACERWC delegation highlighted critical child protection issues in South Sudan, emphasising the need for reintegration of separated children, disarmament of child soldiers, and support for violence-affected communities. Urgent recommendations include reducing arms flow, ending child soldier mobilisation, and enhancing psychosocial support and education access.

Gambia	Advocacy	29 August-1 September 2023	The advocacy mission aimed to engage with ministries responsible for state party reports, along with children's representatives, the National Human Rights Commission, UN Agencies, and CSOs. The focus was on identifying challenges in report submission, assessing available mechanisms, offering guidance, and urging The Gambia to commit to submitting its initial report promptly.	The ACERWC advises establishing a National Mechanism for Reporting and Follow-up (NMRF) by law to ensure timely African Children's Charter reporting. Until then, the Ministry of Gender, Children, and Social Welfare (MGCSW) should lead, supported by budget and capacity-building from UNICEF. Accurate reporting demands enhanced child rights data management and stakeholder consultations, with wide report dissemination for transparency.
South Sudan	Advocacy	12-14 April 2023	The objectives include raising awareness about ratifying the African Children's Charter and emphasising the importance of implementing the Committee's recommendations post the 2014 investigative mission.	The advocacy mission revealed concerns such as delays in ratifying the Charter, the need to revise the Children's Act and establish a Children's Commission, and the absence of child rights stakeholders in constitution making. Urgent action is necessary to address these gaps and ensure children's rights in South Sudan.
Botswana	Advocacy	22-26 June 2021	The mission aims to urge Botswana to submit its initial report to the ACERWC and identify challenges hindering its reporting obligations. It seeks to lobby for the revocation of reservations on article 2 and foster stronger partnerships with CSOs and stakeholders working for children's rights.	The government committed to submitting its report by the end of December 2021 and to submitting the instrument of revocation by November 2021.

Somalia	Advocacy	30-31 July 2018	The objective is to expedite Somalia's ratification process of the African Children's Charter by engaging relevant ministries and civil society organisations in discussions.	The findings underscore the need for collaboration between the government and civil society to ratify the African Children's Charter. This involves government-led action plans, supported by CSOs, including consultations and advocacy efforts. Inclusive dialogue and mutual support are crucial for advancing child rights legislation effectively.
Saharawi Arab Democratic Republic (SADR)	Advocacy	30 April-4 May 2019	Engage with relevant ministries and civil society to discuss accelerating the ratification of the African Children's Charter in SADR. Highlight the benefits of protection for all children and note achievements in Charter implementation despite non-membership.	The government pledges to ratify the Charter by September 2019, with CSOs offering support. CSOs request Observer Status guidelines, preferably in Arabic. Sectoral ministries, CSOs, and the CNDH (National Council for Human Rights) commit to ongoing communication with the Secretariat for updates on the ratification process.

From the information provided above, it is apparent that the mission reports reveal a consistent pattern across countries, illustrating both progress and challenges in safeguarding children's rights. Governments demonstrate a commitment to improving child welfare, often with support from international organisations and civil society. Collaboration among stakeholders, including governments, UN agencies and civil society organisations, emerges as a key strategy to address challenges effectively. These missions also aim to ensure that governments fulfil their reporting obligations under international treaties such as the African Children's Charter. Recommendations typically focus on policy reforms, resource allocation, capacity building, and awareness campaigns to address systemic issues affecting children's rights. Common areas of concern include education, health care, protection from harmful practices, access to justice, and social services for vulnerable groups such as children with disabilities. Overall, the reports underscore the importance of sustained efforts and collaboration to continue advancing children's rights across various contexts. One surprising exception, particularly as regards the use of the advocacy investigations mechanism, is the absence of a mission to encourage Egypt to revoke its reservation to article 45(1). This is now considered in more depth.

4.3.1 Egypt's reservation to article 45(1) of the Children's Charter

The Arab Republic of Egypt deposited its ratification to the African Children's Charter on 22 June 2001.⁷² Egypt ratified the African Children's Charter with reservations to multiple provisions, including article 45(1).⁷³ In 2015 Egypt withdrew one of these reservations, namely, article 21(2), which sets the

72 African Children's Committee 'Ratifications table', <https://www.acerwc.africa/en/member-states/ratifications>) (accessed 21 April 2024).

73 MG Nyarko 'Towards effective implementation of the African Charter on the Rights and Welfare of the Child in Egypt' (2018) 11 *African Journal of Legal Studies* 142-143.

minimum legal age for marriage to 18 years.⁷⁴ Its initial report to the African Children's Committee was submitted in 2005.⁷⁵ Following a delay, the Children's Committee issued its Concluding Observations on this initial report in 2008.⁷⁶ In its Concluding Observations, the African Children's Committee recommends the waiver of Egypt's reservations to the Charter.⁷⁷ Regarding Egypt's persisting reservation to the communication mechanism, the African Children's Committee held the following in its decision on the second of two communications submitted against Egypt in 2016:⁷⁸

In a letter dated 6 May 2016, the respondent State expressed its views on the proceedings stating that the ACERWC does not have a mandate to proceed with the case because the State party had entered reservations on articles 44 and 45 of the ACRWC. On 30 January 2017, the ACERWC wrote to the State party clarifying and stating that the reservations entered by the state party are not compatible with the purpose and object of the ACRWC. The ACERWC reasoned that the reservations are incompatible with the object and purpose of the treaty, and in particular contrary to article 19(c) of the Vienna Convention, mainly because the provisions subjected to the reservation were among the core rationales for the creation of the treaty. Furthermore, the Committee explained that placing a reservation on procedural matters of a human rights treaty is generally incompatible with the purpose and objective of the treaty under international human rights law. Following the exchange of this dialogue, the Committee continued with the proceedings of the Communication.

Therefore, it is on record that the African Children's Committee does not consider itself to be subject to Egypt's reservation to article 45(1).

Despite its reservation to article 45(1), Egypt has shown at least some willingness to adhere to the African Children's Charter through its submission of its initial report and withdrawal of one of its reservations. However, it is concerning that its reservation to article 45(1) persists, in addition to all its other reservations. Furthermore, it has been over two decades since the Egypt has complied with the African Children's Committee's reporting processes. It remains to be seen whether the Children's Committee will proceed as if these reservations have no force, or if further work needs to be done to ensure that all reservations are withdrawn.

The investigations mechanism has thus been utilised in multiple contexts. While the provision has been and continues to be utilised, it reflects slow and staggered implementation of the African Children's Charter across the continent. Due to the lack of availability of mission reports before 2014, it is difficult to assess how the utilisation of this provision has evolved beyond the past ten years. The remainder of this chapter considers the reporting and publication mechanisms established by article 45 of the African Children's Charter.

74 ReliefWeb 'Egypt: Small forward steps on child rights', <https://reliefweb.int/report/egypt/egypt-small-forward-steps-child-rights> (accessed 21 April 2024).

75 Nyarko (n 73) 158.

76 Nyarko (n 73) 160.

77 African Children's Committee 'Concluding recommendations by the ACERWC on the Arab Republic of Egypt Report on the Status of Implementation of the ACRWC' (2008) 2.

78 *Dalia Lotfy on behalf Sohaib Emad v Egypt*, No 9/Com/002/2016, inadmissibility decision, May 2017 (non-exhaustion of local remedies) (*Sohaib Emad (Inadmissibility)*) 2.

4.3.2 *The reporting mechanism (article 45(2))*

According to the African Children's Committees Rules of Procedure, it is within the scope of the functions of the Chairperson of the Children's Committee to present activity reports to the AU Assembly.⁷⁹ Rule 62 further outlines the procedure in relation to the Committee's activity reports:

- (1) The Committee shall annually submit to the Assembly of the African Union its reports on the activities undertaken in the implementation of the African Charter and any other reports as appropriate.
- (2) During its sitting the Committee deliberates and adopts the report to be submitted by its Chairperson to the Assembly.
- (3) Once the Activity Report has been considered by the Assembly, the Secretariat shall publish it on the website of the Committee and transmit it to states parties, African Union organs, national and specialised human rights institutions and civil society organisations.

It is important to note that rule 62(1) requires the submission of annual activity reports, whereas article 45(2) requires this only every two years. The African Children's Committee website reveals that activity reports, indeed, are submitted annually.⁸⁰ The available reports span the years from 2014 to 2022.

Rule 81(4) further provides that 'the Committee may request, when it sends its Activity Report to the Assembly, as it deems necessary, specific actions on the part of the Assembly in respect of implementation of any of its decisions, other than those related to communications'. This illustrates that article 45(2) bears the additional function of providing a system of dialogue between the Committee and the Assembly.

When considering the breadth and depth of the available activity reports, it is noteworthy that the African Children's Committee's reports have over the years become increasingly more detailed. While 2014's report spanned 10 pages, 2022's report more than doubles that, at 21 pages. This reveals the increased capacity of the African Children's Committee in the last decade. However, a 25-year assessment cannot be undertaken without difficulty due to the lack of activity reports prior to 2014.

4.3.3 *The publication mechanism (articles 45(3) and (4))*

As stated above, the African Children's Committee has only published the reports submitted between 2014 and 2022 on its website. Furthermore, it is difficult to assess the implementation of article 45(4). It would likely fall on the shoulders of the Children's Committee to use its investigative mandate to assess the implementation of article 45(4). Another option is the expansion of the state party reporting requirements, particularly section 15(h) of the Guidelines for the Consideration of Periodic State Party Reports, which requires state parties to attest to its actions to disseminate the African Children's Charter and its previous Concluding Observations, including information 'demonstrating its efforts to make the Charter and the previous Concluding Observations widely available to relevant stakeholders and the public at large'. This could be a logical point to include the requirement that state parties report on their implementation of article 45(4).

⁷⁹ Rule 10(2)(j) of the African Children's Committee's Revised Rules of Procedure (2020).

⁸⁰ African Children's Committee 'Activity reports', <https://www.acerwc.africa/en/key-documents/activity-reports> (accessed 21 April 2024).

5 Conclusion and recommendations for state and non-state actors at various levels

The scope of article 45 is demonstrably broad and unique in international human rights law. It encompasses investigative, publication and reporting mandates possessed by the African Children's Committee. This brief assessment of the nature, scope and implementation of the article evidences the Committee's progressive growth over the years under consideration. There are, nonetheless, five key recommendations to be made to various stakeholders for the enhanced implementation of this article, an endeavour that would compound the efficacy of the African Children's Charter as a whole. These recommendations are as follows:

- (1) The secretariat of the African Children's Committee should ensure that a more comprehensive online institutional memory is consolidated by publishing its mission and activity reports spanning the entirety of the Committee's existence. These documents currently only go back as far as 2014.
- (2) The African Children's Committee should encourage the implementation of article 45 by including it as a component upon which state parties should report.
- (3) State parties should endeavour to be amenable to facilitating the African Children's Committee's investigations therein through the establishment of strong bilateral diplomacy and the dedication of funds to supporting the African Children's Committee's investigations.
- (4) The AU should commit to dedicating increased human and financial resources to ensuring that the African Children's Committee is able to conduct all necessary investigations and keep its website up to date.
- (5) The African Children's Committee should consider the importance of article 45 when formulating its action plan for the third phase of the implementation of Agenda 2040.