

Mwana

African Charter of the Rights and Welfare of the Child

AMNESTY INTERNATIONAL

Acknowledgement

The idea of producing a booklet which promotes the African Charter of the Rights and Welfare of the Child (ACRWC) dates back to 1999. It was inspired by the requests that Amnesty International received for the charter. The Africa Development Team in consultation with the Legal and International Organizations Program (LIOP) of Amnesty International decided that it was important to make the rights set out in this regional instrument available to children across Africa.

The Africa Regional Office (ARO) in Kampala coordinated the project. Consultation with Amnesty International sections and structures and non-governmental organizations (NGOs) in Africa revealed that in order for the Charter to be comprehensible to its primary audience – children – it needed to be simplified. Interested local human rights NGOs in Kampala joined the ARO and formed a coalition called “Mwana Board”. These NGOs are Human Rights Network (HURINET) and African Network for the Prevention and Protection of Child Abuse and Neglect (ANPPCAN). The United Nations Children’s Fund (UNICEF) agreed to support the project and became a member of Mwana Board.

The word ‘Mwana’ was chosen because it means child in a number of African languages.

Mwana Board decided to carry several activities including publication of the simplified version of the ACRWC and its distribution across Africa. In order to engage children themselves in the project, an art competition was launched. Amnesty International sections and NGOs coordinated the competition at national level. Thousands of drawings, paintings, photographs, poems and sculptures were received. The sheer volume of the response bears testimony of the huge interest by children in their rights. Many of the entries show evidence of painstaking work and commitment. After a vigorous selection process a number of pieces were selected for publication in this booklet.

This booklet is therefore the fruit of the work of African children who have so generously shared with us their vision of their rights. It is also the fruit of the great contribution of HURINET, ANPPCAN and UNICEF in Uganda without whose participation this project would not have been realised.

We are especially grateful to all the children (from clubs, organizations, schools, and so on) who submitted their art work and contributed to this booklet. Mwana is yours. We hope that this booklet promotes your rights as declared by the African Charter of the Rights and Welfare of the Child.

Amnesty International
Africa Regional Office

To every African child

As you know, in every country, there are laws to protect people’s rights and to state their duties. Laws are not just for adults, they also apply to children. There are national laws which concern the inhabitants of a given country, but there are also regional and international laws. This means that in Africa, there are laws which apply beyond the borders of a given country and apply in almost every African country.

The Organisation of African Unity (OAU), soon to become the African Union, has adopted such laws.

For instance, some twenty years ago, the OAU adopted the African Charter on Human and Peoples’ Rights which stands for the defence of the fundamental rights of every human being in Africa. The text you are about to read is another convention adopted by the OAU which limits itself to the rights of children. It is called the African Charter on the Rights and Welfare of the Child and contains recommendations to the governments of all African countries, urging them to take measures to better protect our rights and to help us fulfil our duties.

What is a charter?

A charter is a document which solemnly states the rights and duties of a country or a group of countries. We say that a country adheres to a charter when it accepts its terms.

Article 1

African countries' obligations

Every government which has agreed to this Charter must ensure that the rights of the children are guaranteed and protected and must do all that is necessary for you as a child to enjoy the rights described here.

Article 2

Definition of a Child

A child is every person below the age of 18 years.

Article 3

Non-discrimination

This Charter says that every child has equal rights and freedoms. These rights should be the same for every child, no matter who you are, where you live, what language you speak, what culture and religion you follow, how rich or poor you are or whether you are a girl or a boy.

Also the government cannot treat a child unfavourably because of her/his parents' race, origin, religion, ethnicity, status.

Article 4

Best interests of the child

When taking a decision concerning a child, adults should primarily consider the best interest of the child.

This also means that you should be allowed to speak and your views should be considered if a court has to decide something about you.

Article 5

Right to life

Every child has a right to life. A government has to do everything that is necessary to protect the life of a child. The death penalty cannot be applied to children.

Article 6

Name and nationality

Every child has a right to a name from birth.

Every child has the right to a nationality.

This means that you have a right to a name, a nationality and a birth date. These and the names of your parents should be recorded immediately after you are born, so that your government recognises you and respects you as a person.

Article 7

Freedom of expression

Every child has the right to express her/his opinions.

You can express yourself in many different ways: talking, writing, drawing; through newspapers, television or radio.

Article 8

Freedom of association

All children have the right to free association and to be members of any peaceful group so long as the law is respected.

This means you have the right to meet with friends and to join a group or association.

It also means that nobody can force you to join a group if you don't wish to.

Article 9

Freedom of thought, conscience and religion

All children have the right to freedom of thought, conscience and religion. Parents can guide children about their religion and belief.

Freedom of religion means that you can choose the religion you want to follow. You can profess and practise your religion publicly. Freedom of conscience means that you can change your religion without fear of any action being taken against you.

Article 10

Protection of privacy

Governments should protect the child's private life, honour, and reputation.

Nobody should be allowed to harm your good name. Nobody has the right to come into your home, open your letters or bother you or your family without a good reason.

Article 11

Education

Every child has the right to education.

In particular governments should make sure that every child is able to attend primary school without paying.

Every child should be encouraged to attend school. You should have access to education, regardless of where you live, who you are, whether you are rich or poor.

The government should particularly make sure that girls, gifted and disadvantaged children enjoy the right to education. Children who become pregnant should be given the opportunity to continue their education after they have had their babies.

You should be taught how to live together with others peacefully and respect the human rights, traditions, cultures and religions of others.

At school you should be encouraged to practice and improve your skills and talents. Your parents have the right to choose what you should learn.

At school children should be treated well and not be subjected to any form of ill-treatment or corporal punishment, such as flogging, caning or whipping.

Article 12

Leisure, recreation and cultural activities

All children have the right to play and rest and to participate in leisure, recreational, cultural and artistic activities appropriate to their age.

This means that you should be able to play sport and games; take part in activities such as music, drama, dance, religious and cultural celebration and have fun.

Article 13

Children with disability

Every child with mental or physical disability has the right to special protection that respects her/his dignity and which will encourage them not to rely on others and to participate actively in the community.

Governments have to make sure that children with disability are able to take part in training, employment and recreation so that they are seen as part of the community. These children should be able to enter public buildings and other places without difficulties.

Article 14

Right to health

Every child has the right to the best physical, mental and spiritual health.

This means that if you are ill you should be seen by a good doctor and given effective medicines.

Children should have vaccinations to protect them from diseases, have clean and adequate food and clean, safe drinking water.

Article 15

Child labour

Governments must ensure that children are not made to do work that is dangerous or that could harm their health or education.

Your government must set rules about work for children, for example, the minimum wages to be paid to children and the number of hours they should work. A law should set up minimum age for work, indicating when you are too young for a job.

Article 16

Protection against child abuse and torture

Children shall not be subjected to any form of torture or ill-treatment. Parents, guardians, school teachers or any other persons are prohibited from torturing or ill-treating children.

This includes any form of sexual abuse, neglect or maltreatment.

This means, for example, that you should never be subjected to any corporal punishment, such as caning, flogging or whipping.

There should be people working for your government to ensure that such abuses do not happen and that, if they happen, are properly investigated.

Article 17

Administration of juvenile justice

If a child is accused or found guilty of breaking the law, her/his sense of dignity should always be respected.

As a child you have a right to a fair trial, which includes that:

- you should not be tortured or ill-treated in detention; • you should be considered innocent until it is proven in a court that you are guilty;
- you should be told immediately of what you are accused in a language that you can understand;
- you should have the right to a lawyer to defend you;
- an impartial court should consider your case as soon as possible;
- you should have the right to appeal to a higher court, if you don't agree with the judgement of the court;
- nobody can force you to confess guilt.

Children should be imprisoned separately from adults.

Any punishment should aim at helping a child not to commit a crime again and to become a good member of society. There should be a minimum age below which children cannot be held responsible for breaking the law.

Article 18

Protection of the family

Your family is the best placed to protect and take care of you.

Governments should protect and support the family. In the family both parents have the same rights and responsibilities for their children.

If your parents split up, arrangements should be made to ensure your protection.

Article 19

Parental care and protection

Every child has the right to benefit from parental care and protection. You should not be separated from your parents against your will except by order of a court.

If you are separated from your parents, you must be allowed to have regular contacts with them.

Whenever a child is arrested, her/his parents or guardians must be informed of such arrest as quickly as possible.

Article 20

Parental responsibilities

Parents or guardians have the main responsibility for the upbringing of the child.

Their main concern should be the best interest of the child and they should provide for all the needs of the child. They must make sure that discipline at home respects the child's dignity.

This also means that your parents cannot ill-treat you.

Governments must help needy parents by providing food, clothing, education, healthcare and housing.

They should also provide places where children could be taken care of while their parents work.

Article 21

Protection against harmful social and cultural practices

Governments shall take every measure to eliminate social and cultural practices which may affect the child and her/his health, and which treat girls unfavourably in comparison to boys. For example, in some communities girls are forced to have parts of their bodies injured or damaged. This is harmful to their health and could cause them to die.

Child marriage or parents promising their children in marriage should be prohibited. Laws should also be passed to make the minimum age of marriage to be 18 years. To prevent child marriages, the government should make sure that every marriage is registered in an official record.

Article 22

Armed conflicts

In case of wars or armed conflicts no child should be made into a soldier or made to take part directly in the fighting.

During the war, governments should do everything possible to protect people who are not involved in the fighting, especially children.

Article 23

Refugee children

Any child who has left her/his country to escape a war or for fear of being tortured or ill-treated should be given protection and help in the country where she/he is seeking protection.

The government should work with those international organizations which are there to help those who fled from their own country. If you have been separated from your parents or family, the government should do all it can to help in finding them so that you could be with them again.

This applies not only when you leave your country, but also when you move away from your home to another safer part of your own country.

Article 24

Adoption

When children are adopted, their interest should be the main concern. To ensure this, there should be a special office or department in the government to check that all the laws are applied in your case and to check how you

are treated in your new family. The government should take even more care if you are adopted in another country.

Article 25

Separation from parents

Governments must ensure that any child separated from her/his family receives special protection and help.

Children who are orphaned or separated from their parents must be given alternative family care, such as a foster family or a place in a home for children. In setting up this alternative family care, your government shall take into consideration your ethnic, religious or linguistic background.

The government must help to find your family if you are separated from them because of war, armed conflict or natural disasters such as floods or earthquakes.

Article 26

Protection against apartheid and discrimination

All governments agree to help those children living under apartheid or in countries which practise racial, ethnic or religious discrimination.

Article 27

Sexual exploitation

All forms of sexual exploitation and abuse of children should be prohibited. Your government should do all it can to prevent the use of children in prostitution or in activities and materials that show them naked or involved in sexual acts.

Article 28

Drug abuse

Your government should protect children from the use of illegal drugs. It should also do everything to prevent children from being involved in the growing, making, carrying and selling of drugs.

Article 29

Sale, trafficking and abduction

Kidnapping, trade and sale of children should be strictly prohibited and prevented. The government should also prohibit the use of children in all forms of begging.

Article 30

Children of imprisoned mothers

If a pregnant woman or a woman who just had a baby has broken the law, she should be treated with special care. She should not be put in prison unless there is no other alternative. Her child should never be put in prison with her. Death penalty for pregnant women or new mothers is forbidden.

Article 31

Responsibilities of the child

Every child has responsibilities towards her/his family and community. These include respecting your parents, being tolerant towards others and respecting their rights, and working to make your community and country better.

African Charter on the Rights and Welfare of the Child ***Preamble***

OAU Doc. CABILEGI24.9149 (1990),
entered into force Nov. 29, 1999.

The African Member States of the Organization of African Unity, Parties to the present Charter entitled 'African Charter on the Rights and Welfare of the Child',

CONSIDERING that the Charter of the Organization of African Unity recognizes the paramountcy of Human Rights and the African Charter on Human and People's Rights proclaimed and agreed that everyone is entitled to all the rights and freedoms recognized and guaranteed therein, without distinction of any kind such as race, ethnic group, colour, sex, language, religion, political or any other opinion, national and social origin, fortune, birth or other status,

RECALLING that the Declaration on the Rights and Welfare of the African Child (AHG/ST.4 Rev.1) adopted by the Assembly of Heads of State and Government of the Organization of African Unity, at its Sixteenth Ordinary Session in Monrovia, Liberia, from 17 to 20 July, 1979 recognized the need to take appropriate measures to promote and protect the rights and welfare of the African Child,

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

RECOGNIZING that the child occupies a unique and privileged position in the African society and that for the full and harmonious development of his/her personality, the child should grow up in a family environment in an atmosphere of happiness, love and understanding,

RECOGNIZING that the child, due to the needs of his or her physical and mental development, requires particular care with regard to health, physical, mental, moral and social development, and requires legal protection in conditions of freedom, dignity and security,

TAKING INTO CONSIDERATION the virtues of their cultural heritage, historical background and the values of the African civilization which should inspire and characterize their reflection on the concept of the rights and welfare of the child,

CONSIDERING that the promotion and protection of the rights and welfare of the child also implies the performance of duties on the part of everyone,

REAFFIRMING ADHERENCE to the principles of the rights and welfare of the child contained in the declaration, conventions and other instruments of the Organization of African Unity and in the United Nations and in particular the United Nations Convention on the Rights of the Child and the OAU Heads of State and Government's Declaration on the Rights and Welfare of the African Child,

HAVE AGREED AS FOLLOWS:

PART 1: RIGHTS AND DUTIES

CHAPTER ONE

Rights and Welfare of the Child

Article I: Obligation of States Parties

1. The Member States of the Organization of African Unity Parties to the present Charter shall recognize the rights, freedoms and duties enshrined in this Charter and shall undertake to take the necessary steps, in accordance with their constitutional processes and with the provisions of the present Charter, to adopt such legislative or other measures as may be necessary to give effect to the provisions of this Charter.
2. Nothing in this Charter shall affect any provisions that are more conducive to the realization of the rights and welfare of the child contained in the law of a State Party or in any other international convention or agreement in force in that State.
3. Any custom, tradition, cultural or religious practice that is inconsistent with the rights, duties and obligations contained in the present Charter shall, to the extent of such inconsistency, be discouraged.

Article 2: Definition of a Child

For the purposes of this Charter, a 'Child', means every human being below the age of 18 years.

Article 3: Non-Discrimination

Every child shall be entitled to the enjoyment of the rights and freedoms recognized and guaranteed in this Charter irrespective of the child's or his/her parents' or legal guardians' race, ethnic group, colour, sex, language, religion, political or other opinion, national and social origin, fortune, birth or other status.

Article 4: Best Interests of the Child

1. In all actions concerning the child undertaken by any person or authority the best interests of the child shall be the primary consideration.
2. In all judicial or administrative proceedings affecting a child who is capable of communicating his/her own views, an opportunity shall be provided for the views of the child to be heard either directly or through an impartial representative as a party to the proceedings, and those views shall be taken into consideration by the relevant authority in accordance with the provisions of appropriate law.

Article 5: Survival and Development

1. Every child has an inherent right to life. This right shall be protected by law.
2. States Parties to the present Charter shall ensure, to the maximum extent possible, the survival, protection and development of the child.
3. The death sentence shall not be pronounced for crimes committed by children.

Article 6: Name and Nationality

1. Every child shall have the right from his/her birth to a name.
2. Every child shall be registered immediately after birth.
3. Every child has the right to acquire a nationality.
4. States Parties to the present Charter shall undertake to ensure that their constitutional legislations recognize the principles according to which a child shall acquire the nationality of the State in the territory of which he/she has been born if, at the time of the child's birth, he/she is not granted nationality by any other State in accordance with its laws.

Article 7: Freedom of Expression

Every child who is capable of communicating his or her own views shall be assured the rights to express his opinions freely in all matters and to disseminate his opinions subject to such restrictions as are prescribed by laws.

Article 8: Freedom of Association

Every child shall have the right to free association and freedom of peaceful assembly in conformity with the law.

Article 9: Freedom of Thought, Conscience and Religion

1. Every child shall have the right to freedom of thought, conscience and religion.
2. Parents and, where applicable, legal guardians shall have a duty to provide guidance and direction in the exercise of these rights having regard to the evolving capacities, and best interests of the child.
3. States Parties shall respect the duty of parents and, where applicable, legal guardians to provide guidance and direction in the enjoyment of these rights subject to the national laws and policies.

Article 10: Protection of Privacy

No child shall be subject to arbitrary or unlawful interference with his/her privacy, family home or correspondence, or to the attacks upon his/her honour or reputation, provided that parents or legal guardians shall have the right to exercise reasonable supervision over the conduct of their children. The child has the right to the protection of the law against such interference or attacks.

Article 11: Education

1. Every child shall have the right to education.
2. The education of the child shall be directed to:
 - (a) the promotion and development of the child's personality, talents and mental and physical abilities to their fullest potential;
 - (b) fostering respect for human rights and fundamental freedoms with particular reference to those set out in the provisions of various African instruments on human and peoples' rights and international human rights declarations and conventions;
 - (c) the preservation and strengthening of positive African morals, traditional values and cultures;

- (d) the preparation of the child for responsible life in a free society, in the spirit of understanding tolerance, dialogue, mutual respect and friendship among all peoples ethnic, tribal and religious groups;
 - (e) the preservation of national independence and territorial integrity;
 - (f) the promotion and achievements of African unity and solidarity;
 - (g) the development of respect for the environment and natural resources;
 - (h) the promotion of the child's understanding of primary health care.
3. States Parties to the present Charter shall take all appropriate measures with a view to achieving the full realization of this right and shall in particular:
- (a) provide free and compulsory basic education;
 - (b) encourage the development of secondary education in its different forms and progressively make it free and accessible to all;
 - (c) make the higher education accessible to all on the basis of capacity and ability by every appropriate means;
 - (d) take measures to encourage regular attendance at schools and the reduction of drop-out rates;
 - (e) take special measures in respect of female, gifted and disadvantaged children, to ensure equal access to education for all sections of the community.
4. States Parties to the present Charter shall respect the rights and duties of parents and, where applicable, of legal guardians to choose for their children's schools, other than those established by public authorities, which conform to such minimum standards may be approved by the State, to ensure the religious and moral education of the child in a manner consistent with the evolving capacities of the child.
5. States Parties to the present Charter shall take all appropriate measures to ensure that a child who is subjected to ' schools or parental discipline shall be treated with humanity and with respect for the inherent dignity of the child and in conformity with the present Charter.
6. States Parties to the present Charter shall take all appropriate measures to ensure that children who become pregnant before completing their education shall have an opportunity to continue with their education on the basis of their individual ability.
7. No part of this Article shall be construed as to interfere with the liberty of individuals and bodies to establish and direct educational institutions subject to the observance of the principles set out in Paragraph 1 of this Article and the requirement that the education given in such institutions shall conform to such minimum standards as may be laid down by the States.

Article 12: Leisure, Recreation and Cultural Activities

- 1. States Parties recognize the right of the child to rest and leisure, to engage in play and recreational activities appropriate to the age of the child and to participate freely in cultural life and the arts.
- 2. States Parties shall respect and promote the right of the child to fully participate in cultural and artistic life and shall encourage the provision of appropriate and equal opportunities for cultural, artistic, recreational and leisure activity.

Article 13: Handicapped Children

- 1. Every child who is mentally or physically disabled shall have the right to special measures of protection in keeping with his/her physical and moral needs and under conditions which ensure his/her dignity, promote his/her self-reliance and active participation in the community.
- 2. States Parties to the present Charter shall ensure, subject to available resources, to a disabled child and to those responsible for his/her care, of assistance for which application is made and which is appropriate to the child's condition and in particular shall ensure that the disabled child has effective access to training, preparation for employment and recreation opportunities in a manner conducive to the child achieving the fullest possible social integration, individual development and his/her cultural and moral development.
- 3. The States Parties to the present Charter shall use their available resources with a view to achieving progressively the full convenience of the mentally and physically disabled person to movement and access to public highway buildings and other places to which the disabled may legitimately want to have access to.

Article 14: Health and Health Services

- 1. Every child shall have the right to enjoy the best attainable state of physical, mental and spiritual health.
- 2. States Parties to the present Charter shall undertake to pursue the full implementation of this right and in particular shall take measures:
 - (a) to reduce infant and child mortality rate;
 - (b) to ensure the provision of necessary medical assistance and health care to all children with emphasis on the development of primary health care;
 - (c) to ensure the provision of adequate nutrition and safe drinking water;

- (d) to combat disease and malnutrition within the framework of primary health care through the application of appropriate technology;
- (e) to ensure appropriate health care for expectant and nursing mothers;
- (f) to develop preventive health care and family life education and provision of service;
- (g) to integrate basic health service programmes in national development plans;
- (h) to ensure that all sectors of the society, in particular parents, children, community leaders and community workers, are informed and supported in the use of basic knowledge of child health and nutrition, the advantages of breastfeeding, hygiene and environmental sanitation and the prevention of domestic and other accidents;
- (i) to ensure the meaningful participation of non-governmental organizations, local communities and the beneficiary population in the planning and management of a basic service programme for children;
- (j) to support, through technical and financial means, the mobilization of local community resources in the development of primary health care for children.

Article 15: Child Labour

1. Every child shall be protected from all forms of economic exploitation and from performing any work that is likely to be hazardous or to interfere with the child's physical, mental, spiritual, moral, or social development.
2. States Parties to the present Charter shall take all appropriate legislative and administrative measures to ensure the full implementation of this Article which covers both the formal and informal sectors of employment and having regard to the relevant provisions of the International Labour Organization's instruments relating to children, States Parties shall in particular:
 - (a) provide through legislation, minimum wages for admission to every employment;
 - (b) provide for appropriate regulation of hours and conditions of employment;
 - (c) provide for appropriate penalties or other sanctions to ensure the effective enforcement of this Article;
 - (d) promote the dissemination of information on the hazards of child labour to all sectors of the community.

Article 16: Protection against Child Abuse and Torture

1. States Parties to the present Charter shall take specific legislative, administrative, social and educational measures to protect the child from all forms of torture, inhuman or degrading treatment and especially physical or mental injury or abuse, neglect or maltreatment including sexual abuse, while in the care of the child.
2. Protective measures under this Article shall include effective procedures for the establishment of special monitoring units to provide necessary support for the child and for those who have the care of the child, as well as other forms of prevention and for identification, reporting referral investigation, treatment, and follow-up of instances of child abuse and neglect.

Article 17: Administration of Juvenile Justice

1. Every child accused or found guilty of having infringed penal law shall have the right to special treatment in a manner consistent with the child's sense of dignity and worth and which reinforces the child's respect for human rights and fundamental freedoms of others.
2. States Parties to the present Charter shall in particular:
 - (a) ensure that no child who is detained or imprisoned or otherwise deprived of his/her liberty is subjected to torture, inhuman or degrading treatment or punishment;
 - (b) ensure that children are separated from adults in their place of detention or imprisonment;
 - (c) ensure that every child accused of infringing the penal law:
 - (i) shall be presumed innocent until duly recognized guilty;
 - (ii) shall be informed promptly in a language that he/she understands and in detail of the charge against him/her. and shall be entitled to the assistance of an interpreter if he or she cannot understand the language used;
 - (iii) shall be afforded legal and other appropriate assistance in the preparation and presentation of his/her defence;
 - (iv) shall have the matter determined as speedily as possible by an impartial tribunal and if found guilty, be entitled to an appeal by a higher tribunal;
 - (d) prohibit the press and the public from trial.
3. The essential aim of treatment of every child during the trial and also if found guilty of infringing the penal law shall be his or her reformation, re-integration into his or her family and social rehabilitation.
4. There shall be a minimum age below which children shall be presumed not to have the capacity to infringe the penal law.

Article 18: Protection of the Family

1. The family shall be the natural unit and basis of society. It shall enjoy the protection and support of the State for its establishment and development.
2. States Parties to the present Charter shall take appropriate steps to ensure equality of rights and responsibilities of spouses with regard to children during marriage and in the event of its dissolution. In case of dissolution, provision shall be made for the necessary protection of the child.
3. No child shall be deprived of maintenance by reference to the parents' marital status.

Article 19: Parental Care and Protection

1. Every child shall be entitled to the enjoyment of parental care and protection and shall, whenever possible, have the right to reside with his or her parents. No child shall be separated from his/her parents against his/her will, except when a judicial authority determines in accordance with the appropriate law that such separation is in the best interest of the child.
2. Every child who is separated from one or both parents shall have the right to maintain personal relations and direct contact with both parents on a regular basis.
3. Where separation results from the action of a State Party, the State Party shall provide the child or, if appropriate, another member of the family with essential information concerning the whereabouts of the absent member or members of the family. States Parties shall also ensure that the submission of such a request shall not entail any adverse consequences for the person or persons in whose respect it is made.
4. Where a child is apprehended by a State Party, his/her parents or guardians shall, as soon as possible, be notified of such apprehension by that State Party.

Article 20: Parental Responsibilities

1. Parents or other persons responsible for the child shall have the primary responsibility of the upbringing and development of the child and shall have the duty:
 - (a) to ensure that the best interests of the child are their basic concern at all times;
 - (b) to secure, within their abilities and financial capacities, conditions of living necessary to the child's development; and
 - (c) to ensure that domestic discipline is administered with humanity and in a manner consistent with the inherent dignity of the child.
2. States Parties to the present Charter shall in accordance with their means and national conditions take all appropriate measures:
 - (a) to assist parents and other persons responsible for the child and in case of need provide material assistance and support programmes particularly with regard to nutrition, health, education, clothing and housing;
 - (b) to assist parents and others responsible for the child in the performance of child-rearing and ensure the development of institutions responsible for providing care of children; and
 - (c) to ensure that the children of working parents are provided with care services and facilities.

Article 21: Protection against Harmful Social and Cultural Practices

1. States Parties to the present Charter shall take all appropriate measures to eliminate harmful social and cultural practices affecting the welfare, dignity, normal growth and development of the child and in particular:
 - (a) those customs and practices prejudicial to the health or life of the child; and
 - (b) those customs and practices discriminatory to the child on the grounds of sex or other status.
2. Child marriage and the betrothal of girls and boys shall be prohibited and effective action, including legislation, shall be taken to specify the minimum age of marriage to be 18 years and make registration of all marriages in an official registry compulsory.

Article 22: Armed Conflicts

1. States Parties to this Charter shall undertake to respect and ensure respect for rules of international humanitarian law applicable in armed conflicts which affect the child.
2. States Parties to the present Charter shall take all necessary measures to ensure that no child shall take a direct part in hostilities and refrain in particular from recruiting any child.
3. States Parties to the present Charter shall, in accordance with their obligations under international humanitarian law, protect the civilian population in armed conflicts and shall take all feasible measures to ensure the protection and care of children who are affected by armed conflicts. Such rules shall also apply to children in situations of internal armed conflicts, tension and strife.

Article 23: Refugee Children

1. States Parties to the present Charter shall take all appropriate measures to ensure that a child who is seeking refugee status or who is considered a refugee in accordance with applicable international or domestic law shall,

whether unaccompanied or accompanied by parents, legal guardians or close relatives, receive appropriate protection and humanitarian assistance in the enjoyment of the rights set out in this Charter and other international human rights and humanitarian instruments to which the States are Parties.

2. States Parties shall undertake to cooperate with existing international organizations which protect and assist refugees in their efforts to protect and assist such a child and to trace the parents or other close relatives or an unaccompanied refugee child in order to obtain information necessary for reunification with the family.

3. Where no parents, legal guardians or close relatives can be found, the child shall be accorded the same protection as any other child permanently or temporarily deprived of his family environment for any reason.

4. The provisions of this Article apply mutatis mutandis to internally displaced children whether through natural disaster, internal armed conflicts, civil strife, breakdown of economic and social order or howsoever caused.

Article 14: Adoption

States Parties which recognize the system of adoption shall ensure that the best interest of the child shall be the paramount consideration and they shall;

(a) establish competent authorities to determine matters of adoption and ensure that the adoption is carried out in conformity with applicable laws and procedures and on the basis of all relevant and reliable information, that the adoption is permissible in view of the child's status concerning parents, relatives and guardians and that, if necessary, the appropriate persons concerned have given their informed consent to the adoption on the basis of appropriate counselling;

(b) recognize that inter-country adoption in those States who have ratified or adhered to the UN Convention on the Rights of the Child or this Charter may, as the last resort, be considered as an alternative means of a child's care, if the child cannot be placed in a foster or an adoptive family or cannot in any suitable manner be cared for in the child's country of origin;

(c) ensure that the child affected by inter-country adoption enjoys safeguards and standards equivalent to those existing in the case of national adoption;

(d) take all appropriate measures to ensure that in inter-country adoption the placement does not result in trafficking or improper financial gain for those who try to adopt a child;

(e) promote, where appropriate, the objectives of this Article by concluding bilateral or multilateral arrangements or agreements, and endeavour, within this framework, to ensure that the placement of the child in another country is carried out by competent authorities or organs;

(f) establish a machinery to monitor the well-being of the adopted child.

Article 25: Separation from Parents

1. Any child who is permanently or temporarily deprived of his family environment for any reason shall be entitled to special protection and assistance.

2. States Parties to the present Charter;

(a) shall ensure that a child who is parentless, or who is temporarily or permanently deprived of his or her family environment, or who in his or her best interest cannot be brought up or allowed to remain in that environment shall be provided with alternative family care, which could include, among others, foster placement, or placement in suitable institutions for the care of children;

(b) shall take all necessary measures to trace and reunite children with parents or relatives where separation is caused by internal and external displacement arising from armed conflicts or natural disasters.

3. When considering alternative family care of the child and the best interests of the child, due regard shall be paid to the desirability of continuity in a child's upbringing and to the child's ethnic, religious or linguistic background.

Article 26: Protection against Apartheid and Discrimination

1. States Parties to the present Charter shall individually and collectively under take to accord the highest priority to the special needs of children living under Apartheid and in States subject to military destabilization by the Apartheid regime.

2. States Parties to the present Charter shall individually and collectively under take to accord the highest priority to the special needs of children living under regimes practising racial, ethnic, religious or other forms of discrimination as well as in States subject to military destabilization.

3. States Parties shall undertake to provide, whenever possible, material assistance to such children and to direct their efforts towards the elimination of all forms of discrimination and Apartheid on the African continent.

Article 27: Sexual Exploitation

States Parties to the present Charter shall undertake to protect the child from all forms of sexual exploitation and sexual abuse and shall in particular take measures to prevent:

- (a) the inducement, coercion or encouragement of a child to engage in any sexual activity;
- (b) the use of children in prostitution or other sexual practices;
- (c) the use of children in pornographic activities, performances and materials.

Article 28: Drug Abuse

States Parties to the present Charter shall take all appropriate measures to protect the child from the use of narcotics and illicit use of psychotropic substances as defined in the relevant international treaties, and to prevent the use of children in the production and trafficking of such substances.

Article 29: Sale, Trafficking and Abduction

States Parties to the present Charter shall take appropriate measures to prevent:

- (a) the abduction, the sale of, or traffic in children for any purpose or in any form, by any person including parents or legal guardians of the child;
- (b) the use of children in all forms of begging.

Article 30: Children of Imprisoned Mothers

States Parties to the present Charter shall undertake to provide special treatment to expectant mothers and to mothers of infants and young children who have been accused or found guilty of infringing the penal law and shall in particular:

- (a) ensure that a non-custodial sentence will always be first considered when sentencing such mothers;
- (b) establish and promote measures alternative to institutional confinement for the treatment of such mothers;
- (c) establish special alternative institutions for holding such mothers;
- (d) ensure that a mother shall not be imprisoned with her child;
- (e) ensure that a death sentence shall not be imposed on such mothers;
- (f) the essential aim of the penitentiary system will be the reformation, the integration of the mother to the family and social rehabilitation.

Article 31: Responsibilities of the Child

Every child shall have responsibilities towards his/her family and society, the State and other legally recognized communities and the international community. The child, subject to his or her age and ability, and such limitations as may be contained in the present Charter, shall have the duty:

- (a) to work for the cohesion of the family, to respect his/her parents, superiors and elders at all times and to assist them in case of need;
- (b) to serve his/her national community by placing his/her physical and intellectual abilities at its service;
- (c) to preserve and strengthen social and national solidarity;
- (d) to preserve and strengthen African cultural values in his or her relations with other members of the society, in the spirit of tolerance, dialogue and consultation and to contribute to the moral well-being of society;
- (e) to preserve and strengthen the independence and the integrity of his/her country;
- (f) to contribute to the best of his/her abilities, at all times and at all levels, to the promotion and achievement of African Unity.

PART II

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 the 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 Procedures 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, inter national 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) to 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) 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 1(a) of this Article, repeat the basic information previously provided.

Article 44: Communications

1. The Committee may receive communication, from any person, group or non-governmental 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 46 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.

Adopted by the Twenty-sixth Ordinary Session of the Assembly of Heads of State and Government of the OAU, Addis Ababa, Ethiopia — July 1990

Conception et réalisation graphiques: Atelier Blais et C^e

AMNESTY INTERNATIONAL
Africa Regional Office
Plot 20 A Kawalya Kaggwa Close
Kololo
P0 Box 23966
Kampala
Uganda
Tel.: 256 31 350100 +256 41 252292
+25641 252900
Fax: +256 41222788
E-mail: admin-kp@amnesty.org

UNICEF
Uganda Country Office
Kisozi House
PU Box 7047
Kampala
Uganda
Tel.: +256 41234591/2
+256 41259913/4
+256 41 235923/4
Fax: +256 41235660
+256 41 259146

HURINET (U)
Human Rights Network Uganda
Plot Nc 94 Old Kira Road, Ntinda
P0 Box 21265
Kampala
Uganda
Tel. / fax: +256 41286923
E-mail: hurinet@swiftuganda.com

ANPPCAN
African Network for the Prevention
and Protection Against Child
Abuse and Neglect
Uganda Chapter
P0 Box 3034
Kampala
Uganda

Tel.: +256 41 254550
Fax: +256 41257906
E-mail : anupcan@infocorn.co.ug

AMNESTY INTERNATIONAL
EDITIONS FRANCOPHONES
EFAI
ISBN : 2-87666-1 37-3