

The African Charter on the Rights and Welfare of the Child

PART 1: RIGHTS AND DUTIES

CHAPTER ONE: RIGHTS AND WELFARE OF THE CHILD

Article 1: Member States of the Organization of African Unity Parties will recognize the rights, freedoms and duties in this Charter and will adopt laws these rights. Any custom, tradition, cultural or religious practice that is inconsistent with these rights are discouraged.

Article 2: A child means every human being below the age of 18 years.

Article 3: Every child should be allowed to enjoy the rights and freedoms in this Charter, regardless of his or her race, ethnic group, colour, sex, language, religion, political or other opinion, national and social origin, fortune, birth or other status.

Article 4: If children can voice their opinions, then those opinions should be heard and taken into consideration during legal and administrative proceedings.

Article 5: Every child has a right to live.

Article 6: Every child has the right to be named and registered at birth.

Article 7: Every child who is capable of communicating his or her own views should be allowed to express his or her opinions freely.

Article 8: Every child has the right to free association and freedom of peaceful assembly, in conformity with the law.

Article 9: Every child has the right to freedom of thought, conscience and religion.

Article 10: Children have a right to privacy.

Article 11: Every child has the right to an education, to develop his or her personality, talents and mental and physical abilities to their fullest potential. This education also includes the preservation and strengthening of positive African morals, traditional values and cultures. Governments should also take special measures in respect of female, gifted and disadvantaged children, to ensure equal access to education for all sections of the community.

Article 12: Children have a right to play and to participate fully in cultural and artistic life.

Article 13: Every child who is mentally or physically disabled has the right to special protection to ensure his or her dignity, promote his self-reliance and active participation in the community.

Article 14: Every child shall have the right to enjoy the best attainable state of physical, mental and spiritual health. This includes the provision of nutritious food and safe drinking water, as well as adequate health care.

Article 15: Children should be protected from all forms of economic exploitation and from performing any work that is likely to be hazardous or to interfere with their physical, mental, spiritual, moral, or social development.

Article 16: Children should be protected from all forms of torture, inhuman or degrading treatment and especially physical or mental injury or abuse, neglect or maltreatment including sexual abuse.

Article 17: Every child accused or found guilty of having broken the law should receive special treatment, and no child who is imprisoned or should be tortured or otherwise mistreated.

Article 18: Families are the natural unit and basis for society, and should enjoy special protection.

Article 19: Children should, whenever possible, have the right to live with their parents. No child should be separated from his or her parents against his or her will, except when authorities believe it would be in the child's best interest.

Article 20: Parents or other persons responsible for the child should always act in the best interest of the child.

Article 21: Governments should do what they can to stop harmful social and cultural practices, such as child marriage, that affect the welfare and dignity of children.

Article 22: Children should not be recruited as soldiers, nor should they take a direct part in fighting wars.

Article 23: Refugee Children should receive appropriate protection and humanitarian assistance.

Article 25: Children who are separated from their parents should get special protection and should be provided with alternative family care. States should also take all possible steps to trace and re-unite children with parents.

Article 26: States should address the special needs of children living under regimes practicing racial, ethnic, religious or other forms of discrimination.

Article 27: Children should be protected from all forms of sexual exploitation and sexual abuse.

Article 28: Children should be protected from the use of narcotics and illicit use of psychotropic substances.

Article 29: Governments should take appropriate measures to prevent the abduction, the sale of, or traffic of children for any purpose.

Article 30: States should provide special treatment to expectant mothers and to mothers of infants and young children who have been accused or found guilty of breaking the law.

Article 31: Children have responsibilities towards their families and societies, to respect their parents, superiors and elders, to preserve and strengthen African cultural values in their relation with other members of their communities.

CHAPTER TWO: ESTABLISHMENT AND ORGANIZATION OF THE COMMITTEE ON THE RIGHTS AND WELFARE OF THE CHILD

Article 32: The Committee

An African Committee of Experts on the Rights and Welfare of the Child hereinafter called 'the Committee' shall be established within the Organization of African Unity to promote and protect the rights and welfare of the child.

Article 33: Composition

1. The Committee shall consist of 11 members of high moral standing, integrity, impartiality and competence in matters of the rights and welfare of the child.
2. The members of the Committee shall serve in their personal capacity.
3. The Committee shall not include more than one national of the same State.

Article 34: Election

As soon as this Charter shall enter into force the members of the Committee shall be elected by secret ballot by the Assembly of Heads of State and Government from a list of persons nominated by the States Parties to the present Charter.

Article 35: Candidates

Each State Party to the present Charter may nominate not more than two candidates. The candidates must have one of the nationalities of the States Parties to the present Charter. When two candidates are nominated by a State, one of them shall not be a national of that State.

Article 36

1. The Secretary-General of the Organization of African Unity shall invite States Parties to the present Charter to nominate candidates at least six months before the elections.
2. The Secretary-General of the Organization of African Unity shall draw up in alphabetical order, a list of persons nominated and communicate it to the Heads of State and Government at least two months before the elections.

Article 37: Term of Office

1. The members of the Committee shall be elected for a term of five years and may not be re-elected, however. The term of four of the members elected at the first election shall expire after two years and the term of six others, after four years.

2. Immediately after the first election, the Chairman of the Assembly of Heads of State and Government of the Organization of African Unity shall draw lots to determine the names of those members referred to in sub-paragraph 1 of this Article.
3. The Secretary-General of the Organization of African Unity shall convene the first meeting of Committee at the Headquarters of the Organization within six months of the election of the members of the Committee, and thereafter the Committee shall be convened by its Chairman whenever necessary, at least once a year.

Article 38: Bureau

1. The Committee shall establish its own Rules of Procedure.
2. The Committee shall elect its officers for a period of two years.
3. Seven Committee members shall form the quorum.
4. In case of an equality of votes, the Chairman shall have a casting vote.
5. The working languages of the Committee shall be the official languages of the OAU.

Article 39: Vacancy

If a member of the Committee vacates his office for any reason other than the normal expiration of a term, the State which nominated that member shall appoint another member from among its nationals to serve for the remainder of the term - subject to the approval of the Assembly.

Article 40: Secretariat

The Secretary-General of the Organization of African Unity shall appoint a Secretary for the Committee.

Article 41: Privileges and Immunities

In discharging their duties, members of the Committee shall enjoy the privileges and immunities provided for in the General Convention on the Privileges and Immunities of the Organization of African Unity.

CHAPTER THREE: MANDATE AND PROCEDURE OF THE COMMITTEE

Article 42: Mandate

The functions of the Committee shall be:

- a) To promote and protect the rights enshrined in this Charter and in particular to:
 - (i) collect and document information, commission inter-disciplinary assessment of situations on African problems in the fields of the rights and welfare of the child, organize meetings, encourage national and local institutions concerned with the rights and welfare of the child, and where necessary give its views and make recommendations to Governments;
 - (ii) formulate and lay down principles and rules aimed at protecting the rights and welfare of children in Africa;
 - (iii) cooperate with other African, international and regional Institutions and organizations concerned with the promotion and protection of the rights and welfare of the child.
- b) To monitor the implementation and ensure protection of the rights enshrined in this Charter.

- c) To interpret the provisions of the present Charter at the request of a State Party, an Institution of the Organization of African Unity or any other person or Institution recognized by the Organization of African Unity, or any State Party.
- d) Perform such other task as may be entrusted to it by the Assembly of Heads of State and Government, Secretary-General of the OAU and any other organs of the OAU or the United Nations.

Article 43: Reporting Procedure

1. Every State Party to the present Charter shall undertake to submit to the Committee through the Secretary-General of the Organization of African Unity, reports on the measures they have adopted which give effect to the provisions of this Charter and on the progress made in the enjoyment of these rights:
 - a. within two years of the entry into force of the Charter for the State Party concerned; and
 - b. and thereafter, every three years.
2. Every report made under this Article shall:
 - a. contain sufficient information on the implementation of the present Charter to provide the Committee with comprehensive understanding of the implementation of the Charter in the relevant country; and
 - b. shall indicate factors and difficulties, if any, affecting the fulfilment of the obligations contained in the Charter.
3. A State Party which has submitted a comprehensive first report to the Committee need not, in its subsequent reports submitted in accordance with paragraph I (a) of this Article, repeat the basic information previously provided.

Article 44: Communications

1. The Committee may receive communication, from any person, group or nongovernmental organization recognized by the Organization of African Unity, by a Member State, or the United Nations relating to any matter covered by this Charter.
2. Every communication to the Committee shall contain the name and address of the author and shall be treated in confidence.

Article 45: Investigations by the Committee

1. The Committee may, resort to any appropriate method of investigating any matter falling within the ambit of the present Charter, request from the States 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. States Parties shall make the Committee's reports widely available to the public in their own countries.

CHAPTER FOUR: MISCELLANEOUS PROVISIONS

Article 46: Sources of Inspiration

The Committee shall draw inspiration from International Law on Human Rights, particularly from the provisions of the African Charter on Human and Peoples' Rights, the Charter of the Organization of African Unity, the Universal Declaration on Human Rights, the International Convention on the Rights of the Child, and other instruments adopted by the United Nations and by African countries in the field of human rights, and from African values and traditions.

Article 47: Signature, Ratification or Adherence

1. The present Charter shall be open to signature by all the Member States of the Organization of African Unity.
2. The present Charter shall be subject to ratification or adherence by Member States of the Organization of African Unity. The instruments of ratification or adherence to the present Charter shall be deposited with the Secretary-General of the Organization of African Unity.
3. The present Charter shall come into force 30 days after the reception by the Secretary-General of the Organization of African Unity of the instruments of ratification or adherence of 15 Member States of the Organization of African Unity.

Article 48: Amendment and Revision of the Charter

1. The present Charter may be amended or revised if any State Party makes a written request to that effect to the Secretary-General of the Organization of African Unity, provided that the proposed amendment is not submitted to the Assembly of Heads of State and Government for consideration until all the States Parties have been duly notified of it and the Committee has given its opinion on the amendment.
2. An amendment shall be approved by a simple majority of the States Parties.