

# Strengthening Child Laws in Africa

## Some Examples from the New Children's Act of Angola\*

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### Abstract

*This article highlights some of the major contributions of the new Children's Act of Angola (Act 25/12 of 22 August 2012) to the effect that they can be used to advance children's rights in Africa. The article advocates that although the Angolan law is in many respects similar to other African children's statutes, its drafters added certain remarkable aspects that can be utilised to advance children's rights in other countries in the continent. In acknowledging these innovations and the need to strengthen child laws in Africa the contribution calls on African states to learn from the Angolan experience in their quest to advance children's rights in their own jurisdictions. Other states are also encouraged to learn from the Angolan example.*

**Keywords:** children's rights, instruments, law reform, good practice examples, developments or advancements.

### A. Background and Introduction

For more than two decades now, many African states have embarked on audacious law reform initiatives. As part of the law reform enterprises attention has been given to dealing with the interests of children. In part, many African child law reform processes were triggered to domesticate key standards contained in international law norms that deal with children's rights. These include instruments such as the United Nations Convention on the Rights of the Child, the

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African Charter on the Rights and Welfare of the Child and many others. These instruments contain standards portraying children as bearers of rights<sup>1</sup> and protect them as vulnerable members of society.<sup>2</sup> African child law reform processes have also been done with a view to replacing outdated colonial legislation, ensuring adequate service delivery for children, and enhancing systems providing better care for them.

Some examples of African countries where child law reform has taken place include South Africa (2005), Namibia (2006) and Mozambique (2008). Law reform has also occurred in Uganda (1996),<sup>3</sup> Kenya (2001) and Botswana (2009), where comprehensive children's statutes were enacted.<sup>4</sup> In many parts of the continent, child law reform continues to take place with the objective of harmonising domestic laws to international standards. They also aim to replace outdated pieces of legislation inherited from the colonial administration and promote a brighter future for children.

As an example of the ongoing domestic efforts to advance children's rights through reformatory process, relatively recently, on 22 August 2012, Angola enacted a new Children's Act,<sup>5</sup> adding to the number of African states that reviewed or enacted legislation focusing on children's rights. The Angolan law is, like many other African children's statutes, comprehensive and detailed in multiple aspects of children's rights.<sup>6</sup> It has features common to other similar instruments in the region. For example, it protects children's civil and political rights and their socio-economic rights as well. The right to life,<sup>7</sup> the right to health,<sup>8</sup> the right to basic education,<sup>9</sup> and many others are protected.

Furthermore, the Angolan law entrenches the four-pillar principles forming the core of international and regional treaties dealing with children's rights.<sup>10</sup> To

- 1 D. McGoldrick, 'The United Nations Convention on the Rights of the Child', *International Journal of Law and the Family*, Vol. 5, No. 2, 1991, p. 132.
- 2 See J. Sloth-Nielsen, 'A Developing Dialogue – Children's Rights, Children's Law and Economics: Surveying Experiences From the Southern and Eastern African Law Reform Processes', *Electronic Journal of Comparative Law*, Vol. 12, No. 3, 2008, pp. 2-4.
- 3 It is said that Uganda was the first country to embark on such an ambitious enterprise, having initiated the country's child law reform in the early 1990s. See G. Odongo, *The Domestication of International Law Standards on the Rights of the Child With Specific Reference to Juvenile Justice in the African Context*, LLD thesis submitted to the Faculty of Law, University of the Western Cape, South Africa, 2005, p. 77.
- 4 These examples are merely illustrative. Rather, it should be retained that the current scenario reveals that there are still many African states implementing child law reform initiatives as well as a significant number of other countries that have completed the reformatory process. For further details see Sloth-Nielsen, 2008, at 2-4.
- 5 Act on the Promotion and Holistic Development of the Child, Angolan Children's Act No. 25/12 of 22 August 2012 (Angolan Children's Act or Act No. 25/12 of 22 August 2012).
- 6 A. Mandlate, *Assessing the Implementation of the United Nations Convention on the Rights of the Child in Lusophone Africa (Angola and Mozambique)*, unpublished LLD thesis submitted to the Faculty of Law, University of the Western Cape, South Africa, 2012, pp. 137-147.
- 7 See Arts. 14-15.
- 8 See Arts. 16-20.
- 9 See Arts. 11-13.
- 10 Mandlate, 2012, at 139.

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be precise, these are the principles of non-discrimination, found in Article 2 of the United Nations Convention on the Rights of the Child (UN Children's Convention or CRC)<sup>11</sup> and Article 3 of the African Charter on the Rights and Welfare of the Child (ACRWC),<sup>12</sup> and the best interest of the child principle embedded in Article 3 of the CRC and Article 4 of the ACRWC. The law also contains the principles on the child's right to life, survival and development (Article 6 CRC, and Article 5 ACRWC), and the right of the child to participate (Article 12 CRC and Article 7 of the ACRWC).

A detailed account of the similarities between the Children's Act of Angola and other African child laws falls beyond the scope of this contribution.<sup>13</sup> However, this article highlights some of the major contributions that the Angolan law brought domestically under the rubric of strengthening children's rights. The impulsion to look at the positive aspects of the Angolan law is explained by the role that it can play in strengthening similar instruments in the region.

Following this introduction, the article turns to look at some of the major factors leading to child law reform in Angola. This is done to motivate that there were some common aspects that influenced child law reform in Angola and in other African states. Thereafter, the article discusses some of the common features of the Angolan law and other African legislation focussing on children's rights. This was crafted purposefully to furnish the reader with tools to understand the next section, which assesses the milestones of the Angolan law in relation to its African counterparts. Essentially, this latter section of the article points to some of the major gains and the lessons that can be learned from the Angolan children's statute. Lastly, in the conclusions it is reiterated that, pursuant to the significant contribution made by the Angolan Children's Act, lessons can be drawn to improve future child laws in Africa.<sup>14</sup>

## B. Some of the Key Factors Behind the Angolan Child Law Reform Enterprise

As in other African countries, many factors were behind the Angolan child law reform process. These include aspects linked to these countries' historical, social, political and economic advancements. The next section assesses some of these factors as they are relevant to the Angolan context. However, reference is made to other countries too with the intention of highlighting the points that connect to each other.

11 United Nation Convention on the Rights of the Child (UN Children's Convention or CRC), adopted in 1989, and entered into force in 1990, UN Doc. A/RES/44/25 (1989).

12 African Charter on the Rights and Welfare of the Child (African Children's Charter or ACRWC), adopted in 1990 and entered into force in 1999, OUA Doc. CAB/LEG/24.9/49 (1990).

13 I made this assertion previously elsewhere when speaking to the added gains under the Angolan Children's Act in an opinion piece published by AfricLaw. For details see A. Mandlate, *Strengthening Children's Rights in Africa: Some Lessons From the New Children's Act of Angola*, Africlaw blog opinion piece published on 4 June 2013, at <<http://africlaw.com/2013/06/04/strengthening-childrens-rights-in-africa-some-lessons-from-the-new-childrens-act-of-angola/#more-491>>, accessed 13 June 2013.

14 See 'Conclusion' section below.

### I. *The Need to Replace Outdated Legislation*

One of the key factors leading to child law reform in Angola was the need to replace outdated legislation inherited from the colonial masters. Indeed, like other African states that were savagely colonised, Angola remained under Portuguese colonial rule until the late 1970s.<sup>15</sup> To be precise, colonial rule in Angola only ended in 1975, when the country became independent from the Portuguese colonial administration.<sup>16</sup> This happened after a military coup, which overthrew the then Portuguese monarchy in Portugal and paved the way for the establishment of a new administration. The new Portuguese administration was open to restore independence to the former Portuguese colonies in Africa (including Angola, Cape Verde, Guinea-Bissau, Mozambique and São Tomé). However, before independence, colonial laws applied in the former Portuguese colonies in Africa (including Angola). For instance, the 1966 Civil Code of Portugal regulated family law matters in Mozambique, Cape Verde, Guinea-Bissau and in other former colonies of Portugal.

Often, the colonial laws were discriminatory. For instance, the laws governing family matters (which also applied to children), mentioned above, favoured members of the dominant ruling class to the detriment of the natives.<sup>17</sup> The natives (children as well) were subjected to customary norms. This left much room for treating people differently depending on the type of laws they were subjected to (either customary norms or colonial laws). Hence, after independence, Angola saw the need to replace the outdated discriminatory colonial laws. This was intended to create uniform legislation that would apply to everyone (including children).<sup>18</sup>

### II. *Ratifications of International Law Norms*

Another factor that influenced law reform in Angola was the country's adherence to myriad international and regional treaties, and particularly instruments focusing on children's rights. In this respect, Angola, like many African states that ratified these treaties, saw the need to align its domestic laws with the country's international commitments. Key in this process was the ratification of international law instruments such as the CRC, its optional protocols<sup>19</sup> and the African

15 J. Lipski, *Portuguese Language in Angola: Luso-Creole Missing Link?*, paper presented at the annual meeting of the AATSP, San Diego, 1995, p. 1; copy on file with the author.

16 P. João, *The Impact of Democracy in Mozambique: Assessing Political, Social and Economic Developments Since the Dawn of Democracy*, research report for the Centre for Policy Studies, 2009, p. 2.

17 See M. Medina, *Direito de Família*, Escolar Editora, Lobito, 2011, p. 47.

18 See Mandate, 2012, at 134-160.

19 Including the Optional Protocol to the United Nations Convention on the Rights of the Child on the Involvement of Children in Armed Conflict (Optional Protocol on the Involvement of Children in Armed Conflict), and the Optional Protocol to the United Nations Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography (Optional Protocol on the Sale of Children). See the Optional Protocol on the Involvement of Children in Armed Conflict adopted in 2000 and entered into force in 2002. Angola ratified it in 2007. See also the Optional Protocol on the Sale of Children, GA Res. 54//263, Ann. II, 54 U.N. GAOR Supp. (No. 49) at 6, UN Doc. A/54/49, Vol. III (2000), entered into force on 15 January 2002. Angola ratified in 2005.

Children's Charter. Reference is also made to ratification of the African Charter on Human and Peoples Rights (ACHPR)<sup>20</sup> as well as the Protocol thereto on the Rights of Women in Africa (African Women's Protocol),<sup>21</sup> which have substantive provisions applicable to children. Some examples of other African countries that ratified key human rights treaties (child rights instruments included) include Mozambique, Tanzania, South Africa, Kenya, Zambia, Botswana, and Namibia.

The instruments indicated above, and many others, set out the internationally accepted base for the promotion and protection of human rights (including children's rights) and present the universal yardstick for the advancement of these rights. This has particular significance as state parties are required to fulfil the obligations placed under these instruments. Hence, ratifying States like Angola needed to review their laws to ensure compliance with these international law standards.

### *III. Democracy and the Imperatives of a New Constitutional Order*

The beginning of the 1990s saw many African states enact new Constitutions. At the sub-regional level, for example, South Africa passed a new interim Constitution in 1994,<sup>22</sup> and Mozambique enacted a new Constitution in 1990.<sup>23</sup> At the regional level, Rwanda saw the 1991<sup>24</sup> constitutional review, and Ghana<sup>25</sup> had a new constitutional law passed in 1992. There are many other examples pointing to the advancement of African constitutionalism at the beginning of the 1990s.

In most cases the new constitutional order resulted from the wave of democracy that swept the continent. Angola was also influenced by the democratic wave, which was rooted in the notion of separation of powers between the bodies of the State, the premise of the rule of law and interdependency between the executive, legislative and judicial arms of the government.<sup>26</sup> Democracy also meant equality among the citizens and encompassed the need to place limits and/or restrictions on the powers of the State in relation to its subjects (citizens). These new constitutional ideals meant that subordinate legislation had to be enacted, amended or repealed to meet the democratic order established under the Angolan Constitution. With these amendments, fundamental rights (including children's rights) found their way into the Constitution and statutory legislation

20 African Charter on Human and People's Rights (ACHPR) adopted in 1981 and entered into force in 1986, OAU Doc. CAB/LEG/67/3, Rev. 5, 21 ILM 58 (1982). Angola ratified the ACHPR in 1990, and Mozambique ratified the ACHPR in 1989.

21 Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (African Women's Protocol), adopted in 2003 and entered into force in 2005. Angola ratified the African Women's Protocol in 2007.

22 See The Interim Constitution of the Republic of South Africa of 1994.

23 See The Constitution of the Republic of Mozambique of 1990.

24 See The Constitution of Rwanda of 1991.

25 See The Constitution of the Republic of Ghana of 1992.

26 See P. O'Neil, *Essentials of Comparative Politics*, 2nd edn, W.W. Norton, New York, 2004, pp. 133-136.

elaborating on constitutional provisions<sup>27</sup> based on the principle of equality of citizens.<sup>28</sup>

However, as seen from the above, the factors that influenced child law reform in Angola were also fundamental in shaping child law reforms in other parts of Africa.<sup>29</sup> This means that there are certain aspects in the end product of the law reform process of Angola that are similar and traceable in child laws of various countries in the continent. Some examples of these are discussed in the next section.

### C. Some Common Aspects Underlying the Children's Act of Angola and Other African Child Legislation

Some examples of common aspects of the Angolan law and other child laws can be identified in the structure of these instruments. For instance, the Children's Act of Angola contains a brief preamble, which introduces the Act and explains its objectives as do the counterpart laws of Mozambique<sup>30</sup> and Malawi.<sup>31</sup> Similar pre-ambular sections are found in other African children's statutes.<sup>32</sup>

Furthermore, and as will be explained here, commonalities are also traceable in the substance or content of these normative instruments.<sup>33</sup> In this respect, African child laws have included key principles underlying international law norms on children's rights. As mentioned previously, these include the principles of non-discrimination, the best interest of the child, the child's right to life, survival and development, and respect for the views of the child. These four fundamental principles, also known as pillars or cardinal principles, are embedded in the provisions of the CRC and the African Children's Charter. As mentioned in the introduction of this article,<sup>34</sup> the Children's Act of Angola contains these principles, and to that extent, it becomes similar to the remaining African counterpart legislation (South Africa, Namibia, Kenya and others) reflecting them.

27 See, generally, J. Sloth-Nielsen, 'Domestication of Children's Rights in National Legal Systems in African Context: Progress and Prospects', in J. Sloth-Nielsen (Ed.), *Children's Rights in Africa: A Legal Perspective*, Ashgate, Aldershot, 2008, pp. 53-72.

28 See Art. 18(1) of the Angolan Constitution of 1992.

29 In fact, I concur with Sloth-Nielsen speaking to developmental dialogues in child law reform experiences from the Southern and Eastern African law reform processes, when she argues that reform initiatives in Africa are taking note of development in other countries. In this regard, Sloth-Nielsen demonstrates that the child law reform process of South Africa, for example, has been used to inform child law reform initiatives in other countries in the continent. For more details, see Sloth-Nielsen, 2008, at 13.

30 See Act No. 7/2008 of 9 July 2008 (Mozambican Children's Act).

31 See Malawi's 2010 Child Care, Protection, and Justice Act (Malawi Children's Act).

32 See, e.g., the South African Children's Act 38 of 2005 (South African Children's Act), and Act No. 6 of 2006 (Namibian Children's Status Act).

33 It should be noted again that a detailed discussion of the common aspects in these laws is not intended. However, for explanatory reasons, few selected aspects relating to the substance are examined. This should give the reader a better understanding of the section addressing the gains or lessons stemming from the Angolan law reform experience.

34 This was briefly explained in the 'Background and Introduction' section above.

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The CRC, the African Children's Charter, and African child laws alike all lack a comprehensive definition of any of the four paramount principles mentioned above. This is particularly true in respect of the principle of the best interest of the child (despite a recent General Comment of the Committee on the Rights of the Child<sup>35</sup> expanding on the content of this principles), which must be seen as an underlying principle informing all decisions affecting the child.<sup>36</sup>

Furthermore, African child laws have incorporated substantive provisions capturing civil and political rights as well as socio-economic rights for children (examples include Section 28 of the South African Constitution and others). Generally, provisions dealing with the rights to life, health, education and children's participation rights have been incorporated in many of these laws (see for instance the laws of Mozambique, Namibia, Botswana and others). Children have also been afforded the right to alternative care and protection against all forms of exploitation, including sexual and economic exploitation. Violence against children has been outlawed in some African child laws (e.g. Kenya), and in other instances in thematic African domestic violence legislation (e.g. Mozambique and Malawi).<sup>37</sup> Seemingly, Angola has gone the same route as have many African countries, which dealt with these critical aspects in their children's statutes. For example, as noted in the introduction and background of this article, the new Angolan Children's Act provides for the right to life<sup>38</sup> for children, and it protects them against sexual exploitation and (although weakly) trafficking as well.<sup>39</sup>

In the face of the similarity of Angolan law to other children's statutes in the region, it becomes critical to ask what, then, is new that we can learn from the former to advance the latter, and how it can be used to promote children's rights in future child law reform initiatives in Africa. The next section addresses these questions by giving examples of some of the developments in the Children's Act of Angola that are not so common to corresponding legislation in many other African countries.

35 See Committee on the Rights of the Child (CRC Committee) General Comment No. 14 on the Right of the Child to have his or her Best Interests taken as a primary Consideration (CRC Committee General Comment No 14), UN Doc. CRC/C/GC/14/2013.

36 See Art. 3 of the CRC.

37 However, African child laws and other thematic domestic laws in the continent have not addressed all aspects of violence committed against children. For instance, the problem of corporal punishment in the home remains to be addressed in many African countries, save for Kenya, which has enacted a law that prohibits this practice (at least in the school environment). For further details see Mandlate, 2012, at 310. See also Art. 53(1) of Constitution of Kenya enacted in 2010.

38 Arts. 14-15.

39 See Art. 33.



## D. Exploring the Children's Act of Angola: What Is New?

Despite containing features that are common to other children's statutes, the Children's Act of Angola presents certain specificities<sup>40</sup> that are worth noting for their potential to strengthen children's rights. Some of these positive aspects of the law are discussed below with the view of highlighting the major advancement brought by the instrument under analysis. Moreover, some of the features of the Angolan law presented here may be found in rather few African child statutes, but are highlighted to reiterate progress as they may not be found in other African children's statutes.

### I. *The Best Interest of the Child Defined*

One of the striking aspects of the Children's Act of Angola, not found in many counterpart pieces of legislation in the region, is the definition attributed to the best interest of the child principle/concept. As it stands, South Africa and Mozambique represent the only examples of the few African (if any others exist at all) countries that attempted to define the best interest principle in their child laws. However, as mentioned earlier, the CRC, the African Children's Charter and many African child laws in general do not define this principle. This makes it difficult to ensure practical application of the best interest principle amidst many subjective interpretations that are attributed to the concept.

In Article 6(3) of the Children's Act of Angola, the best interest of the child is " [...] understood as being everything required to defend and safeguard the child's integrity, identity, and for the development and maintenance of his or her well-being".

The importance of this provision in advancing children's rights in Angola cannot be overstated, considering that Angola is a country ascribing to a civil law legal system, where statutory legislation is regarded as the main source of law.<sup>41</sup> The Children's Act of Angola, in defining the best interest principle, provides a legal basis for a common understanding of the ideas underscoring the notion of the best interest principle among lawyers and practitioners. This has the effect of favouring uniform application of the best interest standard as a procedural safeguard that must inform decisions concerning children as individuals and in their collective groups.<sup>42</sup> Following this example, it is submitted that other African States that have not done so must consider elaborating the best interest principle under their respective children's statutes to advance children's rights in their jurisdictions. Moreover, other African States and Angola alike, must also consider

40 Sloth-Nielsen has elaborated a detailed report of some of the specificities of the Angolan Children's Act. For details see J. Sloth-Nielsen, *Report on the Analysis of the Angolan Act on the Promotion and Holistic Development of the Child (Act No 25/12 of 22 August 2012)*, Community Law Centre, University of the Western Cape, 4 March 2013 (unpublished) (copy on file with the author).

41 A. Mandlate, 'The Protection and Enforcement of Socio-Economic Rights Lusophone Countries in Africa: Challenges in Angola, Cape Verde and Mozambique', *ESC Review*, Vol. 11, No. 3, 2010, pp. 22-24.

42 See Para. 6(c) of CRC Committee General Comment No. 14.



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elaborating comprehensively on the content of other paramount principles forming the core of children's rights under their domestic statutes.<sup>43</sup>

## II. *Strengthened Protection for the Education of Children of Nomadic Communities*

Another striking development under the Angolan law is the inclusion of a vital provision conferring protection for the enjoyment of the right to education among children of nomadic communities.

Thus, Article 12(1) of the instrument under analysis, broadly states:

[t]he State must implement a system of itinerant education in order to allow children and youth of school going age from pastoral communities which practice transhumance, equal opportunities to enjoy their right to education [...]

In addition, Article 12(3) states that:

[i]n the implementation of the right described in the forgoing subsection, the local and the traditional authorities of the State must be heard and particularly as regards the definition of places where such itinerant school must be established according to the annual seasons and other factors affecting transhumance [...]

It is beyond dispute that the right to education of children of nomadic communities may be provided for in thematic legislation of other African countries (for instance in laws focussing on education). However, it is seldom (if any example can be found) that children's statutes *per se* in other African countries have taken account of the need to provide education for this specific group of children.<sup>44</sup> Protecting the right to education of this particular group of children in the children's statute has the effect of ensuring that all parties concerned in the implementation of this right have a clear understanding of nomadic children's right to education, whereas the incorporation of this right in other thematic legislation may miss out on this particular objective as the latter apply to everyone but children, specifically. Thus, the incorporation of the above provision in the Angolan law under analysis must be viewed as a progressive step that heightens the interests of children by making them more visible.

The protection of the right to education for children of nomadic communities in the Children's Act must also take credence for the fact that it reflects the country's recognition of their existence among the population. Other countries in Africa where nomadic communities are present (Botswana and Namibia, for

43 In this respect, to avoid inconsistencies, guidance must be sought from treaty-bodies such as the Committee on the Rights of the Child (CRC Committee) under the CRC, and the African Committee of Experts on the Rights and Welfare of the Child under the ACRWC.

44 This assertion was made earlier by Sloth-Nielsen who analysed the Angolan Children's Act in great detail. See Sloth-Nielsen 2013, at 28.

example) could learn from this example and incorporate similar provisions to advance the rights of their children.

### *III. Inclusion of New Standards Conducive to the Realisation of Children's Rights*

It was not intended to read through the entire Children's Act to identify all newly created rights. However, an example of one positive aspect captured in one of the provisions of the new law of Angola is presented here. To be more precise, Article 21, dealing with the right to have a family, is captured as a legal norm that can enhance advantages to many Angolan children. This provision unequivocally states that "every child has a right to have a family".<sup>45</sup> Questions can be raised about the content of this right. It may be asked, for example, whether or not the State is responsible for protecting parents from a natural death. Moreover, it can be interrogated how this can be achieved? Notwithstanding these questions, the incorporation of a provision capturing the right to have a family in the Children's Act of Angola can be seen as a striking innovation considering that major international law instruments (including the CRC and the ACRWC) do not provide for such a right. The incorporation of this standard in the Angolan law underscores the importance of Article 41 of the CRC,<sup>46</sup> which compels states to implement (in their jurisdictions) provisions that are more conducive to the realisation of children's rights. Indeed, Article 21(1) of the Children's Act supports this obligation by binding the Angolan State to ensure the upbringing of children in a family environment. This resultant step emanating from the Angolan child law reform should be celebrated for promoting the child's right to life, survival and development. Additionally, this provision must also be emphasised for ensuring care, love and affection for all children as prescribed in the CRC and the ACRWC. And once again, this serves as a positive example that other countries can emulate.

### *IV. Inclusion of Crafted Child Rights Provisions with Budgetary Implications for the State*

It is laudable that socio-economic rights have been included in child laws in Africa. However, less attention is given to legislating on concrete budgetary aspects of the socio-economic rights included in the laws. For instance, some African child laws provide for the right to education for children (e.g. Mozambique), but lack details on how this is achieved or which departments shall make budgetary commitments to the advancement of these rights. Practice also shows attempts to regulate budgetary aspects of children's rights on separate laws (e.g. on laws focussing on education, health and security). This may miss the point and overlook the need to protect children as these laws apply to everyone, including people who are not vulnerable at all. Thus, a huge budgetary allocation may be made to certain sectors of society (the health sector, for instance), but in the end

45 See Art. 21(1) of the Children's Act of Angola.

46 Art. 41 of the CRC states that:

Nothing in the present convention shall affect any provisions which are more conducive to the realization of the rights of the child and which may be contained in:

(a) The law of a State party, or  
(b) International law in force for that State.

it may be difficult to trace the beneficiaries as the budget is spent in general terms and for everyone at the same time. Such general manner of allocating resources may leave out many children and thus impact negatively in the realisation of their rights. This tells us that it becomes necessary to enact child laws containing crafted provisions that regulate budgetary commitment for the realisation of children's rights.

The Angolan law under analysis adds some flavour to this subject by incorporating children's rights provisions with clear budgetary implications for the State. Again, this heightens the interest of children by clearly revealing, under the specific statute dedicated to children, the concrete obligation of duty bearers (government) in terms of their budgetary commitments to children. To be precise, the Angolan law includes eleven commitments that speak to children's rights. The first four commitments relate to children between zero and five, and address factors concerning life expectancy, food and nutritional security, birth registration and early childhood education.<sup>47</sup> Commitment No. 5 (primary education)<sup>48</sup> is linked to the obligation under Article 28 of the CRC concerning the need to achieve universal primary education, and Commitment No. 6 (juvenile justice)<sup>49</sup> is connected to Articles 37 and 40 of the CRC (prohibition of ill-treatment and separate administration of justice for child offenders). A notable development linked to the eleven commitments is the concomitant inclusion of measurable goals and time frames stipulating when these goals must be achieved. This is in line with the CRC Committee recommendation that States must develop comprehensive national strategies for children, rooted in the Convention.<sup>50</sup> For instance, by 2015 the Angolan government must increase the level of literacy among children to as much as 90% and reduce gender disparities in schools to 80%.<sup>51</sup> Plans are also in place to reduce infant mortality to less than 50%.<sup>52</sup> The incorporation of these goals in the domestic law of Angola has the effect of catalysing the necessary political action, including resource mobilisation, for the realisation of children's rights defined in the CRC.<sup>53</sup> Other areas of concern include addressing the problem of HIV/AIDS (Commitment No. 7) and dealing with violence against children (Commitment No. 8). Ensuring participation of children and dissemination of children's rights through the media (Commitment No.10), and making provisions for sports and culture, as well as making investments for children through the budget of the state (Commitment No. 11).<sup>54</sup>

47 See Commitments No. 1-4.

48 See Commitment No. 5.

49 See Commitment No. 6. See also, generally, Chapter 6.

50 See Paras. 28-36 of General Comment No. 5. See also Chapter 3, Section 3.7.2.

51 See Commitment No. 5. See also National Council for Children, *Commitments Between the Government, the UN System and Partners Regarding Children in Angola*, National Council for Children, Luanda, 2007, p. 7.

52 *Id.*

53 D. Parker & C. Sepúlveda, 'Children's Rights to Survival and Healthy Development', in J. Himes (Ed.), *Implementing the Convention on the Rights of the Child: Resource Mobilization in Low-Income Countries*, Martinus Nijhoff, The Netherlands, 1995, p. 89.

54 See Art. 30(2) of Act No. 25/12 of 22 August 2012.

As can be seen, the implementation of the eleven commitments above is stringently linked to budgetary requirements owing to their nature (mostly entailing the characteristics of socio-economic rights). In support of this, the Children's Act of Angola places significant weight on ensuring that resources (budget) are available to fulfil the interests of children. Children's legislation in other African countries (barring a few like the South African Children's Act) are less expressive of the dimensional relationship between children's rights and the resources needed for their realisation. Often African lawmakers omit and miss out on this critical aspect, leaving ample space for governments in these countries to decide whether or not to allocate funds to fulfil children's rights.

However, Article 56 of the Angolan law unequivocally provides that:

[B]odies of the central administration of the state are required to:

- a) [...]
- b) Include, in their respective sectoral action plans, a chapter with specific activities budgeted for children, and particularly for early childhood;
- c) Ensure the incorporation of activities based on this Act in their respective budgets;
- d) Identify clearly and disseminate budget allocations and expenses on services for children, and especially for early childhood. (my emphasis added)

Moreover, Article 57 of the Act under analysis commands bodies of local administration of the State, which include municipal authorities and the provincial government, to:

- a) submit to the plenary sessions of the Provincial and Municipal Children's Councils details pertaining to programmes, projects, action plans and the respective budgets relating to children which are meant for local implementation, as well as the expected results and the outcomes, and
- b) promote public-private partnership policies with private institutions and civil society organizations.

As can be seen, the foregoing provisions place clear legal obligations on the Angolan government to ensure provision for children's rights in the country's budget. This shows the country's commitment to advancing these rights. Thus, to finalise, the incorporation of such commitments for children's rights in domestic law must be commended for the ultimate effect that they have on promoting these rights.

## E. Conclusion

Many areas of intersection have been observed between the Angolan children's statute and children's legislation of other African countries. On a general note,

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the points where these laws intersect are explained due to the common aspects underlying the law reform processes in Africa. For example, it was shown in the discussions that African States had a common need to align their domestic laws to international human rights treaties. It was also explained that these States experienced severe pressure from the democratic wave that hit the continent in the early 1990s, as a common factor underlying their reformatory initiatives, and thus leading to major similarities in their children's statutes.

Despite the similarities, however, it is clear that the Angolan law has added new footprints into the debate of strengthening children's rights in Africa. The inclusion of new provisions conducive to the realisation of children's rights, and the incorporation of a concise definition of the best interest of the child principle, among other aspects examined in this article, account for hailing benchmark progress in Angola. Another area of interest is the incorporation of a provision capturing the child's right to have a family and the right to itinerant form of education for children of nomadic communities. As it was pointed out, all of these are inevitable points of references showing progress (although some of these points were also reflected as progress in rather fewer African States), which can be used to advance child laws in other African countries lacking such measures.

In summary, we are left to think that, in the future, child law reform in Africa must follow the Angolan pathway (on the positive aspects) as the examples there represent milestones in domestic efforts to advance children's rights. They are good practice examples, which may partly contribute to filling some of the gaps that continue to obstruct the realisation of these rights in the African continent and in other parts of the globe.