



**AFRICAN COMMITTEE OF EXPERTS ON  
THE RIGHTS AND WELFARE OF THE CHILD  
(ACERWC)**



**GENERAL COMMENT ON ARTICLE 31 OF THE AFRICAN  
CHARTER ON THE RIGHTS AND WELFARE OF THE  
CHILD ON “THE RESPONSIBILITIES OF THE CHILD”**

2017

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# 1. Introduction

## 1.1 Legal and contextual basis

1. The African Charter on the Rights and Welfare of the Child (ACRWC/African Children's Charter) provides for the protection of the rights of children grouped under 30 different headings. However, subsequent to providing for children as rights holders, the Charter in its final substantive provision also recognises that children are bearers of responsibilities. Thus, the Charter in its Article 31 states that children have responsibilities towards the family, society, State, other legally recognized communities and the international community at large. The Charter is therefore quite unique in highlighting responsibilities for children together with outlining their rights. However, this unique provision may lead to challenges in understanding and appreciating the extent to which children can exercise responsibilities while at the same time enjoy the rights guaranteed by the Charter.
2. The African Committee of Experts on the Rights and Welfare of the Child, in terms of Article 42 of the Charter, has a mandate to promote and protect the rights of the child, including through the interpretation of the provisions of the Charter; this is in terms of Article 42(c). In acknowledgement of the need to ensure a balance between the enjoyment of rights and fulfilment of responsibilities by children, this General Comment is prepared to elaborate on the subject and give guidance to stakeholders in the conceptualisation, interpretation and application of the provisions of Article 31 of the Charter.
3. Few international and regional instruments contain provisions outlining the duties or responsibilities of the individual. This is because human rights instruments are primarily conceived as tools for the protection of rights and not viewed as tools that place duties on the rights holders. However, the Universal Declaration of Human Rights (UDHR), the International Covenant on Civil and Political Rights (ICCPR), and the International Covenant on Economic, Social, and Cultural Rights (ICESCR) contain provisions placing duties on

individuals. At regional level, the Inter-American Convention on Human Rights and the American Declaration of the Rights and Duties of Man also contain provisions echoing duties. The notion of duties is also contained in the African Youth Charter and in the African Charter on Human and Peoples' Rights (ACHPR).

4. The ACHPR enumerates duties of the individual in line with the virtues of the historical traditions and values of African civilization. Accordingly, the ACHPR establishes a balance between the rights of individuals and the duties that they owe to their society as an indispensable aspect of African reality. This is in acknowledgment of the fact that in the African context, individuals are seen as embedded within a community, within which the exercise or enjoyment of their rights generally depends on other individuals in the community exercising duties in respect of those rights. In other words, individuals have duties in relation to the rights of other members of the community and as such, towards the community at large.
5. The importance of the community or collective rights within the African context is reflected in the title of the ACHPR itself. It underscores the fact that the community is a unit of the society within which individuals are expected to co-exist in harmony and mutual understanding. This has particular relevance in the context of group rights where the enjoyment of such rights is attained through the exercise of duties by individuals. Duties are thus viewed as elements that reinforce the enjoyment of rights. Overall, responsibilities are considered to be complementary to the enjoyment of fundamental rights.
6. The ACHPR imposes both positive and negative duties to ensure that other members of society enjoy the rights accorded to them by the ACHPR. Whereas positive duties require individuals to act in a certain manner, negative duties require them to abstain from pursuing a certain conduct.
7. By placing responsibilities upon children therefore, the African Children's Charter reinforces the protection of children's rights by ensuring that children are enabled to play a role in promoting an environment conducive for the

respect of their individual and collective rights by other members of the society. In addition, the value of placing responsibilities upon children is underscored by the role that responsibilities play in helping to shape the future of children as responsible adult members of society.

## **1.2 Purpose and Main Objectives**

8. This General Comment is aimed at giving meaning and scope to the interpretation and understanding of the responsibilities of the child within the context of the African Children's Charter. It elaborates on the obligations of States Parties to the Charter (and other stakeholders) for the implementation of Article 31. The main objectives of this General Comment therefore are to clarify the principles contained in Article 31 of the African Children's Charter in order to provide practical guidance on its implementation.
9. The Committee acknowledges the value of previous instruments in providing for duties together with rights, particularly the ACHPR after which the provisions on the responsibilities of the child in the African Children's Charter are mirrored. The Committee however emphasises the 'responsibilities of the child' rather than 'duties of the child' in order to make it clear that the African Children's Charter does not refer to 'legal duties', violations of which attract penal sanctions. The French version of the African Children's Charter makes reference to 'responsibilities' distinct from '(legal) duties'.
10. The Committee expects States Parties and other stakeholders to rely on the provisions of Article 31 as a manual or set of instructions with which to teach and train children from early on into becoming responsible individuals and eventually, adults in society. With the principles enshrined in Article 31, children can be guided and encouraged to make right decisions at various stages and in different circumstances of their lives. Thus, Article 31 should not be interpreted or understood to mean that the fulfilment of responsibilities is a condition for the enjoyment of rights.

11. The responsibilities of the child as contained in Article 31 of the African Children's Charter present an indication of the value placed on children's role as active participants and contributors to the greater good of society, right from childhood. It is recognition of children and young people as citizens who have contributions to make to society in the here and now, and not only in the future.

## **2. General Nature of State Obligations**

12. Consequently, the provisions of Article 31 were carefully crafted with the goal of empowering children to learn, from childhood, how to contribute towards a better society, thereby promoting an environment conducive for the enjoyment of their own rights. The Committee however emphasises that the enjoyment of children's rights cannot be limited or obstructed by reference to failure by a child to fulfil his or her responsibilities in any context.
13. The main aim of the Charter is the promotion and protection of children's legitimate rights and welfare interests. The careful and deliberate placement of the provisions of Article 31 in the Charter gives a clear indication of what the priority is and where the emphasis lies. The Charter begins by first spelling out a very detailed and comprehensive list of rights for children, without limiting them in anyway, and thereafter places responsibilities at the end of Part I, the section of the Charter that deals with rights.

## **3. General Principles underlying the interpretation and implementation of Article 31**

14. Thus, Article 31 cannot be read independently of other provisions of the Charter. It must be understood and applied in relation or compatibility with the contents of other provisions of the Charter which impact on responsibilities of the child, whether directly or indirectly.
15. The realisation of all children's rights is grounded on four key principles namely, the principles of non-discrimination (Article 3); the best interests of the child (Article 4(1)); the child's right to life, survival and development

(Article 5) and the right of the child to be heard - participation (Art 4(2) & 7). These four principles also apply when interpreting or applying Article 31 of the African Children's Charter.

16. Non-discrimination in the context of the responsibilities of the child includes actively recognising all children as full members of society having contributions to make, 'subject to age and ability'. Discrimination is prohibited on grounds of it being contrary to the equality of all human beings, including children. Consequently, children should not only have the freedom to be fully involved in family, community, societal or national life, but should also be taught and encouraged to discharge their responsibilities towards others in the various contexts without discrimination.
17. Article 4(1) of the African Children's Charter provides the best interests of the child shall be the primary consideration in all actions concerning the child, whether undertaken by any person or authority. All rights in the ACRWC are guaranteed because they are in the child's best interests, and as such, no right may be compromised by a negative interpretation of or imposition of responsibilities on the child. It is in the interests of children to learn responsibility from childhood in order to develop into well-rounded adult citizens. However, no person or authority's judgment of a child's best interests can override the obligation to respect all children's rights in a bid to promote children's responsibilities.
18. The child's right to life, survival and development recognises a comprehensive and holistic approach to the proper growth and development of children. Appropriate responsibilities, as envisaged by Article 31 of the ACRWC contribute to this by equipping children with relevant tools and opportunities to maximise their potential from childhood into adulthood.
19. The right of the child to be heard (child participation) is an important principle which places value on the contributions of children to matters affecting them, including the handling of responsibilities. It enables and equips even the youngest members of society to contribute to shaping their

own lives, families, communities and the wider society at large. By recognising the capacity of children to understand their own environment and world, child participation projects children as active participants in the promotion and protection of their rights and the fulfilment of their responsibilities. Through opportunities to develop decision-making capacities and discharging age and ability appropriate responsibilities, children are equipped to take charge of their lives in adulthood.

20. As with all children's rights, the key principles above are also underlined by the interdependence and indivisibility of all human rights, including responsibilities. Thus, the responsibilities of the child cannot be understood or applied outside the context of the rights of the child provided for in the African Children's Charter. Such would be incompatible with the spirit and aims of the instrument.

21. Flowing from the interdependence and indivisibility of rights, the next section highlights the relationship between the responsibilities of the child and some of the rights contained in the African Children's Charter. The aim is to emphasise the point that the (non-) fulfilment of responsibilities should not a cloak for the violation of children's rights in any manner or form whatsoever.

### **3.1 Harmful and exploitative practices**

22. Article 21 of the African Children's Charter protects children against harmful social and cultural practices impacting negatively on their rights. It outlaws any and all customs and practices that are prejudicial to the health and general well-being of the child as well as customs and practices that are discriminatory to the child based on sex, gender, disability or other vulnerability or other status. It goes further to prohibit child marriage and the betrothal of girls and boys, calling upon State Parties to the Charter to take measures to eliminate these negative practices. Consequently, children should not be forced into or otherwise given away in marriage as a 'responsibility', whether to the family, community or at any other level.

23. The African Children's Charter also protects children against other harmful practices including child labour (Article 15), child abuse and torture, including corporal punishment (Article 16), sexual exploitation (Article 27), drug abuse (Article 28) and sale, trafficking and abduction (Article 29). It is therefore contrary to the spirit of any of these provisions to impose on children responsibilities that perpetuate any of the harmful and exploitative practices prohibited by the African Children's Charter. Consequently, any practice imposed on children as a 'responsibility' but which contravenes any of Articles 21, 15, 16, 27, 28, 29, etc. is inconsistent with the Charter and therefore prohibited.
24. Accordingly, Article 1 of the Charter requires the adoption of legislative and other measures to give effect to these protections at the national level and discourages any practice 'that is inconsistent with the rights, duties and obligations contained in the Charter.' Other instruments targeting specific areas of protection include the Convention on the Rights of Persons with Disabilities and the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, among others.
25. On child labour, the Committee supports the view expressed in international law that child labour is a serious form of exploitation of children and that it is detrimental to the physical, mental or psychological well-being of the child. This position is reaffirmed in many other international instruments including the United Nations Convention on the Rights of the Child (CRC) and the International Labour Organization (ILO) Convention 182 on the Minimum Age of Admission to Employment (ILO Convention 182). Article 15 of the African Children's Charter enjoins States Parties to the Charter to adopt legislation establishing minimum age for admission to all forms of employment and to properly regulate the hours and conditions of work. State Parties are also requested to disseminate relevant information pertaining to the dangers of child labour in their respective jurisdictions.

26. In relating the substance of Article 15 to Article 31 on the responsibilities of the child, the Committee is of the view that no State Party is permitted to place an obligation on children to undertake work that would amount to child labour in the guise of ‘responsibilities’. This is important because work is a very serious responsibility, and more so for children who are generally not as knowledgeable about and equipped for work as adults. States Parties are rather encouraged to adopt measures which discourage parents or caregivers from placing responsibilities upon children, such tasks amounting to child labour, and which are detrimental to their physical, mental, spiritual, moral or social development. Anything contrary is a direct violation of the spirit or intents and purposes of Article 31.

27. On protection from abuse, violence, torture or from harmful and exploitative practices generally, it is important for children to be taught to be agents of their own protection. In other words, children should be encouraged to participate in the efforts to protect them from harm in all settings, including the contexts of the cyber space, bullying at school, etc. This is particularly important in an era of rapid technological advancements with which children are much in tune. The positive aspects of these advancements notwithstanding, children are also vulnerable to many dangers through access to the internet and mobile technology. Examples include contact with paedophiles, child pornography, cyber-bullying and enlistment by terrorist groups. Children should therefore be taught to handle their interactions with technology responsibly and not expose themselves to needless danger. Adults who have responsibility over children in different respects have an important role to play in safeguarding the children, rightly educating them about both the benefits and risks involved, and teach them responsibility in these contexts.

### **3.2 Family environment and alternative care**

28. Childhood in the African context is not understood as a period of total dependence in the sense that children are expected to progressively assume responsibilities towards the family or household from an age or time when

the child could function independently. Children are expected to take part in productive activities for the sustenance of the family, such being viewed as an opportunity to learn, grow and develop the capacity to assume greater responsibilities in the larger society. Thus, children taking responsibility for aspects of family and communal life is considered to be an element of the care and protection of children. The family is therefore considered to be an ideal environment for teaching and learning positive values such as respect for adults, respect for the rights of others, and learning to handle responsibilities including actively taking part in the care of younger siblings.

29. The Committee notes that there is no homogenous family form that can be referred to as ‘the African family’ or family environment, as there are diverse family forms which combine both traditional or historical and modern or contemporary elements. Generally, factors such as marriage, a common biological ancestry or historical identity, and a common geographical location or place of origin combine to produce the ‘family’. What is however common to all family forms is a common sense of responsibility for one another’s well-being, based on individual roles, functions and practices to maintain the family cohesion within a larger societal collective.
30. The family is a social institution upon which society is based and the focus is not on the form it takes but rather on the psychological elements such an environment provides or represents. These include a place of personal (including informal, spontaneous and sometimes, frivolous) relations or interactions, as well as a place of safety, security, stability and affirmation to a person’s sense of self-worth and human dignity. This is particularly important for children because the existence of a suitable family environment is fundamental to the realisation of their rights as contained in the African Children’s Charter. It is particularly crucial for the realisation of a child’s right to life, survival and development in all aspects.
31. The Preamble to the Charter recognises the importance of the family environment for the full and harmonious development of the child’s personality.

The same applies in the case of alternative care for children whether in the form of foster care, kinship care and various forms of institutional arrangements. The elements of care - in the form of time, attention and support to meet the physical, mental and social needs of the growing child – are also applicable in alternative care, regardless of the form it takes. The focus is on securing the best interests of the child with regards to the full and harmonious development of his or her personality.

32. While recognising the role of the child in contributing towards the advancement of his or her family environment (including in alternative care) in various ways, the Committee maintains that whatever responsibilities are expected of a child, they shall not be interpreted in a way that precludes the child from enjoying his or her rights as provided in the Charter. In essence, the interpretation of the responsibilities of the child in the context of the family or other alternative care setting shall be guided by the provisions of the Charter as a whole with reference to the protection of the rights of the child.

### **3.3 Education**

33. Education is an important tool for empowering children to take up responsibilities and appreciate doing so as a positive value to imbibe. The Committee supports the CRC Committee in pointing out in its General Comment on ‘the aims of education’ (2001), that education ‘goes beyond formal schooling to embrace the broad range of life experiences and learning processes which enable children, individually and collectively, to develop their personalities, talents and abilities and to live a full and satisfying life within society.’ Thus the goals of education include equipping children with life skills that develop their capacity to grow into well-rounded individuals who make positive contributions to society. Thus, proper education is vital both the enjoyment of rights and the appropriate discharge of responsibilities. Well educated children are better able to value respect for human rights, develop to their fullest potential, and appreciate responsibilities as a positive means of giving back.

34. Article 11 of the African Children’s Charter on the child’s right to education

is therefore very closely linked to Article 31 by providing that the child's education shall be directed to among others, 'respect for human rights and fundamental freedoms', 'the preservation and strengthening of positive African morals, traditional values and cultures', 'the preparation of the child for responsible life in a free society', 'the preservation of national independence and territorial integrity', and 'the promotion and achievements of African Unity and Solidarity.' Through education therefore, children are able to learn about their communities, nations and the African continent and the international community at large, while also learning how to contribute positively to as we all as interact and engage in mutual respect with others at these levels. In essence, the goals of educating the African child include equipping him or her to properly carry out his or her responsibilities both as a child and later in life as an adult.

35. The aim of education to foster respect for human rights and fundamental freedoms also includes teaching children to, in line with their evolving capacities, act responsibly in a manner to ensure that all efforts aimed at concretising their educational rights produce the desired results. For example, in addition to attending school, children are expected to respect their teachers and other personnel involved in school administration and the educational system generally. They must also maintain good and healthy relations with their peers and play with other children in a spirit of respect, tolerance and equality with one another. Children have a responsibility to give their best to their studies in an effort to learn and master what they are taught while respecting the rights of others to learn.

36. Like within the family, the possibility of children learning responsibility in the context of education depends to a large extent on the examples set within such an environment. All those involved in the education of children, including parents and teachers therefore have a role to play in modelling responsibility for children to see and increasingly and appropriately emulate. Thus, all stakeholders need to carry out their responsibilities as educators

in a professional manner that promotes the best interests of all children. In addition, responsibilities should be clearly defined for and assigned to children, while also encouraging children to learn to volunteer to take on appropriate responsibilities for the benefit of all. Routines, structures and support should also be provided to give children many opportunities to learn to manage themselves and handle their responsibilities.

### **3.4 Rest, recreation and participation in cultural activities and arts**

37. Article 12 of the Charter recognises for children the rights to rest and leisure, play and recreational activities, and participation in cultural life and the arts – as appropriate to the age of the child. These are important factors for the proper growth, socialisation and development of the child, which are also useful in the context of learning and managing responsibilities. Sleep is a fundamental ingredient for physical, mental and other forms of growth, especially for children who generally require more sleep than adults.
38. Rest and leisure are important for proper growth as they enable children to focus properly on other life activities and improve their capacity to excel in assigned tasks. Developmentally, children who are weak or tired due to lack of or inadequate sleep or rest cannot focus on other activities or experiences and cannot participate actively or effectively in them. This is the case whether in relation to education, cultural life, arts or any other activity. Tired children cannot engage in any activity however exciting it may be, and very little learning, if any, will be the outcome. Tired children are also more likely to exhibit inappropriate social behaviours if forced to participate in any activity rather than being encouraged and allowed to sleep or rest.
39. One of the aims of education under the African Children's Charter is to promote 'the child's understanding of primary health care', a component of which is sleep or rest and leisure. Teaching responsibility to children therefore includes teaching them to manage and take care of their health by learning to make the right choices that impact positively on their well-being. Consequently, rest is important for children in the face of their daily responsibilities and

activities such as school work and house chores. In this way, children are able to learn about the proper balance between work, recreation and rest, a knowledge that will serve them well into adulthood.

40. With reference to participating freely in cultural life, arts and other such activities, children are able to learn to take up various responsibilities in accordance with their evolving capacities. They also learn to develop rapport with other children as well as a sense of accomplishment and camaraderie found in working or sharing activities with others. By so doing, they develop ‘the spirit of tolerance, dialogue and consultation,’ which is necessary for the responsibility ‘to preserve and strengthen African cultural values’ in relation with others. Children are thus able to share in the experiences collectively, while also developing a healthy sense of self-esteem and belonging in a community within which they are expected to contribute positively to.

41. All the above notwithstanding, the Committee underlines the fact that responsibilities for the child are not permitted to hamper rest and recreation. Recreation and involvement in cultural life and arts should rather be used as a medium to teach, promote and encourage the responsibilities of the child. In other words, Article 31 should not be used to in any way infringe on the rights of the child to rest, play, leisure and recreation and this is applicable to all stakeholders ranging from the family to educators and the State, among others.

### **3.5 Child justice**

42. In the administration of child justice provided for in Article 17 of the Charter, children are also required to play a role in ensuring that the justice system serves them well. For example, children in the juvenile justice system must cooperate with the authorities, where such cooperation does not infringe on their best interests or other subsisting rights. Cooperation includes the responsibility to provide all relevant information pertaining to cases in which they are accused of infringing the penal laws.

43. In addition, cooperation with authorities includes the responsibility of the child to abide by the decision taken with respect to him or her, and following the corrective measures set out in the decision. This is expected where the decision is issued by a competent authority in line with the applicable domestic laws, the Charter provisions and other applicable juvenile justice standards in relevant international laws.
44. Article 17(3) stresses that the goal of the child justice system includes the reformation of the child and his or her re-integration into family life as well as social rehabilitation. To that end, the Committee specifically enjoins States Parties that do not have juvenile justice systems or whose laws are outdated or inadequate to reform and align to the standards of the Charter and other relevant international law to develop and establish them, and those whose child justice laws are not implemented to implement them.

### **3.6 Involvement in armed conflict**

45. In the context of armed conflict, no child shall be recruited into the army or directly used by military forces to achieve the objectives of the conflict. The fact that State Parties have an obligation to protect and to take care of children affected by conflict situation does not permit the direct or indirect involvement of children in conflicts. However, children affected by armed conflicts have a duty to cooperate with the State by accepting the care and protection offered by the State or other body, as required under international humanitarian law, without doing anything to jeopardise or prejudice the efforts of the State or other organization providing such care and protection.
46. The Committee expects State Parties and armed groups to refrain at all times from engaging children in conflict situations. To this end, no child shall be obliged in any circumstance to carry military equipment or engage in other activities linked to armed conflicts. It is in the interest of children that they are not exposed, directly or indirectly to armed conflicts. To this end, the interpretation of Article 22 of Charter shall include the banning of children from undertaking military training, keeping children in military camps or other

premises which expose them to direct armed conflict or activities related to armed conflict, unless they are at risk of being attacked if they are placed separately from soldiers.

47. While situations of armed conflicts are generally emergency periods, children should not be precluded from enjoying or exercising their rights as appropriate in the circumstance. It is during periods of hostilities and armed conflicts that many State Parties and other armed groups deliberately or inadvertently put the lives of many children in serious threat. This is particularly discouraged in order to secure the best interests of children, as much as possible, even in conflict situations.

#### **4. Elaboration on the Contents of Article 31**

48. The responsibilities attributable to a child are dependent on two elements: the age and the ability of the child on the one hand and other limitations imposed by the Charter itself through other provisions, on the other hand. In effect, any responsibility on the child which contravenes any human rights norm or particular rights in the Charter is illegal and invalid.

49. The first element of age and ability relates to the evolving capacities of the child which in turn determines the extent to which a child can be expected to take up or is able to perform any of the responsibilities contained in Article 31. In other words, the protection of the child demands that responsibilities should not be placed on the child beyond what is appropriate for the age, ability and maturity level of the child.

50. The Charter, through Article 31, thus opens the space for children to participate in decision making and life processes of their respective families, communities, and other spaces. This is in keeping with children's participation rights as contained in Article 7 of the Charter, among others. Child participation entails the involvement of the child at various stages and through various means ranging from verbal and non-verbal expression to physical engagement or involvement in the life processes of their various spaces.

51. One of the goals of child participation is to ensure that children gain some basic level of experience on key aspects of life while growing into adulthood. This prevents them from entering into adulthood unprepared by lacking the means and skills necessary for functioning efficiently and effectively as responsible adults in society.
52. The second element on which Article 31 depends is the limitations imposed by the Charter itself, as well as by other human rights instruments. This is in terms of Article 1(3) of the Charter which discourages any practice, including so-called ‘responsibility’ that is inconsistent with the rights, duties and obligations contained in the Charter. This is in conformity with the role of the Charter as an instrument for the promotion of the rights of the child and their protection from practices that are contrary to their well-being.

#### **4.1 Responsibilities towards the family: Article 31(a)**

53. Article 31(a) requires children to work for the cohesion of the family, to respect parents, superiors and elders at all times and to provide assistance in case of need. The African Union Plan of Action on the Family in Africa defines the family as ‘a dynamic unit engaged in an intertwined process of individual and group development.’<sup>1</sup> Consequently, it needs to remain at the core of society and strengthened ‘as part of Africa’s development process.’ The maintenance of the family as the basic and most fundamental unit of society demands sustained efforts to ensure its cohesion.
54. All members of a family, including children have responsibilities towards the family in order to enable it maintain its role in its three dimensions: as a psycho-biological unit; as a social unit; and as the basic economic production unit.<sup>2</sup> Every member of the group has an obligation to keep the group as closely linked together as possible to avoid its fragmentation or dissolution. This duty applies in all family settings or environments including child-headed

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1 See paragraph 1 of The African Union Plan of Action on the Family in Africa, which was adopted in 2004 on the occasion of the tenth anniversary of the International Year of the Family (IYF) proclaimed in 1994.

2 As above, paragraph 2.

households and children living in alternative family environments.

55. The psycho-biological dimensions of the family include values of love, care, compassion, empathy and other emotional bonds. These are important elements for developing a sense of belonging and identity, for resolution of family disputes and for the provision of moral support to one another, among others. The social dimensions include the family as a base for the socialisation of members and connecting to others outside of the family unit, for sharing similar lived experiences, common tasks and social functions. As an economic production unit, the family is the space for pulling together of resources in order to cater to the individual and collective needs of the group as a whole.
56. The responsibility of the child to work for the cohesion of the family cuts across all three dimensions. Thus, children should be able to provide moral or emotional support to other members as at when due, actively participate in social functions, affairs or involvements of the family as a whole and contribute economically to the sustenance of the family unit. For children, this takes the form of age and ability appropriate chores that positively contribute to the well-being of the family. By teaching children to take on real (and age appropriate) responsibilities from childhood, we equip them with the key components of adult competency.
57. All responsibilities of the child towards the family are subject to the evolving capacities of the child. This demands that children's contributions should increase appropriately as they grow older and mature, both within and outside the household. Responsibilities towards the family should promote both responsibility for their own self-care and contributing to the family welfare. Both within and outside the family, relationships with children and their sense of self-esteem are strengthened when their agency is promoted, which is what child participation, even in the case of responsibilities, is about. The goal is not just in getting the responsibility fulfilled but in enabling children learn and appreciate the value of contributing and taking responsibility, while providing appropriate structures, support and encouragement.

58. The value of the responsibility to respect parents, elders and superiors is based on the importance of recognising the role of kinship and kinship networks in building family cohesion, contributing to the upbringing and socialisation of children as well as in reducing or providing support against family vulnerabilities. However, the Committee asserts that Article 31(a) does not give an unquestionable authority to adult caregivers of children. In other words, it must not be read as creating an overarching duty of obedience without room for questioning orders or instructions that children receive from adults. There is therefore a need to strike a balance between the authority exerted by adults over children and the corresponding responsibility of children to be respectful and mindful of such authority. Rights of the child including freedom of expression, participation, and development, among others, shall not be compromised or violated by reference to ‘respect for adults.’ Thus, the responsibilities of the child in this context must be read together with all children’s rights, as provided in the Charter. The fulfilment of this responsibility, like all others, is generally subject to the limitations imposed by the Charter standards and respect by adults for the rights of the child, including safeguarding their best interests in all decisions and circumstances.

59. The responsibility to assist the family in case of need as contemplated in Article 31 of the Charter is central to sustaining family cohesion and is an all-encompassing responsibility that covers not only both material support (measured in economic terms) but psycho-social, emotional, moral or other forms of support as well. The importance of this responsibility cannot be overstated in the family context, where the survival of a member of the family is largely dependent on the existence of the family itself and on each member playing specific roles. Children themselves depend greatly on the adults within the family for their survival and for the protection of their rights.

60. By supporting the family unit therefore, children contribute towards protecting the means for their own survival by securing the survival of the group (family structure) which they rely upon or need for their own wellbeing.

The responsibility to assist also enables children to learn from the experiences of adults and to develop skills and abilities to make good or better choices as adults themselves. They also learn and imbibe important intangible human virtues such as kindness and compassion through the experience of providing support for others in need.

61. The responsibility to provide support or assistance requires that children support their families, including parents, siblings, the elderly, and other members of the extended family, as at when necessary and in appropriate forms, taking into account the age, abilities and evolving capacities of the child. Assistance can therefore be measured or qualified in terms of, among others, the performance of age appropriate chores and the running of errands. The focus must be on support and assistance that contribute to the sustenance and proper functioning of the family as a personal, social and economic unit of society, without leading to the violation of children's rights as outlined in the Charter.
62. With reference to the phrase 'in case of need', the responsibility to assist particularly comes into effect when parents or other adults ordinarily responsible for the care of the child are unable to do so without assistance. Although moral obligations may persist, this responsibility is not legally binding on the child when adults are not in need of assistance. This requires a careful assessment of situations where adults are in need of assistance, and where children are in a position to or are able to offer the required assistance.
63. The importance of this responsibility, especially in the context of 'need', cannot be overstated in a continent where infirmities such as the HIV/AIDS pandemic continue to claim the lives of many adults leaving many children orphaned. The family remains the fundamental unit of society and all members, including children, have a role to play in maintaining the integrity and proper functioning of the unit, with full assurance of protection and assistance by the State.
64. Adults may require assistance from children when they are either unable

to provide themselves (and the children in their care) with material or other tangible or intangible means for their survival, which may be necessary for the wellbeing of and the relationship between the parties concerned. Factors such as imprisonment, incapacitation or ill health and disability are some of the factors that may necessitate assistance and support from children to their parents, siblings or other significant adults in their lives.

65. The Committee emphasises that overall, the responsibilities of the child towards the family cannot be separated from the duty of other members of the family to exercise their responsibilities towards the child. This includes the need for parents or caregivers to ensure, to the best of their abilities and capabilities, the proper care and upbringing of the child until adulthood. Whereas there is a binding duty on parents and other adult caregivers to ensure the wellbeing of the child, the child only has a responsibility to contribute towards the cohesion of the family within the ambit of the limitations imposed by the Charter. This duty applies in all family settings including child-headed households, children living in alternative family environments and children living with their own biological family members.

#### **4.2 Responsibilities towards the nation: Article 31(b)**

66. The child has a responsibility to serve his or her national community with his or her physical and intellectual abilities. Service is beneficial for children in multi-faceted ways; on the one hand, it enables children to contribute to the wellbeing and happiness of others while instilling in them a sense of pride and purpose in who they are as individuals and in what impact they can make for the overall good of their nation. Through service, children learn to enhance, empower or improve the lives of others while rewarding them with innate joy, a sense of belonging and camaraderie. Service is also an important tool for child development as it enables them to be not just members of society but contributors to society as well; it is an important component of growth by which children learn compassion and the value of giving back to society.

67. The Committee notes that children are able to manifest, demonstrate or

discharge this responsibility in various ways or forms. Examples of physical service include volunteer work in charitable organisations or public works and community self-help projects, involvement in health and environmental initiatives (such as tree planting exercises and the removal of waste materials, participation in some art forms or sports and sporting events or competitions. Intellectual abilities also cover a wide spectrum including excelling in schoolwork including mathematics, science and technology as well as in arts and entertainment including music, dance, drama and others. Others include learning about and positively maximising the use of Information and Communications Technology (ICT) including mobile technology and the internet. Thus, children are able to serve in a variety of settings including the home, at school, in or through religious organisations, within their communities and through other associations that serve the interests of the nation as a whole.

68. Since work is closely linked to service, the Committee stresses that although the African Children's Charter does not completely prohibit the involvement of children in work or work-related activities; such work is distinct from the economic exploitation of children and using them to perform work that is harmful to their wellbeing as contemplated in Article 15. In this regard, the Charter outlaws what is usually termed "child labour", understood as work that is harmful to the wellbeing and development of children. The Charter requires States to address child labour by enacting laws and taking additional measures to eliminate the practice. Service in terms of Article 31 refers to involvement in activities that enable children to grow as individuals and to develop the skills they need to ensure their survival in the future. Thus, only work that is not harmful or prejudicial to the wellbeing, survival, development and overall best interests of the child should be encouraged. For instance any work or 'service' that violates children's rights to education or leisure and recreation, among others, cannot be a responsibility of the child.

69. Central to the child's responsibility to serve his or her community should be the invaluable contribution that work brings to the child's individual

development and personal growth. In fulfilling his or her duty to the community, the child should be able to socialise with others and be able to learn basic skills and gain experiences necessary for full development and survival in the future. Examples include leadership, empathy, emotional intelligence and organisational skills. Depending on the type of activities engaged in during work times, work itself can be an important part of physical and intellectual exercise for children. Seen from this perspective, work can bring benefits both to the child and to the community at large.

70. To this end, the Committee welcomes the enactment of domestic laws that place a responsibility upon individuals, including children, to participate in the protection of the environment. Several countries on the continent have many such service-oriented activities in place for children to engage in and contribute towards community building. From a child rights perspective, the responsibility of the child to serve the national community is instrumental to reinforcing other rights contained in the Charter. Examples include the right to education and to life, survival and development.

#### **4.3 Responsibility to preserve and strengthen social and national solidarity: Article 31(c)**

71. Solidarity is built on a sense of a shared humanity by all, and underscores the idea of communality and the interdependence of members of a group community. It is a notion founded on the understanding that every individual is an extension of others, and is a central theme in African philosophy. It is a philosophy founded on the capacity ‘to express compassion, reciprocity, dignity, humanity and mutuality in the interests of building and maintaining communities with justice and mutual caring.’<sup>3</sup> Groups and nations thrive or sustained themselves based on a common sense of humanity, common interests, objectives and standards; such standards promoting a sense of belonging

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3 JK Khomba, ‘Redesigning the Balanced Scorecard Model: An African Perspective’, Unpublished PhD Thesis, University of Pretoria, 2011, 126-130.

and instil a sense of pride in all the people, including children. Solidarity is therefore an important tool for influencing the day-to-day functioning of African societies and States. It underscores the fact that everyone, including children, has to play a part in nation building, in setting and upholding a national agenda or social or national values, and generally contributing to the normal functioning of the society.

72. Children's responsibility to preserve and to strengthen national solidarity is clearly related to children's participation rights, including their right to freedom of expression and freedom of association among others. Thus, this responsibility should be viewed as one which reinforces children's rights generally provided in the Charter while also helping to establish a balance with the rights of other children, adults, communities and the nation as a whole.

73. There are negative and positive obligations relating to this responsibility, whether to 'preserve' or to 'strengthen'. On the responsibility to preserve national solidarity, the negative side, it requires abstaining from tampering with the status quo by not destroying or invading on the existing solidarity. In other words, abstaining from actions or attitudes that are incompatible with national solidarity. On the positive side, the duty to strengthen national solidarity may require taking positive actions towards building over and above the level of solidarity already existing within the State or other group or at least, taking steps to maintain the level of solidarity already existing therein. Overall, the child's responsibility includes contributing as much as is possible towards the promotion of a society based on respect, dignity, humanness and other positive values that add to its integrity – such values as are central to bringing about national solidarity and social cohesion.

74. The responsibility to preserve and strengthen social and national solidarity must be interpreted in line with the four general principles underpinning the Charter, along with the other rights contained therein. The principle of non-discrimination set out in Article 3 of the Charter is of particular relevance to the preservation and strengthening of national solidarity. As with adults, children

should be discouraged from actions that amount to discrimination against other children as such would erode a sense of solidarity and is inconsistent with the Charter.

75. In as much as there is a responsibility for children to preserve and to strengthen national solidarity, there are obligations that rest upon parents and the State to assist them in discharging it. Parents, communities and the State as a whole have greater roles to play in bringing children to understand their responsibilities and by creating institutions or opportunities for them to participate actively in discharging their responsibilities in this regard. When confronted with the need to develop an inclusive political agenda, for example, and its relation to building national solidarity, children may be asked to participate by giving their views on government policies and decisions. Decision-making bodies should be made accessible enough for children to make inputs in national solidarity building processes.

#### **4.4 Responsibility to preserve and strengthen African cultural values: Article 31(d)**

76. In interpreting ‘African (cultural) values’ as contained in Article 31, care must be taken to ensure interpretations that are not inconsistent with the values that are generally accepted to be positive to the society. Again, as far as children are concerned, the African Children’s Charter is the standard against which all actions must be evaluated and judged. Article 31(d) therefore outlaws the possibility of perpetuating harmful practices against children in the guise of ‘responsibilities’. Examples include practices such as female genital cutting, early marriage and other practices that are inconsistent with the Charter.

77. The phrasing of the responsibility to preserve and strengthen African cultural values is quite significant in that reference is made to the values underpinning how the responsibility should be performed or fulfilled: ‘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’. The concepts of “tolerance”, “dialogue”, and “consultation” are

values in themselves, and they provide a picture of the African values that the child must seek to preserve, strengthen and promote in seeking the well-being of the society. Tolerance refers to the need to accommodate diversity among the heterogeneous members or groups of the African society. Reference to “dialogue” entails non-confrontational forms of discussion with the pursuit of mutual understanding as the ultimate goal. Lastly, the word “consultation” as used in Article 31 suggests the need to apply a participatory and inclusive approach in engaging with others.

78. Consequently, in the fulfilment of their responsibility to preserve and strengthen African cultural values in relation to other members of society, and with a view to fostering tolerance, dialogue and consultation, children should be taught and encouraged to avoid xenophobic, discriminatory and disrespectful attitudes and practices in all settings, as they detract from the moral well-being of society. In particular, they need to take active steps to combat xenophobic behaviour at all times and in all settings, including within the family, in schools, in the community and within the larger society.

79. The call to preserve positive African cultural values and to contribute towards the moral well-being of the society requires, first, that the child knows and understands the values and moral norms of the society. This places an obligation on the society, including the family and the State, to educate children about those positive values and to prepare them to understand their role in carrying out the responsibilities towards society in this regard. Measures taken in this regard should be inclusive of the voice or participation of the child taking into account their evolving capacities.

80. Preservation entails maintaining what already exists and taking necessary steps to ensure the continued existence of a particular reality. Thus, the child is called upon to act in a manner that ensures the continuity of these values and to refrain from acts that may lead to their erosion. This responsibility also requires children taking responsibility to share with and disseminate to others such values as have been instilled in them or that they learned from

their own communities and society. This will contribute towards creating and maintaining environments that are respectful of the rights of all and that are conducive for the protection of the rights of all.

#### **4.5 Responsibility to preserve and strengthen the independence and the integrity of the country: Article 31(e)**

81. The child's responsibility to preserve and strengthen the independence and the integrity of the country has both negative and positive dimensions in terms of what is required. These positive and negative elements are linked to the position of the child as a member of the community or a citizen of the country who is responsible to protect it from disintegration and instability. Ideally, the values of tolerance and mutual understanding, which are necessary for peaceful co-existence in any country, are imbibed from the family environment. The Committee therefore reiterates the role of the family as the fundamental group of society and the natural and best environment for the proper growth and harmonious development of the child.
82. The preservation of national integrity includes the responsibility of the child to refrain from committing acts that disturb, destroy or negatively impact on the independence and integrity of the country. For example, children must not commit offences against the constitutional order of a State, including acts of treason, acts of incivility or other public offences that will disrupt or disturb the prevalence of peace, and the continued independence and integrity of the country in which they are citizens or resident. On the positive side, the responsibility to preserve and strengthen the independence and integrity of the country requires that the child acts proactively towards the achievement of these goals.
83. It is important to stress that this responsibility must be interpreted in light of the limitations imposed by the Charter, as it does not permit any action or involvement that is prohibited by the Charter for being contrary to the protection of the rights and welfare of the child. For example, in the context of armed conflict, Article 31(e) does not permit the enrolment of children

in regular armed forces or other armed groups. In other words, children are prohibited from wilfully enrolling in regular armed forces or other armed groups, and States' armed forces or other armed groups are prohibited from recruiting or using children directly or indirectly in hostilities or armed conflicts. Thus, the responsibility of the child in terms of the preservation of the independence and integrity of the country does not include the involvement of children in armed conflict, a practice that is outlawed by Article 22 of the African Children's Charter.

#### **4.6 Responsibility to contribute to the promotion and achievement of African Unity: Article 31(f)**

84. As a continental entity, the African Union has a vision of an 'integrated, prosperous and peaceful Africa, driven by its own citizens and representing a dynamic force in global arena.'<sup>4</sup> The goal is to ensure greater unity, solidarity and integration among the various African countries and citizens, and to defend the independence, sovereignty and territorial integrity of the Member States. The ultimate objective is the development of a politically and socio-economically viable continent that can hold its own among the other continents of the world. Thus the incorporation in the African Children's Charter of the responsibility of the child to contribute to the promotion and achievement of African Unity is a reflection of this 'African dream'.

85. The achievement of these objectives can only be made possible with the commitment of all individual citizens and countries in a continent with a largely common colonial history and similar contemporary challenges. It is therefore important that children are taught these values, and are required to play a role, to the best of their abilities and at various levels, in ensuring the cohesion of the continent. A shared sense of history and a common heritage are important tools for galvanising future generations into positive action for the emergence of a richer, stronger and better continent. This is particularly significant in a continent where past experiences reveal a picture of division

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4 'Vision of the African Union', available at < <http://www.au.int/en/about/vision> >.

among communities leading to the breakdown of cultural, socio-economic and political ties among various African peoples.

86. The responsibility of children to contribute to the promotion and achievement of African unity is underscored by a requirement to do so *to the best of their abilities*. This reiterates the understanding of the evolving capacities of children and that there are clearly established limits, as provided by the various Charter provisions, beyond which children cannot be expected, and must not be coerced to go, in the exercise of this responsibility. In order to properly handle this responsibility, States are required to provide adequate support to children by designing appropriate interventions, strategies, plans of action and legislation, which allow children to meaningfully take part in activities leading to greater unity and solidarity among countries of the African continent.

87. The requirement for children to contribute “at all times” and “at all levels” implies a progressively widening scope for the participation of children in the efforts to contribute towards African Unity. Consequently, this duty recognises children’s right to participate, at various levels, with age-appropriate means, through structures and platforms that are concerned with the creation of greater unity and solidarity among African States and peoples. It is therefore not out of place for children to be supported and prepared to participate, to the best of their abilities, in the various structures and bodies of the African Union, including the regional economic communities. Similarly, children should be called upon to participate in national structures or institutions concerned with the creation of unity and solidarity within the continent.

## **5. The Role of the State in the implementation of Article 31**

88. A survey of child laws in countries across the continent reveal that many States have provisions which either speak of the duties or responsibilities of the child. This is a laudable progressive development showing steps by States Parties towards compliance with the African Charter on the Rights and Welfare of the Child, specifically on Article 31.

89. The Committee welcomes the initiative of such States in including provisions capturing duties or responsibilities of the child within their domestic legislation, whether in child-specific laws or in more generic laws, provided that they are in line with the Charter.
90. The Committee underscores the importance of incorporating provisions capturing responsibilities of the child as an obligation under the African Children's Charter. This entails the need for States to first, take legislative steps including by enacting new laws and undertaking systematic review of existing domestic laws to ensure that these are in harmony with the Charter, with regards to both responsibilities and rights of the child.
91. States must ensure that domestic laws placing responsibilities on the child include express provisions to the effect that children's rights are not to be limited or restricted on account of their responsibilities. These provisions must clearly highlight that the failure of a child to perform the expected responsibilities does not limit or preclude the child from enjoying any of his or her rights.
92. The implementation of Article 31 at national level requires States to take additional steps beyond the enactment of laws. To this end, the Committee strongly recommends that State Parties, in conjunction with non-state actors including civil society organizations, disseminate the responsibilities of the child as contained in domestic laws and international standards which do not contravene the provisions of the African Children's Charter. Some examples of key forums where dissemination can take place include community settings, family-based institutions and government bodies dealing with children's matters.
93. Academic institutions, the judiciary, social workers and care-givers need to be informed about the importance of ensuring that children understand their responsibilities with a clear understanding of the fact that the enjoyment of their rights is not conditional on the fulfilment of their responsibilities. Children themselves can be instrumental in disseminating information

pertaining to their responsibilities to other children and stakeholders working with and/or for them.

94. States shall assist parents and other caregivers of children in their responsibility to help them understand their responsibilities as contained in the African Children's Charter and in other relevant instruments. To this end, States must ensure that the educational system, starting from the early stages until later stages, are required to educate children about their responsibilities towards the family, the community, the nation, continent, and the international community at large.
95. Additionally, States must develop and put in place some indicators to monitor the extent to which the provisions of Article 31 are being put into effect at the domestic level, and to ensure compliance with or conformity to the African Children's Charter as a whole.

## **6. The Role of other stakeholders in the implementation of Article 31**

96. While the Charter places responsibilities upon children, it also places responsibilities on other stakeholders in the exercise of the responsibilities placed on children.
97. State Parties have the primary duty to ensure the enjoyment of the rights protected in the African Children's Charter, and States must also ensure that children comply with their responsibilities under the Charter. However, other stakeholders are called upon to support the State in ensuring the proper implementation of the rights of the child and in the exercise of the child's responsibilities. The promotion and protection of all children's rights and responsibilities is a collective duty.
98. The Committee reiterates the importance of the role of the family and the community as institutions directly involved in the upbringing of children. They are the first institutions where children are brought up and raised up to adulthood. They are environments within which the child is first exposed to

socialisation and where children learn about their responsibilities before they become adults and assume responsibilities as part of the larger society.

## **7. General recommendations on dissemination and reporting**

99. The Committee recommends to State Parties, in collaboration with non-State actors, including civil society organisations and the private sector, to widely disseminate this General Comment. Dissemination should primarily target those who have responsibilities to provide care for and ensure the proper growth and development of children. It should also target children themselves as bearers of responsibilities provided under the Charter. Dissemination should also cut across children's parliaments and the various child participation mechanisms put in place by various States Parties and bodies. Others include schools, as well as religious and cultural organisations, and the media, which all play a role in educating and informing children.
100. The Committee further recommends to State Parties to the Charter to provide the Committee with information on the implementation of this provision of the Charter and the challenges they face in the course of implementation as well as the measures put in place to promote the dissemination of this General Comment. It is expected that such information will be provided in States Parties periodic reports to the Committee.



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