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Article

Regional Frameworks for Safeguarding Children: The Role of the African Committee of Experts on the Rights and Welfare of the Child

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Abstract: This article discusses the safeguarding movement in the context of child protection. After providing its key principles and precepts, the relevant provisions of the African Charter on the Rights and Welfare of the Child which link to safeguarding are stipulated, as well as a brief description given of the mandate of the African Committee of Experts on the Rights and Welfare of the Child. Some aspects of the practical working methods of the Committee are thereafter considered. With reference to the Committee's interface with non-governmental organisations, some proposals concerning the Committee and the safeguarding movement are put forward.

Keywords: safeguarding; child protection; African Charter on the Rights and Welfare of the Child; African Committee of Experts on the Rights and Welfare of the Child; legislation; states parties

1. Introduction

This article commences with the basic introduction to the child safeguarding movement and its core precepts and principles. It then turns to a brief elaboration of the substantive provisions of the African Charter on the Rights and Welfare of the Child (1990) and their relevance to the safeguarding movement. Thereafter, the role of the African Committee of Experts on the Rights and Welfare of the

Child, the body in charge of monitoring the implementation of the Charter, is elaborated with reference to the mandate it derives from the Charter. The section which follows discusses the reporting mechanisms incurred by States Parties. It also describes some aspects of the everyday practices of the Committee insofar as they pertain to safeguarding principles. The penultimate section examines the Committee's interface with NGOs, prior to formulating some proposals for improving the Committee's response to safeguarding standards and their implementation.

2. Child Safeguarding

Child safeguarding is the responsibility that civil society organisations have to make sure their staff, operations, and programmes “do no harm” to children, that is, that they do not expose children to the risk of harm and abuse, and that any concerns the organisation has about children's safety within the communities in which they work are reported to the appropriate authorities. It, thus, concerns the activities and functioning of organisations that are in contact with children, in the first instance.

The child safeguarding movement was born out of the realisation that relief workers, development agencies, humanitarian organisations and the like, many of whom do not have children as their primary focus or mandate, can and do become involved in abuse of children, or become aware of it occurring during the course of their endeavours. As Keepingchildrensafe.org detail, in 2002, a joint report by the United Nations High Commission for Refugees and Save the Children claimed child abuse was endemic in refugee camps, highlighting allegations against 67 workers and 42 agencies involving 40 victims. In 2004, it was reported that in the Democratic Republic of Congo (DRC), many girls and women traded sex for food and other items with peacekeepers as a survival tactic. Save the Children reported from research in 2008, in Cote D'Ivoire, Sudan, and Haiti, that nearly 90% of those interviewed recalled incidents of children being sexually exploited by aid workers and peacekeepers [1]. In September 2014, Human Rights Watch released a report providing evidence that African Union (AU) soldiers, relying on Somali intermediaries, have used a range of tactics, including humanitarian aid, to coerce vulnerable women and girls into sexual activity. They have also raped or otherwise sexually assaulted women who were seeking medical assistance or water at African Union Mission in Somalia (AMISOM) bases. The report prompted AU Commission chair Dr. Nkosazana Dlamini-Zulu to appoint a commission of inquiry into the allegations on 21 October 2014.

Furthermore, when abuse of children is reported within organisations, it is often concealed and dealt with as an internal matter, as the organisations concerned (often reliant on donor funding) do not wish to air their dirty laundry in public. The safeguarding movement acknowledges that commitment to protection of children often involves challenging deep rooted cultural perceptions about children, for instance relating to the role of corporal punishment, traditional practices which can be harmful to children, early marriage, and so on. This may be especially relevant for locally recruited staff in aid and humanitarian operations, given that they are drawn from local communities.

Impunity for violations of children's rights in the context of violence against children has been identified as endemic and routine [2], with adult perpetrators seldom being held accountable. Taking steps to introduce mechanisms within organisations working in the development sector and their implementing partners to improve accountability is seen as a way of reducing the impunity of adults and mitigating risks to children. Hence, the safeguarding movement can overlap with child protection,

but does not cover the same terrain, as it deals principally with intra-organisational policy and practice, rather than service delivery and programmes.

The safeguarding concept extends beyond direct actions (such as violence) against children, to include ensuring that everyone in an organisation behaves appropriately and does not abuse the position of trust that comes with being an aid or development worker (whose role can be very influential and powerful, even in difficult and conflict or emergency situations). It also entails assessing risks to children in advance that are associated with activities as diverse as where to build playgrounds (avoiding marshy spaces to minimise the risk of a child accidentally drowning) to when and how cash transfers are distributed [3].

Child safeguarding members have oriented their advocacy around four central standards which seen together constitute the framework for implementation of child safeguarding strategies at a local level. These are as follows:

- (1) Policy: the member organisations are encouraged to develop a policy that describes how it is committed to preventing, and responding appropriately to, harm to children;
- (2) People: the member organisations are expected to place clear responsibilities and expectations on their staff and associates (including volunteers) and to support them by holding training and capacity building to understand and act in line with the child protection policies; furthermore, organisations are required to implement “child sensitive” recruitment processes for both staff and volunteers;
- (3) Procedures: the member organisations must strive to create a child-safe environment through implementing child safeguarding procedures that are applied across the organisation; these include steps to be taken when an incident of abuse or the risk of abuse is reported;
- (4) Accountability: the member organisations should monitor and review their safeguarding measures, thereby also ensuring that infringements are not met with impunity [4].

The child safeguarding movement is based on the principles that: all children have equal rights to protection from harm; that everybody has a responsibility to support the protection of children even if child care and protection is not their core mandate; that further to this, organisations have a duty of care to children with whom they work, are in contact with, or who are affected by their work and operations; and that if organisations work with partners, such as community-based groups or local actors from civil society, they then have an added responsibility to help partners meet the minimum requirements for the protection of the child beneficiaries (direct or indirect) of their interventions [4].

All actions on child safeguarding are taken in the best interests of the child, which are paramount [4]. Thus, the child’s best interests determine the kind of response to be initiated when a complaint is received. The adoption of a complaints procedure for following up on reports received is a core tenet of organisational practice.

The members of the safeguarding movement are a diverse array of NGOs, civic organisations, UN agencies and INGOs, and faith-based organisations. This has implications for understanding the interplay between child safeguarding and the role of the African Committee of Experts on the Rights and Welfare of the Child (ACERWC), as will be explained below. The principle contribution of the safeguarding partners to date appears to have been the creation of specific standards to be applied within organisational development processes to further child protection, as well as institutionalising

child protection within organisational development, including in organisations whose principle activities do not principally concern children.

3. The Charter Mechanisms

The principle framework for addressing child protection and safety in this regional context is the text of the African Charter on the Rights and Welfare of the Child (ACRWC) itself. Two areas warrant discussion: the substantive provisions affecting the protection of children against certain rights violations, and the provisions which determine the mandate of the Committee of Experts, the body elected to oversee implementation of the Charter provisions [5].

3.1. Substantive Provisions

The principle protection against child abuse and torture (as the article is headed) is to be found in article 16 of the Charter. This sets a high bar in requiring States Parties to take specific legislative, administrative, social and educational measures to protect the child from all forms of torture, inhuman or degrading treatment and especially physical or mental injury or abuse, neglect or maltreatment including sexual abuse, while in the care of the child (sic) [6].

The article differs in one respect from article 19 of the Convention on the Rights of the Child (CRC), insofar as it adds torture, ill treatment and degrading treatment to the violence protection covered in article 19 of the CRC. However, given the extensive interpretation of violence that has taken root at the international level, inter alia through publications of the UN Secretary General's Special Representative on Violence against Children [7] and the CRC Committee's General Comment (No. 13) on Violence against Children [8], it is doubtful that inhuman or degrading treatment is not already provided for under the rubric of "all forms of violence against children". Arguably, "inhuman treatment" and "degrading treatment" are, for instance, comprehensively addressed in paragraphs 20 and 21 of the CRC Committee's General Comment referred to above, which also clarify that the concept of violence is not capable of being exhaustively determined [9]. Further, paragraph 21 of the General Comment specifically refers to inhuman and degrading treatment in the context of physical punishment, and paragraph 26 elaborates on this theme [10]. Thus the differences in the text of the ACRWC and the CRC are not material.

Article 16(2) of the ACRWC, which echoes article 19(2) of the CRC, provides for the implementation mechanism: it requires protective measures under article 16(1) to include procedures for the establishment of special monitoring units to provide the necessary support for the child and for those who have the care of the child, as well as other forms of prevention, and for identification, reporting, referral, investigation, treatment and follow up of instances of child abuse and neglect. This provision therefore appears to fall squarely within the safeguarding paradigm, especially to the extent that the safeguarding coalition is aimed at prevention of violations of children's rights in the first instance, but where this does occur, then at follow up and redress.

Mention must also be made in the African context of articles 15 and 21 of the Charter. Article 15 deals with the protection of children from all forms of economic exploitation and from performing work likely to be hazardous or harmful or to interfere with a child's physical, mental, spiritual, moral or social development. The article requires a minimum age for admission to employment, appropriate

regulation of hours and conditions under which children work; and appropriate penalties and sanctions and dissemination of information on the hazards of child labour to all sectors of the community. Whilst it is possibly farfetched that the kinds of organisations who become members of child safeguarding initiatives would employ child labour directly, and especially children below the minimum age of employment, can the same be said of all their employees? The phenomenon of housemaids and young girls in domestic work is ubiquitous in some regions and contexts, and is hidden from scrutiny because it occurs at a household level. It would be desirable that member organisations require their employees, volunteers and associates to sign up to international standards in regard to the use of child labour in domestic work, and that these commitments of employees are monitored for compliance.

Similarly, the protection provided by article 21 of the ACRWC deserves to be highlighted. This article provides for comprehensive protection against harmful social and cultural practices which affect the welfare, dignity, normal growth and development of the child, and, in particular, those practices which are prejudicial to the health of the child and those which discriminate on the basis of sex or other status. Article 21 also prescribes a minimum age of marriage to be 18 years. There is growing normative consensus—internationally, as well as on the African continent—on at least the most egregious forms of harmful cultural practice, such as Female Genital Mutilation/Cutting (FGM), early marriage, killing of children with disabilities, or those accused of witchcraft. The question arises, within the context of the enormously varied contexts within which organisations committed to safeguarding operate, how they “police” associates, employees and volunteers for compliance with article 21? For instance, is taking a child bride, or allowing daughters below the minimum age to be married, proscribed for staff? In addition, what would the consequences be of associates or volunteers allowing FGM to be performed on their daughters? Admittedly, the approach of the safeguarding movement tends to blend capacity building and education of staff with more reactive approaches (ending impunity and ensuring follow up via organisational child protection protocols), but where the line is drawn on remedial action (e.g., dismissal) is not always clear cut.

Article 27 of the Charter is also relevant: it provides for protection against sexual exploitation and sexual abuse. State Parties are required in particular to take measures to prevent the inducement, coercion or encouragement of a child to engage in any sexual activity. This might extend to online behaviours undertaken by staff in both official settings and in their homes, such as inappropriate sexting, posting of sexually explicit material on social media, and so forth. Given the rapid increase in access to digital media (especially via cellphones) which is occurring in developing regions, the risk of harm to children via online activities is real rather than illusory.

Finally, article 22 of the ACRWC deals with children and armed conflict. It sets a much higher standard than the equivalent provision of the UN CRC. In addition to prohibiting the recruitment of children (aged below 18 years) into state armed forces, it requires states to ensure that they take all necessary measures to ensure that “no child takes part in hostilities”. This prohibition also applies to internal armed conflicts and strife [11], which suggests that organisations in specific settings may bear some level of responsibility for children not associated with state armies, e.g., when working in camps and in disaster and relief work. This provision may additionally have a bearing on civil society and humanitarian organisations which are in contact with rebel groups, factions and gangs.

3.2. *The Mandate of the African Committee of Experts on the Rights and Welfare of the Child (ACERWC)*

Forty-seven of the fifty-four states of the AU have ratified the Charter at the time of writing, and the ACERWC has launched a campaign to lobby for universal ratification by the time of the 25th anniversary of the Charter in November 2015. The Committee comprises 11 experts elected by secret ballot by the AU Heads of State for a five-year term. The mandate of the ACERWC in the Charter is expansive. It is obviously premised on the State Party reporting procedure in the first instance, according to article 43 [11] and, to this end, it must be noted that there has been a dramatic increase in reports received and considered by the Committee in the last while—13 reports are currently awaiting consideration. Additional to this, the Committee has the broad mandate as prescribed by article 42 to promote and protect the rights of the child enshrined in the Charter, to collect and document information, to commission interdisciplinary assessments of the situation of children in Africa, to organise meetings on child rights, and to encourage national and local institutions concerned with the rights and welfare of the child, as well as giving its views on child rights and making recommendations to governments (Article 42(a)(i)) [11].

The Committee is empowered to formulate and lay down rules aimed at protecting the rights of children in Africa (Article 42(a)(ii)), and to cooperate with other African, international and regional institutions in connection with the promotion of children's rights and welfare. It may also interpret the Charter's provisions at the request of a State Party or an institution of the AU or "any other person or institution recognised by the AU or any State Party" (Article 42(c)). The Committee is enabled by the treaty to perform such other tasks as may be entrusted to it by the Assembly of the Heads of State of the AU, the Secretary General of the AU or any other organs of the AU or the UN (Article 42(d)). This conglomeration of capacities accorded the Committee of Experts is often referred to as the elaboration of the Committee's promotional mandate [12,13].

Article 45 concerns the investigative mandate of the Committee, which may "resort to any appropriate method of investigating any matter falling within the ambit of the Charter". The Committee, in fulfilling this assignment, may request from the State Parties any information relevant to the implementation of the Charter, and may also resort to any method of investigating the measures the State Party has adopted to implement the Charter.

The provisions of article 44 concern the Charter's communications procedure. The article is brief:

- (1) The Committee may receive a communication from any person, group or nongovernmental organisation recognised by the AU, by a member state, or the UN relating to any matter covered by this Charter;
- (2) Every communication to the Committee shall contain the name and address of the author and shall be treated in confidence.

However, the Committee of Experts has elaborated much more fully the requirements for the submission of a communication in its Guidelines for the Consideration of Communications [14]. From the text of article 44, it emerges that, as long as a communication relates to "any matter" covered in the Charter, there is a broad remit as to who may submit a communication and upon which issue. To date the Committee has received three communications, and the judgment on one made fully public [15,16].

None really deals with the concerns of the safeguarding movement, since all three have been brought against governments as the alleged perpetrator of rights violations.

Questions as to the interface between the protective objectives of the safeguarding alliance and the work of the Committee will be addressed further below. Suffice it to state at this point that the primary duty bearers under the Charter are State signatories, *i.e.*, governments. Whilst NGOs play a complementary role, as will be elucidated in the penultimate section, they are not primarily accountable for fulfilment of the Charter rights *vis-à-vis* the Committee.

4. Subsidiary Mechanisms: The Reporting Guidelines; Dialogue with State Parties and Award of Observer Status

4.1. Guidelines for State Parties

The first set of Guidelines that may have relevance to the issue of safeguarding of children are the Guidelines on the Form and Content of Periodic State Party Reports to be Submitted Pursuant to Article 43(1)(b) of the African Charter on the Rights and Welfare of the Child [17]. These Guidelines give some clues as to what information on safeguarding-related matters and child protection in general could be required by the Committee, or brought to Committee's attention by State Parties who are submitting reports.

First, the State Party should provide information on:

- Legislative, administrative, social and educational measures taken to protect children from all forms of torture, inhuman or degrading treatment. In particular, the State Party should indicate whether it has outlawed corporal punishment in all settings; and
- Whether it has established special monitoring units to provide necessary support for children and for those who have the care of the child ([18], para. 19(a)(f)).

Second, with regards to harmful cultural practices, the Guidelines require State Parties to provide information on:

- (a) The nature, type and prevalence of harmful social and cultural practices within its jurisdiction;
- (b) Measures taken to discourage and eliminate harmful social and cultural practices;
- (c) Measures taken to rescue and rehabilitate children who have been subjected to or affected by harmful social and harmful practices;
- (d) Where applicable, measures taken to specifically protect children with albinism from violence;
- (e) Whether child marriage and the betrothal of girls and boys are prohibited under its laws.

Information should also be provided on: whether the State Party has taken effective action to specify the minimum age of marriage to be eighteen years; and whether it has made registration of all marriages in an official registry compulsory ([18], para. 23). With regard to sexual exploitation, the State Party should provide relevant and updated information on measures taken to protect the child from all forms of sexual exploitation and sexual abuse ([18], para. 22(f)).

The Guidelines do not, therefore, specifically refer to the safeguarding principles, although they could be expanded to include steps that a State Party has put in place to require non-profit organisations which it registers or licenses to comply with safeguarding principles. An example in

point is South Africa. First, the Children's Act 75 of 2005 establishes a National Child Protection Register, and Part B thereof contains the names of persons found unsuitable to work with children. Amongst other duty bearers, any person managing or operating an institution, centre, facility or school must establish whether the name of any person who works with or has access to children at the institution, centre, facility or school appears in Part B of the Register; as must any designated child protection organisation [19]. In addition, it has been proposed that when amendments to the Children's Act are effected, that an insertion in the Act will enable the Minister to prescribe a code of conduct for persons or organisations involved in child protection [20]. This code of conduct will clarify how children are to be treated by non-state staff employed by organisations working with children. For instance, it has been proposed that the code should specify that staff may not sleep close to unsupervised children unless absolutely necessary in which case the staff member must obtain the manager's permission and ensure that another adult is present if possible. Further, the code should provide that staff may not use any computers, mobile phones or video or digital cameras inappropriately to exploit or harass children or to access pornography through any medium. The code should spell out that staff must refrain from physical punishment or discipline of children, as well as from hiring children for domestic or other labour which is inappropriate given their age or developmental stage and which interferes with their time available for education and recreational activities or which places them at significant risk of injury. The code should require staff to comply with all relevant legislation including labour laws in relation to child labour. Staff must be required to immediately report any concerns about or allegations of child abuse in accordance with appropriate procedures. The code should specify that non-compliance with the code would render them liable to a disciplinary hearing and a finding of unsuitability to work with children. Further, if organisations failed to implement a code of conduct (as prescribed), they could lose their accreditation to provide services to children, as also any government fiscal support. If enacted, these provisions would go some way forward to incorporate safeguarding principles in the domestic law of one African country, South Africa, at a level of detail that is probably a first on the continent.

However, licensing of non-profit organisations dealing with children is being or has been developed in a growing number of African countries, including Rwanda, Tanzania, and Kenya. This could provide a suitable base from which safeguarding principles could develop in domestic legal systems.

4.2. Dialogue with State Parties

In dialogue with States Parties having their reports considered by the Committee, the issues of child protection which interlink with the safeguarding initiatives could well be raised. However, since the frontline duty bearers under the Charter are State Parties, the exact nature of the State's obligations in respect of the activities and work methods of private sector organisations remains less obvious. However, State Parties could be required to show that there is an adequate response where children's rights are violated, either through criminal sanctions being pursued, disciplinary sanctions being imposed, or through licensing and registration legislation which penalises or disallows registration of organisations who do not react appropriately to breaches of children's rights. Furthermore, the State itself should ensure that safeguarding principles are upheld in relation to its own organs and employees who work with children—teachers, social workers, police, and so forth.

4.3. Observer Status

Committee practice permits that NGOs and INGOs concerned with children's rights in Africa may apply to the Committee for observer status. Rules for the consideration of applications for observer status have been developed [5]. To date, approximately ten such applications have been granted. Several more applications are under consideration. Similarly, organisations concerned with human rights on the continent may also acquire Observer Status before the African Commission on Human and Peoples' Rights which monitors the implementation of the African Charter on Human and Peoples' Rights (1980). Several member organisations of the safeguarding movement have applied for and received observer status before the ACERWC, which allows for a close linkage with the Committee. Observer status enables participation at Committee meetings, allows the organisations to make statements on issues that concern them, with the permission of the chairperson, and to request the inclusion of specific issues on the agenda of the Committee. Adherents to safeguarding principles therefore can forge a closer working relationship with the Committee. In future, were the criteria for the award of observer status to be amended, it is conceivable that applicants could be required to show that they have implemented safeguarding protocols internally. In this way, the ACERWC could complement the enforcement of safeguarding principles amongst organisations whose work affects children on the continent.

5. The Committee's Interface with NGOs

The Committee has a proud history of collaboration with NGOs and INGOs and since 2009, the Committee meetings have been preceded by a Civil Society Organisation Forum for the ACRWC, convened by an independent steering committee which is representative of the five geopolitical regions of Africa. Nine such meetings have to date been held, and according to the CSO Forum website, 446 affiliates from Africa are members of the Forum [21]. The event is usually attended by at least two committee members. The deliberations and conclusions are presented formally to the Committee at its opening ceremony. The CSO Forum represents an excellent opportunity for member organisations to place safeguarding formally on the agenda of likeminded civil society organisations, to use the audience present at the Forum to explore best practice amongst other organisations, and to disseminate examples of organisational child protection policies.

Civil society is also consulted by the Committee prior to the consideration of state party reports in closed pre-sessional meetings. In the majority of instances, civil society organisations in coalition compile formal complementary reports for the attention of the Committee. Hence, there is an avenue for raising safeguarding concerns to the extent that a State Party can be encouraged to adopt improved or different policies which affect the issue.

The Committee has from time to time held themed discussion sessions, for instance on harmful cultural practices and on birth registration. These have been characterised by wide participation from civil society as well as policy makers. The principles of safeguarding might be useful to profile, especially in the context of the diverse programmes and initiatives that the AU itself undertakes, including its peacekeeping operations, its staff recruitment policies and its internal channels for receiving complaints about child rights violations committed by staff or those allied to AU institutions.

It is true that exposing intra-organisational child rights violations may give rise to enormous reputational risk for those structures and NGOs which institute serious efforts to curb violations and end impunity. For organisations which purport to be furthering children's rights, or which are involved directly in child protection, exposure of such behaviours could be catastrophic from a donor angle.

However, the obverse is also the case. The recent Human Rights Watch report exposing sexual exploitation and rape by peacekeeping soldiers (chiefly from Burundi and Uganda) in AMISOM bases illustrates that abuse which is hidden from public scrutiny may in any event surface via other means or sources. This could be seen as a powerful incentive for civil society organisations to engage with safeguarding, as a preventive tool. It does, however, require the upfront acknowledgement that child rights violations are pervasive, that cultural beliefs which are found at community level also manifest amongst staff, associated partners and their staff and volunteers, and that a "not in my back yard" attitude prevents educational efforts to change behaviours.

6. Proposals for Improving the Response to Safeguarding in Regional Context and the Role of the ACERWC

There is considerable guidance to be sought in the CRC Committee's General Comment No. 13, the Right of the Child to Freedom from all Forms of Violence [8], on essential measures to combat violence against children in its many forms. The General Comment's Paragraph 49, for instance, requires that in every country, professionals who work directly with children should be required to report instances of violence or risk of violence against children. The ACERWC could include in the list of questions it puts to States Parties questions relating to the legal framework for the reporting of child abuse and neglect, if the State Party in its report has not spelt out in sufficient detail what legal mechanisms are in place.

Similarly, paragraph 53 [8] of the General Comment describes the necessity of follow up when a report is made. The paragraph continues:

The following must always be clear: (a) who has responsibility for the child and family from reporting and referral all the way through to follow-up; (b) the aims of any course of action taken—which must be fully discussed with the child and other relevant stakeholders; (c) the details, deadlines for implementation and proposed duration of any interventions; and (d) mechanisms and dates for the review, monitoring and evaluation of actions. Continuity between stages of intervention is essential and this may best be achieved through a case management process.

Paragraph 55 deals with a range of interventions to ensure that violence against children is not met with impunity. Thus, States must ensure (amongst others) that disciplinary or administrative proceedings are taken against professionals for neglectful or inappropriate behaviour in dealing with suspected cases of child maltreatment (either via internal proceedings in the context of professional bodies for breaches of codes of ethics or standards of care, or through external proceedings ([8], paragraph 55(d) of the General Comment). Again, the ACERWC could usefully explore in dialogue with States Parties whether disciplinary and administrative proceedings are in fact utilised when breaches occur.

Finally, and also taken from the General Comment, is the suggestion of a National Coordinating Framework on Violence against Children. According to paragraph 69 of the General Comment [8] “[t]his coordinating framework can provide a common frame of reference and a mechanism for communication among Government ministries and also for State and civil society actors at all levels with regard to needed measures, across the range of measures and at each stage of intervention identified in Article 19. It can promote flexibility and creativity and allow for the development and implementation of initiatives led simultaneously by both Government and community, but which are nonetheless contained within an overall cohesive and coordinated framework”. Together with civil society partners, the ACERWC can champion the development of such National Coordinating Frameworks at country level to ensure an improved response to violence perpetrated upon children, and to take account of some of the initiatives furthered by the safeguarding movement.

7. Limits and Contributions of the Safeguarding Endeavour

At the risk of repetition, it is worth stressing that safeguarding (as discussed here) and the development and implementation of child protection systems are not co-terminous [22]. There may be some overlap, such as where formal child protection measures are invoked as a result of safeguarding policies (reporting to the police, criminal justice action against perpetrators of violations), but the child safeguarding movement is primarily aimed at organisational development amongst non-state actors. It targets all staff (who may or may not be professionals), including drivers, cleaners, receptionists, fieldworkers and volunteers. It is intended to hold organisations to account through periodic auditing, monitoring and review. This provides at once one limitation of safeguarding and, at the same time, a strength. The limitation is that it is consciously introspective, and it does not deal at all with the (formal) external environment: is there a functioning child protection system? Are cases appropriately pursued once reported? Additionally, are state and community child protection structures functioning appropriately? These are not questions that the safeguarding movement seeks to answer. However, the narrow intra-organisational lens also lays the basis for a truly practical and preventive approach to combatting harm to children.

It has been acknowledged that safeguarding is a journey—“no organisation can claim that all children it connects with are entirely safe all the time” [3]. Once this reality is conceded, another important point emerges: namely that changing behaviour involves complex engagements about attitudes, values and beliefs. Much in the same way as current initiatives to stop FGM/C are bearing some fruit because they engage at village and community level with deeply held tenets of culture, safeguarding adherents recognise that a conscious effort to change hearts and minds is required to end exploitation in its many guises. This is challenging in a development context where many staff and partners are themselves part of communities whose cultural norms are at odds with commitments to “do no harm”. It means confronting issues like early marriage, child labour, exploitative practices and corporal punishment deliberately, rather than denying that they impact within the aid and development sector much as they do in the community at large.

It is discernible that the safeguarding movement is premised on both a “top down” and a “bottom up” approach. Little progress will be made unless there is an endorsement at the highest level of an organisation of a commitment to develop the necessary policies and to implement them with rigour

(a “zero tolerance approach”, [3]). At the same time, the standards have to take root in the day-to-day lives of staff and associates throughout the organisation, which implies ongoing education, sensitization and capacity building at all levels from the bottom up. It, thus, is evident that inculcating safeguarding principles in practice is not, and cannot be, a “quick fix”, but that it will require investments which are sustained over time.

8. Conclusions

The safeguarding initiative is a useful contribution to end impunity for violations of children’s rights. It is particularly appropriate insofar as it moves the agenda from a national level and away from the realm of the state, to engage with local organisations, their partners, and the people actually working with children on a daily basis. It is also especially relevant to the African context, where the vast majority of services to children, and indeed welfare services generally, are not undertaken by government functionaries but by civil society and community-based groups, and by religious organisations.

Further to this, the safeguarding movement has as its basis the practicalities of child protection, including requiring child sensitive recruitment and screening procedures, complaints mechanisms which are monitored and reviewed for effectiveness, and codes of conduct which are supportive of children’s rights. It requires a conscious assessment of risks to children, including inadvertent ones. It requires organisations to engage deliberately with difficult questions of culture and tradition amongst their staff and affiliates, and to shift values and attitudes. This deserves support.

Finally, although State signatories are the primary duty bearers for the implementation of children’s rights under the ACRWC, there is considerable room for complementary dialogue between the members of the movement, individually and collectively, and the ACERWC. Some suggestions in this regard have been proffered.

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Abbreviations

- ACRWC: African Charter on the Rights and Welfare of the Child;
- ACERWC: African Committee of Experts on the Rights and Welfare of the Child;
- AU: African Union;
- CRC: Convention on the Rights of the Child;
- INGOs: International Non-Governmental Organisations;
- NGOs: Non-Governmental Organisations;
- UN: United Nations.

Conflicts of Interest

The author declares no conflict of interest.

References and Notes

1. See for further information: Keeping Children Safe. Available online: <http://www.keepingchildrensafe.org.uk/faq> (accessed on 28 August 2014) and sources cited there.
2. See for instance, Centre for Applied Legal Studies, University of the Witwatersrand School of Law, and Cornell Law School's Avon Global Center for Women and Justice and International Human Rights Clinic. *Sexual Violence by Educators in South Africa's Schools: Gaps in Accountability*. Johannesburg: Centre for Applied Legal Studies, 2014. Despite a prohibition in law on corporal punishment by educators having been on the statute book in South Africa since 1996, studies estimated that 2 million children were subjected to corporal punishment in schools in 2012.
3. Examples from a presentation by the Richard Powell, International head of Child Safeguarding for Save the Children International. "Progress and Challenges of Child Safeguarding in the Aid and Development Sector." Paper presented at the Child Safeguarding Conference, Cape Town, South Africa, 2–5 September 2014.
4. Keeping Children Safe. "Child Safeguarding standards and how to implement them." 2014. Available online: <http://www.keepingchildrensafe.org.uk/resources/child-safeguarding-standards-and-how-implement-them> (accessed on 28 August 2014).
5. See in general the website of the ACERWC. Available online: <http://www.acerwc.org> (accessed on 10 September 2014).
6. The text of article 19 of the CRC reads that the protection applies against parents, legal guardians and other having the care of the child. Some words appeared to have been omitted from this phrase in Article 16 of the Charter.
7. UN Secretary General's Special Representative. Available online: <http://www.srsg.violenceagainstchildren.com> (accessed on 10 September 2014) and various thematic reports available there.
8. Convention on the Rights of the Child. "The rights of the child to freedom from all forms of violence." Available online: http://www2.ohchr.org/english/bodies/crc/docs/CRC.C.GC.13_en.pdf (accessed on 24 November 2014).
9. "Mental violence", as referred to in the Convention, is often described as psychological maltreatment, mental abuse, verbal abuse and emotional abuse or neglect and this can include: (a) All forms of persistent harmful interactions with the child, for example, conveying to children that they are worthless, unloved, unwanted, endangered or only of value in meeting another's needs; (b) Scaring, terrorizing and threatening; exploiting and corrupting; spurning and rejecting; isolating, ignoring and favouritism; (c) Denying emotional responsiveness; neglecting mental health, medical and educational needs; (d) Insults, name-calling, humiliation, belittling, ridiculing and hurting a child's feelings; (e) Exposure to domestic violence; (f) Placement in solitary confinement, isolation or humiliating or degrading conditions of detention; and (g) Psychological bullying and hazing by adults or other children, including via information and communication technologies (ICTs) such as mobile phones and the Internet (known as "cyberbullying").
10. This defines "physical violence includes: (a) All corporal punishment and all other forms of torture, cruel, inhuman or degrading treatment or punishment..."

11. See Article 22(2) and 22(3). African Committee of Experts on the Rights and Welfare of the Child (ACERWC). “African Charter on the Rights and Welfare of the Child.” Available online: <http://acerwc.org/the-african-charter-on-the-rights-and-welfare-of-the-child-acrwc/acrwc-en/> (accessed on 24 November 2014).
12. See for instance, Frances Shehan. *Advancing Children’s Rights: A Guide for Civil Society Organisations on How to Engage with the African Committee of Experts on the Rights and Welfare of the Child*. London: Plan International and Save the Children, 2011.
13. Amanda Lloyd. “The African Committee of Experts on the Rights and Welfare of the Child.” In *Children’s Rights in Africa: A Legal Perspective*. Edited by Julia Sloth-Nielsen. Dartmouth: Ashgate, 2008, pp. 33–53.
14. A summary of these Guidelines will be available on the website of the Committee. The Guidelines were approved at the Committee meeting of October 2014.
15. This is the so-called Nubian Children decision (against the Government of Kenya). Available online: <http://www.acerwc.org/wp-content/uploads/2011/09/002-09-IHRDA-OSJI-Nubian-children-v-Kenya-Eng> (accessed on 10 September 2014).
16. See Julia Sloth-Nielsen. “Chapter 15: Children’s rights in litigation before the African Committee of Experts on the Rights and Welfare of the Child.” In *Litigating the Rights of the Child*. Edited by Ton Liefaard and Jaap Doek. Dordrecht: Springer Publishers, 2014.
17. These were adopted at the 23rd Ordinary Session of the Committee in April 2014.
18. African Committee of Experts on the Rights and Welfare of the Child. *Guidelines on the Form and Content of Periodic State Party Reports*. Addis Ababa: ACERWC, 2015, forthcoming.
19. Government of the Republic of South Africa. “Section 123 of the Children’s Act.” Available online: <http://www.justice.gov.za/legislation/acts/2005-038%20childrensact.pdf> (accessed 24 November 2014).
20. These submissions were made at various workshops convened by the National Department of Social Development with civil society organisations during 2011 and 2012 to debate amendments to the Children’s Act. The proceedings were captured and incorporated in an as yet unpublished report (copy on file with the author).
21. Civil Society Forum. Available online: <http://www.csoforum.info> (accessed on 10 September 2014).
22. For a different use of the term “safeguarding” to theorize emerging approaches to child abuse and neglect, see Nigel Parton. *Safeguarding Childhood: Early Intervention and Surveillance in a Late Modern Society*. Basingstoke: Palgrave MacMillan, 2006.