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CONTINUITY OF CHILD PROTECTION BY THE AFRICAN CHILDREN'S COMMITTEE: BEYOND 18 YEARS?

This contribution explores the intersection of child protection and young adulthood, focusing on the African Children's Charter's definition of a child as anyone under 18. It delves into Erik Erikson's Psychosocial Development theory, specifically the sixth stage, to gain insight into the challenges of transitioning from childhood to adulthood. It then examines the African Children's Charter and the African Children's Committee's jurisprudence, analysing communications, General Comments, and a landmark South African court decision. Furthermore, it scrutinises African Union initiatives, such as Agendas 2063 and 2040, to understand their implications for child protection beyond the age of 18. Ultimately, the paper concludes with recommendations on how to address the ongoing vulnerability of young adults and ensure their protection and well-being.

Keywords: continuity, institutional, jurisprudential, normative, psychosocial.

1. INTRODUCTION

The African Charter on the Rights and Welfare of the Child (African Children's Charter) provides a robust normative framework for promoting and protecting the rights of children in Africa (Mezmur, 2019). As a forward-looking legal instrument, the African Children's Charter goes beyond merely codifying children's rights to taking a context-specific approach to child rights, explicitly considering the unique realities faced by African children (Lloyd, 2002). She highlights the African Children's Charter's context-specific approaches to addressing unique challenges faced by children in Africa. Specifically, the Charter prohibits harmful practices, such as child marriage and female genital mutilation (Lloyd, 2002; OAU, 1990). This approach recognises the need for long-term, evolving solutions to address the complex challenges faced by African children, such as harmful traditional practices, armed conflict, and child labour, to mention but a few (Nanima, 2021).

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A key feature of the African Children's Charter is its preventive and promotional mandate as far as it requires states to take preventative actions against child abuse and neglect (OAU, 1990, Article 16). The African Children's Committee monitors compliance and guides states on emerging threats to the promotion and protection of the rights of the child (OAU, 1990, Articles 32 and 42(b)). This proactive approach ensures that the Charter remains relevant and effective in addressing emerging child protection challenges in Africa (OAU, 1990).

Furthermore, the African Children's Charter incorporates the rights to life, survival, and development, ensuring that child protection extends beyond immediate violations to encompass long-term rehabilitation, empowerment, and inclusion (OAU, 1990, article 5). This holistic approach acknowledges the importance of addressing the long-term development needs of African children, encompassing education, birth registration, and access to social services, among others.

The African Children's Charter also acknowledges the lived realities of African children, recognising context-specific vulnerabilities such as harmful traditional practices, armed conflict, and gender-based violence (OAU, 1990, preamble; Mezmur, 2020). Furthermore, the Charter is not merely reactive but also preventive, calling for state action to halt violations before they occur (OAU, 1990, Articles 32 and 42(b)). The African Children's Charter emphasises the four fundamental principles of child rights, including the best interests of the child (OAU, 1990, Article 4), the right to life, survival, and development (OAU, 1990, Article 5), non-discrimination (OAU, 1990, Article 3), and the right to participation (OAU, 1990, Articles 4(2) and 7). The Charter's emphasis on preventive measures aligns with its broader goal of safeguarding children before violations occur. Overall, the African Children's Charter provides a critical framework for promoting and protecting the rights of children in Africa (Johnson & Sloth-Nielsen, 2020).

Ultimately, the African Children's Charter has a significant influence on future policy agendas, including the African Union's Agenda 2063 for Africa's Development (African Union, 2013; ACERWC, 2015d). These plans use the Charter as a foundation to ensure that children's rights remain central to Africa's long-term growth and stability. By recognising the importance of children's rights in achieving Africa's development goals, the African Children's Charter continues to play a vital role in promoting and protecting the rights of children across the continent.

Considering the previous conversation, it is essential to reflect on what can be done for individuals who have reached the age of majority, transitioning from childhood to adulthood. This situation is made more challenging by their need for support and protection of their identity, particularly concerning their experiences or actions before their 18th birthday. To this end, this paper examines the institutional, theoretical, normative, and jurisprudential approaches to continuity, with a focus on the African Children's Committee. It explores the role of the African Committee of Experts on the Rights and Welfare of the Child (African Children's Committee) in monitoring child rights, as well as theoretical justifications derived from developmental psychology and human rights theory, alongside the legal foundations under key articles of the African Children's Charter and its General Comments. A jurisprudential analysis of both African and international case law further

informs this discussion. The paper also contextualises this debate within Agenda 2063 and Agenda 2040, evaluating long-term protection strategies. It advocates for context-specific protections beyond the age of 18, urging African states and the African Committee on the Rights of the Child to adopt flexible, needs-based approaches for vulnerable youth.

This article centres exclusively on victims, specifically individuals requiring legal protection, and explores the scope of protection afforded to children under the African human rights system from childhood to adulthood (Finkelhor *et al.*, 2005; Chan, 2019). The focus highlights situations where legal protection remains crucial, even after a child reaches the age of majority, due to ongoing vulnerability stemming from prior victimisation. The analysis extends beyond instances of law violation to include potential failures of the law to provide adequate protection, underscoring the continued need for legal safeguards beyond the perpetrator-victim dichotomy.

The principle of continuity in child protection The principle of continuity in international law can be seen in different contexts. First is the notion of continuing violations, which are deemed to be ongoing due to their lasting impacts on individuals (ACHPR, 2005). Continuing violations go beyond a singular point in time, extending over a duration (Yamamoto, 2011). In *Velásquez v. Honduras*, the Inter-American Court gives examples like the persistent denial of property access, the ongoing non-enforcement of court rulings, or the lack of legislative action mandated by the international or regional instruments (IACHR, 1988). In *Zitha and Zitha*, the African Commission on Human and Peoples' Rights notes that this differs from instantaneous acts, which do not last over time, even though completing such an act might require some duration (ACHPR, 2008). A continuing violation, on the other hand, occurs and remains in effect until it is halted. The former United Nations Special Rapporteur on Torture stated that considering 'disappearances' as an ongoing offence makes sense, since neglecting to recognise detention and not revealing the fate or location of detainees are essential parts of the offence itself (IACHR, 2005).

Another context is where a state's obligations are expected to endure, irrespective of changes in circumstances or governments. This perspective underscores that states remain responsible for upholding their commitments under international law and that their obligations do not terminate due to shifts in their internal or external situations (Altıparmak, 1999). Consequently, a state may be held accountable for continuing violations, even if the initial breach occurred years earlier.

A third and particularly vital context is the protection of children's rights, where the principle of continuity ensures that children who have received specific protection or promotion of their rights do not abruptly lose these safeguards upon reaching the age of majority (Centre for Child Law, 2019). Instead, the protection and advancement of their rights should persist, ensuring a smoother transition and ongoing support as they enter adulthood. Consequently, there exists potential for retroactive application: in some instances, new laws or treaties may be applied retroactively to address continuing violations. This contribution centres on the third aspect of continuity, specifically examining the extent to which the promotion and protection of children's rights should continue beyond the age of majority (Centre for Child Law, 2019). This paper delves into this issue in depth as far as the concept of continuing violations underscores the importance of accountability

and the necessity for states to address ongoing breaches of international law. To this end, the African Charter on the Rights and Welfare of the Child is dedicated to promoting and protecting the rights of children. However, the Charter's definition of a child as someone below the age of 18 raises questions about whether protection ceases when a child turns 18.

2. CONTEXTUALISING ERIK ERIKSON'S PSYCHOSOCIAL DEVELOPMENT THEORY

By design, this contribution draws on the psychosocial development theory to add voice to the discussion on the need for continuity in the promotion and protection of the rights of individuals who transition to adulthood, but due to circumstances that render them victims or perpetrators, there is a need to consider the extension of that protection. This analysis will enhance our understanding of why it is important to maintain protective measures for individuals as they transition into adulthood. By delving into this theoretical framework, it is hoped that one will better comprehend the necessity of ongoing protection beyond childhood and challenge the assumptions that limit current protective measures. The discussion below introduces the said theory that emphasises the importance of safeguarding individual rights throughout this transition.

Central to the study are two fundamental research questions. The first asks whether the African Children's Charter protects children beyond the age of 18. The second examines how the African Children's Committee interprets and applies the principle of continuity of protection in cases where a child is victimised by a perpetrator. The first question examines the extent to which the Charter's provisions safeguard the rights and welfare of individuals transitioning from childhood to adulthood. The second aims to understand the African Children's Committee's strategy for maintaining protection for children in situations where violations persist or where existing monitoring and legal frameworks are inadequate.

2.1. Why Erik Erikson's Psychosocial Development Theory?

This theory aligns with the child rights-based approach, which considers the child's overall well-being and growth. This is exacerbated by its engagement with the eight stages of development, which reflect the centrality of the child rights-based approach and the needs presented by children as they transition into adulthood (Erikson, 1950; Erikson, 1963). In addition, Erikson's theory is relevant to the child rights-based approach in its emphasis on the role of social and cultural factors in shaping human development (Erikson, 1950; Erikson, 1963). This helps one to appreciate the vulnerabilities and strengths of individuals at different stages of development, from childhood to adulthood. Recognising the vulnerabilities and strengths of children at different stages of development, it provides a valuable framework for understanding the child rights-based approach. This emphasises the importance of meeting a child's physical, emotional, and psychological needs at every stage of development, aligning with the principle of the best interests of the child (Erikson, 1950; Erikson, 1963).

2.2. Overview of the Psychosocial Development Theory

This theory suggests that young adults aged 18 to 21 remain in stages of identity formation, with the first stage elucidating aspects of trust vs. mistrust, which occurs from birth to one year. The second stage of autonomy vs shame and doubt follows this, and toddlers explore independence and cultivate autonomy or feel shame and doubt if faced with restrictions (Erikson, 1950; Erikson, 1963). The third stage is the initiative vs guilt stage, which occurs between three and six years, where children take on responsibilities and develop initiative (Erikson, 1950; Erikson, 1963). The fourth stage, from six to twelve years, is identified as the industry vs inferiority stage, where there is a cultivation of skills and competence, resulting in a sense of industry or feeling inferiority from failure (Erikson, 1950; Erikson, 1963). The fifth stage is the identity vs. role confusion stage, which typically occurs during adolescence, from approximately twelve to eighteen years. Children explore their identities and shape a sense of self, or they may undergo an experience of role confusion (Erikson, 1950; Erikson, 1963). The first five stages squarely fit within the ambit of the normative bounds of promoting and protecting the rights of the child in the context of the added value and the use of a child rights-based approach (Mezmur, 2017).

The sixth stage, which forms the space of entry and engagement for this conversation, is the intimacy vs. isolation stage, which lasts from 18 to 40 years (Erikson, 1950; Erikson, 1963). The seventh stage, known as generativity versus stagnation, occurs between the ages of forty and sixty-five. During this period, adults can either contribute meaningfully to society and foster generativity, or experience stagnation when they feel unfulfilled (Erikson, 1950; Erikson, 1963). Finally, the eighth stage presents the entry into the integrity vs. despair stage after 65 years. In this stage, older adults reflect on their lives and develop integrity or feel despair if regretful (Erikson, 1950; Erikson, 1963).

2.3. Centrality of the sixth stage to this study

This stage illustrates that protection is not only for the well-being of the child but also an acknowledgement that, as a young adult, one is still developing the skills and resilience needed to navigate adulthood. Furthermore, considering the complexities of modern society, including the impact of technology and social media, it's essential to recognise that young adults may require ongoing support and protection to ensure their safety and well-being. This is in line with the AU Youth Charter, which advocates for protecting the youth (African Union, 2006). Under Article 46 of the African Children's Charter, human rights instruments adopted by member states of the African Union may be applied in ensuring the promotion and protection of children who are transitioning to adulthood (African Union, 2006). Notably, the African Youth Charter complements the African Charter on the Rights and Welfare of the Child, providing a continuum of protection and support from childhood to young adulthood. By tagging protection to a demographic group of persons from 15 to 35, the Charter ensures young people receive the support and care they need to thrive, even after reaching the age of 18.

The shortcoming of the Psychosocial theory is that the sixth stage extends to a large group of individuals (from 18 to 40 years), and as such, one cannot generalise to the small

group of 18- 21 years. Other theories may bridge this gap, such as the Human Rights Theory, which emphasises the concept of continuity of vulnerabilities, highlighting that individuals do not suddenly cease to be at risk simply because they turn 18 (UNICEF, 2020). In addition, the principles of intersectionality suggest young adults may encounter systemic challenges that intersect with their age, gender, and other factors, necessitating ongoing legal protection (Crenshaw, 2019).

3. THE NORMATIVE APPROACH: LEGAL BASIS FOR THE PRINCIPLE OF CONTINUITY

The African Children's Charter highlights the scope of protection afforded to individuals as far as it emphasises the obligation of states to implement the African Children's Charter in national laws (OAU, 1990). As indicated earlier, the African Children's Charter also employs a child rights-based approach that inculcates the four principles of non-discrimination, the best interests of the child, the right to life, survival and development, and consideration of the views of the child (OAU, 1990). Other articles that offer normative guidance posit the need for promotion and protection in various spaces such as identity and nationality (OAU, 1990, Articles 6 and 7), protection of children affected by armed conflict (OAU, 1990, Article 22), from harmful cultural practices, and refugee children (OAU, 1990, Article 21). The common denominator in the provisions above is the word 'child'. Who a 'child' is may give a sense of direction.

The African Charter on the Rights and Welfare of the Child defines a child as a person below the age of 18 (OAU, 1990, Article 1). This provision creates the bounds of the subject supposed to benefit from the promotion and protection of rights under the African Children's Charter (OAU, 1990, Article 2; Chirwa & Bakta, 2024). It is suggested that this is one of the most important provisions of the treaty as far as it defines the subject to which rights and duties enshrined in it apply as far as, without a subject, rights and duties (in an instrument) neither have meaning nor relevance (Chirwa & Bakta, 2024). Once the subject is identified, the rights of that subject as a child or an individual should be implemented with qualifications that are consistent and equal without any form of discrimination (Chirwa & Bakta, 2024). For this conversation, the question remains whether the African Children's Charter extends this protection to individuals beyond 18 years. A response that looks at the two ends of the spectrum, with childhood on one end and adulthood on the other.

The bigger question would be whether extending the application from children as persons below 18 to young adults as persons from 18 years onwards would not be ultra vires and incompatible with the objectives of the African Children's Charter. This question is raised on the bounds of the fact that the parties to the African Children's Charter ratified it from the perspective that promotion and protection of the rights of the definite subjects would be children as defined in Article 2. It is argued in the interim that an attempt to extend protection to the person above the age of 18 would be against the bounds of the African Children's Charter, as far as it would violate the definition of a child. If this issue is attended to from the perspective of childhood a definition of childhood would point to a timeline where one lacks capacities skills and powers of adulthood and considers this

position as a deficit and presupposes that a transitory state of being that is not yet full or complete might be requires protection (Archad, 2015). Although the general perspective seems to be that the direct promotion and protection of the rights would end at the attainment of the age of 18, no hard and fast rule requires that protection should stop a state, community or individual from continuing such protection. It is therefore argued that a look at the working methods of the African Children's Committee and how it has dealt with the definition of childhood would be instructive in ascertaining its spirit regarding any possible expansive implementation of protection to a person who is above the age of 18 and not a child.

4. THE JURISPRUDENTIAL APPROACH: CASE LAW AND LEGAL PRECEDENTS ON CONTINUITY OF PROTECTION

This section looks at the current decisions from the African Children's Charter, selected General Comments and an evaluation of a specific decision from South Africa that is instructive in this regard. The paper now turns.

4.1. An evaluation of communications from the African Children's Charter

While the binding nature of the decision is beyond the scope of this paper, it is acknowledged by the African Children's Committee that by ratifying the African Children's Charter, states parties automatically accept the competence of the Committee to receive and consider individual and inter-state communications (Viljoen, 2012).

As of February 1, 2025, the African Children's Committee had received twenty-three communications, and eleven had been concluded on their merits (ACERWC, 2024). Out of the eleven concluded communications, three are not in English, and by design, the author elects not to include them in this analysis. These include *The Institute for Human Rights and Development in Africa (IHRDA) against the Republic of Burundi*, *APDF and IHRDA on behalf of AS (a minor) against the Republic of Mali* (ACERWC, 2020a) and *Taha Fadul, Nisreen Mustafa, Somia Shampaty and Nawras Elfatih on behalf of Abbas Mohamed AL-Nour Musa Al-Emam, Modathir Alrayah Mohamed Badawi and Fadoul Almoula Aljaili Nourallah* (ACERWC, 2020b).

Out of the remaining eight communications, the author takes a doctrinal approach and identifies communications which have a perpetrator or a victim who was below the age of 18 and at the time of filing the communication had transitioned to adulthood. In line with this position, the author looked at communications that were filed on behalf of a specific and large group of children in a given state. Four communications matched this criterion because they entailed general child populations, and it was established that there was no mention of support to children who subsequently turn into adults (ACERWC, 2024). These include, the *Institute For Human Rights And Development In Africa (IHRDA) And Open Society Justice Initiative On Behalf Of Children Of Nubian Descent In Kenya v The Government* (ACERWC, 2009), *Legal And Human Rights Centre And Centre For Reproductive Rights (On Behalf Of Tanzanian Girls) v The United Republic Of Tanzania* (ACERWC, 2019) and *Hansungule & Others (on behalf of Children in Northern Uganda)*

v Uganda, (ACERWC, 2005). The same position extended to two amicable settlements in the communications against Malawi and Sudan, as these were about the affected child population in the territories of the said states (Nanima, 2023). These two communications are *Expedite Justice, The Al Khatim Adlan Centre for Enlightenment and Human Development, The International Refugee Rights Initiative, African Centre for Justice and Peace Studies, Horn of Africa Civil Society Forum and National Human Rights Monitors Organization v Sudan*, Communication No: 0011/Com/001/2018 (ACERWC, 2018) and the *Institute for Human Rights and Development in Africa v Malawi* Communication No. 004/Com/001/2014 (ACERWC, 2014).

This leaves four communications, out of which three communications all involved children or persons below the age of 18 as the complainants. The three communications include *Sudan African Centre for Justice and Peace Studies (ACJPS) on behalf of Ms. Umjumah Osman Mohamed against the Republic of the Sudan*, (ACERWC, 2020c), *Minority Rights Group International And SOS-Esclaves On Behalf Of Said Ould Salem And Yarg Ould Salem v The Republic Of Mauritania* (ACERWC, 2015a) and the *Institute For Human Right And Development In Africa And Finders Group Initiative On Behalf Of TFA (A Minor) v The Government Of Republic Of Cameroon* (ACERWC, 2015b). There is only one communication which involves a child-turned-adult who is a victim (and not a perpetrator). This is in the *African Centre Of Justice And Peace Studies (ACJPS) And People's Legal Aid Centre (PLACE) v The Government Of Republic Of Sudan* (ACERWC, 2015c).

In the *Sudan communication*, a critical issue arose regarding the nationality of children whose parents originated from areas that were re-designated as part of South Sudan (ACERWC, 2015c). Despite their parents' desire to maintain their Sudanese nationality, they were denied this status, resulting in their children also being deprived of Sudanese nationality. At the time of filing in 2015, the complainant, born in 1994, was 21 years old. Furthermore, at the handing down of the final recommendations of the African Children's Charter, the Complainant was 24 years old (ACERWC, 2015c, para 10 and 105F). Although the complainant had reached adulthood, the African Children's Committee chose to examine the case in detail, recognising its potential to set a precedent and inform the experiences of children in similar situations in the future. However, the Committee's decision was notably silent on continued protection for child victims, particularly in cases involving perpetrators (ACERWC, 2015c). To address this gap, it is necessary to consult other working methods and guidelines of the African Children's Committee, which may provide further guidance on ensuring continuity of protection for vulnerable children.

4.2. An evaluation of selected General Comments

The African Children's Charter has demonstrated adaptability to emerging issues through its jurisprudence, with its General Comments expanding interpretations of children's rights into new domains such as digital spaces and climate change. For example, General Comment 7 recognises online sexual exploitation as an evolving violation of children's rights that requires new legislative protections. It calls on states to take measures to protect children from sexual exploitation. To this end, it emphasises protecting the child as a victim rather than as a perpetrator. It is important to determine whether the General

Comments of the African Children's Charter underscore the need for continued protection of children's rights upon reaching 18 years of age. For instance, General Comment 7 highlights the necessity of protecting a child into adulthood, marking a transition into this phase of life. It calls on governments to develop multi-year, multi-sectoral national plans to combat child sexual exploitation and abuse (CSEA), both online and offline, incorporating input from children, civil society, and the private sector (General Comment, 7, 2003, para. 165).

This provision establishes a new level of protective continuity for a child who is a victim on one hand and the perpetrator on the other. First, the call for governments to develop integrated national plans to combat child sexual exploitation and abuse (CSEA), both online and offline, implies that protection measures may extend beyond childhood and into young adulthood.

Second, a multi-sectoral approach is essential to ensure the continuity of protection by fostering collaboration among the government, the private sector, civil society organisations, and the children themselves. This approach acknowledges that protection is a shared responsibility that extends beyond childhood and into young adulthood.

Third, the inclusion of children and young adults in the decision-making process is essential. Governments should consult with them and consider their perspectives when developing national plans. This acknowledges that children and young adults possess agency and should take part in decisions that affect their lives.

The joint General Comment on Female Genital Mutilation calls on states to use administrative measures that protect both the girl and the woman. The relevant provisions call on states to 'establish measures to provide support to girls and women who experience FGM' (General Comment Female Genital Mutilation, 2024, para. 43). This call to provide support to both girls and women indicates an intent to extend protection even after the girl transitions to womanhood. The General Comment also recognises that the effects of the vice may go beyond the childhood of an individual because 'FGM has serious and negative psychological effects on the affected women and girls' (General Comment Female Genital Mutilation, 2024, para. 47). This recognition by the Committee is an implicit way of calling for state parties and civil society to follow up on implementing the General Comment in a manner that ensures that children benefit from protection even when they transition to adulthood.

4.3. Revisiting Centre for Child Law and Others v Media 24 Limited and Others

South Africa offers an interesting court decision that is instructive on aspects of protecting the rights of the child beyond the attainment of the age of 18. In *Centre for Child Law and Others v Media 24 Limited and Others*, the applicants sought an order from the Constitutional Court to declare that section 154(3) was constitutionally invalid as it did not protect the identity of child victims in criminal proceedings (Centre for Child Law, 2019, paras 2-4). This application was on appeal from the Supreme Court of Appeal, which had dismissed an earlier appeal about ongoing anonymity protection to child participants once they turn 18 years of age.

The brief facts of the case are that in 1997, the second applicant, K.L. was taken from her biological parents whilst in the maternity ward at a hospital. She was raised by the

woman who abducted her, whom she understood to be her mother. In 2015, when K.L. was 17 years old, she was found by her biological parents. Her abductor was criminally charged and prosecuted, and K.L. was a potential, but unconfirmed, witness in the trial (Centre for Child Law, 2019, paras. 3-7). Concerned by the media attention, the CCL wrote to all major media houses and sought an undertaking that they would not reveal K.L.'s identity- something that was not done. This led to the filing of a case seeking an order of constitutional invalidity of section 154(3). The Constitutional Court was of the view that the section infringes the best interests of the child and their rights to privacy and dignity, in which limitations were neither reasonable nor justifiable (Centre for Child Law, 2019, paras. 3-7). It confirmed that section 154(3) was constitutionally invalid to the extent that it did not protect the identity of child victims in criminal proceedings. The Parliament was given 24 months to cure the defect. In the interim, a reading in to section 154(3) was made, and it provided that 'no person shall publish in any manner whatever any information which reveals or may reveal the identity of an accused person under the age of eighteen years or of a witness or a victim at or in criminal proceedings who is under the age of eighteen years' and that '(a)n accused person, a witness or victim referred to in subsection 3 does not forfeit the protections afforded by that subsection upon reaching the age of eighteen years but may consent to the publication of their identity after reaching the age of eighteen years, or if consent is refused their identity may be published at the discretion of a competent court' (Centre for Child Law, 2019, para. 6).

Three points may be discerned from the foregoing: First, there is a subjective analysis of the best interest of the child as a position that goes beyond 18 years, if it is importance to ensure that their best interest should be maintained upon attaining majority age and ensuring that a child as a victim or a perpetrator is protected by the Court by preventing re-traumatisation, stigma, and harm to their dignity and privacy. Second, the decision recognises that the transition from childhood to adulthood brings continued effects of childhood experiences that may persist into adulthood. In line with the principle of the right to life, survival and development, ongoing protection is necessary to promote the holistic development and well-being of young adults (Shonkoff *et al.*, 2012). Third, this decision emphasises the need for child protection policies and laws that prioritise the best interests of the child, the right to life, survival, and development, non-discrimination, and the right to participation.

The decision also aligns and redefines the Charter's emphasis on preventive measures that align with its broader goal of safeguarding children before violations occur (Johnson & Sloth-Neilsen, 2020). Furthermore, this decision has far-reaching implications, with a potential impact on child rights beyond South Africa. It is argued that the Constitutional Court's declaration that section 154(3) is constitutionally invalid reiterates the ability of one arm of government to prompt parliamentary reform to strengthen legislation related to child protection and identity rights. This is not the first time that decisions from South Africa have informed the development of international law. In *S v M*, Justice Albie Sachs stated children are not a mere extension of their parents, umbilically connected to swim or drown with them, but are persons distinct as rights holders with their own agency (SAFLII, 2007).

5. THE ROLE OF AGENDA 2063 AND AGENDA 2040 IN ENSURING CONTINUITY OF PROTECTION

Agenda 2063, a strategic framework for Africa's development, envisions "An Africa whose development is people-driven, relying on the potential of its youth and children" (African Union, 2013). The implementation of Agenda 2063, the African Union's strategic framework for long-term development, is a pivotal chance to emphasise child protection and empowerment in Africa's socioeconomic evolution (Ufomba, 2020). This development agenda envisions a thriving, united, and peaceful Africa, highlighting the importance of safeguarding and empowering children for the continent's future (Uwa & Iloh, 2022). By making child protection a core focus, Agenda 2063 recognises the need for an all-encompassing strategy that tackles the specific challenges and vulnerabilities that African children encounter.

In the context of implementing Agenda 2040, the African Children's Committee's strategic framework latches on to Agenda 2063 and offers a critical foundation for ensuring the continuity of protection for vulnerable children beyond the age of 18 (Nanima, 2050; African Union, 2013). As a framework that complements Agenda 2063, the emphasis of Agenda 2040 on continuity of protection beyond 18 years ensures that children transitioning into adulthood do not fall through the gaps; rather, they receive ongoing support and protection to navigate the challenges of young adulthood (ACERWC, 2015d). The effective implementation of Agenda 2040 requires a concerted effort to develop and strengthen protection mechanisms that cater to the unique needs of young adults, ensuring a seamless transition from childhood to adulthood. The engagement of children and youth in Agenda 2063's Aspiration 6 acknowledges that child protection efforts should not cease at the age of 18. The connection between child rights and youth engagement suggests that protections must extend into young adulthood, particularly for those facing ongoing risks, such as orphans, trafficking victims, and former child soldiers (ICTJ, 2025; African Union, 2013).

The institutional frameworks supporting post-18 protection, as called for in Agenda 2040, recognise the ongoing vulnerabilities of individuals transitioning out of childhood. An effective child-friendly national legislative, policy, and institutional framework must acknowledge the necessity for post-18 transitional support in areas such as education, legal identity, and social welfare (ACERWC, 2015d).

The prioritisation of birth registration in Agenda 2040 provides children with a legal identity that continues into adulthood. The emphasis on nutrition, health, and education acknowledges that ensuring well-being before the age of 18 is insufficient; long-term investments are essential (ACERWC, 2015d). If the goal is survival and well-being, then protections must extend beyond childhood, ensuring that young adults are not abandoned once they reach 18, particularly in areas such as education, healthcare, and legal identity protection.

6. CONCLUSION AND RECOMMENDATIONS

The African Children's Committee acknowledges that the effects of human rights violations can persist even after a child transitions into adulthood. While the African Children's Charter is not designed to explicitly provide for the promotion and protection of individuals beyond the age of 18, one is not precluded from offering implied protection through a nuanced and well-reasoned approach. This approach can be informed by emerging normative, jurisprudence and theoretical perspectives, as shown above. In practice, the African Children's Charter can imply protection for young adults through its application and development of jurisprudence. Specifically, in cases where a child is a victim or complainant and has experienced human rights violations, protection should extend beyond the age of 18. This is reiterated by the psychosocial theory that highlights the importance of continued protection for individuals who have experienced trauma or violations during childhood.

It is argued that the African Children's Committee can draw on persuasive jurisprudence, including domestic case law, to ensure that children who are perpetrators are protected beyond adulthood. Ultimately, the committee's efforts would be strengthened by embracing enforcement mechanisms that hold states accountable for their obligations under the charter.

Furthermore, from a jurisprudential perspective, there are encouraging signs that some African judicial systems and civil society organisations recognise the need for ongoing protection beyond the age of 18. While a direct normative position in the African Children's Charter is not possible, it is argued that implied engagement should be adopted as long as they speak to the added value of the African Children's Committee and the use of the child rights-based approach.

State parties should adopt integrated policies that address their comprehensive needs, which include the provision of targeted transitional support to young adults and strengthening capacity-building efforts among governments, civil society, and communities to promote holistic development. In addition, domestic jurisprudence should be used as a point of engagement to inform the organic development of protections of young adults who have transitioned from childhood. Governments should prioritise extended identity protection for child victims and witnesses beyond the age of 18. This is crucial to prevent re-traumatisation and stigmatisation.

State parties should also develop comprehensive child protection frameworks that cater to the unique needs of juvenile offenders turning 18. This can be achieved through the demonstration of the importance of providing access to education, vocational training, and psychosocial support to facilitate successful reintegration into society. Where the victimisation relates to vices like child trafficking, the provision of sustained assistance, such as counselling, education, and economic empowerment programs, to help survivors rebuild their lives and regain their dignity is encouraged. By implementing these measures, governments can ensure a seamless transition for children as they navigate young adulthood, safeguarding their well-being, dignity, and prospects.

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