

Editorial Introduction to the Special Issue: Evaluating the Sufficiency of the African Charter on the Rights and Welfare of the Child to Enable the Social, Economic and Cultural Rights of Children in Africa—National Experiences

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Since 2021, the Children’s Rights Unit at the Centre for Human Rights, Faculty of Law at the University of Pretoria (the Centre), has embarked on a series of publications, broadly anchored to intentionally provide a comparative overview and assessment of the implementation of the African Charter on the Rights and Welfare of the Child (the African Children’s Charter or the Charter). The University of Pretoria University Press published the first book of these planned series of publications in 2022.¹ The book is devoted to ten countries.² Each chapter reflects on the geo-political and socio-economic landscape relating to the general situation of children in the particular country. The chapters analyse the legislative, policy, administrative, judicial, and other measures undertaken by these countries in their respective jurisdictions to give effect to the Charter. This special issue of the South African Yearbook of International Law expands on the foundation set in the ten-country study to provide an in-depth evaluation of the sufficiency of the Charter to enable the proper implementation of the Children’s social, economic and cultural rights (SERs) in selected countries.

Twenty-four years, 29 November 1999, since the entry into force of the African Charter on the Rights and Welfare of the Child (African Children’s Charter), this special issue of the South African Yearbook of International Law is dedicated to spotlight selected states’ parties’ initiatives and measures taken, to, particularly, implement various children’s SERs, protected in the African Children’s Charter, at the national level. As elaborated further below, the collection of articles provides a succinct analysis of the

state of thematic children's rights issues in Cameroon, South Africa, Uganda and Zimbabwe. Further, the collection of articles also includes analyses on varied issues such as children's mental health, transgender children's access to education, homeschooling, migrant children's access to socio-economic amenities, rural children's access to education and the adequate domestication of SERs provisions of the African Children's Charter. This special issue and focus on the African Children's Charter is inspired by the near, comprehensive ratification of the African Children's Charter. From its adoption in 1990, this is the first time that the Africa Children's Committee and the broader children's rights community could certainly claim an African universal ratification of the Charter is possible and a couple of years away.

Indeed, to date, fifty out of fifty-five countries have ratified the African Children's Charter, demonstrating a growing commitment to the respect, protection and promotion of children's rights.³ Undoubtedly, the Charter has contributed immensely to developing standards and practices related to children in Africa. One of the areas in which the Charter has made this contribution is in relation to the SERs of children. The Charter approaches this category of rights in a manner that is distinguishable from that of global treaties, including the UN Convention on the Rights of the Child (UNCRC). Specifically, the Charter does not prescribe a different standard for the implementation of SERs based on the availability of resources. Instead, the Charter calls on state parties to take legislative and other measures to implement all its provisions.

This approach of the Charter has been lauded as one of its strengths, noting, in particular, the common misconception that SERs are necessarily more expensive to implement than other categories of rights. Given the passage of time (33 years) since the adoption of the Charter and twenty-four years since its entry into force and the numerous jurisprudential and academic interpretations thereof that have emerged during the period, it is imperative to review the contribution of the Charter to the area of children's rights in a national context, while also reflecting on emerging issues on SERs to which the Charter may need to respond in the future. Consequently, in April 2021, the Centre announced a call for papers to invite researchers across the continent to research and write on the State of the implementation of the SERs of children and to explore the sufficiency of the Charter to respond to emerging issues related to SERs.

The call for papers, understandably, attracted more than forty abstract submissions from researchers based in the continent and beyond. Of these, about fifteen abstracts were regionally focused, while the rest, approximately twenty-five abstracts, were country-specific. Because of the difference in focus, the Centre embarked on a two-way publication on the same issue with a different geographical focus—one with a regional focus and the other with a national focus. This special issue is based on the latter. Of the approximately twenty-five abstracts received to deep dive and provide a State-specific context of the sufficiency of the Charter to respond to emerging issues related to children's SERs. As indicated earlier, the articles included in this special issue are diverse and reflect on key issues that relate to children's SERs at the national level.

Without delving deeper into the content of every article included in the special issue, it is worth noting that one of the key takeaways from this special issue is the fact there is still much to be done at the regional, sub-regional and national levels for example, ensure a satisfactory domestication and implementation of the rights of education of children. The impact of COVID-19 (2020–2021) exposed several gaps within the implementation of children’s rights to education, as reflected in Article 11 of the African Children’s Charter. The gross challenges faced by children with disability, children with mental health, rural children, transgender and intersex children to access education is still apparent across the continent and highlighted in the countries mentioned in this special issue. Finally, the lessons drawn from this special issue include, for example, a call for state parties to the African Children’s Charter to pay particular attention to the aspirations in Agenda 2040. The agenda outlines and guides the attainment of specific child welfare and rights targets and aspirations that, if accurately implemented at the national levels, will massively improve children’s well-being in Africa by 2040.

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- 1 Elvis Fokala, Nkatha Murungi and Mai Aman (eds), *The Status of the Implementation of the African Children’s Charter: A Ten-Country Study* (Pretoria University Law Press 2022) <<https://www.pulp.up.ac.za/reports/the-status-of-the-implementation-of-the-african-children-s-charter-a-ten-country-study>> accessed 12 July 2023.
 - 2 These are Algeria, Burkina-Faso, Burundi, Cameroon, Ethiopia, Ghana, Mozambique, Namibia, Sudan, and Tanzania.
 - 3 A comprehensive list of state parties to the African Children’s Charter is available at <<https://www.acerwc.africa/en/member-states/ratifications>> accessed 11 July 2023.