



Analysis of Distortions of African and Global Human Rights Law of the

Draft African Charter on Family, Sovereignty and Values:

Outcome of
Deliberations at the
Inter-Parliamentary
Conferences on
Family Sovereignty
and Values at
Entebbe, Uganda

Initiative for Strategic
Litigation in Africa
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Table of abbreviations

AAAQ	Available, Accessible, Acceptable, and of good Quality (framework)
ACRWC	African Charter on the Rights and Welfare of the Child
AU	African Union
CEDAW	Convention on the Elimination of All Forms of Discrimination against Women
CESCR	Committee on Economic, Social and Cultural Rights
CRC	Convention on the Rights of the Child
CSE	Comprehensive Sexuality Education
HIV	Human Immunodeficiency Virus
ICCPR	International Covenant on Civil and Political Rights
ICESCR	International Covenant on Economic, Social and Cultural Rights
ICJ	International Court of Justice
LGBTQ	Lesbian, Gay, Bisexual, Transgender, and Queer
NHRIs	National Human Rights Institutions
SRH	Sexual and Reproductive Health
SRHR	Sexual and Reproductive Health and Rights
STI	Sexually Transmitted Infections
UN	United Nations
VCLT	Vienna Convention on the Law of Treaties

List of references and sources

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- Human Rights Committee, *Toonen v Australia*, Communication No 488/1992, UN Doc CCPR/C/50/D/488/1992 (1994).

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Part 1

Introduction

1.1 Executive Summary

The draft African Charter on the Protection of the Family, Sovereignty, and Religious and Cultural Values (draft Charter) presents itself as an urgent normative response to perceived threats to African family systems, cultural identity, and state sovereignty. Framed as the product of consultations among political leaders, legal actors, religious authorities, and civil society, the draft Charter asserts that African families and values are under siege from foreign ideologies, donor-driven agendas, and evolving interpretations of international human rights law. It positions family protection as the foundation of Africa's moral integrity, social cohesion, development, and sovereignty, and advances a values-based framework aimed at reclaiming what it describes as Africa's moral and developmental autonomy.

The central finding of this analysis is that the draft Charter retains the language of rights, equality, and legal principle throughout its text, but systematically empties that language of its protective content. This is a deliberate technique of distortion in which established legal concepts are cited in form but inverted in substance. For instance, provisions on equality omit binding protections against discrimination on grounds of gender identity, sexual orientation, disability, and other status. References to family protection sever the obligations to eliminate discrimination against women and to uphold the best interests of the child that are attached to family rights in the African Charter on Human and Peoples' Rights (African Charter) and the Protocol to the African Charter on the Rights of Women in Africa (the Maputo Protocol). The language of sovereignty is deployed not in defence of political self-determination but to justify near-absolute state control over health, education,

sexuality, and moral life, and to authorise the rejection of treaty obligations that African states have voluntarily assumed.

Measured against the interpretive standards established in the Vienna Convention on the Law of Treaties (VCLT), which obliges states to interpret treaty terms in good faith, in accordance with their ordinary meaning, and in light of a treaty's object and purpose, the draft Charter's definitional provisions and operative articles systematically invert these principles. Key terms are assigned meanings that contradict the object and purpose of instruments to which African states are party, including the International Covenant on Civil and Political Rights (ICCPR), the International Covenant on Economic, Social and Cultural Rights (ICESCR), the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), the Convention on the Rights of the Child (CRC), the African Charter, the Maputo Protocol, and the African Charter on the Rights and Welfare of the Child (ACRWC). Several provisions direct states to review, nullify, rescind, or withdraw from existing legal instruments on the basis of perceived ideological incompatibility, in direct violation of Articles 26 and 27 of the VCLT, which establish that treaties in force must be performed in good faith and that internal law may not be invoked to justify non-performance.

Central to the draft Charter's approach is a family-centred and sovereignty-driven model of governance that reframes dignity, moral formation, and development as contingent on adherence to a singular conception of African family values. This challenges the foundational architecture of African and international human rights law, which recognises individuals as rights-holders and treats family protection as complementary to, rather than overriding,

individual autonomy. In positioning the family as the primary site of identity and moral authority, the draft Charter risks legitimising the subordination of women, children, and adolescents to collective family interests and insulating private family relations from state accountability, especially in situations involving violence, coercion, or discrimination. The restrictive definition of the family as grounded exclusively in heterosexual marriage excludes de facto families, single-parent households, extended families, and non-marital family formations that are already recognised in African and international jurisprudence, dismantling the legal functions of family protection across domains including social protection, inheritance, custody, housing, and migration status.

The draft Charter further advances a narrative in which sexual and reproductive health and rights, comprehensive sexuality education, and gender equality frameworks are portrayed as ideologically driven and inherently hostile to African values and family life. These concepts are framed not as components of public health or human dignity, but as instruments of cultural imperialism designed to undermine parental authority, normalise abortion, and introduce what the draft Charter characterises as radical gender ideology. This framing mischaracterises existing African and international health and rights frameworks and obscures the lived realities of women and girls who face systemic barriers to healthcare, autonomy, and protection from harm.



Throughout the text, African culture, religion, and morality are treated as fixed and homogenous rather than as dynamic and contested social realities. The draft Charter essentialises 'African values' and treats them as legally determinative, thereby suppressing internal diversity and debate and marginalising individuals and families whose lives do not conform to dominant moral narratives. This approach is inconsistent with African human rights jurisprudence, which recognises culture as evolving and subject to constitutional principles and human rights limits.

The draft Charter's expansive conception of sovereignty deepens these concerns. Sovereignty is extended beyond political independence to justify state control over family life, education, health policy, sexuality, and moral norms, and is used to resist accountability to regional and international human rights mechanisms. This is not classical sovereignty in the sense of self-determination or democratic accountability to the people. It is sovereignty deployed as a legal justification for dismantling multilateral obligations, weakening regional human rights mechanisms, and normalising non-compliance with treaty commitments.

Notably, the draft Charter's own stated sources of inspiration confirm its departure from the African human rights system. Article 24 of the draft Charter identifies the Entebbe Declaration, inter-parliamentary communiqués, and the Geneva Consensus Declaration as its normative foundations. The Geneva Consensus Declaration, sponsored by the United States under the first Trump administration in 2020, was explicitly designed to contest sexual and reproductive health rights at international forums. None of these instruments constitutes a source of international law under Article 38 of the Statute of the International Court of Justice. Binding

African Union treaties, African Commission on Human and Peoples' Rights resolutions and general comments, and African Court on Human and Peoples' Rights jurisprudence are absent entirely from the draft Charter's sources of inspiration. The omission confirms that the draft Charter's purpose is not to clarify existing obligations, fill normative gaps, or advance the African human rights system, but to contest and reframe obligations that African states have voluntarily accepted through instruments that were drafted and adopted through African Union processes and continental consensus.

Taken as a whole, the draft Charter marks a shift away from rights-based governance toward a values-based regulatory framework that prioritises collective ideological order over individual dignity and equality. Each distortion it introduces weakens the human rights system independently; together, they are designed to dismantle it. The pattern of distortion follows a recognisable sequence that has appeared in other regional and domestic contexts: freedom of expression is reframed as harmful ideology; family protection is weaponised to exclude non-conforming family forms already recognised in law; religious and cultural values are elevated into a veto against individual rights; sovereignty is deployed to exit multilateral accountability; and courts and human rights institutions are targeted with directives that compromise their independence. This sequencing has appeared in Eastern Europe, Latin America, and other Global South contexts where the same legal language, the same institutional entry points, and the same actors have achieved incremental but cumulative erosion of rights protections. The draft African Charter on Family, Sovereignty and Values is an early warning signal for that trajectory on the African continent.

If adopted in its current form, the draft Charter risks legitimising legal regression, entrenching discrimination, and providing political cover for policies that harm women, children, and marginalised groups. A genuine commitment to African families and sustainable development demands legal frameworks that strengthen families through equality, freedom from violence, access to health and education, and respect for diversity, rather than subordinating individuals to an abstract and exclusionary vision of morality and tradition.



1.2 How to Use This Document

This analysis is designed as a practical advocacy resource for diverse constituencies working to counter the Draft African Charter on Family Values. It provides both analytical depth and operational guidance for deployment across litigation, policy engagement, media communication, and public education contexts.

1.2.1 Analytical Approach

The document's analytical foundation is the concept of distortion. Anti-rights actors do not simply oppose specific groups or deny specific rights. They retain rights-affirming language in form but alter its meaning, selectively cite legal standards, invoke rights to justify exclusion, and repurpose legal institutions for anti-rights ends. The result is that rights continue to exist on paper but no longer function in substance. This analysis exposes that mechanism provision by provision, measuring each article of the draft Charter against the legal standards it claims to uphold and demonstrating where and how those standards are inverted.

The article-by-article analysis in Part 2 is structured around two questions applied to each provision. The first, 'What the provision seeks to do,' identifies the stated purpose and operative effect of the article. The second, 'Where it fails, distorts, omits, or regresses,' exposes the legal deficiencies, misrepresentations, and departures from binding law. This structure is designed to make the gap between the draft Charter's stated purposes and its actual legal effect immediately visible. The analysis is anchored throughout in binding legal standards, including the African Charter, the Maputo Protocol, the ACRWC, and other global human rights treaties. It draws on African Commission communications and

resolutions, treaty body general comments, and constitutional jurisprudence from across the continent. Arguments are grounded in existing legal standards rather than political disagreement, so that this analysis functions as a diagnostic of lawfare rather than a counter-polemic.

1.2.2 Document Structure

The report is organised in two parts. Part 1, this introduction, provides a high-level overview of the draft Charter's purpose and legal deficiencies, the analytical methodology used in the report, and guidance on how different constituencies should deploy the analysis. Part

2 contains the article-by-article analysis, which examines each provision of the draft Charter systematically through the distortion framework described above. This analysis covers all twenty-five articles of the draft Charter, from Article 1 (*Definitions*) through Article 25 (*Signature, Ratification, and Amendments*), and addresses the full range of subjects the draft Charter regulates. Part 2 also provides the evidential basis for relevant advocacy work.





Part 2

Article-by-Article analysis

Chapter I: General Provisions

Article 1: Definition of Terms

What the provision seeks to do

Article 1 seeks to control the interpretive universe of the draft Charter by fixing authoritative definitions for key legal, social, moral, and political concepts. Rather than merely clarifying technical terms, it attempts to pre-determine how family, rights, culture, sovereignty, and contested international norms must be understood for purposes of the draft Charter's application. In doing so, Article 1 functions as a substantive normative provision rather than a neutral definitional clause, shaping the meaning, scope, and limits of all subsequent obligations.

Where it fails, distorts, omits, or regresses

Article 1 departs from accepted treaty-drafting practice by using definitions to advance ideological positions, reject established legal concepts, and delegitimise authoritative interpretations of binding human rights instruments.

Under Articles 31 and 32 of the **Vienna Convention on the Law of Treaties** (VCLT), treaty terms must be interpreted in good faith in accordance with their ordinary meaning in context and in light of a treaty's object and purpose. Article 1 of the draft Charter systematically inverts this principle, assigning meanings to contested terms that contradict the object and purpose of existing instruments to which African states are party.

It embeds contested political claims and speculative harms within definitions, thereby insulating them from later scrutiny. The provision omits any recognition that definitional power itself must be exercised consistently with equality, non-discrimination, and the best interests of the child. By redefining sovereignty and family in ways that subordinate individual rights to collective moral authority, Article 1 predetermines a rights-regressive trajectory for the entire Charter.

The Family

It establishes a normative definition of the family as founded on marriage between a man and a woman, while acknowledging biological and adopted children and, secondarily, extended kinship and alternative caregiving arrangements common in African societies.

The restrictive definition of family contradicts the Human Rights Committee's **General Comment No. 19 on Article 23 ICCPR**, which holds that the concept of family 'may differ in some respects from State to State, and even from region to region' and that it is 'therefore not possible to give the concept a standard definition.' The Committee on Economic, Social and Cultural Rights (CESCR) in **General Comment No. 20** on non-discrimination further establishes that 'other status' under Article 2(2) ICESCR includes sexual orientation and that denial of family recognition on that basis constitutes prohibited discrimination. By grounding the family's 'natural' status in heterosexual marriage, the definition creates a hierarchy of family forms that is incompatible with binding African and international human rights law and treats diversity as derivative rather than equal.

Article 1: Definition of Terms

What the provision seeks to do

Where it fails, distorts, omits, or regresses

Family Centred Approach

It frames the family as the primary unit for policy design and service delivery, positioning family welfare above individual considerations.

It lacks safeguards ensuring that prioritising the family does not override individual rights, particularly where families are sites of inequality or harm. Equally, it bypasses a human rights approach where the rights and dignity of the individual is respected, protected, and promoted by the State, thereby subjugating individual dignity to family demands. The architecture of the ICCPR, ICESCR, CEDAW, and the African Charter treats individuals as primary rights-holders. Article 1 of the Universal Declaration of Human Rights, Article 2 ICCPR, Article 2 ICESCR, and Article 1 of the African Charter all frame rights as inhering in persons (not families) by virtue of their humanity.

Family Impact Lens

It introduces a policy evaluation tool focused on the effects of laws and programs on family stability and cohesion.

This is an arbitrary lens that is not grounded in any theoretical analysis. This lens prioritises cultural and religious tenets as the basis for legal analysis without considering, for example, women's rights, children's rights, equality, or non-discrimination, and risks functioning as a veto against rights-protective policies. By essentialising the family, it gives States the rationale to enact restrictive laws and policies that violate the rights of individuals.

The family-centred approach and family impact lens definitions are unknown to human rights law. No African or international human rights instrument authorises subjugating individual rights to collective family cohesion. These definitional tools are structurally incompatible with the human rights framework and risk creating a legally operative veto against rights-protective measures across every domain the draft Charter regulates.

Article 1: Definition of Terms

What the provision seeks to do

Where it fails, distorts, omits, or regresses

Gender Ideology

It seeks to delegitimise concepts of gender identity and gender equality by framing them as ideological, harmful, and externally imposed.

The definition of 'gender ideology' is medically and legally inaccurate. The CEDAW Committee in **General Recommendation No. 28** defines gender as 'socially constructed identities, attributes and roles for women and men.' The Human Rights Committee in **Toonen v Australia (Communication No. 488/1992, CCPR/C/50/D/488/1992, 1994)** established that sexual orientation is a protected ground under Article 26 ICCPR. **CESCR General Comment No. 20** confirms that gender identity constitutes a protected ground under 'other status' in Article 2(2) ICESCR. By characterising gender identity protections as ideological impositions, Article 1 embeds discrimination into the draft Charter's definitional foundation.

Neocolonialism

It frames external influence on African policy and law as a continuation of colonial domination.

While the definition seems to acknowledge real power imbalances in global governance and development financing, it collapses legitimate international cooperation and accountability into a single narrative of domination, undermining multilateral legal commitments. It also introduces the idea of 'true sovereignty' implying that there is a kind of sovereignty that is not subject to international systems. This definition also ignores the fact that historically imperialist countries have also adopted this framework through evangelical and anti-rights actors as a new form of colonial intervention in Africa.

Religious and cultural values

It positions religious and cultural values as the moral foundation of law and governance.

It essentialises culture, privileges dominant religions, and omits the requirement that cultural practices comply with human rights. It also homogenises religions and cultures and fails to recognise how these can manifest in diverse understandings and practices of family, sexuality, and gender.

Article 1: Definition of Terms

What the provision seeks to do

Where it fails, distorts, omits, or regresses

Sexuality, Sexuality Education, SRH, SRHR, and Sexual Rights

They collectively reject established international health and rights frameworks by redefining them as ideological threats.

The definitions are selectively quoted, misleading, and reject authoritative interpretations while asserting alternative meanings without legal basis.

Sovereignty

It expands sovereignty to justify near-absolute state control over social, moral, and cultural life.

The sovereignty definition strips the concept of its human rights limitations. Under established international law, sovereignty operates within constraints imposed by *jus cogens* norms and treaty obligations voluntarily assumed. The African Commission has consistently held in cases such as **Zimbabwe Human Rights NGO Forum v Zimbabwe** (Communication No. 245/2002, 2006, para 190) that sovereignty arguments cannot shield states from accountability under the African Charter. Article 1's expanded sovereignty definition, if accepted, would hollow out every protection to which African states have committed.

Ubuntu

It grounds the draft Charter in an African communitarian ethic.

While Ubuntu has been used to support dignity, care, and solidarity in African jurisprudence, this definition attempts to instrumentalise an African philosophical concept to justify collective subordination of individual rights, which inverts its established use. South African courts have invoked Ubuntu in support of dignity, equality, and care, not to override individual rights. In **State v Makwanyane** [1995] ZACC 3, the Constitutional Court described Ubuntu as consistent with respect for the inherent dignity of persons. Deploying it as a justification for subordinating individuals to collective moral authority contradicts its jurisprudential history and the constitutional frameworks in which it has been interpreted.

Article 2: Charter Purposes and Objectives

What the provision seeks to do

Article 2 articulates the overarching purpose of the draft Charter as a comprehensive reordering of African legal, social, and governance systems around a singular conception of the family, sovereignty, and religious and cultural values. It frames the protection of a heteronormative family model as a matter of national and regional security, casts sovereignty as authority over moral, social, health, educational, and legal systems, and positions the draft Charter as an instrument to reverse existing laws, policies, and agreements deemed inconsistent with its objectives. Collectively, the provision seeks not merely to supplement existing legal frameworks, but to supplant them by redefining the hierarchy of norms governing African states.

Where it fails, distorts, omits, or regresses

Article 2 fundamentally departs from human rights treaty practice by framing the family (rather than human life and safety) as a security object and sovereignty as justification for control over private life, belief, identity, and bodily autonomy.

The African Charter's object and purpose, as expressed in its Preamble and Article 1, is to ensure that all persons within member states enjoy rights, duties, and freedoms without discrimination. Article 2 of the African Charter prohibits discrimination on enumerated grounds, and Article 62 requires states to submit periodic reports on compliance with binding obligations.

Article 2 of the draft Charter inverts these obligations by directing states to prioritise the family unit, defined in exclusionary terms, as the primary object of legal protection and by authorising the review and nullification of instruments deemed inconsistent with this purpose.

It elevates a single moral and cultural vision above constitutional principles of equality, non-discrimination, and dignity, while omitting any reference to individual rights, state due-diligence obligations, or proportionality. By portraying existing regional and international human rights frameworks as instruments of cultural imperialism, the provision delegitimises African-authored treaties, jurisprudence, and oversight mechanisms.

The mandate to reverse existing laws and policies violates Article 26 of the [VCLT](#), which establishes the principle of *pacta sunt servanda*: every treaty in force is binding and must be performed in good faith. Article 27 VCLT further prohibits states from invoking internal law to justify non-performance of treaty obligations. The characterisation of existing frameworks as instruments of cultural imperialism delegitimises African-authored treaties including the Maputo Protocol and ACRWC, both of which were drafted and adopted through African Union processes and continental consensus.

The framing of family protection as a security matter is without precedent in African human rights law. Article 23 of the African Charter protects peoples' rights to peace and security in their states, not the protection of a particular family model. Article 18 of the African Charter protects the family as a natural unit and basis of society but requires states to eliminate discrimination against women and to ensure the protection of children's rights. However, article 2 of the draft Charter severs these protective obligations from the family rights framework and replaces them with a unilateral values-based mandate.

Article 3: Charter Principles

What the provision seeks to do

Article 3 purports to anchor the implementation of the draft Charter in generally recognised legal principles, including equality of men and women before the law, non-discrimination, impartiality, fairness, and due process, while requiring the use of a family impact lens in the application of all charter obligations. On its face, the provision appears to align the draft Charter with constitutional and human rights norms and to mitigate concerns that a family-centred framework might undermine individual rights or procedural safeguards.

Where it fails, distorts, omits, or regresses

At a rhetorical level, the provision signals an awareness of the need to situate family-focused policies within a framework of legal fairness and procedural legitimacy. But despite its rights-affirming language, Article 3 functions largely as a legitimising clause rather than a substantive safeguard.

The mandatory application of a family impact lens, as defined in Article 1, structurally subordinates individual rights to an assessment of family cohesion, parental authority, and conformity with religious and cultural norms. This reproduces a distortion characteristic of anti-rights legal instruments where rights language is retained in form, but its content is emptied by being channelled through a lens that predetermines rights-restrictive outcomes.

The equality and non-discrimination guarantees are narrowly framed. They omit protected grounds recognised under binding African and international human rights law, including gender identity, sexual orientation, disability, age, marital status, and health status. **CESCR General Comment No. 20** on non-discrimination explicitly lists these as grounds covered by 'other status' in Article 2(2) ICESCR. The **CEDAW Committee in General Recommendation No. 28** defines discrimination against women to include discrimination on the basis of gender identity. The African Commission in **Resolution 275 (2014)** specifically protects persons facing violence and discrimination on the basis of sexual orientation and gender identity. Article 3's selective enumeration of protected grounds omits these standards.

Moreover, the reference to 'equality of men and women before the law' is presented without acknowledgment of substantive equality or the historical and structural inequalities that necessitate specific protections for women and girls. The CEDAW Committee has consistently distinguished formal equality, treating men and women identically, from substantive equality, which requires affirmative measures to address historical and structural disadvantage. **General Recommendation No. 25** on temporary special measures affirms that purely formal equality may perpetuate inequality where structural disadvantage persists. Article 3's formulation enables the draft Charter to claim compliance with equality principles while actively undermining the substantive equality framework that African states have adopted through CEDAW and the Maputo Protocol.

By failing to integrate binding standards such as the best interests of the child, state due-diligence obligations, and proportionality, the provision allows the draft Charter's values-based framework to override the very principles it invokes.

In effect, Article 3 uses the language of rights and due process to shield a normative project that, in practice, narrows the scope of equality and weakens legal protections.



Chapter II: Sovereignty over the Family

Article 4: Commitments to Preserve and Protect the African Family

What the provision seeks to do

Article 4 operationalises the draft Charter's stated objectives by imposing extensive and far-reaching commitments on African States. It seeks to mandate a systematic review of all existing legal and policy instruments through a family impact lens, authorise withdrawal from or nullification of instruments deemed inconsistent with the draft Charter's values, and require unilateral reinterpretation of binding obligations where withdrawal is not possible. The provision further seeks to entrench a heteronormative definition of marriage, reject gender equality frameworks beyond a narrow conception of sex-based equality, restrict sexual and reproductive health and rights, elevate parental authority over children's autonomy, and promote a moralised model of family formation and sexuality as a matter of state policy. Collectively, Article 4 functions as an enforcement mechanism designed to translate the draft Charter's ideological premises into binding domestic and regional legal action.

Where it fails, distorts, omits, or regresses

Article 4 represents a serious departure from the rule of law and the African human rights system. By directing States to review, nullify, rescind, or withdraw from existing legal and policy instruments on the basis of perceived ideological reinterpretation, it directly violates Articles 26 and 27 VCLT. The provision undermines legal certainty, *pacta sunt servanda*, and the integrity of regional and international treaty regimes to which African States have voluntarily committed.

The authorisation to unilaterally redefine binding treaty terms, especially as it relates to sexual and reproductive health, gender equality, and children's rights, directly contradicts established principles of treaty interpretation and the authority of African and international oversight bodies.

The provision systematically targets the Maputo Protocol. Article 14 of the Maputo Protocol obligates states to protect the reproductive rights of women by authorising medical abortion in cases of sexual assault, rape, incest, and where continued pregnancy endangers the health or life of the mother or foetus. This constitutes a binding regional obligation. The African Commission's **General Comment No. 2 on Article 14** further specifies that states must review and reform restrictive abortion laws and eliminate barriers to access. Article 4 of the draft Charter explicitly targets these obligations by directing states to identify and nullify all instruments promoting sexual and reproductive rights.

It essentially collapses sexual and reproductive health, gender equality, sexuality education, and protections for sexual minorities into a single category of 'moral threat', relying on contested and ideologically charged assertions rather than legal analysis. Its framing of abortion, gender identity, and sexuality as harms to be eliminated disregards binding obligations in CEDAW and the Maputo Protocol relating to women's health, bodily autonomy, and freedom from cruel, inhuman, or degrading treatment. The elevation of parental authority over virtually all aspects of children's lives, including healthcare, discipline, and sexuality, is presented without reference to the best interests of the child, evolving capacities, or state duties to protect children from abuse and neglect within families. This contradicts the primary obligation under Article 1(3) of the ACRWC and Article 3 of the CRC, both of which establish the best interests of the child as the paramount consideration in all actions concerning children. The CRC Committee in **General Comment No. 14 (2013)** emphasises that parental rights must be exercised consistently with children's evolving capacities and that state duties to protect children cannot be displaced by parental preferences. **CRC General Comment No. 4** on adolescent health further establishes that mandatory parental consent requirements, particularly for sexual and reproductive health services, deter adolescents from seeking necessary care and violate their rights to health and life.

The insistence on defining marriage exclusively as between a man and a woman, promoting motherhood and fatherhood as fixed social roles, and endorsing a prescriptive 'success sequence' for sexuality and family formation embeds discrimination and moral coercion into law and policy. In framing these measures as necessary to protect sovereignty and culture, Article 4 transforms human rights obligations into optional or hostile instruments and legitimises rights regression under the guise of family protection.

Chapter III Sovereignty Over African Religious and Cultural Values

Article 5: Commitments to preserve and protect religious and cultural values-integrated assessment

What the provision seeks to do

Article 5 seeks to entrench African religious and cultural values as central objects of state protection and regulation across law, education, public policy, budgeting, language policy, and judicial decision-making. It mandates the enactment of national legislation to safeguard culture, the inculcation of prescribed values through education systems, the allocation of public resources to cultural preservation, and the prioritisation of African languages and indigenous practices. The provision further seeks to bind courts, human rights commissions, and other institutions to interpret law in ways that explicitly protect religious and cultural values, parental authority, and a particular moral vision, while rejecting what it characterises as foreign or incompatible human rights concepts.

Where it fails ,distorts, omits, or regresses

Article 5 adopts some legitimate interests recognised in African and international law, including the protection of cultural heritage, promotion of indigenous languages, recognition of indigenous communities, and respect for religious liberty. Several values listed, such as dignity, solidarity, care for the vulnerable, peaceful coexistence, and communal responsibility, are consistent with principles long affirmed within African human rights instruments and jurisprudence.

However, Article 5 attempts to transform culture and religion from lived, evolving social practices into legally enforceable moral doctrines that override individual rights and constitutional safeguards.

By mandating the ‘enshrinement’ and ‘inculcation’ of a prescribed set of values through national education systems, the provision collapses cultural education into moral regulation and risks state-imposed indoctrination that is incompatible with freedom of thought, conscience, religion, and expression. The list of values, while framed as benign, is selectively constructed and embeds gendered and moralised expectations, particularly regarding sexuality, discipline, family autonomy, and sexual restraint, that may be used to justify discrimination and control over women, girls, and young people.

The provision omits any requirement that cultural practices and values comply with equality, non-discrimination, and the best interests of the child, despite binding African human rights obligations.

The directives issued to courts and human rights commissions undermine judicial independence and the role of rights-adjudicating bodies by instructing them to prioritise religious and cultural values and parental authority while explicitly rejecting the application of gender equality frameworks and other human rights concepts deemed ‘foreign.’ Article 26 of the African Charter requires states to guarantee the independence of courts. The **African Commission has affirmed in Principles and Guidelines on the Right to a Fair Trial and Legal Assistance in Africa** (2003) that judicial independence is non-derogable and that courts must not be subject to inappropriate interference. Instructing courts to prioritise religious and cultural values and to explicitly reject gender equality frameworks and other human rights concepts deemed ‘foreign’ constitutes impermissible interference with judicial function and directly attacks the structural integrity of human rights adjudication.

Article 5 contains no proportionality framework. It does not require that the cultural and religious values it mandates comply with human rights standards. The African Charter’s own Article 27(2) establishes that rights shall be exercised with due regard for the rights of others, collective security, morality, and common interest.

The requirement that the UN system and foreign entities ‘respect’ African values in all agreements further conflates legitimate demands for cultural sensitivity with an effort to insulate states from international accountability. Taken together, Article 5 institutionalises cultural essentialism, suppresses internal diversity and dissent, and recasts culture as a tool for limiting rights rather than a context within which rights are realised.

Chapter IV: Sovereignty Over Education

Article 6: Commitments to Protect Children and Strengthen National Education Systems

What the provision seeks to do

Article 6 seeks to reassert comprehensive state control over education systems by framing education as a matter of national security and sovereignty. It mandates legislative, financial, curricular, and regulatory reforms to reduce reliance on external funding, prioritise selected academic and vocational subjects, promote indigenous languages and knowledge systems, and embed African cultural values and nationalism across all levels of education. Central to the provision is the restructuring of sex and sexuality education through the elimination of comprehensive sexuality education and its replacement with family-centred, abstinence-focused programs subject to parental consent and state oversight. The article further aims to restrict the role of donors, international organisations, and civil society actors in educational content and delivery, while requiring all education to be assessed through a family impact lens.

Where it fails, distorts, omits, or regresses

Article 6 attempts legitimate concerns about under-resourced education systems, dependence on donor funding, and the marginalisation of African languages, histories, and knowledge traditions. However, it reframes education from a right aimed at the full development of the child to an instrument of cultural preservation, moral regulation, and ideological control. ACRWC Article 11 establishes that education shall be directed to the development of the child's personality, talents, and mental and physical abilities. Article 11(2)(c) specifically requires that education be directed toward preserving and strengthening positive values including national identity, while Article 11(3) requires states to take all appropriate measures to ensure that educational practice is free from corporal punishment and harmful social and cultural practices. CRC Article 29 similarly identifies the full development of the child's personality, dignity, and respect for human rights as the primary aims of education.

The mandatory exclusion of comprehensive sexuality education and related health information disregards binding obligations under the African Children's Charter, the Maputo Protocol, and international human rights law to ensure access to age-appropriate, accurate health information essential to children's health, dignity, and protection from harm. The CRC Committee in **General Comment No. 4** on adolescent health established that states must provide adolescents with access to age-appropriate, evidence-based information on sexual and reproductive health, including information about contraception, sexually transmitted infections, and prevention of unwanted pregnancy. **CRC General Comment No. 20** on the implementation of rights during adolescence reaffirms that states must ensure confidential health services including reproductive healthcare without requiring parental consent where doing so creates barriers to access. The ACRWC in Article 14 protects the child's right to health, which the African Committee of Experts on the Rights and Welfare of the Child has interpreted to include access to reproductive health information and services (**Legal and Human Rights Centre and Centre for Reproductive Rights (on behalf of Tanzanian girls) against the United Republic of Tanzania** – Communication No: 0012/Com/001/2019).

The article elevates parental authority and moral preferences above the best interests of the child, evolving capacities, and state duties to protect children from violence, exploitation, and preventable health risks. Its insistence on abstinence-only and marriage-centred education ignores extensive evidence regarding adolescent health outcomes and disproportionately affects girls, who bear the social and physical consequences of early pregnancy and sexual violence.

The requirement that courts, universities, and education systems avoid 'foreign ideologies' and apply a family impact lens risks suppressing academic freedom, freedom of expression, and scientific inquiry, while enabling censorship and discrimination. Article 6 undermines international cooperation, legal certainty, and Africa's own commitments to the right to education.



Chapter V: Sovereignty Over Health

Article 7: Commitments to Protect National Health Systems

What the provision seeks to do

Article 7 seeks to reassert extensive state and parental control over national health systems by framing health governance as a core dimension of sovereignty and cultural self-determination. It aims to limit external influence from international health bodies, donors, and regional agreements by requiring parliamentary approval of health commitments, rejecting perceived coercion, and objecting to instruments that allegedly undermine African values or autonomy. The provision emphasises the preservation of indigenous health knowledge, the creation of African-led health institutions, expanded disease surveillance, and domestic research and production capacity. Central to the article is a strong rejection of sexual and reproductive health and rights frameworks, an explicit denial of any international right to abortion, and the prioritisation of parental consent and conscience-based refusals in healthcare delivery. The article also reframes patient autonomy as a right to refuse interventions, including vaccinations, and advances a family-centred, marriage-restricted approach to reproductive and fertility services.

Where it fails, distorts, omits, or regresses

Article 7 distorts the right to health by reframing it primarily as a matter of sovereignty, moral protection, and resistance to external influence rather than as a positive obligation to ensure accessible, acceptable, quality healthcare for all. [CESCR General Comment No. 14](#) on the right to health under ICESCR Article 12 establishes the AAAQ framework: health services must be available, accessible, acceptable, and of good quality.

In elevating refusal rights and parental authority while downplaying state duties to protect public health, the provision undermines the balance between individual autonomy and collective health that underpins African and international health law. Its categorical rejection of SRH and SRHR concepts, denial of established regional obligations under the Maputo Protocol, and insistence that no international abortion-related duties exist misrepresent African legal commitments and jurisprudence.

The article's framing of vaccination, reproductive health services, and sexuality-related care as suspect or harmful risks weakening immunisation programs, increasing preventable morbidity and mortality, and disproportionately harming women, girls, and adolescents. Requirements for parental consent for a wide range of health services disregard the evolving capacities of children and adolescents and conflict with established protections for confidential access to healthcare, particularly in cases of sexual violence, HIV, or early pregnancy. The restriction of fertility and reproductive services to married heterosexual couples entrenches discrimination and excludes many families from health protections. The securitisation of health governance, coupled with broad mandates to reject treaties, object to international cooperation, and define acceptable medical knowledge through a cultural lens, risks isolating African health systems, undermining evidence-based practice, and weakening emergency preparedness.

The provision risks fragmenting public health responses, eroding trust in medical institutions, and insulating states from accountability for health outcomes.

Chapter VI: Sovereignty Over Food and Natural Resources

Article 8: Commitments to Protect All Food and Natural Resources

What the provision seeks to do

Article 8 seeks to assert comprehensive state sovereignty over food systems, agriculture, water, seeds, and natural resources by framing them as foundational to African self-reliance, cultural survival, and resistance to external control. It aims to restructure food and resource governance around indigenous knowledge, agro-ecology, local production, intra-African trade, and domestic value addition, while limiting the influence of foreign corporations, genetically modified organisms, synthetic inputs, and external markets. The article further extends sovereignty claims to land and natural resource ownership, emphasising national control, consultation with local communities, conflict prevention, environmental protection, and the retention of economic value within African states. Overall, the provision positions food and natural resources as strategic domains of political, economic, and cultural autonomy.

Where it fails, distorts, omits, or regresses

Despite invoking food sovereignty and sustainability, Article 8 conflates legitimate critiques of global agri-food systems with rigid ideological prescriptions that risk undermining evidence-based regulation, innovation, and rights protection. The provision prioritises territorial and economic sovereignty over the right to adequate food, a healthy environment, and equitable access to resources as articulated under Article 11 of the ICESCR.

The categorical rejection or banning of genetically modified seeds and synthetic inputs, framed primarily through sovereignty and objection rights once again prioritises 'sovereignty' as the overriding international law criteria. While community consultation is referenced, the provision does not articulate enforceable standards for participation, consent, or benefit-sharing, risking the use of 'sovereignty' to legitimise state-centric control over land and resources at the expense of affected communities.

The strong focus on national ownership and control lacks corresponding human rights safeguards to prevent displacement, elite capture, or exclusion of women, pastoralists, and marginalised groups from land and resource governance. Environmental protections are articulated in broad terms but subordinated to extraction, commercialisation, and national economic resilience, without clear accountability mechanisms. The article frames external engagement primarily as a threat and risks isolating African food and resource systems from cooperative scientific research, cross-border environmental management, and international accountability frameworks that African states have actively shaped.

Chapter VII: Sovereignty Over Economic Development

Article 9: Commitments to Strengthen National Economic Development

What the provision seeks to do

Article 9 seeks to frame economic development as a core expression of African sovereignty, positioning poverty reduction, industrialisation, fiscal independence, and regional integration as means of reclaiming control over Africa's economic trajectory. It promotes reducing foreign aid dependency, resisting trade and financial arrangements deemed harmful to African interests, and promoting value addition, commercialisation of agriculture, and intra-African trade. The provision presents economic self-sufficiency as both a development objective and a safeguard against external influence.

Where it fails, distorts, omits, or regresses

Despite its aspirational aims, Article 9 treats economic sovereignty primarily as insulation from external engagement rather than as a means to realise socio-economic rights and inclusive development for individuals and communities such as those guaranteed under the African Charter.

While it invokes poverty reduction and stability, it omits explicit reference to human rights obligations related to work, social security, equality, and redistribution, thereby detaching economic policy from its impacts on individuals and communities.

The provision offers broad aspirational commitments without addressing structural inequalities within African economies, including gendered labour disparities, informal work, and uneven access to land, capital, and markets. Its framing of foreign aid and international agreements as potential threats lacks nuance and risks legitimising disengagement from cooperative economic arrangements that African states have voluntarily shaped and rely upon. It emphasises sovereignty without corresponding accountability mechanisms, it also risks enabling elite-driven economic strategies that prioritise national aggregates over distributive justice.

Economic integration is promoted instrumentally, without safeguards to ensure that integration benefits marginalised populations or mitigates cross-border inequalities.



Chapter VIII: Political Sovereignty

Article 10: Commitments to Strengthen National Political Institutions

What the provision seeks to do

Article 10 seeks to consolidate political sovereignty as the supreme organising principle of African governance. It frames political institutions, legal systems, diplomacy, and human rights interpretation as domains requiring insulation from external influence. The provision aims to strengthen state authority, territorial integrity, Pan-African solidarity, and national control over treaty-making, while explicitly resisting international human rights interpretations, particularly those related to SRH/SRHR, gender, and sexuality, that are characterised as non-consensual, externally imposed, and culturally incompatible. It also proposes coordinated resistance to UN mechanisms, treaty bodies, and special procedures, positioning African states as collective 'persistent objectors' to evolving international human rights norms.

Where it fails, distorts, omits, or regresses

Article 10 is the core article of the draft Charter and the most fully realised expression of its anti-rights objective. It attempts to reframe political sovereignty as a justification for constraining human rights interpretation, weakening independent institutions, and resisting accountability mechanisms that African states themselves helped establish.

The invocation of the 'persistent objector' principle is legally misconceived, as it cannot be used to negate treaty obligations voluntarily assumed, nor to shield states from good-faith interpretation by authoritative bodies. The article conflates legitimate resistance to neocolonial coercion with blanket rejection of evolving jurisprudence, treating human rights development as external manipulation rather than as an integral feature of treaty systems with a solid historical basis from the lived experiences of marginalised communities.

The directives to audit national human rights institutions (NHRIs) and to reject interpretations by the African Commission and special rapporteurs violate the **Paris Principles on National Human Rights Institutions**, adopted by the UN General Assembly in Resolution 48/134 (1993), which require NHRIs to operate independently from government and to be free from interference in their mandate, composition, and operations. Mandating government audits of NHRIs to exclude 'foreign influence' is the type of governmental interference the Paris Principles prohibit.

Likewise, the rejection of judicial and quasi-judicial interpretations, and coordinated opposition to UN treaty bodies and special rapporteurs, the provision undermines the independence of human rights oversight and the rule of law. The African Commission's authority derives from African Charter Article 45, which empowers it to interpret the provisions of the African Charter. Directing states to reject Commission interpretations not in conformity with the draft Charter directly attacks Article 45 and undermines the treaty-based oversight system that African states accepted upon ratification. The African Court's authority derives from the Protocol to the African Charter on the Establishment of the African Court on Human and Peoples' Rights. Its judgments are binding on states parties under Article 30 of that Protocol. Article 10's directive to resist non-conforming interpretations is incompatible with these binding obligations.

The framing in Article 10 risks politicising courts, legislatures, and human rights institutions by subordinating rights adjudication to ideological conformity and state-approved moral narratives. Moreover, by privileging state sovereignty over individual rights protection, the article erodes safeguards for minorities, dissenters, women, children, and marginalised groups. It also normalises withdrawal from or non-compliance with regional and international human rights frameworks.

The article mimics legitimate historical and contemporary concerns regarding neocolonialism and unequal power dynamics in international negotiations but ultimately isolates African states from the legal systems that protect citizens against state abuse of power. The African human rights system, as expressed through the African Charter, the Maputo Protocol, and the ACRWC, was built by African jurists, advocates, and leaders as a continental commitment to rights protection. Article 10 positions that project as a hostile foreign intrusion. This distortion of history presents the anti-rights movement as Pan-Africanism, when in substance it dissolves the protections built by Africans for Africans.

Chapter IX: Establishment of the Committee on Family, Sovereignty, and Values

Article 11: The Committee

What the provision seeks to do

Article 11 establishes a new African Union body, the Committee on Family, Sovereignty, and Values, mandated to promote respect for and protection of the family, sovereignty, and religious and cultural values. The provision signals an intention to institutionalise the draft Charter's normative framework within the AU architecture, creating a permanent mechanism to oversee, advance, and potentially interpret the draft Charter's principles across member states.

Where it fails, distorts, omits, or regresses

Article 11 provides no clarity on the Committee's accountability, or relationship to existing African human rights bodies. In the context of the draft Charter as a whole, the Committee risks operating as an ideological enforcement mechanism rather than a neutral expert body. Its mandate to 'promote respect' for values defined in exclusionary and contested terms raises concerns about normative capture, politicisation, and duplication of existing AU institutions, particularly the African Commission on Human and Peoples' Rights and the African Committee of Experts on the Rights and Welfare of the Child. Rather than filling a legal gap, the Committee appears designed to counterbalance or undermine established human rights mechanisms by advancing a restrictive interpretation of rights grounded in the draft Charter's values-based framework. The absence of safeguards regarding independence, pluralism, procedural fairness, or consistency with binding AU human rights instruments exacerbates the risk that the Committee would weaken institutional coherence within the AU and facilitate regression in rights protection under the guise of cultural and sovereign authority.

Article 12: Composition

What the provision seeks to do

This provision specifies the composition of the Committee on Family, Sovereignty, and Values. It establishes an eleven-member body composed of individuals described as possessing high moral standing, integrity, and competence in defending the African family, sovereignty, and values. Members are to serve in their personal capacity, with geographic diversity ensured by limiting representation to one member per State. The provision seeks to confer legitimacy, credibility, and continental balance on the Committee while framing expertise explicitly around commitment to the draft Charter's normative objectives.

Where it fails, distorts, omits, or regresses

The criteria for membership are fundamentally ideological rather than juridical or technical. By requiring 'competence in defending the African family, sovereignty, and values,' the provision pre-selects members based on normative alignment with the draft Charter rather than the typical neutral requirement of expertise in law, human rights, social policy, or evidence-based governance applicable to established AU expert bodies.

This requirement undermines claims of independence and neutrality, transforming service 'in a personal capacity' into a formalised commitment to a predetermined moral and political agenda. The limitation of one member per State seems to promote geographic diversity and avoid formal domination by any single government but unlike existing AU expert bodies, the provision omits any reference to gender balance, multidisciplinary expertise, pluralism, transparency in nomination, or safeguards against political or religious capture. The emphasis on 'high moral standing' is undefined and subjective, enabling exclusion of dissenting or critical perspectives and marginalising alternative African understandings of family, culture, gender, and rights.

In isolation, these design features resemble established continental mechanisms and could be interpreted as an attempt to align the Committee structurally with existing African human rights institutions, but in the broader context of the draft Charter, the Committee's composition appears designed not to interpret law objectively, but to institutionalise a restrictive, values-based reading of sovereignty and family that conflicts with binding African human rights norms.

Article 13: Election

What the provision seeks to do

Article 13 sets out the procedure for electing members of the Committee on Family, Sovereignty, and Values. It vests election authority in the Assembly of Heads of State and Government through a secret ballot, based on candidates nominated by States Parties. The provision outlines a formalised nomination and election timetable managed by the Chairperson of the African Union Commission, aiming to confer procedural legitimacy, predictability, and institutional order on the Committee's composition.

Where it fails, distorts, omits, or regresses

Despite its procedural formality, Article 13 entrenches political control over the Committee by reserving nomination and election exclusively to States Parties and Heads of State and Government. There is no provision for independent vetting, civil society participation or input, public scrutiny, or merit-based evaluation of candidates' qualifications. Given the ideologically defined eligibility criteria in Article 11, the election process risks becoming a mechanism for entrenching political and moral conformity rather than ensuring independence or expertise. The provision lacks transparency safeguards, criteria for assessing competence, or mechanisms to prevent politicisation, patronage, or religious capture. In combination with the draft Charter's broader hostility to independent human rights interpretation, Article 13 reinforces the likelihood that the Committee will function as a state-aligned body advancing a predetermined normative agenda, rather than as an autonomous expert mechanism capable of objective analysis or rights-based oversight.

Article 14: Candidates

What the provision seeks to do

Article 14 regulates eligibility and nomination of candidates for election to the Committee. It limits each State Party to nominating no more than two candidates, requires that candidates be nationals of States Parties, and introduces a rule that where two candidates are nominated, one must not be a national of the nominating State. The provision appears intended to promote continental representation, diversity, and a measure of independence from purely national interests.

Where it fails, distorts omits or regresses

Article 14 does not meaningfully mitigate the structural politicisation of the Committee. Although it gestures toward diversity, nominations remain entirely controlled by States Parties, with no independent screening, public scrutiny, or substantive qualification criteria beyond ideological alignment established in Article 11. The allowance for nominating non-nationals is procedurally unusual and unexplained, raising questions about accountability, legitimacy, and the practical independence of nominees who may still be politically aligned with sponsoring States. The provision does not require gender balance, multidisciplinary expertise, or representation of diverse legal, social, or cultural perspectives. In the broader Charter context, Article 14 functions less as a safeguard of independence than as an administrative mechanism facilitating the appointment of candidates committed to advancing the draft Charter's restrictive values framework.

Article 15: Terms of Office

What the provision seeks to do

Article 15 establishes the length and structure of Committee members' terms, providing for a non-renewable five-year term and staggered initial terms to ensure continuity. It also assigns responsibility to the Chairperson of the African Union Commission to convene the Committee's first meeting and requires that the Committee meet at least once a year thereafter. The provision seeks to ensure institutional stability, predictability, and operational functionality.

Where it fails, distorts, omits or regresses

While procedurally conventional, Article 15 does not address the substantive risks posed by the Committee's mandate and composition. Term limits cannot compensate for the absence of safeguards ensuring independence, pluralism, or adherence to binding human rights norms. The provision is silent on removal procedures, ethical standards, decision-making rules, transparency, reporting obligations, or accountability mechanisms. Given the draft Charter's broader effort to resist judicial and quasi-judicial oversight, Article 15 contributes to the creation of an insulated institutional body with significant normative influence but minimal checks. Rather than reinforcing good governance, the provision completes an architecture in which procedural regularity masks a deeper erosion of rights-based accountability within the AU system.

Article 16: Bureau

What the provision seeks to do

Article 16 establishes the internal governance and procedural framework of the Committee. It authorises the Committee to adopt its own Rules of Procedure, elect its officers for fixed terms, determine quorum requirements, regulate decision-making through casting votes, and operate in the official languages of the African Union. The provision aims to ensure functional autonomy, procedural clarity, and administrative efficiency in the Committee's operations.

Where it fails, distorts, omits or regresses

Article 16 grants broad procedural autonomy without embedding any substantive safeguards to ensure transparency, independence, or consistency with binding African human rights standards. It completes an institutional design that prioritises ideological autonomy over legal constraint, enabling the Committee to operate as a self-referential body advancing the draft Charter's restrictive values framework without meaningful checks or alignment with the broader African human rights system.

Article 17: Vacancy

What the provision seeks to do

Article 17 regulates the procedure for filling vacancies on the Committee when a member leaves office before the end of their term. It returns nomination authority to the State that originally nominated the departing member, subject to approval by the Assembly of Heads of State and Government, and limits replacement candidates to nationals of that State.

Where it fails, distorts, omits or regresses

Article 17 entrenches state control over Committee membership throughout each term, not merely at the point of initial election. This structure reproduces the politicisation risks identified in Articles 12 and 13 at the level of vacancy management, ensuring that the composition of the Committee remains subject to state political preferences even where departures create opportunities for independent replacements.

Article 18: Secretariat

What the provision seeks to do

Article 18 establishes administrative support for the Committee by providing for the appointment of a Secretary by the Chairperson of the AU Commission, selected from candidates proposed by the Inter-Parliamentary Network on Family, Sovereignty, and Values. The provision seeks to operationalise the Committee's work through a dedicated secretariat.

Where it fails, distorts, omits or regresses

The provision embeds ideological alignment into the administrative core of the Committee by restricting nominations to candidates proposed by an explicitly advocacy-driven inter-parliamentary network. This transformed administrative functions into instruments of normative enforcement. There are no requirements regarding professional qualifications, independence, transparency, or accountability. The Inter-Parliamentary Network on Family, Sovereignty, and Values is the same political network responsible for the draft Charter's drafting and circulation. Allowing it to control secretariat appointments ensures that the Committee's administrative infrastructure will advance the draft Charter's values framework independent of any oversight mechanism.

Article 19: Privileges and Immunities

What the provision seeks to do

Article 19 extends AU privileges and immunities to Committee members, placing them under the General Convention on the Privileges and Immunities of the African Union. The provision seeks to protect members from interference and facilitate the performance of their functions.

Where it fails, distorts, omits or regresses

In the context of this Charter, privileges and immunities risk shielding an ideologically aligned body from accountability rather than protecting neutral expertise. The General Convention on Privileges and Immunities of the African Union was designed to protect technical and diplomatic functions of AU organs from political interference by member states. Article 19 provides no counterbalancing mechanisms - such as transparency, review, or ethical obligations - to mitigate misuse of authority. As a result, immunity functions to insulate a potentially rights-regressive institution from scrutiny by courts, civil society, or affected communities reversing the protective purpose for which such immunity frameworks exist.

Article 20: Mandate

What the provision seeks to do

Article 20 defines the Committee's substantive mandate, granting it powers to promote, protect, monitor, and interpret the draft Charter; collect information; formulate frameworks; cooperate with institutions; receive assignments from AU organs; and issue interpretations upon request. The provision positions the Committee as both a promotional and quasi-interpretive authority within the AU system.

Where it fails, distorts, omits or regresses

While Article 20 mirrors functions commonly associated with AU treaty bodies, it functions here as a vastly consequential institutional provision, transforming the Committee into a parallel interpretive authority that competes directly with established African human rights mechanisms. Its power to interpret Charter provisions, combined with a values-driven mandate and ideologically filtered composition, risks producing authoritative guidance that contradicts binding human rights law. The Committee's interpretive role is not constrained by the African Charter on Human and Peoples' Rights, the Maputo Protocol, or the jurisprudence of existing bodies. This is the critical distinction from legitimate African human rights system treaty bodies, all of which operate within frameworks that require coherence with the broader normative architecture.

The provision creates a mechanism designed to reframe rights obligations and legitimise withdrawal, resistance, or reinterpretation under the guise of African values and sovereignty. It essentially establishes a competing normative authority without the accountability structures that would allow errors or excesses to be corrected.

Article 21: Reporting Procedure

What the provision seeks to do

Article 21 establishes a reporting system requiring States Parties to submit periodic reports on Charter implementation, including participatory preparation and legislative review. The provision aims to monitor compliance and institutionalise oversight.

Where it fails, distorts, omits or regresses

Alongside Article 20 above, this article creates a reporting framework that channels accountability toward a Committee whose mandate is normatively restrictive and ideologically aligned. Participation is framed around Charter objectives rather than human rights standards, risking exclusion of dissenting or marginalised voices. This contrasts with African Commission reporting practice which has evolved to include civil society shadow reports and engagement with treaty bodies on related issues. Its values-based orientation actively discourages engagement with communities whose experiences contradict the draft Charter's premises.

Article 22: Communications

What the provision seeks to do

Article 22 allows the Committee to receive communications from recognised individuals or groups on Charter-related matters, introducing a quasi-complaints mechanism.

Where it fails, distorts, omits or regresses

Article 22 attempts to use mechanisms that mirror those of human rights to institutionalise anti-rights campaign. Unlike human rights communications mechanisms that provide an overriding international law normative framework within which these institutions operate, this procedure exists within its own subjective bubble. Article 22 does not define admissibility criteria, remedies, or protections for complainants because there are no international legal frameworks that can provide these in a non-human rights normative system. Given the draft Charter's framing, communications are more likely to be used to police compliance with values than to protect individuals from harm. The absence of enforceable outcomes or rights-based standards eliminates any protective function this mechanism might otherwise serve.

Article 23: Investigations

What the provision seeks to do

Article 23 empowers the Committee to investigate matters covered by the draft Charter and request information from States Parties. It seeks to strengthen monitoring and enforcement capacity.

Where it fails, distorts, omits or regresses

In the draft Charter's context, investigative authority risks being used to scrutinise States, institutions, or actors perceived as deviating from prescribed values, rather than to address rights violations. Again, considering that there is an absence of an overarching human rights normative framework, the provision lacks human rights safeguards governing scope, proportionality, due process, or protection against politicised investigations, and thus heightening the risk of misuse against states or civil society actors implementing rights-protective policies the draft Charter characterises as threats.

Article 24: Sources of Inspiration

What the provision seeks to do

Article 24 identifies the normative sources inspiring the draft Charter, including the Entebbe Declaration, inter-parliamentary communiqués, and the Geneva Consensus Declaration. The provision seeks to anchor the draft Charter in prior political and ideological initiatives.

Where it fails, distorts, omits or regresses

By elevating non-binding political declarations - some of which are explicitly opposed to established human rights norms - as sources of inspiration, Article 24 confirms that the draft Charter is not grounded in African human rights jurisprudence but in a counter-normative project.

The **Geneva Consensus Declaration (2020)**, sponsored by the United States under the first Trump administration, was explicitly designed to contest SRH rights at international forums. It has no status as a source of international law under Articles 38 of the ICJ Statute, which identifies treaties, customary international law, general principles of law, and judicial decisions and scholarly writings as authoritative sources. The Entebbe Declaration and inter-parliamentary communiqués are similarly non-binding political instruments.

The omission of binding AU treaties, African Commission resolutions and general comments, and African Court jurisprudence from the sources of inspiration confirms that the draft Charter's purpose is not to clarify existing obligations or fill normative gaps or to advance the human rights system, but to contest and reframe obligations that African states have voluntarily accepted. In this way, the draft Charter purposefully creates new obligations that are not derived from existing and evolving jurisprudence but from a political project originating outside the African human rights system. Article 24 removes any ambiguity about whether this Charter is compatible with the African human rights system.

Chapter X: Signature, Ratification, and Amendments

Article 25: Signature, Ratification, and Amendments

What the provision seeks to do

Article 25 sets out the procedural rules for Member States of the African Union to sign, ratify or adhere to the draft Charter.

Where it fails, distorts, omits or regresses

There is no requirement for states to ensure that ratification aligns with their existing human rights commitments. This could allow states to adopt a Charter that potentially weakens protections without domestic legal scrutiny. The draft Charter does not mandate public or parliamentary involvement in ratification, reducing accountability.



