



INSTITUTE FOR HUMAN RIGHTS AND DEVELOPMENT IN AFRICA (IHRDA)

Regional Workshop for Child Rights Actors in Eastern and Southern Africa on Transitional Justice and Children's Rights

Date: 18-19 April 2023

Venue: Gaborone, Botswana

Concept Note

1. Background

In May 2013, at the 50th Anniversary of the Organization of African Unity/African Union (OAU/AU) African leaders made a solemn declaration pledging not to pass on the burden of wars to the next generation of Africans and to end all wars by 2020.¹ Here we are in 2023! Wars continue and affect the generation that African leaders wanted to spare from the horrors of war.

Obviously the declaration to ban wars has not, to some extent, been followed by concrete actions in many African countries, as witnessed by the recurrent and emerging conflicts due to unconstitutional changes of governments by coups d'état, the ritual and truncated organization of non-credible and non-transparent elections, armed rebellions, terrorism, intolerant dictatorships, various forms of discrimination (particularly those based on ethnic and regional origins as well as religious beliefs), inequitable distribution of power and resources, patronage, manipulation of the army and the police forces and the judicial system, etc.

All or some of these drivers of wars and conflicts are observed in many African countries, including Eastern and Southern African regions where efforts to reconcile societies need to be scaled up. Conflicts in these two regions erode respect for fundamental rights and freedoms and negatively affect the enjoyment of human rights by vulnerable groups, especially children. In Somalia, for instance, the United Nations reports the recruitment and use of 1 161 children (1 161 boys, 45 girls), killing and maiming of 793 children (573 boys, 220 girls), 33 attacks on schools and hospitals, abduction of 1 030 children (933 boys, 97 girls), deprivation of liberty affecting 195 children (192 boys, 3 girls for their alleged association with armed groups), denial of humanitarian

¹ Solemn Declaration of the Fiftieth Anniversary of the OAU/AU/Decl.3 (XXI), page 5.

access and sexual violence against 307 children, including rape, attempted rape and forced marriage by armed groups, militias, police, defense and security forces (Al-Shabaab, government security forces, Somali Police Force, Somali National Army, National Intelligence and Security Agency, regional forces, clan militia).² Transitional justice mechanisms in Somalia could play an important role in protecting children from these types of human rights violations in the future.³

In South Sudan, the conflict in the region has resulted in the recruitment and use of 129 children, the killing and maiming of 37 children, the abduction of 11 children and denial of humanitarian access.⁴ Violations of children's rights in this region are mainly due to operations of security forces and militias such as the South Sudan People's Defense Forces, including forces loyal to General James Nando, the Sudan People's Liberation Movement/Army in Opposition-pro-Machar (SPLA-IO), the South Sudan National Police Service, forces loyal to General Moses Lokujo, the South Sudan Opposition Alliance (SSOA), the National Salvation Front (NAS).⁵ Similarly, four attacks were carried out on hospitals and schools by the Sudan People's Defence Forces and SPLA-IO affecting the right to health and education for many children in South Sudan.⁶ Rape and other forms of sexual violence were also perpetrated against 9 girls by the Sudan People's Defence Forces, SPLA-IO and NAS.⁷ The established transitional justice mechanisms: the Commission for Truth, Reconciliation and Healing (CTRH), the Hybrid Court for South Sudan (HCSS), the Compensation and Reparation Authority⁸ as well as other transitional justice mechanisms in the country will need to ensure that these violations that specifically affect children in armed conflicts are on their agenda.

² Report of the United Nations Secretary-General 'Children and Armed Conflict', UN Doc A/76/871-S/2022/493, 23 June 2022, paras 149-155. See also Committee on the Rights of the Child, Concluding Observations on the Initial Report of Somalia, UN Doc CRC/C/SOM/CO/1, 22 June 2022, para 68 (c), S Santino and E Spoldi 'Children in Armed Conflict: A Human Rights Crisis in Somalia' (2021) and Human Rights Watch 'No Place for Children. Child Recruitment, Forced Marriage and Attacks on Schools in Somalia' (2021), available at <http://www.hrw.org>, accessed on 30 January 2023.

³ A Smith 'Assessing the Scope and Parameters of Transitional Justice in Somalia' (2021) *Transitional Justice in Somalia* and M H Muhammed 'Future Possibilities for Transitional Justice in Somalia (2018) 7 (2) *Universitepark*.

⁴ Report of the United Nations Secretary-General 'Children and Armed Conflict (n2 above) paras 163, 164, 167 and 168. See also Committee on the Rights of the Child, Concluding Observations: South Sudan, UN Doc CRC/C/SSD/CO/27 October 2022, para 64.

⁵ Report of the United Nations Secretary-General 'Children and Armed Conflict (n2 above) para 163.

⁶ Report of the United Nations Secretary-General 'Children and Armed Conflict (n2 above) para 167.

⁷ Report of the United Nations Secretary-General 'Children and Armed Conflict (n2 above) para 165.

⁸ I S Magara 'Timing of Transitional Justice Mechanisms and the Implications for the South Sudan Peace Process' (2021) 9 (2) *Journal of British Academy* 9-33, K Logo 'Pushing Too Hard for Transitional Justice?: Lessons from South Sudan', available at cmi.no/publications/7748-pushing-too-hard-for-transitional-justice-lessons-from-south-sudan, accessed on 1 February 2023 and A Day 'The UN Security Council and Transitional Justice: South Sudan' (2020) *United Nations, University, Centre for Policy Research*.

In Sudan, children are recruited and used, killed or maimed, denied humanitarian access, abducted and subjected to rape and other forms of sexual violence by militia and government security forces such as the Sudan Liberation Movement/Army Transitional Council (SLM/A-TC), the Sudan Liberation Army-Abdul Wahid splinter group led by Ali Hamid “Shakush”, the Sudanese Alliance, Sudanese Armed Forces, Rapid Support Forces, the Sudan Police Force and other unidentified perpetrators.⁹ The United Nations Report on Children and Armed Conflict contains recommendations that require transitional authorities to strengthen the protection of children and to prevent all grave violations against children.¹⁰ In advocating for the implementation of the recommendations, stakeholders in the field of children’s rights must ensure the respect of children’s rights in transitional justice processes and that the non-repetition of violations are guaranteed.

In Ethiopia, as a result of the conflicts that have shaken the country since November 2020, a high number of grave violations have been committed against children by all parties to the conflict, including killing and maiming of children, abductions, rape and other forms of sexual violence, attacks on schools and hospitals and the recruitment and use of children.¹¹ Many children have also been separated from their families as a result of the conflict. UNICEF estimates over 6 000 unaccompanied or separated children and over 720 000 displaced children.¹² The established Ethiopian National Reconciliation Commission as well as other transitional justice mechanisms will need to ensure that these violations that specifically affect children in conflicts are addressed.

⁹ Report of the United Nations Secretary-General ‘Children and Armed Conflict (n2 above) Paras 174-181. The United Nations verified 202 grave violations against 195 children (137 boys, 57 girls, 1 sex unknown) in the Sudan, including one girl who was the victim of multiple violations. In addition, a total of 11 children (8 boys, 3 girls), some as young as 11, were verified as having being recruited and used, 166 children (128 boys, 37 girls, 1 sex unknown) were killed and maimed, rape and other forms of sexual violence were perpetrated against 17 children (1 boy, 16 girls), two attacks on schools and hospitals, abduction for sexual violence of one girl and five incidents of denial of humanitarian access were verified and reported by the United Nations.

¹⁰ Report of the United Nations Secretary-General ‘Children and Armed Conflict’ (n2 above) paras 182-187.

¹¹ Report of the United Nations Secretary-General ‘Children and Armed Conflict’ (n2 above) para 312. See also Africa News (2021), “*Children in Tigray deeply affected after six months of conflict*”, retrieved from: <https://www.africanews.com/2021/05/04/children-in-tigray-deeply-affected-after-six-months-of-conflict/>, accessed on 20/06/2022, Amnesty International (2022), “*Crimes against humanity in western Tigray zone*”, retrieved from: <https://www.amnesty.org/en/latest/news/2022/04/ethiopia-crimes-against-humanity-in-western-tigray-zone/>, accessed on 20/06/2022, Amnesty International (2021), “*Ethiopia: Tepid international response to Tigray conflict fuels horrific violations over past six months*”, retrieved from: <https://www.amnesty.org/en/latest/news/2021/05/ethiopia-tepid-international-response-to-tigray-conflict-fuels-horrific-violations-over-past-six-months/>, accessed on 02/07/2022, BBC News (2022), “*Ethiopia’s Tigray crisis: Why it’s hard getting aid into the region*”, retrieved from: <https://www.bbc.com/news/57929853>, accessed on 01/07/2022, Human Rights Watch (2022), “*‘We will erase you from this land’ Crimes Against Humanity and Ethnic Cleansing in Ethiopia’s Western Tigray Zone*”, retrieved from: <https://www.hrw.org/report/2022/04/06/we-will-erase-you-land/crimes-against-humanity-and-ethnic-cleansing-ethiopia>, accessed on 20/06/2022.

¹² Ibid.

Children were among the primary victims of South Africa's apartheid regime. Between 1984 and 1986, 300 children were killed by the police, 1 000 wounded, 11 000 detained without trial, 18 000 arrested on charges arising out of protest and 173 000 held awaiting trial in police custody.¹³ Although a Truth and Reconciliation Commission (TRC) was established to uncover as much as possible about the conflict in South Africa, it has been criticized for its limited focus on children's issues, lack of direct participation by children in the TRC's hearings on human rights violations and the absence of a reference to children in its mandate.¹⁴ Transitional justice mechanisms and child rights activists could play an important role in adequately protecting the rights of children in the future.

The conflicts in countries such as Mozambique, Zimbabwe and Eswatini aggravated the already precarious situation of children's rights. In Mozambique, the conflict in Cabo Delgado Province has resulted in killing and maiming of children, abductions, recruitment and use of children, separation of children from their families, sexual violence especially against girls, including early and forced marriage and disrupted access to humanitarian assistance and education.¹⁵

In Zimbabwe, it is estimated that between 10 000 and 20 000 civilians were killed by state and state sponsored agents between 1982/1983-1987/1988.¹⁶ In addition to murder, there were widespread torture, rape and other sexual offences against women and children, assault and arson.¹⁷ These crimes have come to be known as the '*Gukurahundi Atrocities*'. Children born to victims of *Gukurahundi* massacres have also been deprived of their right to access birth registration leading to dire human rights violations associated with statelessness.¹⁸

The situation being what it is in these regions, the Africa Union-through some of its organs-has equipped itself with policies and documents relevant to mainstreaming human rights in transitional justice processes in Member States. The African Union Commission has developed the African

¹³ P Pigou 'Children and South African Truth and Reconciliation Commission' in S Pamar, M J Boseman, S Siegrist and T Sowa *Children and Transitional Justice: Truth-Telling, Accountability and Reconciliation* (2010) 115-155.

¹⁴ Ibid.

¹⁵ Plan International, available at <https://plan-international.org>, accessed on 2 February 2023 and Save the Children 'Hearing the Voices of Children in Cabo Delgado Mozambique' (2021).

¹⁶ M Kilander and M Nyathi 'Accountability for the Gukurahundi Atrocities in Zimbabwe Thirty-Years On' (2015) Institute of Foreign and Comparative Law.

¹⁷ Ibid.

¹⁸ Amnesty International 'Zimbabwe: Statelessness Crisis Traps Hundreds of Thousands in Limbo' (2021), available at [amnesty.org/en/latest/news/2021/04/zimbabwe-statelessness-crisis-traps-hundreds-of-thousands-in-limbo-2/](https://www.amnesty.org/en/latest/news/2021/04/zimbabwe-statelessness-crisis-traps-hundreds-of-thousands-in-limbo-2/), accessed on 3 February 2023 and K Matimaire 'Zimbabwe: Children of Gukurahundi Struggle to Access IDs' (2021), available at citizenshiprightsafrika.org/zimbabwe-children-of-gukurahundi-struggle-to-access-ids, accessed on 3 February 2023 and [allfrica.com/stones/202108240169.html](https://www.allfrica.com/stones/202108240169.html), accessed on 3 February 2023.

Union Policy on Transitional Justice in Africa (AUTJP),¹⁹ a guide that serves as a guide to transitional justice mechanisms in Member States. The AUTJP recognizes that ‘children are most vulnerable to and affected by conflicts, including as direct targets of violence through killings, acts of mutilation or torture, abductions, recruitment as well as enrolment as soldiers and sexual violence. All transitional processes including peace and justice processes should take account of the disproportionate impact of violence on children and make adequate provision for children as victims, in accordance with the African Charter on the Rights and Welfare of the Child’.²⁰ It sets benchmarks and standards to ensure that children’s rights are respected and protected in transitional justice processes. These include: applying the provisions of the African Charter on the Rights and Welfare of the Child with respect to the minimum age of criminal responsibility, ensuring that the principle of the best interests of the child guides the measures that are adopted in transitional justice processes, the provision of avenues for participation of children and that transitional justice processes should adopt child-centred approaches, amongst others.²¹ The AUTJP also recognizes that civil society organisations have an important role to play in transitional justice processes.²²

The African Union Commission also conducted a Study on Transitional Justice and Human and Peoples’ Rights in Africa.²³ This study is relevant to the children’s rights in transitional justice processes. It refers to the provisions of article 22 of the African Charter on the Rights and Welfare of the Child which highlights ‘including the duty on the State to ensure that children do not take part in hostilities, and that they are not recruited as soldiers, as well as taking all measures feasible to ensure the protection and care of children who are affected by armed conflict’.²⁴ The Commission further conducted a study in relation to addressing human rights issues in the conflict situation, a study that highlights the opportunities for the Commission to contribute to transitional justice mechanisms particularly in ‘constitutional and institutional reform measures including justice sector reforms, which would benefit from the human rights perspective offered by the

¹⁹ Adopted in February 2019.

²⁰ African Union Transitional Justice Policy, para 105.

²¹ African Union Transitional Justice Policy, para 108.

²² African Union Transitional Justice Policy, paras 127-129.

²³ African Commission on Human and Peoples’ Rights, Study on Transitional Justice and Human and Peoples’ Rights in Africa (2019).

²⁴ African Commission on Human and Peoples’ Rights, Study on Transitional Justice and Human and Peoples’ Rights in Africa, page 37.

Commission including on matters such as the inclusion of women and the youth in peace and reconstruction processes'.²⁵

As an African Union mechanism with a mandate to protect and promote the rights of the child, the African Committee of Experts on the Rights and Welfare of the Child conducted a study on Mapping Children on the Move in Africa which provides substantive information on the phenomenon of child migration in Africa.²⁶ The study cites conflict as one of the major causes of child displacement.²⁷ Conflicts lead to serious and massive violations of children's rights, forcing them into refuge or IDP camps and thus depriving them of the right to education, for example. They are deported under inhumane conditions and face difficulties for social reintegration, hence transitional justice mechanisms should specifically take into account the effects of migration of children during conflicts.

All of these resources and many more provide useful knowledge that human rights defenders need in order to effectively participate in mainstreaming human rights in transitional justice processes in Africa.

The African Charter on the Rights and Welfare of the Child (ACRWC)²⁸ is built on four (4) principles that underpin norms of protecting children's rights in Africa. These are the best interests of the child, the right of the child to protection from discrimination, the right to survival and development and the right of children to participate in matters affecting them.²⁹ For a holistic Never Again approach, transitional justice mechanisms in Africa should integrate these Charter principles into their activities of truth-telling and reconciliation, prosecution of prosecutors, reparations, institutional reforms and guarantees of non-repetition. Child rights defenders have daunting tasks, including advocacy so that children's voices are heard on violations such as rape, forced marriages by rebels or elements of the regular army as well as other GBV, child labor,

²⁵ African Commission on Human and Peoples' Rights, Addressing Human Rights Issues in Conflict Situations Towards a More Systematic and Effective Role for the African Commission on Human and Peoples' Rights (2019) para 230.

²⁶ African Committee of Experts on the Rights and Welfare of the Child 'Mapping Children on the Move within Africa' (2019).

²⁷ African Committee of Experts on the Rights and Welfare of the Child 'Mapping Children on the Move within Africa' (2019), page 41.

²⁸ Adopted by the Organisation of African Unity (OAU) in 1990.

²⁹ Joint General Comment of the African Commission on Human and Peoples' Rights (ACHPR) and the African Committee of Experts on the Rights and Welfare of the Child on Ending Child Marriage (ACERWC) (2017), page 6.

restrictions on the right to education for schools that have been inaccessible, closed or destroyed because of the war etc., of which they have been victims during conflicts.³⁰

The inclusion (non-discrimination) and participation of children in the work of Truth and Reconciliation Commissions (TRCs) allow children to contribute to the construction of a world free of burdens of war that African leaders dream of preventing future generations from. Transitional justice mechanisms in Africa, including TRCs that do not involve or have not yet involved children in their processes could be challenged by this statement from a Liberian girl at the workshop organized by the TRC of Liberia: ‘I want the TRC to help us have good health and free education for our country Liberia. I want the TRC to help us redevelop our country Liberia, and finally, I want the TRC to help us have a peaceful nation, not to go back to war’.³¹

In light of the above, the Institute for Human Rights and Development in Africa (IHRDA) is organizing a two (2) day training workshop for children’s rights defenders in Eastern and Southern Africa to equip them with the knowledge on mainstreaming children’s rights in transitional justice processes. Child rights advocates will also be exposed to the theories and practices of regional mechanisms dealing with human rights issues arising from transitional justice contexts.

2. Objectives of the Workshop

The principal objectives of this workshop are as follows:

- Build the capacity of children’s rights defenders across Eastern and Southern Africa on mainstreaming children’s rights into transitional justice processes;
- Strengthen the capacity of child rights defenders across Eastern and Southern Africa on engaging the ACERWC on transitional justice issues;
- Enhance access to remedies and justice for children who are victims of massive and serious human rights violations in Eastern and Southern African countries; and
- Create a network for child rights and transitional justice stakeholders in Eastern and Southern Africa.

³⁰ Transitional Justice and Children in the Gambia: Making the Voice of Children Heard in The Gambia’s Transitional Justice Process, available at <https://www.unicef.org/gambia/stories/transitional-justice-and-children-gambia>, accessed on 3 February 2023.

³¹ Pamar, Boseman, Siegrist and Sowa (n13 above) page 399.

3. Expected Outcomes

The Expected outcomes of the workshop are:

- Participants are aware of the African human rights mechanisms for the protection of children’s rights and their transitional justice mandate;
- Increased engagement of child rights defenders in advocating for and advancing child considerations in TJ processes at domestic and regional levels;
- The regional network of child rights defenders and TJ stakeholders is created.

4. Venue and Dates

The workshop will take place in **Gaborone, Botswana** on **18-19 April 2023**.

5. Workshop Language

English will be used at the workshop.

6. Eligibility Requirements

- Child rights civil society actors based and working in Eastern and Southern Africa;
- Lawyers with a demonstrated interest and/or experience in human rights;
- Knowledge, skills and/or experience in TJ matters and context is an added advantage;
- Candidates in countries with existing TJ contexts would be given priority.

7. Submission of Application

Interested candidates should send their cover letter and CVs to ihrda@ihrda.org, copying crushwaya@ihrda.org and fjangana@ihrda.org with the heading “**Children’s Rights and Transitional Justice: Eastern and Southern Africa.**”

8. Application Deadline

The deadline for applications is **24 February 2023** at 5:00PM, Banjul Time/GMT.

For more information, please contact:

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Please note that only shortlisted candidates will be notified.