



**ACERWC**  
African Committee of Experts on  
the Rights and Welfare of the Child

Comité Africain d'Experts sur les  
Droits et le Bien-être de l'Enfant

Comitê Africano dos Direitos e  
Bem-Estar da Crianças

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## 10th Anniversary Celebration of the Malabo Protocol

### Statement by Hon. Wilson Almeida Adão on the implications of a merged court with criminal jurisdiction for the work of the Committee

25 June 2024

#### *Excellences, Distinguished Guests, Ladies and Gentlemen,*

It is a profound honor to address you today on the auspicious occasion of the 10th Anniversary of the Malabo Protocol—an initiative that stands as a beacon of our collective commitment to justice and accountability across Africa.

The introduction of the Malabo Protocol marked a significant evolution in the African judicial landscape, proposing a merged Court that integrates the African Court on Human and Peoples' Rights with an expanded jurisdiction to include criminal cases. This proposed fusion signifies not just an expansion of capabilities but a profound deepening of our commitment to safeguarding human rights—especially the rights of the most vulnerable among us, our children.

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As we explore the implications of the Malabo Protocol's proposal for a merged Court, it is paramount to recognize the transformative potential this holds for the protection and enforcement of child rights across Africa. This new judicial structure, by incorporating criminal jurisdiction, not only fortifies our legal frameworks but also directly impacts the work of the African Committee of Experts on the Rights and Welfare of the Child in various ways.

The establishment of the merged Court represents a monumental step forward in addressing crimes that deeply impact children across Africa. Historically, the pursuit of justice for grave violations of children's rights has faced formidable challenges. Key among these has been the persistent issue of impunity, where perpetrators, including terrorist groups and traffickers, remain at large or unaccounted for, seriously undermining efforts toward justice and perpetuating cycles of violence. This culture of impunity not only obstructs reconciliation efforts but also encourages continued violations against the most vulnerable populations, particularly children. With its broad jurisdiction encompassing severe crimes such as genocide, crimes against humanity, war crimes, terrorism, and human trafficking, the Court is uniquely equipped to enhance accountability across the continent. It stands as a beacon of hope for enforcing legal consequences for those who have historically evaded justice, thereby reinforcing the rule of law.

Moreover, the Court is mandated to address pervasive abuses in conflict zones, including the recruitment of children into armed groups and instances of sexual violence. These acts, which have plagued regions and stunted development, can be systematically challenged through a legal framework that not only aims to hold perpetrators accountable but also provides much-needed recourse for victims who have traditionally lacked protection. This focused mandate of the Court does more than just seek retribution; it acts as a significant deterrent against future violations and plays a crucial role in stabilizing environments ravaged by terrorism and trafficking.

In addition, grave violations against children are not only perpetrated by state actors but also by non-state actors, including rebel groups, terrorist organizations, and even corporations that exploit child labor. The scope of the merged Court to address these violations presents a crucial advancement. The Court promises to address the longstanding issue of impunity enjoyed by those in positions of power, whether in political, military, or corporate domains. By holding individuals and non-state actors accountable, the Court will send a powerful message that violations against children will not be tolerated.

Furthermore, the enforcement of the Committee's decisions remains a challenge, partly due to the non-binding nature of the Committee's recommendations. The establishment of the African Court of Justice and Human Rights, as envisioned in the Malabo Protocol, represents a transformative shift from recommendatory to binding judgments, providing us a mechanism to hold violators of children's rights accountable, not merely in theory but in actionable, enforceable terms.

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By way of recommendation, the merged Court should regard crimes against or disproportionately affecting children as especially severe, in line with the international legal frameworks designed to protect children. This includes not only the Rome Statute of the International Criminal Court but also the UN Convention on the Rights of the Child (CRC). This perspective ensures that the Court aligns its mandates and interpretations with global commitments to child protection, emphasizing the grievous nature of offenses against this vulnerable group.

Further, in matters of compensation and reparations, it is critical that the Court's policies and decisions meticulously consider the special needs of children. This approach should be sensitive to the physical, psychological, and developmental needs of child victims, ensuring reparations are both meaningful and conducive to their long-term recovery and reintegration.

The Court's structure should uniformly integrate the specific needs and vulnerabilities of children into their proceedings. For instance, the prosecutor's office should consistently include charges for crimes specifically directed at or affecting children in their indictments, ensuring that such crimes are prioritized and highlighted across all legal proceedings.

The Court should develop a robust policy on Children's Rights to guide its engagement with children as victims and/or witnesses. This policy must establish clear mechanisms to ensure the standards of child participation are upheld, focusing on the principles of the best interests of the child, and respecting their rights and well-being. Such a policy should address the nuances of child testimony, their treatment within the judicial process, and the overall interaction of children with the Court to ensure their protection and the acknowledgment of their voices.

Last but not least, child safeguarding must be a paramount concern of the Court. It is essential that the Court's operations include stringent measures to ensure that children involved in proceedings are not subjected to further harm, distress, or violation of their rights. This includes the physical, emotional, and psychological safety of child witnesses and victims before, during, and after the legal processes.

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The integration of the Committee's work into this broader judicial framework presents an unprecedented opportunity to strengthen the protection of children's rights in Africa. It is a call to action for all of us to ensure that our children live in a continent where their rights are not only recognized but vigorously protected and where justice is not a privilege but a right that all children can access.

I therefore call upon all stakeholders—AU organs, government officials, judicial bodies, civil society, and academics to unite and push for the ratification of the Malabo Protocol. Let us ensure that the vision of a merged Court, serving not just as a symbol but as a functional protector of rights, becomes a reality.

***Thank you***