

# Win some, lose some: The 10th ordinary session of the African Committee of Experts on the Rights and Welfare of the Child

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## Summary

*The African Committee of Experts on the Rights and Welfare of the Child, the monitoring body of the African Charter on the Rights and Welfare of the Child, held its 10th ordinary session in October 2007. This discussion highlights the inertia of the Committee, exemplified by its failure to examine any of the state reports submitted to it. Some cause for optimism may be derived from the appointment of a permanent Secretary to the Committee.*

## 1 Introduction

The 11-member African Committee of Experts on the Rights and Welfare of the Child (African Children's Committee) monitors the implementation of the African Charter on the Rights and Welfare of the Child

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(African Children's Charter).<sup>1</sup> The African Children's Committee held its 10th ordinary session at the Hilton Ramses Hotel, Cairo, Egypt, from 25 to 27 October 2007.<sup>2</sup> The Committee meets in bi-annual ordinary sessions in spring and autumn respectively.

In what follows, this update will highlight the proceedings of the 10th ordinary session of the African Children's Committee. Some of the discussions covered in this article include the celebration for 2007 and theme for 2008 of the Day of the African Child (DAC), as well as the crucial matter which was brought to the centre stage during the 10th meeting – the issue of the term of office of Committee members. In addition, recurring issues pertaining to state reporting, in particular the preparation of the pre-session for the consideration of state parties' reports, deserve examination. It would be remiss if the role of non-governmental organisations (NGOs) in the work of the Children's Committee was not revisited and awarded some space in the discussion.

While reporting on the 9th ordinary session, it was indicated that that the Second Pan-African Forum on Children (Second Pan-African Forum) was to be held in Cairo, Egypt, in October 2007. The Second Pan-African Forum was to assess achievements made in implementing the Plan of Action on Children based on the questionnaire which was sent to member states. It also considered in-depth issues related to child survival, protection, development and participation. The outcome of the Forum was to be the adoption of a Call for Accelerated Action for Child Survival, Protection, Development and Participation, which would also be Africa's contribution to the United Nations (UN) Special Session on Children, due to be held in December 2007. The African Children's Charter and the African Children's Committee were to be central to the Second Pan-African Forum, and this article will

<sup>1</sup> African Charter on the Rights and Welfare of the Child (1990) OAU Doc CAB/LEG/24.9/49 (1990). For a detailed discussion of the African Children's Charter, see eg D Olowu 'Protecting children's rights in Africa: A critique of the African Charter on the Rights and Welfare of the Child' (2002) 10 *The International Journal of Children's Rights* 127; D Chirwa 'The merits and demerits of the African Charter on the Rights and Welfare of the Child' (2002) 10 *The International Journal of Children's Rights* 157; A Lloyd 'Evolution of the African Charter on the Rights and Welfare of the Child and the African Children's Committee of Experts: Raising the Gauntlet' (2002) 10 *The International Journal of Children's Rights* 179; M Gose 'The African Charter on the Rights and Welfare of the Child' (Community Law Centre, University of the Western Cape, 2002).

<sup>2</sup> For a report on the 5th, 6th and 7th meetings of the African Children's Committee, see B Mezmur(a) 'The African Children's Committee of Experts on the Rights and Welfare of the Child: An update' (2006) 6 *African Human Rights Law Journal* 549. See also B Mezmur(b) 'Still an infant or now a toddler? The work of the African Committee of Experts on the Rights and Welfare of the Child and its 8th ordinary session' (2007) 7 *African Human Rights Law Journal* 258; B Mezmur(c) 'The 9th ordinary session of the African Committee of Experts on the Rights and Welfare of the Child: Looking back to look ahead' (2007) 7 *African Human Rights Law Journal* 545.

endeavour to highlight some of the issues debated in relation to the Second Pan-African Forum at the 10th ordinary session.

With this as a backdrop, the overall aim of this paper is to support the promotion of the African Children's Charter and dissemination of the African Children's Committee's work and update the reader with the recent developments and activities the Committee has been engaged with. The recent developments will therefore focus on the work of the Children's Committee during the 10th ordinary session. However, in the process of updating the reader, this article will also attempt to highlight the challenges faced by the Committee.

This contribution does not discuss in full detail all the procedures involved and the issues deliberated upon during the 10th meeting. Finally, this is not an official report of the African Union (AU) Commission or the African Children's Committee.<sup>3</sup> It has been compiled to support the promotion of the African Children's Charter and wider dissemination of the African Children's Committee's work.

## 2 Some procedural and administrative matters

The 10th ordinary session was attended by eight of the 11 members of the African Children's Committee — a fair number above the minimum required to form a quorum<sup>4</sup> — as well as representatives of organisations dealing with children's issues, such as the United Nations Children's Fund (UNICEF), the World Food Programme (WFP), the Intentional Committee of the Red Cross (ICRC), the African Network for the Prevention and Protection Against Child Abuse and Neglect (ANPPCAN), Save the Children — Sweden-Nairobi, the African Child Policy Forum (ACPF), the Institute for Human Rights and Development in Africa (IHRDA) and the Community Law Centre of the University of the Western Cape.

After the opening ceremony, which involved opening remarks by the AU Commissioner for Social Affairs through Dr Hassen El Hassen of the AU Cairo Office, followed by a statement by the Chairperson of the African Children's Committee, members of the Committee held a closed consultative meeting to discuss some procedural and administrative matters. The issues discussed during the closed session, as reflected in the official meeting report, were the election of the Bureau,<sup>5</sup> the organisation of the Committee Secretariat, and the Committee's operation, which continues to be hindered by a lack of resources.

<sup>3</sup> For official reports and documents, see <http://www.africa-union.org> (accessed 31 March 2008).

<sup>4</sup> Art 38(3) of the African Children's Charter provides that '[s]even committee members shall form the quorum'.

<sup>5</sup> The Bureau, similar to the African Commission, is composed of the Chairperson of the Committee and the Deputy Chairperson.

According to article 38(1) of the African Children's Charter, 'the Committee shall elect its officers for a period of two years'. It was during the 7th meeting of the African Children's Committee, which was held in Addis Ababa, Ethiopia, from 19 to 21 December 2005, that the currently-serving Bureau was elected. These officers of the Children's Committee are elected for a term of two years and are eligible for re-election.<sup>6</sup> After an extensive debate on the matter, it was decided that, since some members of the Children's Committee were not present, the election of the Bureau should be deferred. Therefore, the Committee agreed to extend the mandate of the current Bureau until the next meeting of the Committee. However, for the purposes of continuity, it is advisable that the new Bureau that is planned to be formed does not include the four Committee members whose overall tenure will expire in 2008.<sup>7</sup>

The 10th ordinary session saw the 'official' closure of the recurrent frustration and debate revolving around the appointment of a Secretary<sup>8</sup> to run the Secretariat of the Committee. It was reported that Mrs Mariama Cisse, who is from Niger (and who is bilingual), had been recruited as the Secretary to the Committee and assumed the duty in September 2007. By appointing a Secretary, the AU has complied, albeit very belatedly, with its duty under article 40 of the African Children's Charter, which requires that the 'Secretary-General of the Organisation of African Unity shall appoint a Secretary for the Committee'. After acknowledging that the present appointment of a Secretary would be a great contribution to the running of the Committee's activities, it was underlined that the recruitment of staff to complement the Secretariat, in particular the post of a Senior Policy Officer, must proceed.

Again, as with the 9th ordinary session, the 10th ordinary session lasted only for three days. It is true that neither the African Children's Charter nor the Rules of Procedure of the African Children's Committee prescribes the minimum period that an ordinary session should last. The most relevant rule in this regard, rule 2(1), is not of significant guidance. It only provides that the 'Committee shall normally hold two ordinary sessions annually not exceeding two weeks'. However, rule 1 indicates that the Committee '... shall hold meetings as may be required for the *effective performance* of its functions in accordance with the African Charter on the Rights and Welfare of the Child'.<sup>9</sup> This seems to imply that, though the two week bench mark need not be surpassed, enough time should be allocated to allow the Children's Committee to fulfil its tasks.

Of course, we believe that a number of reasons could be provided either by the AU or the African Children's Committee, or both, to justify

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<sup>6</sup> Rule 17 of the Rules of Procedure of the Committee.

<sup>7</sup> See sec 3 below on terms of office of Committee members for further details.

<sup>8</sup> Mezmur(a) (n 2 above) 556-558.

<sup>9</sup> Our emphasis.

why the trend seems to be taking root concerning three days per session while there is more work to be done, such as the consideration of state party reports, the consideration of the granting of observer status, and examining communications. However, as a practical matter, a three-day ordinary session twice a year, coupled with the fact that Committee members work part-time, and only full-time when in session, will fall severely short of achieving the potential of the Committee to promote and protect children's rights in Africa. This is bolstered by the fact that the four country reports submitted in 2006 still fall to be scheduled for proper consideration.

### 3 Term of office

The African Children's Charter provides for an independent 11-member Committee, the members of which are appointed by the Assembly of Heads of State and Government. According to article 37(1) of the African Children's Charter,

[t]he 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.

It must be recalled that by operation of this article, following the 6th ordinary session in July 2005, the term of office of six of the Committee members who were elected for a four-year term in July 2001, came to an end.<sup>10</sup> By a similar token, the term of office of four of the incumbent Committee members who were elected for a five-year term will terminate at the end of July 2008. These Committee members are:

|                            |                |                   |
|----------------------------|----------------|-------------------|
| Mr Jean-Baptiste Zoungrana | (Burkina Faso) | 5 years/July 2008 |
| Dr Assefa Bequele          | (Ethiopia)     | 5 years/July 2008 |
| Ms Nakpa Polo              | (Togo)         | 5 years/July 2008 |
| Prof Peter O Ebigbo        | (Nigeria)      | 5 years/July 2008 |

Here, one set-back of the election of Committee members is the fact that they are not eligible for re-election after serving one term. This is in stark contrast to other supervisory human rights organs in the AU. Not only are the African Commission on Human and Peoples' Rights (African Commission) members elected for a renewable term, but also for six years, as opposed to the five-year single term members of the African Children's Committee are eligible to serve. It is also to be noted that, under the Protocol Establishing the African Court on Human and Peoples' Rights, article 15(1) provides that '[t]he judges of the Court

<sup>10</sup> The out-going Committee members were the Chairperson of the Committee, Justice Joyce Alouch (Kenya), the 1st Vice-Chairperson, Mr Rodolphe Soh (Cameroon), the 2nd Vice-Chairperson, Prof Lullu Tshiwulu (South Africa), the Rapporteur, Mr Startson Nsanzabaganwa (Rwanda) and Mr Robert Ahnee (Mauritius).

shall be elected for a period of six years' and may be re-elected once. It is not clear why, while members of the sister organisations — the African Commission and African Court — can be re-elected, the same possibility is denied to members of the African Children's Committee.

In this regard, under Decision EX/CL/233(VII) of 2005, paragraph 8, the Executive Council of the AU has requested the AU Commission to study measures to renew the terms of office of Committee members for another term. It is not quite clear what has come out of this request and whether the AU Commission or the African Children's Committee has followed this up, since the issue of term of office is addressed in the African Children's Charter itself and not in the Rules of Procedure:<sup>11</sup>

The ... 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 state parties have been duly notified of it and the Committee has given its opinion on the amendment.

Moreover, such an amendment '... shall be approved by a simple majority of the state parties'.<sup>12</sup> Taking this procedure into account, an amendment of the term of office provision of the African Children's Charter, even if agreed, is unlikely to occur speedily before the expiry of terms of office of the four Committee members mentioned above.

In any case, if there is the need for one single reform of current practice that needs to be amended, it is the practice of electing Committee members only for a single term of office. All things being equal, in the interest of continuity, time and progress, it would be advisable for it to be possible to extend the term of office of Committee members at least once.

A practical example would help demonstrate this point. During its 10th meeting, the Committee proposed Rapporteurs (three per report) to look at the four country reports in preparation for the pre-session.<sup>13</sup> The report from Mauritius was assigned to Mrs Momembessi Pholo, Prof Peter O Ebigbo, Mr Jean-Baptiste Zoungrana and, unfortunately, the term of office of the last two Committee members will come to an end in July 2008. In the likely event that the Mauritius report does not get considered before the end of July 2008, the departure of Prof Ebigbo and Mr Zoungrana would seriously impact on the work of the Committee achieving one of its main mandates — the consideration of state party reports.

We would venture to suggest that another option, of rather lesser impact, is to extend the five-year term of office to a six-year term of

<sup>11</sup> Art 48(1) African Children's Charter.

<sup>12</sup> Art 48(2) African Children's Charter.

<sup>13</sup> Note should be taken of the fact that during the 6th ordinary session in 2006, eg, the appointment of Committee members as Rapporteurs to specific state party reports was undertaken.

office, which would put the African Children's Committee on the same footing with the African Commission as far as the length of a single term of office is concerned.

At this juncture, it is apposite again to reiterate the procedure and criteria for the appointment of new Committee members. Besides, a brief look at the geographical and gender balancing that needs to be taken into account — an issue with no provision in the African Children's Charter governing it — is warranted.

Even though the previous record of the Children's Committee in terms of independence is not as flawed as is that of the African Commission,<sup>14</sup> caution needs to be exercised in the interest of impartiality. In this regard, guidance can be taken from comments made in connection with the African Commission. For instance, in the words of Viljoen:<sup>15</sup>

... positions linking Commissioners [read as 'Committee members' in this case] too closely to the incumbent government of a state party are, at a minimum, membership of the executive, holding the position of ambassador as well as the offices of other members of the diplomatic services, and high-ranking civil servants, appointed by the executive and exercising political power, such as the office of Attorney-General. These positions should be regarded as incompatible with membership on the Commission because the Commission's promotional and protective functions are compromised by an appearance of partiality.

The quoted opinion above is not only in accordance with the intent and purpose of articles 33(1) and (2) of the African Children's Charter, but it also bodes well with the emerging trend displayed by the AU Commission which sent a *note verbale* to states indicating that membership of 'a government, a minister or under-secretary of state, a diplomatic representative, a director of a ministry, or one of his subordinates, or the legal adviser to a foreign office' renders a candidate ineligible for appointment as member of the African Commission.<sup>16</sup>

Allied to this is the question of gender and geographical representation. Although the gender balancing of the African Children's Committee as it stands now is more or less balanced (six female and five male), three of the four outgoing Committee members are male. Accordingly, it is advisable that the appointment of the new Committee members takes this fact into account.

Turning to the issue of geographical representation, previous comments have deplored that fact that there was no representation on the African Children's Committee from North Africa, despite the fact that Algeria, Egypt and Libya are state parties.<sup>17</sup> It is to be noted that this

<sup>14</sup> See eg R Murray 'Children's rights in the OAU' in R Murray (ed) *Human rights in Africa* (2004) 168.

<sup>15</sup> F Viljoen *International human rights law in Africa* (2007) 312 (insertion by authors).

<sup>16</sup> AU Doc BC/OLC/66/Vol XVIII (5 April 2005) as cited in Viljoen (n 15 above) 312.

<sup>17</sup> Mezmur(a) (n 2 above) 556.

was addressed when the Committee member from Egypt, Mrs Dawlut Hassan, was elected in 2006. Geographical representation should be reflected in any new appointments.

#### 4 The Day of the African Child

The Day of the African Child (DAC)<sup>18</sup> has been recognised by the Organization of African Unity (OAU) since 1991 and is celebrated every year on 16 June. It serves as an advocacy and awareness-raising tool on the African Children's Charter. The celebration of the DAC also helps keep member states updated about the work of the African Children's Committee, as well as drawing attention to priority issues affecting children in Africa.

As already indicated in the report on the 9th ordinary session,<sup>19</sup> the theme adopted for 2007 was 'Combat child trafficking', which is a timely and topical issue in the African context. However, to the disappointment of the African Children's Committee, although the theme for the June 2007 DAC was communicated to all AU member states requesting them to submit reports on how this day is planned in their respective countries, no such reports were received. The continued reluctance of member states to celebrate the DAC in any meaningful manner and submit a report to the African Children's Committee is a cause for concern, although anecdotal reports indicated indeed that some countries celebrated the DAC. The need for an aggressive lobbying strategy, both on the part of the African Children's Committee, the AU and partners, is called for to elevate the role of the DAC. It was again agreed during the 10th ordinary session that a document on the theme of the DAC should be prepared and sent to member states when communicating the theme to them.

Regarding the 2008 DAC theme, a couple of topics, including the right to education, were proposed, though the African Children's Committee decided to await the outcome of the Second Pan-African Forum before making any proposal on the theme. It is not clear if a theme was selected during or after the Second Pan-African Forum. If selection of a theme was not undertaken, it practically means that it might need to be done during the 11th ordinary session, scheduled for the end of May 2008 (at the time of writing). This would leave states with a very tight schedule to be informed of the theme (by the end of May or early June 2008) and to prepare a meaningful celebration of the DAC which needs to be done on 16 June.

<sup>18</sup> The Day marks the 1976 march in Soweto, South Africa, when thousands of black school children took to the streets to protect the inferior quality of their education and to demand their right to be taught in their own language. CM/Res 1659 (LXIV) Rev 1 1996.

<sup>19</sup> Mezmur(c) (n 2 above) 556.

## 5 Substantive presentations by non-governmental organisations to the African Children's Committee

In recent times there has been an increase in the number of national institutions and NGOs attending or wanting to participate in the activities of the African Children's Committee. This has subsequently generated a series of discussions on the kind of role to be assigned to them by the Children's Committee, to the extent of its featuring on all the agendas of the ordinary sessions for the Committee in the past few years.

The practice of inviting substantive themed presentations on topics relevant to the work of the African Children's Committee, though initiated in earlier sessions, got off the ground at the 9th meeting, at which UNICEF gave a presentation to the Committee on the participation rights of children.<sup>20</sup> At that meeting, too, it was highlighted by the Children's Committee that there might be areas of the African Children's Charter in respect of which the Committee might benefit from additional guidance. Accordingly, the unique provisions of article 31 of the African Children's Charter (focusing on the duties of the child) were flagged, as was the best interests of the child provided for under article 4 of the African Children's Charter, and the Community Law Centre of the University of the Western Cape was invited to prepare a paper on the former and to present it at the 10th ordinary session.

However, preceding that paper, the Children's Committee afforded an opportunity for a further presentation at the 10th meeting, as an expected input on the Hague Conference on International Private Law and its activities in an African context had to be postponed.<sup>21</sup> Thus,

<sup>20</sup> Mezmur(c) (n 2 above) 57.

<sup>21</sup> The Permanent Bureau of the Hague Conference is responsible for overseeing the implementation of, and providing guidance concerning, two especially important conventions concerning children: the 1980 Hague Convention on the Civil Aspects of International Child Abduction and the 1993 Hague Convention on Intercountry Adoption (ratified by Burkina Faso, Burundi, Kenya, Madagascar, Mauritius and South Africa so far). The Permanent Bureau of the Hague Conference on Private International Law (HCCH) has been a pioneer in developing systems of international co-operation at both administrative and judicial levels. Central Authorities established under the Hague Conventions constitute the core of a global network of inter-state co-operation for the protection of children. Notably in recent times in the African context, the HCCH has embarked on a project, The Hague Project for International Co-operation on the Protection of Children in the Southern and Eastern African Region, which is, amongst other things, aimed at introducing practical legal structures to support co-operation in terms of the Hague Child Protection Conventions. The participants (judges from most Southern and Eastern African countries as well as some from Central Africa) at the Judicial Seminar on the Role of the Hague Child Protection Conventions on the Practical Implementation of the CRC and the African Charter, which was held in The Hague from 3 to 6 September 2006, recommended that the AU should raise and promote awareness among member states of the African Charter of the Hague Child Protection Convention and the CRC. A similar seminar was convened for judicial officers from Western and Central African states in 2007.

the African Child Policy Forum first reviewed the publication they had produced entitled 'In the best interests of the child: Harmonising laws in Eastern and Southern Africa'.<sup>22</sup> This publication reviews 19 countries in the region, examining the extent to which the Convention on the Rights of the Child (CRC) and the African Children's Charter principles are reflected in legal frameworks and in policies in the respective countries. Proceeding from the basis that 'the notion that children have rights is no longer an issue of debate or contention in Africa',<sup>23</sup> the report nevertheless reveals that children's rights tend to lack priority status, although there is momentum building up around harmonisation processes.

The in-depth presentation on article 31<sup>24</sup> of the African Children's Charter by the Community Law Centre commenced with the reflection that the African Children's Charter not only reflects an African normative consensus based on an African conception of human rights, but that it places children's rights within the African cultural context. The fact that duties are provided for in a range of documents at the international level, including the Universal Declaration on Human Rights (Universal Declaration) (in article 29), was highlighted. However, the language of duties is far more central to the African ideology of communitarianism, as can be discerned from the African Charter on Human and Peoples' Rights (African Charter), which includes in articles 27 to 29 both negative and positive duties of the individual. It is against this backdrop that the African Children's Charter provides for the responsibilities of children.

The presenters noted that article 31 contained two internal limitations, namely that the duties of the child are subject to his or her age and ability and, second, that they are subject to the necessary limitations implied through the granting of other Charter rights. The first limitation militates against a view that 'duties' entail a disguised form of harmful or exploitative labour; rather, it supports the idea that involving children in the daily life of a household is a form of child participation that is intended to equip them for adulthood, so that they gradually acquire the capacity to assume adult responsibilities. The second limitation, it was argued, indicates that the normative rights provided for elsewhere in the African Children's Charter trump the duties provided for in article 31.

The presentation proceeded to examine the constituent elements of the discrete duties provided for children under the African Children's

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<sup>22</sup> See African Child Policy Forum 'In the best interests of the child: Harmonising laws in Eastern and Southern Africa' (2007) <http://www.africanchildforum.org> (accessed 31 March 2006). The publication was launched shortly thereafter at the Second Pan-African Forum, as described further in this article.

<sup>23</sup> African Child Policy Forum (n 22 above) 3.

<sup>24</sup> See J Sloth-Nielsen & B Mezmur 'A dutiful child: The implications of article 31 of the African Children's Charter' *Journal of African Law* (forthcoming, 2008).

Charter,<sup>25</sup> and concluded with recommendations for the African Children's Committee to consider in their approach to article 31. First, it was suggested that the primary duty bearers under the African Children's Charter are ratifying state parties, and that in the submission of country reports, states can be requested to provide full details of the measures, programmes and policies they have put in place to assist children to fulfil their duties as contemplated by article 31. Relevant, too, would be education and information campaigns that states have adopted to further the goal that children learn respect for their parents and elders and become familiar with the positive values in their cultural heritage. Second, it was proposed that the African Children's Committee supports the implementation of article 31 in its own practice, such as via encouraging the involvement of children in the DAC, and asking states to provide examples of how children have been assisted at grassroots level to preserve and strengthen social and national solidarity. Third, it was proposed that article 31 could have a bearing at regional and other levels, where children could be exposed to positive social, political and economic values in the achievement of African unity.

In response, Committee members agreed that states should endeavour to capitalise on the positive roles that children could play within their families and communities, and that creating avenues for children to play a role at national levels could encourage them to take up their responsibilities. To this end, activities and training that enhance their capacity to participate effectively should be promoted.

It was thereafter intimated that the presentation on the meaning of the best interests of the child would be prepared for the 11th meeting, to be held in 2008.

## **6 Preparations for the Second Pan-African Forum on Children**

The first Pan-African Forum on the future of children was held in Cairo, Egypt, in 2001. It culminated in a Declaration and Plan of Action for an Africa Fit for Children, not only for implementation at country level, but also to serve as the basis for Africa's common position for the UN General Assembly Special Session on Children held in New York in 2002. At this latter meeting, the document 'A world fit for children'

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<sup>25</sup> The article makes substantive provision for the duty of the child to work for the cohesion of the family, to respect parents, superiors and elders at all times, and to assist them in times of need; to serve his national community by placing his physical and intellectual abilities at its service; to preserve and strengthen social and national solidarity; to preserve and strengthen African cultural values in his 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; to preserve and strengthen the independence and the integrity of his country; to contribute to the best of his abilities at all times and at all levels, to the promotion and achievement of African unity.

was adopted. The intention of this mid-term (Cairo Plus 5, as it was colloquially known) review was to convene a high-level plenary meeting to follow up on the outcomes of the Special Session on Children, again to be held in Cairo, during the week following the African Children's Committee meeting (29 to 31 October 2007), itself again a prelude to the follow-up session to be held in New York during December 2007. The planned Second Pan-African Forum meeting provided the reason for convening the African Children's Committee's 10th ordinary session in Cairo in the first place.

The African Children's Committee at the 10th ordinary session resolved, under the session devoted to preparation for the Second Pan-African Forum, to seize the opportunity to profile the Children's Committee and its activities. This was scheduled to take place during an interactive session with the African Children's Committee,<sup>26</sup> and it was agreed that audience participation would be sought after the presentation of a paper. It was agreed that the Chairperson, who had already prepared a report, would make a 30-minute presentation on the evolution of the African Children's Charter, the normative content of the rights pertaining to children elaborated in the Charter, and an overview of the work and achievements of the African Children's Committee thus far. The paper would not neglect to draw attention to difficulties encountered by the Children's Committee and challenges faced by it during its relatively short term of existence. Amendments to the founding document were proposed by other Committee members and a member was nominated to assist in refining the final document.

Since the work of the Second Pan-African Forum was to include panel sessions, members of the African Children's Committee were thereafter nominated to serve as facilitators on the respective panels. Thus, Committee member Prof Peter Ebigbo was nominated to chair the panel on the participation of youth and children, Dr Moussa Sissoko to the panel on child survival and development, Ms Marie Chantal Koffi to head the panel on realisation of the right to education, and Dr Assefa Bequele to that on child protection.

The outcome of the Second Pan-African Forum was a Call for Accelerated Action on the Implementation of the Plan of Action towards Africa Fit For Children 2008-2012, which then fed into the commemorative high-level plenary meeting in December, the outcome of which, in turn, was General Assembly Resolution A/62L31.<sup>27</sup>

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<sup>26</sup> See <http://www.africa-union.org/root/au/Conferences/2007/November/sa/Children/doc/en/Agenda%20of%20Experts-ENG.doc> (accessed 2 April 2008).

<sup>27</sup> See [http://aumission-ny.org/children\\_issues.htm](http://aumission-ny.org/children_issues.htm) (accessed 31 March 2008).

## **7 Preparation of the pre-session for the consideration of state parties' reports**

The discussions on the preparation of the pre-session for the consideration of state parties' reports revolved around the procedure to be followed and the composition of the teams. As for the procedure to be followed, the members of the African Children's Committee decided to summon the pre-session before the 11th ordinary session of the Committee, more precisely in February 2008.<sup>28</sup> During this pre-session, four reports were to be examined, namely, those of Egypt, Mauritius, Nigeria and Rwanda; as for the other reports received and not yet translated, these were to be the subject of another pre-session.

It was underscored that the pre-session was to be composed not only of the Committee members, but also of representatives of international and regional organisations interested in the matter, as well as NGOs that are intervening in the field and resource persons chosen by the African Children's Committee. In this respect, the following teams were formed:

- report presented by Mauritius: Mrs Momembessi Pholo, Prof Peter Ebigbo and Mr Jean Baptiste Zoungana;
- report of Rwanda: Mrs Marie Chantal Koffi, Dr Moussa Sissoko and Mrs Dawlat Hassan;
- report of Egypt: Ms Nakpa Polo, Mrs Seynabou Diakhate and Ms Boipelo Lucia Seitlhamo;
- report of Nigeria: Dr Assefa Bequele and Mrs Martha Koome.

It was agreed that the AU Commission would contact international and regional organisations to request them to nominate their representatives. As for NGOs, Dr Moussa Sissoko, Dr Assefa Bequele and Prof Peter Ebigbo would consult each other speedily to nominate the representatives to the pre-session. As for the number of participants per team, it was decided that each team would be composed of a maximum of nine persons for reasons of efficiency.

## **8 Conclusion**

Much remains to be done to make the African Children's Committee system effective. With the 10th ordinary session now behind it, it would have been an apposite point at which more clear achievements and results could have been profiled. Most notable amongst these would have been the conclusion of the examination of at least the first few reports submitted under the African Children's Charter, so as to enable the beginnings of an African jurisprudence on the regional treaty and

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<sup>28</sup> Though this did not happen in February.

its obligations for state parties. As pointed out in this and preceding articles, however, delays and inadequate administrative support have made this goal impossible to achieve. Further, as the terms of office of some members are due to expire within a matter of months and, to the knowledge of these authors, procedures for succession planning and a rapid nominations process have not yet been formalised, it may take some time before the necessary pre-session takes place. A fair concern can be expressed that, if the pre-session does not take place before the July 2008 expiry date of the mentioned members, it may be difficult to complete the consideration of the first four state reports during this year, as the African Children's Committee will be operating without four of its members.

This real possibility indicates the need for the African Children's Committee to develop a clear medium-term plan of activities to see it through to the next round of changes to its membership. Further, the issue of the term of office of the members will have to be aggressively pursued and championed at the level of the AU Commission for effective action to be taken and followed through, in order to avoid the unfortunate turn of events occurring in future that we suggest might happen now.

However, the finalisation of an appointee to the post of Secretary means that there is now a dedicated presence in AU headquarters to take forward the interests of the African Children's Committee on a full-time basis. This does lay the foundation for hope that some of the cyclical problems around membership can be ironed out.

The 10th ordinary session has also highlighted further the value of NGO participation in the work of the African Children's Committee, and it is encouraging that the Committee is continuing to carve out collaborative processes, in which interested and leading African NGOs are prominent partners.

In addition, through various means, such as active participation in the Second Pan-African Forum and regular publications concerning the meeting activities, the work of the Committee is becoming reasonably widely known. This process can be regarded as beneficial for the regional development of children's rights.