

# REGIONAL DEVELOPMENTS

## BABY STEPS: DEVELOPMENTS AT THE AFRICAN COMMITTEE OF EXPERTS ON THE RIGHTS AND WELFARE OF THE CHILD (2013-2014)

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### 1 Introduction

As the regional treaty body for the rights of children in Africa, the African Committee of Experts on the Rights and Welfare of the Child (African Children's Committee) has the mandate to hold states parties to the African Charter on the Rights and Welfare of the Child (African Children's Charter) to account on how they implement the provisions of this treaty.<sup>1</sup> Even though article 13 of the African Children's Charter gives specific recognition to the rights of children with disabilities in Africa, the other provisions of this treaty apply equally to children with or without disabilities.

The 2013 volume of the *African Disability Rights Yearbook*, contained an article on a specific activity related to the 2012 Day of the African Child<sup>2</sup> theme, which was focused on the rights of children with disabilities.<sup>3</sup> This update will focus on activities undertaken by the African Children's Committee during 2013 and up to June 2014 that relate to the promotion, protection and realisation of the rights of children with disabilities in Africa.

The substantive provisions and mandate of the African Children's Committee were discussed in the 2013 volume of the *African Disability Rights Yearbook* and will not be repeated in this update. This update will thus focus on two important aspects of the implementation of the African Children's Committee's mandate during 2013-2014, which are the

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1 Art 42.

2 See <http://acerwc.org/the-committees-work/dac/> for further details on the Day of the African Child (accessed 11 June 2014).

3 See L Wakefield 'Making Progress: The African Committee of Experts on the Rights and Welfare of the Child and the rights of children with disabilities' (2013) 1 *African Disability Rights Yearbook* 369 372-374.

ordinary sessions and states parties reports and a strategy for promoting the rights of children with disabilities in Africa.

## 2 Ordinary sessions and states parties reports

The 22nd ordinary session of the African Children's Committee was held during 4-8 November 2013 in Addis Ababa, while the 23rd ordinary session took place from 7-16 April 2014 at the same location. At the time of writing, a session report for the 23rd ordinary session was not available on the African Children's Committee website.

During the 22nd ordinary session, the African Children's Committee did not engage with any states parties on country reports. A reason for this could be due to the fact that states parties are not that responsive in reporting to the African Children's Committee. The African Children's Committee acknowledged this and launched a campaign on the importance of reporting that is combined with the 25-year anniversary of the African Children's Charter during the 23rd ordinary session<sup>4</sup> (During the 23rd ordinary session of the Committee engaged with the Government of Liberia on their initial country report on the implementation of the African Children's Charter).<sup>5</sup>

The African Children's Committee has dealt with matters relating to children with disabilities in the 22nd ordinary session. This was done by way of engagement with an organisation called 'Under the Same Sun' which made a presentation on the rights of children with albinism – specifically focused in Tanzania.<sup>6</sup> Discrimination faced by persons with albinism is rife in the context of Tanzania. This is largely fueled by myths around albinism combined with the use of body parts of persons with albinism for rituals conducted by traditional healers.<sup>7</sup> It is more than commendable for the African Children's Committee to deal with the discrimination faced by children with albinism, largely because albinism has not found its position within the disability discourse. Kamga correctly

4 See: <http://acerwc.org/25-years-anniversary-universal-ratification-of-and-reporting-on-the-acerwc/> for mention of this campaign. However, the weblink does not contain any detail on the campaign (accessed 14 July 2014).

5 This report was not available online at the time of writing and therefore one cannot engage with the content in relation to reporting on the implementation of the rights of children with disabilities, specifically looking at article 13 of the African Children's Charter.

6 See: African Committee of Experts on the Rights and Welfare of the Child *Report on the Twenty-second session of the African Committee of Experts on the Rights and Welfare of the Child (ACERWC), 4-8 November 2013, Addis Ababa, Ethiopia* 14 and 15.

7 See: <http://www.underthesamesun.com/sites/default/files/Myth%20Busting%20Brochure%20-%20English.pdf> (accessed 7 August 2014) for a factsheet on the myths of albinism and 'Tanzanian witch doctors arrested over albino killing' *BBC News* 14 May 2014 <http://www.bbc.com/news/world-africa-27409965> (accessed 7 August 2014) for a newspaper article on the arrest of a traditional healer for the killing of persons with albinism.

argues that neither the United Nations Convention on the Rights of Persons with Disabilities, nor any of the African Human Rights Treaties (both the African Children's Charter and the African Charter on Human and Peoples' Rights) expressly acknowledges albinism as a disability.<sup>8</sup>

Unfair discrimination against persons with disabilities is universal, despite the type of disability that a person might have. However, what the case above in relation to children with albinism also illustrates is that discrimination faced by persons with disabilities varies from one country to another and one region to another and that one type of solution to dealing with this kind of discrimination is not sufficient. The varied nature of discrimination faced by persons with disabilities – and in this case children – on the African continent was exactly what the African Children's Committee was coming to terms with by engaging on issues in relation to children with albinism.

### **3 Strategy for promoting and protecting the rights of children with disabilities in Africa**

Following from the 2012 theme for the Day of the African Child on the rights of children with disabilities, the African Children's Committee held a workshop in Cape Town, South Africa in December 2013 on monitoring the rights of children with disabilities in Africa. Stemming from this workshop the African Children's Committee adopted a strategy on how it intends to hold states parties to account to realise the rights of children with disabilities.

The African Children's Committee identified the following seven specific areas within the strategy, which are a cause of concern for children with disabilities in Africa that requires a level of action:

- (a) The links between poverty and disability;
- (b) Social attitudes, stigma and discrimination;
- (c) Right to education;
- (d) Right to health;
- (e) The right to be heard and participate;
- (f) Violence against children with disabilities; and
- (g) The importance of statistics, research and evidence gathering.<sup>9</sup>

8 See: SAD Kamga 'A call for a Protocol to the African Charter on Human and Peoples' Rights on the Rights of Persons with Disabilities in Africa' (2013) 21 *African Journal of International & Comparative Law* 219 229-230.

9 See African Committee of Experts on the Rights and Welfare of the Child (ACERWC) *Strategy for promoting and protecting the rights of children with disabilities in Africa* (2014) 4.

These seven areas of concern are all linked to a strategic thematic area based on the African Children's Charter and matters relating to its implementation are given detailed discussion within the strategy.

The strategy goes further by requesting member states of the African Children's Charter to adopt a three-fold approach to develop their own medium-term strategies that consists of development, implementation and monitoring and evaluation of the rights of children with disabilities.<sup>10</sup> In relation to development, the strategy requires of member states to develop national action plans and reviewing the legislative and policy framework. In relation to the implementation phase, this entails strengthening service provision and having efficient and accessible complaints mechanisms for violation of rights.

States parties are not subject to complying with strategy documents, as they do not constitute binding treaties. States parties are however subject to the provisions of the treaty that they have ratified. In this case it would be the African Children's Charter. Strategy documents of this nature are useful in that they give states parties guidelines on what is required by the African Children's Committee when realising the rights of children with disabilities. Therefore developments of this nature should be welcomed. The implementation of this strategy is vitally important in order to realise the rights of children with disabilities in Africa. Thus constant monitoring of the implementation of this strategy should be undertaken.

#### **4 Conclusion**

The mandate of the African Children's Committee is to monitor the realisation of all the rights contained within the African Children's Charter.

As one can view from the developments of the activities of the African Children's Committee, the rights of children with disabilities are not ignored or overlooked. The strategy on realising the rights of children with disabilities is welcomed and should be supported. The implementation thereof should also be supported with the necessary capacities in place.

<sup>10</sup> *Ibid.*