

African Union UNICEF partnership

Case study: **UNICEF's support to the African Children's Charter Committee**

September 2018

1. Why it matters

Africa has taken a global lead in setting standards for children's rights in a regional context through the only region-specific child rights instrument, the African Charter on the Rights and Welfare of the Child. The African Charter was adopted in 1990 by the African Union (AU) – then the Organisation of African Unity – and draws heavily on the UN Convention on the Rights of the Child (CRC), which was adopted one year earlier in 1989. There is increasing collaboration and interaction between the two monitoring committees – the CRC Committee and the African Committee of Experts on the Rights and Welfare of the Child (ACERWC). The committees have members in common, and in 2011,

thanks to the facilitating role of the United Nations Children's Fund (UNICEF), adopted a common platform for action.

The ACERWC has 11 members who serve on a voluntary, part-time basis and generally meet twice a year in ordinary sessions of about one week to ten days. The ACERWC's 2015–2019 strategic plan notes that the efforts of the Committee to effectively discharge its mandate have been hampered by a serious lack of human, financial and material resources. The Committee therefore seeks to achieve greater results by building strategic partnerships including with UNICEF “to take advantage of their strong field presence and advocacy, technical and operational capacity”.¹

FAST FACTS:

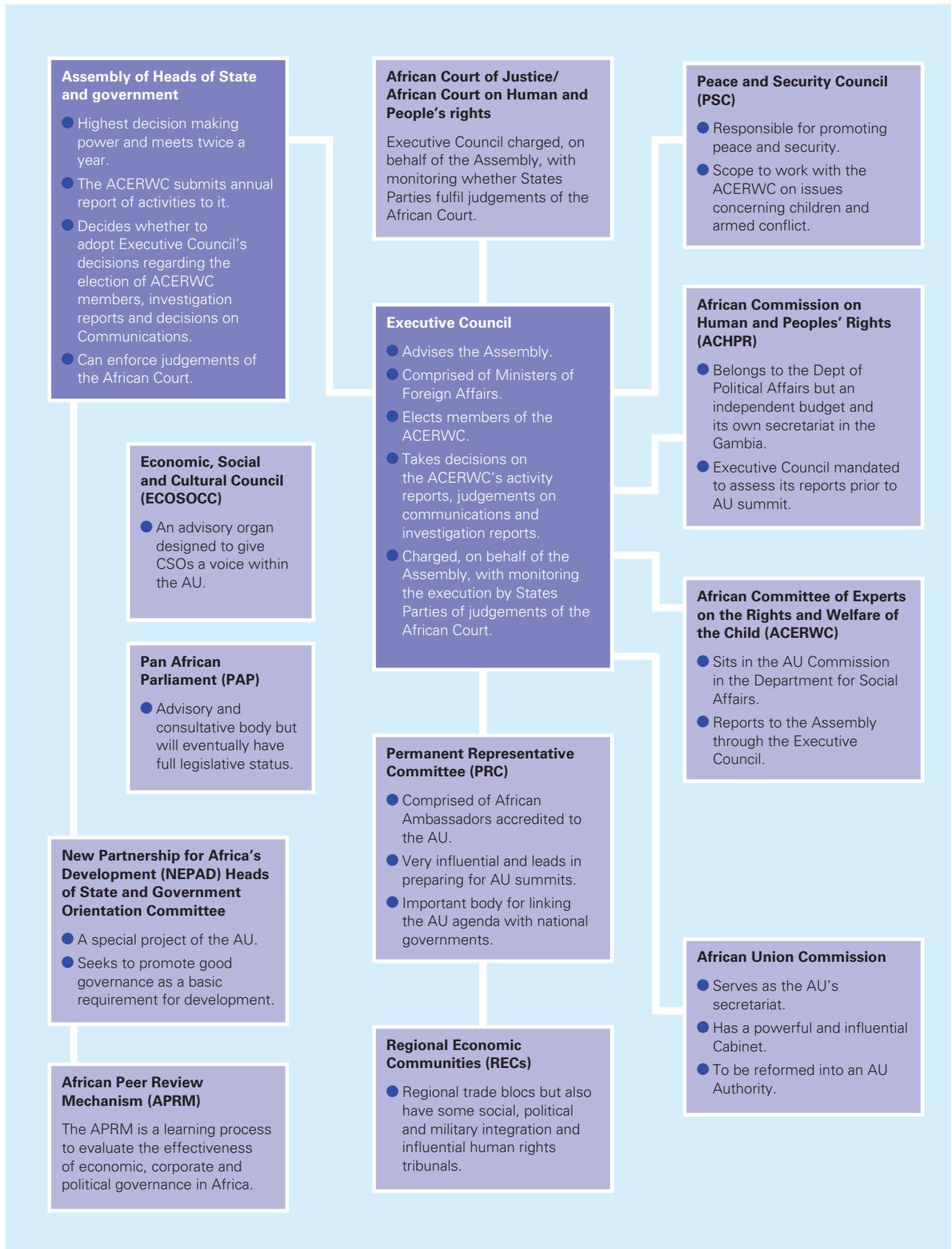
The African Children's Charter

- The African Committee of Experts on the Rights and Welfare of the Child is one of the AU's three principal human rights mechanisms, along with the African Commission on Human and Peoples' Rights and the African Court on Human and Peoples' Rights.
- 54 AU Member States have ratified the CRC and all but seven (Democratic Republic of Congo, Morocco, Sahrawi Arab Democratic Republic, Somalia, São Tomé and Príncipe, South Sudan and Tunisia) have ratified the African Charter on the Rights and Welfare of the Child. However, thanks to UNICEF advocacy in São Tomé and Príncipe, ratification has been approved by the Ministers' Council and is now with the National Assembly.
- Since the first State Party reports were received in 2007, 38 States Parties have submitted reports and eight of these have submitted periodic reports. The African Charter has become far more prominent in national landscapes, including being referred to in legislation and the jurisprudence of national courts.
- In 2015 the AU adopted Agenda 2063: The Africa we want, which brings all continental and regional initiatives under one umbrella. The ACERWC adopted its own vision, Africa's Agenda for Children 2040: Fostering an Africa Fit for Children which was supported by UNICEF in its development. Agenda 2040 elaborates on Paragraph 53 of Agenda 2063 (African children shall be empowered through the full implementation of the African Charter on the Rights of the Child) with the main objective of assessing the achievements and challenges of effective implementation of the African Children's Charter.

¹ African Committee of Experts on the Rights and Welfare of the Child strategic plan 2015-2019

How the ACERWC fits within the African Union

(adapted from the Compendium of Key Human Rights Documents of the AU)



2. Engagement approach

UNICEF has been supporting the ACERWC secretariat since 2005 through a Project Cooperation Agreement with the African Union Commission (AUC).

Implementation of the African Children's Charter and Agenda 2040

Prior to this, UNICEF has a long history of providing technical and financial support towards the full ratification and implementation of the African Charter at Member State level. UNICEF country offices encourage states to ratify or remove any reservations made to the Charter; help with preparation of initial and periodic (every three years) state party reports; support the implementation of concluding observations; support civil society shadow reporting; and advocate for and assist with legislative reform to embed the Charter into domestic legislation. Dr. Olawale Maiyegun former Director for Social Affairs, AUC comments "UNICEF was critical in assisting Member States to prepare their periodic reports and in mobilizing civil society to support the reporting process. As a result of UNICEF efforts there are now more reports and they are timelier."

This work will expand in support of Agenda 2040 as states are required to report to the Committee on implementation of the Agenda every five years, and to include reflections on Agenda 2040 in state party reports on implementation of the African Children's Charter.

Capacitating the Committee

UNICEF has also been key in supporting governments to propose high caliber members of the ACERWC. Dr. Olawale Maiyegun continues: "The Committee was very weak, but

UNICEF contributed considerably, particularly by advocating for Member States to sponsor better candidates for election – real child experts."

However, despite an increase in Member State reporting and an expert committee, it was taking 18 months to two years for state reports to be examined, by which time they were outdated. UNICEF therefore provided resources for the Committee to hold extraordinary sessions to catch up with the increase in volume of reports.

Technical assistance

UNICEF provides a variety of technical assistance to the Committee Secretariat and Committee members, taking a key role in development of the Committee's five-year Strategic Plan 2015-2019 after conducting a thorough review of the implementation of the previous plan. UNICEF also became active in supporting the Committee regarding jurisprudence, for example in the drafting and dissemination of General Comments which clarify the general measures States Parties must put in place to implement the Charter.

Evidence generation

The generation of evidence by UNICEF, for example supporting an ACERWC *Continental Study on the Impact of Conflict and Crises on Children in Africa*, has also been key in the Committee's advocacy and in ensuring that its work is grounded in robust research, data and good practice.

6 African Union, 'Press Statement of the 706th meeting of the PSC on the theme: "Child Soldiers/Out of School Children in Armed Conflict in Africa"', <www.peaceau.org/en/article/706th-meeting-of-the-psc-on-the-theme-child-soldiers-out-of-school-children-in-armed-conflict-in-africa>, accessed 22 August 2018

Spotlight on General Comment 2 on name and nationality

The Committee has the power to issue authoritative interpretations of the Charter, in order to clarify its meaning and scope. This is generally done through General Comments which provide a substantive elaboration of the meaning of treaty provisions for State Parties, as well as an in-depth analysis of procedural concerns regarding implementation. To date, the Committee has issued four General Comments.

In 2015, UNICEF and the United Nations High Commissioner for Refugees (UNHCR) provided support to the Committee's General Comment 2 on article 6 of the Charter (the right to name, nationality, registration of birth and combating statelessness). The General Comment was formulated through a consultative process including with experts coordinated by UNICEF on nationality, statelessness, birth registration and other issues. It was inspired by the Africa Programme on Accelerated Improvement of Civil Registration and Vital Statistics (APAI-CRVS) which is led by the UN Economic Commission for

Africa (UNECA) in partnership with the AUC, UNICEF and other stakeholders, and received a high-profile launch at the Third Conference of African Ministers responsible for CRVS held in Côte D'Ivoire in 2015.

Bronwen Manby of the London School of Economics called it a ground-breaking document saying: "It is in its interpretation of the right to a nationality that the General Comment is perhaps most significant and innovative." This is because it goes beyond the scope of the CRC by saying that a child who cannot acquire the nationality of his or her parents shall acquire the nationality of the country where he or she is born.

Ayalew Getachew Assefa, Senior Child Protection Officer, ACERWC Secretariat comments: "The Committee has since drawn from the General Comment in its concluding observations to Member States. General Comment 2 was developed using the right process and for creating impact, and is a model we look back to as a benchmark."



3. Impact and results

With UNICEF support, the ACERWC has worked to assert its legal authority as the continent's leading children's rights authority. Ayalew Getachew Assefa, Senior Child Protection Officer, ACERWC Secretariat comments: "We rely on UNICEF as its mandate means it is the leading organization responsible for child rights globally. If UNICEF is active with the Committee, things happen." Kenneth Oliko, former Campaign Officer, AU Campaign to End Child Marriage adds: "UNICEF has played a major role in ensuring the child rights agenda has been taken to the next level and not been lost among other AU priorities."

The Charter's 25th anniversary conference was hosted by the ACERWC in November 2015 at the AUC Headquarters in Addis Ababa, with support from UNICEF and other partners. Attended by hundreds of stakeholders including high level government officials and civil society, the conference supported the collaborative development of Agenda 2040 and giving child rights advocates throughout Africa an opportunity to come together to celebrate the values and system of human rights. Kathryn Leslie, Child Protection Specialist, Office of the Special Representative of the UN Secretary-General on Violence against Children comments: The conference is a really good example of what the Committee can do to promote children's rights. The event demonstrated the significant convening power of the Committee and how it engages in high level panel discussions to address progress and challenges across a range of rights".

The Day of the African Child (DAC) also unites actors across Africa in support of child rights, and is used by the ACERWC to draw attention to States Parties' obligations to children's rights under various annual themes. UNICEF provides support to the Committee in selecting the theme and planning, and through action in multiple countries. Critically, DAC gives young people a platform to have their voices heard and views consulted in line with the principles of freedom of information and expression, and child participation contained in the African Children's Charter and CRC. Prior to the DAC, a workshop is often facilitated by the ACERWC secretariat, with support from UNICEF and other partners, to introduce children to the African Charter and other mechanisms to protect and promote children's rights. At country level, UNICEF supports child participation through activities such as Children's Parliaments, inter-generational dialogue, child-centered design workshops, drama and engagement on social media.

An important area of work has been providing guidance and briefings to Committee members on the formulation of concluding observations to state party reports. This activity has a direct impact on child rights implementation on the ground as States seek to enact committee recommendations, again with UNICEF support. In 2013, the



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UNICEF West and Central Africa Regional Office (WCARO) worked with a pan-African network of international and national non-governmental organizations to produce a joint statement on child protection systems strengthening in sub-Saharan Africa. The presentation of the paper was followed by a one-day briefing session for the Committee on systems strengthening and the alternative care guidelines, with examples from Ghana, Rwanda, South Africa and Tanzania on what systems strengthening looks like in a practical sense. This work helped the Committee ask better questions of the State Party reports and take a systems strengthening perspective into account when formulating recommendations. Guidance was left with the Committee so that the learning could be sustained with future members.

Miranda Armstrong, Chief of Child Protection, UNICEF Côte d'Ivoire, and former Child Protection Systems Specialist at UNICEF WCARO observes: "I noticed the results of this work in subsequent concluding observations over time. It's really necessary to maximize that kind of technical support through practical recommendations that UNICEF can take up with State Parties. The UN system being able to work with states to support the implementation of recommendations is both unique and essential." In 2018, the Committee produced a General Comment on Systems Strengthening for Child Protection which builds on this work.

Monitoring the implementation of communications from the Committee is needed and the ACERWC is currently working with the African Commission on Human and Peoples' Rights and African Court to create a framework to monitor the implementation of decisions and concluding observations.

4. Lessons learned

Lesson 1: UNICEF needs to be more visible in the partnership landscape to leverage results for children

While UNICEF has a strong track record of engaging with the ACERWC, it has lost ground. Ayalew Getachew Assefa observes that UNICEF used to be “involved aggressively” as the Committee’s main partner, but the partnership is not as strong and close as it used to be. This is partly a result of lost relationships as staff move onto new positions, and underscores the importance of persistent relationship building, across time and locations, particularly in light of the Committee’s forthcoming move to Lesotho. UNICEF also needs to better capture its contributions. UNICEF participated in the development of both Agenda 2040 and the AU’s *Roadmap on Harnessing the Demographic Dividend through Investments in Youth 2017*. However, both collaborations are lost in terms of visibility, leaving UNICEF perceived as falling behind on agendas it is mandated to lead upon.

Lesson 2: Accessible information is needed at the country level to support implementation

Information for use in advocacy at country level is vital. However, advocacy is hampered at the national level by the limited availability of online resources. The ACERWC has therefore developed a new website which seeks to address this (<https://acerwc.africa/>), but the issue persists within other organs of the AU. Likewise, there is a need for UNICEF country offices, and other partners, to have timely information on any country-specific issues regarding children by the AU and ACERWC. Kathryn Leslie comments: “Often countries will learn about an opportunity to influence after the fact. We need information in advance so that we can strategically engage in processes and discussions with the AU and ACERWC.” Similarly, due to a lack of resources, a plain summary of General Comment 2 for birth registration officials was never produced. Professor Julia Sloth-Nielsen, Faculty of Law, University of the Western Cape, South Africa and member of the ACERWC 2011–2016 comments: “This type of further dissemination and advocacy makes a real difference to implementation at country level.”

Lesson 3: Coordinating CRC Committee and ACERWC communications supports impact at national level

The Charter provides an opportunity for dialogue and discussion with Member States around child rights and can be further capitalized on when there are unified messages from the CRC Committee and ACERWC. The streamlining of reporting processes for Member States to both the CRC Committee and ACERWC also has the potential to strengthen advocacy opportunities and implementation of child rights at the domestic level. UNICEF country offices are therefore encouraged to support governments to develop a functional and complementary country reporting mechanism and format for both the CRC Committee and ACERWC. In Uganda, for example, the UNICEF country office is supporting the Government in finalizing its combined third, fourth and fifth periodic reports to the CRC Committee, through a comprehensive process comprising a desk review, and national and regional consultations including with children. Since the start of the process, alignment and complementarity to reporting on the African Charter was ensured. UNICEF has also supported the Uganda Human Rights Commission in assessing the compatibility of Ugandan legislation with the commitments in the CRC. However, the African Charter was also considered and raised in discussions as Uganda does not meet the standard of ensuring mothers are not imprisoned with their child (African Charter Article 30).

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September 2018