How to guarantee credence: Recommendations and proposals for the African Committee of Experts on the Rights and Welfare of the Child

AMANDA LLOYD
Faculty of Law, University of the West of England, Bristol, UK

Introduction

The initiative by the Organisation of African Unity to adopt a Charter to promote and safeguard the rights and welfare of the child in Africa is a unique regional development. Not only does this treaty enshrine rights that children can assert and lay legal claim to, it also establishes a monitoring and enforcement mechanism: The African Committee of Experts on the Rights and Welfare of the Child. The African Committee is still in very early stages of evolution, yet it is possible to evaluate the achievements and to propose and recommend improvements to its working practice, to ensure respect and recognition of this human rights body from the outset, not only within Africa, but on the global stage as well.

The African Committee was established on 10 July 2001, when the 11 experts of “high moral standing, serving in their independent and personal capacity” were elected by the 37th Assembly of Heads of State and Government in Lusaka, Zambia. The African Committee is mandated to promote and protect the rights and welfare of children by virtue of Article 32 of the African Charter on the Rights and Welfare of the Child. The African Committee is directly accountable to the Social Affairs Directorate of the African Union. In accordance with Rule 64 of the Rules of Procedure, the Committee submits reports of each of its Sessions and activities undertaken in the implementation of the Children’s Charter to the Assembly of Heads of State and Government/Assembly of the Union through the Council of Ministers/Executive Council. The African Committee has a comparable mandate to that of the UN Committee on the Rights of the Child and similarities in form with the African Commission on Human and Peoples’ Rights. The African Committee shall promote and protect the rights enshrined in the Children’s Charter. This function will be executed by collecting and documenting information, commissioning inter-disciplinary assessments of situations on African
problems in the area of children’s rights and welfare, organising meetings, and encouraging appropriate national and local institutions. Where necessary it will give its views and make recommendations to governments, by formulating and laying down principles and rules aimed at protecting the rights and welfare of children in Africa. It is to co-operate with African, international and regional institutions and organisations concerned with the promotion and protection of children. The African Committee monitor the implementation and ensure the protection of the rights enshrined in the Children’s Charter. This will be carried out by interpreting its provisions at the request of a State Party, an institution of the OAU/AU,12 or any other persons or institutions recognised by the OAU/AU. Furthermore, the African Committee perform any other task as may be entrusted to it by the Assembly of the Union, and other organs of the OAU/AU or the United Nations.13

The African Committee is still a fledgling body, yet it is possible at this stage to evaluate the progress made thus far and propose improvements for the efficiency and effectiveness of the African Committee. Consideration will be given to the development of the African Commission, although it must be recalled that the African Committee and the African Commission are two separate and distinct bodies. The African Committee is not dependent on the African Commission and two separate budgets are allocated to them by the OAU/AU. Nevertheless, close co-operation between the two bodies will help to ensure efficiency and reduce costs accordingly.

The principal areas for consideration are the relationship between the OAU/AU and the African Committee; the relationship between the African Committee and its partners and other interested parties; administrative and budgetary matters; the Secretariat to the Committee; the Work Plans of the African Committee; activities undertaken to date; the Composition of the African Committee; the Reporting Procedure; and Communications and Investigations.

**Background**

The Children’s Charter entered into force on 29 November 1999 and, according to Article 36(1), the Secretary General of the OAU invited State Parties to nominate candidates at least six months before the elections proceeded,14 thus elections were due to take place at the end of May 2000. However, by this time the OAU had only received a handful of nominees, thus election could not commence and the establishment of the African Committee was delayed. In fact, the OAU did not receive a requisite amount of nominations by State Parties until July 2001, over one year behind schedule. Twelve members were eventually proposed and eleven members were duly elected. Article 37(3)