

**DRAFT**

**DRAFT General Comment on Article 28 of the  
African Charter on the Rights and Welfare of the  
Child**

## Table of Contents

<b>I.</b>	<b>INTRODUCTION .....</b>	<b>1</b>
<b>II.</b>	<b>SCOPE AND LEGAL BASIS OF THE GENERAL COMMENT .....</b>	<b>2</b>
<b>III.</b>	<b>CONTEXTUAL ANALYSIS .....</b>	<b>4</b>
<b>IV.</b>	<b>CLARIFICATIONS OF KEY TERMS IN ARTICLE 28 .....</b>	<b>7</b>
<b>V.</b>	<b>GENERAL PRINCIPLES OF THE AFRICAN CHILDREN’S CHARTER.....</b>	<b>9</b>
	A. BEST INTEREST OF THE CHILD.....	9
	B. NON-DISCRIMINATION.....	9
	C. SURVIVAL AND DEVELOPMENT .....	10
	D. CHILD PARTICIPATION.....	10
<b>VI.</b>	<b>STATE OBLIGATION UNDER ARTICLE 28 .....</b>	<b>11</b>
	A. PROTECT THE CHILD FROM THE USE OF NARCOTICS AND THE ILLICIT USE OF PSYCHOTROPIC SUBSTANCES ...	12
	I. <i>Legislative measures</i> .....	13
	II. <i>Administrative and institutional measures</i> .....	14
	III. <i>Other measures</i> .....	15
	B. PREVENT THE USE OF CHILDREN IN THE PRODUCTION AND TRAFFICKING OF NARCOTICS AND PSYCHOTROPIC SUBSTANCES.....	17
	I. <i>Legislative measures</i> .....	17
	II. <i>Administrative and institutional measures</i> .....	18
	III. <i>Other measures</i> .....	19
<b>VII.</b>	<b>INTERVENTIONS FOR CHILD AFFECTED BY SUBSTANCE ABUSE AS AN AUXILIARY COMPONENT OF ARTICLE 28 .....</b>	<b>20</b>
	A. TREATMENT .....	21
	B. REHABILITATION .....	22
	C. REINTEGRATION .....	23
<b>VIII.</b>	<b>DATA COLLECTION AND RESEARCH .....</b>	<b>24</b>
<b>IX.</b>	<b>EMERGING INTERSECTIONALITY.....</b>	<b>25</b>
	A. CLIMATE CHANGE .....	25
	B. DIGITAL TECHNOLOGIES.....	25
<b>X.</b>	<b>STATE REPORTING ON ARTICLE 28 .....</b>	<b>26</b>
<b>XI.</b>	<b>DISSEMINATION OF THE GENERAL COMMENT .....</b>	<b>26</b>

## I. Introduction

1. Adopted in 1990, the African Charter on the Rights and Welfare of the Child (African Children’s Charter) incorporates the normative corpus on the protection of children’s rights in Africa.<sup>1</sup> Having been widely ratified by African Union (AU) Member States, the African Children’s Charter is significantly incorporated into national norms on children’s rights across Africa.<sup>2</sup> The African Children’s Charter establishes the African Committee of Experts on the Rights and Welfare of the Child (ACERWC) as the governing institution mandated to protect and promote children’s rights in Africa. In view of its mandate, it has several pertinent functions. One of its key functions is the interpretation of the provisions of the African Children’s Charter.
2. The ACERWC’s function of interpreting the African Children’s Charter is reflected in article 42 of the ACRWC. In light of this provision, the ACERWC is mandated to formulate and lay down principles and rules for the protection of children’s rights in Africa. In view of its article 42 mandate, the ACERWC is empowered to develop General Comments to clarify the obligations under the African Children’s Charter. Since its inception, the ACERWC has provided significant guidance through its General Comments to AU Member States in the interpretation of provisions of the African Children’s Charter.<sup>3</sup>
3. During the 40th Ordinary Session of the ACERWC in 2022, a decision was made to hold a Day of General Discussion on drug abuse and develop a General Comment on article 28 of the African Charter upon the request of the Drug Control Unit of the Department of Health, Humanitarian Affairs and Social Development of the AU Commission.<sup>4</sup> In 2023,

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<sup>1</sup> African Charter on the Rights and Welfare of the Child (1990) (African Children’s Charter).

<sup>2</sup> As of 2025, 51 AU Member States have ratified the African Charter on the Rights and Welfare of the Child.

<sup>3</sup> For some of the past General cMments of the ACERWC, please see: General Comment No 1 on Article 30 on Children in Incarcerated Parents and Primary Caregivers (2013); General Comment No 2 on Article 6 of ACRWC Right to Birth Registration, Name and Nationality (2014); Joint General Comment on the African Commission on Human and Peoples’ Rights (ACHPR) and the African Committee of Experts on the Rights and Welfare of the Child (ACERWC) on Ending Child Marriage (2017); General Comment on Article 31 of the African Charter on the Rights and Welfare of the Child on the Responsibilities of the Child (2017); General Comment 5 on State Party Obligations under the African Charter on the Rights and Welfare of the Child (Article 1) and Systems Strengthening for Child Protection (2018);

<sup>4</sup> Communiqué on the 40th Ordinary Session of the African Committee of Experts on the Rights and Welfare of Child, Maseru, Lesotho (23 November – 1 December 2022), para 9.

the ACERWC held the Day of Discussion, and the Outcome Statement includes recommendations for various stakeholders including AU Member States, AU Commission, ACERWC and CSOs.<sup>5</sup> In the Outcome Statement, the ACERWC was requested to develop a General Comment on article 28 of the African Children’s Charter.<sup>6</sup>

4. The present General Comment on article 28 of the African Children’s Charter sets out an interpretation of the obligation of AU Member States in relation to the protection of children from drug abuse. This provision has a corollary in the United Nations (UN) Convention on the Rights of the Child (CRC).<sup>7</sup> Howbeit, the African Children’s Charter contains specific provisional nuances that are further elaborated on in this General Comment.

## II. Scope and Legal Basis of the General Comment

5. General Comments explain treaty provisions. They provide clarification and serve as pertinent soft law for treaty interpretation at various governance levels and the development of frameworks. The scope of this General Comment is article 28 of the African Children’s Charter.
6. This General Comment provides interpretative guidance on article 28 of the African Children’s Charter with respect to children in the context of substance abuse to enable State Parties to implement the obligation in a child rights-based and sensitive approach. It further provides concrete steps which States Parties must take to fulfil their obligations under article 28.
7. The development of this General Comment is rooted in the article 42 mandate of the ACERWC and grounded in article 28 of the African Children’s Charter.

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<sup>5</sup> ACERWC Day of General Discussion on the Protection of Children from Substance Use: Outcome Statement (2023).

<sup>6</sup> As above, para 3.

<sup>7</sup> Article 33 of the UN Convention on the Rights of the Child states that ‘States Parties shall take all appropriate measures, including legislative, administrative, social and educational measures, to protect children from the illicit use of narcotic drugs and psychotropic substances as defined in the relevant international treaties, and to prevent the use of children in the illicit production and trafficking of such substances.’ See UN Convention on the Rights of the Child (1989).

8. Article 28 of the African Children’s Charter provides that ‘States Parties to the present Charter shall take all appropriate measures to protect the child from the use of narcotics and illicit use of psychotropic substances as defined in the relevant international treaties, and to prevent the use of children in the production and trafficking of such substances.’<sup>8</sup>
9. At the global level, the development of this General Comment is foregrounded in international instruments, many of which have been ratified by AU Member States. Notably, with respect to children’s rights, this General Comment gains credence in article 33 of the CRC. Moreover, the significance of the General Comment resonates in several other UN treaties, including the 1961 Single Convention on Narcotic Drugs and its 1972 Protocol, the 1971 UN Convention on Psychotropic Substances and the 1988 UN Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances. Moreover, several soft law instruments adopted by the UN guide the formation of this General Comment including the UNGA Political Declaration and Global Programme of Action (1990), UNODC International Standards on Drug Use Prevention (2018) and the WHO-UNODC International Standards for the Treatment of Drug Use Disorders (2020).
10. At the continental level, this General Comment is foregrounded in the AU Plan of Action on Drug Control and Crime Prevention<sup>9</sup> which emphasises the need for AU Member States to address ‘drug trafficking and problematic drug use in all its forms and manifestations’.<sup>10</sup> The importance of this General Comment further resonates in the AU Common African Position for the UN General Assembly Special Session on the World Drug Problem (2016), which accentuates the commitment of AU Member States to counter drug abuse and trafficking.<sup>11</sup>

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<sup>8</sup> African Children’s Charter (n 1), art 28.

<sup>9</sup> The African Union Plan of Action on Drug Control and Crime Prevention (2019-2023) was further extended by two years to 2025. ‘African Union Commission reinforces commitment to combat drug control challenges with new initiatives and strategic partnerships’ *African Union (Press Releases)* 29 August 2024.

<sup>10</sup> The African Union Plan of Action on Drug Control and Crime Prevention (2019-2023), para 19.

<sup>11</sup> Common African Position (CAP) for the UN General Assembly Special Session on the World Drug Problem (April 19-21, 2016).

11. At the national level, this General Comment gains credence in African national laws that criminalise the use of narcotics and the illicit use of psychotropic substances.<sup>12</sup> Across the child laws of African countries, there is also significant emphasis on the protection of children. Constitutional provisions in some countries also emphasise the protection of children from exploitation and abuse.<sup>13</sup> Evident from the landscape of national laws and policies is the fact that there is a panoply of normative regimes that need to be updated in some countries, and harmonised in others, ultimately to enable synergies and address normative fragmentation with respect to the normative provision of article 28 of the African Children’s Charter. However, to enable a collective approach across all African countries, the elaboration of this General Comment is relevant.

12. In the drafting of this General Comment, the ACERWC drew inspiration from these norms relating to the issue of drug abuse and trafficking encompassing soft and hard law norms across the global, regional and national contexts. This General Comment further draws on academic commentaries, the jurisprudence of judicial and quasi-judicial mechanisms, and the travaux préparatoires of relevant frameworks, all pertinent to the interpretation of article 28 of the African Children’s Charter.

### III. Contextual analysis

13. The use of narcotics and the illicit use of psychotropic substances are increasingly becoming a public health concern across many African countries. The Pan-African Epidemiology Network on Drug Use has observed the significant involvement of children in drug usage, arrests and treatment across African countries.<sup>14</sup> Among children and adolescents, the most widely consumed substance is alcohol.<sup>15</sup> The prevalence level of alcohol consumption in children between the ages of 13 and 16 years is at 16.3% in West

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<sup>12</sup> See Annex 1 for examples of relevant national legislation.

<sup>13</sup> Ibid.

<sup>14</sup> The Pan-African Epidemiology Network on Drug Use (2020).

<sup>15</sup> African Committee of Experts on the Rights and Welfare of the Child ‘Day of General Discussion: Protection of Children from Drug Use’ <https://www.acerwc.africa/en/article/activity/day-general-discussion-protection-children-drug-use> (accessed 14 October 2025).

Africa, 10.5% in Southern Africa and 6.9% in East Africa.<sup>16</sup> Despite legal restrictions on alcohol sales to children, alcohol remains widely accessible.

14. High prevalence rates are reflected in the use of cannabis (marijuana, Indian hemp), cocaine, benzodiazepine (Rohypnol, Diazepam, Chlorpromazine), tobacco, alcohol, amphetamine-type stimulants (ecstasy, methamphetamine), opioids (nitazene, codeine, tramadol and heroine). The prevalence rate is further compounded by variants that emerge from mixtures of psychoactive chemicals, creating synthetic opioids such as ‘colos’, ‘nyaope’, and ‘kush’.

15. Across African countries, the prevalence of narcotics and illicit use of psychotropic substances is premised on several reasons that relate to mental health and social protection. Some of these reasons include high unemployment rates, poverty, peer influence, early life stress, trauma, anxiety, depression, delinquency, ease of access to these substances, socio-cultural practices, organised crime, conflict, psychological distress and recreation. Across many contexts, children resort to substance abuse as a form of temporary high to escape the harsh realities of their living conditions and as a maladaptive coping mechanism. Homelessness also exacerbates the vulnerability of children to substance abuse.<sup>17</sup> There is also a high prevalence among children in conflict with the law. In several instances, children are exposed to substance abuse due to justice systems that are not child-friendly and that focus on punishment rather than diversion or rehabilitation. Moreover, where children are not separated from adults in justice administration systems, they are at risk of exposure to early substance use.

16. Children are also particularly at risk when they live with adults (parents or guardians) who use and produce narcotics and illicit psychotropic substances; when they are in situations of peer influences; and when they are surrounded by individuals who participate in use,

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<sup>16</sup> See Retselisitsoe Pokothoane et al ‘What are the factors associated with alcohol, cigarette and marijuana use among adolescents in Africa? Evidence from the global school-based health survey’ (2025) 15(7) *BMJ Open* 4.

<sup>17</sup> Kwaku O Asante and Mashudu T Nefale ‘Substance abuse among street-connected children and adolescents in Ghana and South Africa: a cross-country comparison study’ (2021) 11(3) *Behavioral Sciences* 1.

production and trafficking. Moreover, early life disruptions can lead to children being involved in substance abuse.

17. The prevalence of substance abuse is compounded by limited evidence-based data and child-sensitive care across the full spectrum of prevention, protection, treatment, rehabilitation and reintegration. Moreover, the limited response to pertinent drivers such as poverty, mental health and border porosity makes it daunting to provide holistic solutions to the issue. Failure to integrate mental health services within child protection systems undermines prevention, treatment, rehabilitation and reintegration outcomes.

18. The exposure of children to these substances can have several consequences. They can result in addiction, stunted growth, mental health challenges, life-long disability, educational disruptions, infections including HIV, physical health risks, exploitation and mortality. These situations can also have intergenerational impacts on national, regional, and continental development plans and goals, including Africa's Agenda for Children 2040, Agenda 2063 The Africa We Want, and the AU Africa Health Strategy (2016-2030).<sup>18</sup>

19. Protecting children from substance abuse is explicitly enshrined in article 28 of the African Children's Charter. However, several other provisions of the African Children's Charter are affected. These include article 4 (best interest of the child), article 5 (survival and development), article 11 (education), article 14 (health and health services), article 15 (child labour), article 16 (protection against child abuse and torture), article 19 (parental care and protection), and article 29 (sale, trafficking and abduction).

20. While seeking to ensure that children are protected from substance abuse, the ACERWC also notes that there are situations where children may require controlled substances for medical purposes. In this regard, access to essential medicines remains uneven, with over 75% of the world's population lacking adequate access to opioid pain relief, particularly in Africa.<sup>19</sup> Moreover, children are particularly at risk of disproportionate access. The

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<sup>18</sup> Agenda 2063: The Africa We Want (2013); Africa Health Strategy (2016-2030); Africa's Agenda for Children 2040: Fostering an African fit for children (Agenda 2040).

<sup>19</sup> See International Narcotics Control Board *Availability of internationally controlled drugs: ensuring adequate access for medical and scientific purposes* (2015) iii.

legitimate medical use of such substances does not constitute abuse. However, it is crucial to emphasise that such situations must be regulated by law and limited to prescriptions issued by qualified medical practitioners.

#### IV. Clarifications of key terms in article 28

21. There are key terms in article 28 of the African Children's Charter that need to be clarified in the interpretation of the provision. These are: 'child', 'drug abuse', 'State Parties to the present Charter', 'narcotics', 'illicit use', 'psychotropic substances', 'relevant international treaties', 'production', and 'trafficking'.

22. 'Child' means every human being under the age of 18 as defined in article 2 of the African Children's Charter.

23. The term 'drug abuse' is used explicitly in the title of article 28 of the African Children's Charter. While not specifically defined in international treaties or in the African Children's Charter, it encompasses the use, possession, production and trafficking of drugs that are not medically or scientifically sanctioned. In interpreting this terminology, it is important for States Parties to be guided by comprehensive, rights-based, non-stigmatising and child-sensitive approaches that prioritise children's health, including trauma-informed, gender-sensitive and evidence-based interventions. While the terminology of the African Children's Charter is retained, this General Comment uses the term 'substance abuse' unless otherwise necessary.

24. 'State Parties to the present Charter' means all AU Member States that have ratified/acceded to the African Children's Charter.

25. 'Narcotics' are natural or synthetic substances/drugs that are periodically defined in schedules made or revised by the Commission on Narcotic Drugs as required by the 1961 Single Convention on Narcotic Drugs and its 1972 Protocol. Narcotics also include substances/drugs that are classified in national frameworks as such.

26. 'Illicit use' implies any usage that is contrary to relevant international frameworks. This further implies any usage that is not sanctioned by law, domestic, and/or international, for medical or scientific reasons. Relevant international treaties include, but are not limited to, the 1961 Single Convention on Narcotic Drugs and its 1972 Protocol, the 1971 UN Convention on Psychotropic Substances, the 1988 UN Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances and any other international conventions, protocols or instruments relating to narcotic drugs or psychotropic substances.
27. 'Psychotropic substances' are defined in article 1(e) of the 1971 Convention on Psychotropic Substances as any substance, natural or synthetic, or any natural material in Schedule I, II, III or IV.<sup>20</sup> They also include revisions by the International Narcotics Control Board. This General Comment adopts the definition in this provision. Psychotropic substances also include substances that are classified in national frameworks as such.
28. 'Production' is the process of making by cultivating, manufacturing, mixing, refining, preparing, extracting, processing, harvesting or any other related method. Moreover, with respect to narcotics, production also means the separation of opium, coca leaves, cannabis, cannabis resin [or any other prohibited or controlled substance] from the plants from which they are obtained.
29. Trafficking means the importation, exportation, buying, selling, supplying, storing, administering, transportation, conveyance, delivery or distribution, by any person of narcotic drug or psychotropic substance, precursor chemicals or any substance represented or held out to be an illicit substance, narcotic drug or psychotropic substance without authorisation or the required license under national and international law.

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<sup>20</sup> These schedules are the corresponding numbered lists of psychotropic substances that are annexed to the 1971 Convention on Psychotropic Substances.

## V. General principles of the African Children’s Charter

30. The interpretation of the African Children’s Charter is foregrounded in four key principles. The ACERWC has consistently emphasised the pertinence of these principles in guiding the implementation of the African Children’s Charter. These four principles are: (i) the best interest of the child; (ii) non-discrimination; (iii) survival and development; and (iv) child participation. These four principles and their significance to the interpretation of article 28 of the African Children’s Charter are elaborated in this section.

### A. Best interest of the child

31. The principle of the best interests of the child is articulated in article 4(1) of the African Children’s Charter. Being at the core of the implementation of children’s rights, the best interest of the child requires State Parties to ensure that in every matter that involves a child, the primary consideration for the furtherance of action is the best interest of the child. With respect to article 28 of the African Children’s Charter, the cardinality of this principle is to the effect that State Parties must adopt child-rights based and child sensitive measures in the realisation of the provision.

### B. Non-discrimination

32. The principle of non-discrimination is articulated in article 3 of the African Children’s Charter. Article 3 requires States Parties to ensure that children are protected from discrimination on any grounds, irrespective of their status. While article 3 of the ACERWC specifically incorporates certain grounds, the ACERWC has significantly expanded on ‘other status’ to include: children in refugee situations, migration and disability.<sup>21</sup> The pertinent iteration of this provision is that no factor must result in discrimination against children in the enjoyment of the rights under the African Children’s Charter.

33. With respect to article 28 of the African Children’s Charter, the implication of the principle of non-discrimination is two-fold. First, this provision requires States Parties to ensure that all categories of children have access to programmes for prevention, treatment,

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<sup>21</sup> General Comment No 7 on article 27 of the ACRWC: Sexual Exploitation (2021), para 39.

rehabilitation and reintegration. Second, this provision requires States Parties to ensure that measures are specifically put in place to protect the most vulnerable in society and foster inclusion for specific groups that are most at risk of marginalisation.

## C. Survival and development

34. The principle of survival and development is provided in article 5 of the African Children's Charter. In view of this provision, States Parties are to ensure that the realisation of the right to survival and protection of development is actualised to the optimum. Development broadly incorporates physical, social, mental, psychological, moral, economic and cultural development.

35. The principal emphasis of this right in the context of article 28 is that interventions and responses to substance abuse when children are involved must be rehabilitative and not punitive. Achieving results requires States Parties to shift programmatic interventions on the protection of children in the context of substance abuse to the optimisation of the child's wellbeing, motioning the entire spectrum of relevant state institutional machinery towards securing the child's future in society. This further requires States Parties to move beyond normative commitment and towards effective child rights-based programmes. States must ensure that child protection in the context of substance abuse is integrated in national development plans and educational programmes.

36. Moreover, there is a strong emphasis in this principle on the fact that the death penalty cannot be pronounced for crimes committed by children. As such, States Parties must ensure that the focus of justice administration is on the protection, rehabilitation, and reintegration of children, including those affected by substance abuse.

## D. Child Participation

37. The principle of child participation is cardinal to the furtherance of children's rights and is articulated in Article 4(2) and Article 7 of African Children's Charter. The principle requires States Parties to ensure that an enabling environment exists for children to express

themselves freely in all matters that involve them considering their evolving capacities, and with due weight given to their opinions. States Parties must ensure that participation is transparent and informative, voluntary, respectful, child-friendly, inclusive, supported by training for adults, safe and sensitive to risk and accountable.<sup>22</sup>

38. Child participation in the implementation of article 28 of the African Children’s Charter must be across all stages of actions taken by States Parties in response to the protection of children from substance abuse. It is important to leverage formal and informal structures to enhance the participation of children. Measures must also be taken to ensure that an intersectional approach is integrated into the design and implementation of child participation, taking into account factors such as gender, disability, socio-economic status, and other relevant grounds of marginalisation or vulnerability.

39. Overall, a core imperative of this principle is that child participation must not be viewed as a process of legitimising already-made decisions, but rather the state must ensure that the views of children are given due weight and tangibly integrated in the development of actions. While a plethora of methods can be adopted to foster child participation, it is crucial that they are age-appropriate and communicated in the language that children understand. Moreover, it is pertinent that child participation mechanisms, including child parliaments, are operational at all levels of governance, particularly at the level of local administration, to inform responses and measures to addressing substance abuse. Participation processes must also be duly funded and sustained, leveraging on technical support and expertise that are at the disposal of a State Party.

## VI. State obligation under article 28

40. Article 28 of the African Children’s Charter requires States Parties to ‘take all appropriate measures’ to protect the child from the use of narcotics and illicit use of psychotropic substances, and to prevent the use of children in the production and trafficking of such

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<sup>22</sup> UN Convention on the Rights of the Child ‘General Comment No 12 (2009): the Right to be heard, UN CRC CRC/C/GC/12 (20 July 2009), para 134; See also General Comment No 5 on State Party Obligations under the African Charter on the Rights and Welfare of the Child (article 1) and systems strengthening for child protection (2018) 14.

substances. This sets the tone for the nature of the obligation in this provision and provides the extent of the State Party's obligation. In interpreting what constitutes 'all appropriate measures', a crucial starting point is article 1(1), which sets out the general obligation of States Parties with respect to the African Children's Charter. Article 1(1) mandates States Parties to adopt legislative and other measures necessary for the implementation of the rights recognised therein, and thus guides the interpretation of all the rights in the African Children's Charter, including article 28. Consequently, article 28 must be read in conjunction with it. Thus, the very first measure States Parties must take is legislative measures. In addition, they are also required to take 'other measures',<sup>23</sup> and within this context, State Parties can adopt a wide range of measures that are 'appropriate'<sup>24</sup> to the implementation of article 28 of the African Children's Charter, including educational, administrative and institutional measures.<sup>25</sup>

41. There are two cardinal areas where States Parties are required to take appropriate measures under Article 28, which forms the crux of the obligation, namely: to (i) protect the child from the use of narcotics and illicit use of psychotropic substances; (ii) prevent the use of children in the production and trafficking of such substances.

#### A. Protect the child from the use of narcotics and the illicit use of psychotropic substances

42. The obligation to protect the child from the use of narcotics and illicit use of psychotropic substances requires States Parties to safeguard children both in public and private spaces and ensure that third-party violations do not occur. As private spaces are often where such exposures to substance abuse predominantly occur, States Parties must be proactive to ensure that children are safeguarded within these spaces, taking steps to address root

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<sup>23</sup> African Children's Charter (n 1), art 1(1).

<sup>24</sup> African Children's Charter (n 1), art 28.

<sup>25</sup> See General Comment No 5 (2003) on General measures of implementation of the Convention on the Rights of the Child (arts. 4, 42 and 44, para. 6), para 9; General Comment No 5 on State Party Obligations under the African Charter on the Rights and Welfare of the Child (article 1) and systems strengthening for child protection (n 19), 31-32; see also General Comment No 9 on Article 11 of the African Charter on the Rights and Welfare of the Child (2025), paras 28-29; Communication No 006/Com/002/2015, *Institute for Human Right and Development in Africa and Another v Government of Republic of Cameroon* (2018), para 43; Communication No 006/Com/002/2015, *Decision on the Communication submitted by the Institute for Human Right and Development in Africa and Finders Group Initiative on Behalf of YFA (a minor) v Government the Republic of Cameroon* (2015).

causes. Overall, this requires States Parties to exercise due diligence, and as such, prevent violations of this provision, investigate any such violations, prosecute and punish perpetrators.<sup>26</sup>

## I. Legislative measures

43. Legislation must explicitly prohibit the use of narcotics and the illicit use of psychotropic substances by children. Such prohibitions must be clearly articulated in drug control and criminal justice laws, which should be clear and void of ambiguity. Laws must also place an explicit ban on the supply or sale of narcotics and psychotropic substances to children, and ensure that prohibitions extend to places where children engage in recreational, educational, sporting, religious or social activities. It is good practice for States Parties to ensure that laws setting out prohibitions clearly specify the age of the child, in line with the African Children's Charter.

44. It is also important that legislation clearly defines narcotics and psychotropic substances, drawing on relevant international treaties, while also considering local argots that describe other substances that may not be captured in existing international regulations, in close collaboration with relevant international health and drug agencies.

45. The ACERWC recognises the fact that there may be circumstances in which certain substances may be required on medical grounds; these constitute limited exceptions. For instance, children may require opioids for pain relief in severe or chronic illnesses, as well as in certain medical procedures. Similarly, children with specific physical or learning disabilities may rely on controlled substances for pain relief, learning or other medically justified outcomes. In such situations, it is important for States Parties to ensure that access is provided in line with the highest available standard of health enshrined in the African Children's Charter. It is crucial that this is subject to the necessary prescriptions of licensed medical practitioners following due assessments. Moreover, it is pertinent to ensure that

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<sup>26</sup> See Communication No 007/Com/003/2015, *Decision on the Communication submitted by Minority Rights Group International and SOS-Enclaves on behalf of Said Ould Salem and Yarg Ould Salem against the government of the Republic of Mauritania* (2017), para 52.

parental or guardian approval is obtained and that governmental regulatory agencies exercise close supervision over such processes.

46. Legislation must be explicit on strict penalties to prevent exposure of children to these substances, including provisions that private businesses that sell or supply narcotics or psychotropic substances to children would have their licenses reviewed and revoked. Moreover, it is crucial that legislation also provide incentives to businesses to enable effective compliance, such as tax incentives and certifications that publicly acknowledge such businesses as beacons of good practice.

47. There are certain occasions where children may be involved as perpetrators. In such situations, legislation must be emphatic about the need for State officials to prioritise diversionary programmes that safeguard the welfare of the child above punishment. These diversionary programmes should be tailored to rehabilitate the child and reintegrate them into society to support their developmental growth. It is good practice for legislation to emphasise the protection of these children from societal stigma.

## II. Administrative and institutional measures

48. Administrative and institutional systems must exist across national structures for the protection of children. Child-specific structures should be embedded within drug regulatory agencies to ensure specific attention on children. As the institutional measure to protect children from such practice cuts across the mandates of various institutions, it is good practice for States Parties to develop a multisectoral platform to coordinate action to protect children. This should be across drug enforcement, health, law enforcement, education, social services and child protection. In addition to government institutions, it is important for States Parties to ensure that the coordination platform includes community-based mechanisms, civil society, international agencies, academia and the media. Moreover, there should be representation from other pertinent institutions (public and private) to ensure the integration of specific groups, including those in situations of vulnerability or marginalisation, such as gender and disability.

49. States Parties must ensure that the capacities of these institutions are regularly enhanced through training programs. These programs must be continuous and consider emerging societal trends in substance use. Traditional judicial structures and specialised drug courts should also be equipped to ensure that child perpetrators are treated through diversionary programs. Where community or traditional structures exist, States Parties must ensure that these structures are closely monitored to prevent the abuse and exploitation of children. **It is good practice for** States Parties to develop guidelines for the operations of these structures, reinforcing the rights and welfare of the child.

### III. Other measures

50. Protecting children from the use of narcotics and the illicit use of psychotropic substances requires that other measures be adopted. While context may dictate a plethora of measures, addressing the factors that lead to the involvement of children in substance abuse must be specifically addressed. As such, States Parties must address the root causes of substance abuse, with a focus on the national context. It is important that States Parties are intentional about social protection, poverty reduction, conflict prevention, addressing mental health and situations of homelessness, tackling unemployment and eliminating organised crime, particularly in areas where children are at high risk of exposure to narcotics and the illicit use of psychotropic substances.

51. Educational measures, including awareness raising, advocacy and campaigns, are imperative to protecting children from the use of narcotics and illicit use of psychotropic substances. Age-appropriate media literacy should be promoted. States Parties should ensure that these programmes are rolled out across various aspects of society and are accessible to different populations and institutions involved in the protection of children from substance abuse. States Parties should ensure that school curricula incorporate training in the language that children can understand at different levels. Training programmes should also be extended to establishments where children engage in recreational, educational, sporting, religious or social activities. Life skills-based education in schools should be promoted.

52. States Parties should also ensure that parent and caregiver skills programmes are rolled out to support parents and guardians of children of all ages, beginning from early childhood, to safeguard children from exposure to these substances. Community-based resilience initiatives should also be prioritised. Specific interventions should be in place for mothers, including pregnant mothers, to support the development of the child and foster positive mother and child interactions and health. These interventions should also include psychosocial support.
53. States Parties should also ensure that the sale and consumption of **drug-laced sweets and cakes** are prevented, particularly near schools and establishments where there are children. Regulating street food vendors near schools and other areas where children gather is a good practice. Moreover, efforts must also be undertaken to ensure that parents, guardians and teachers are adequately informed and updated on **drug-laced sweets and cakes** to enable early detection and ensure prevention.
54. Protecting children from substance abuse requires significant budgetary commitments. States Parties must ensure that specific allocations are made to cover the full spectrum of activities aimed at protecting children from substance abuse, including normative and institutional actions. There must also be specific funds allocated for education. While States Parties may choose the nature of budgetary allocations, **it is good practice** to employ strategies such as the first-line budget charge.<sup>27</sup> Moreover, States Parties should define minimum budget benchmarks for child-focused drug demand reduction within national health and social protection budgets, including dedicated allocations for prevention, child and adolescent mental health services, and rehabilitation. To ensure adequate funds are available, States Parties should seek partnerships with relevant stakeholders at various governance levels, as well as with the private sector, international organisations and development partners. It is crucial that specific safeguards are established to prevent funds from being illegally diverted.

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<sup>27</sup> These are expenditures that are directly deductible from national budgets.

## B. Prevent the use of children in the production and trafficking of narcotics and psychotropic substances

55. The obligation to prevent the use of children in the production and trafficking of narcotics and psychotropic substances requires States Parties to ensure that children are not engaged or involved in the making of these substances, nor in their trade, whether within or across state borders. The obligation to prevent is absolute and cannot be conditioned on any circumstances. Hence, it cannot be a defence that such engagement is beneficial, whether as a complement to the efforts of parents or guardians or for economic gain. States Parties must ensure that any involvement in the production and trafficking of such substances is criminalised. Moreover, it is crucial for States Parties to ensure that such work is categorised as one of the worst forms of child labour. The obligation to prevent must be understood as requiring States Parties to take proactive action across both the public and private spheres. States must also take targeted efforts to ensure that children in regions that are particularly at risk of exploitation are safeguarded.

### I. Legislative measures

56. Legislation must be emphatic on prevention, and as such, contain explicit prohibition of the use of children in the production and trafficking of narcotics and psychotropic substances. **It is good practice for** legislation to define prevention as an absolute ban to avoid uncertainty in interpretation. Moreover, laws should incorporate a definition of trafficking that reflects both the internal and transnational dimensions of this practice. This prevention must be contained across child rights, criminal justice administration, migration, trafficking and drug laws.

57. States Parties should also consider establishing norms, including policy guidance, across transnational borders to eliminate trafficking of such substances. This should be implemented across various governance levels, including regional and continental levels. States Parties should also consider concluding bilateral agreements with countries where evidence reflects significant traffic. Moreover, States Parties should incorporate specific prohibitions on the use of children within these agreements.

58. Legislation should be explicit on strict penalties for violations of this provision. However, where children are perpetrators of this violation, States Parties should prioritise diversionary programmes and take a victim-oriented approach that seeks to rehabilitate children and not punish them.

## II. Administrative and institutional measures

59. Preventing the use of children in the production and trafficking of such substances requires significant inter-agency coordination across various governmental agencies with relevant mandates. Centrally, this should be coordinated by the government institution with the mandate on drug law enforcement and co-led by the relevant government agency with the mandate on child protection. The institutional landscape should also include agencies on health, law enforcement, home affairs, trade, migration, governance and trafficking. Additionally, community-based mechanisms, civil society, international agencies, academia and media must be involved.

60. Special institutional efforts should be targeted towards protecting children in conflict zones. States Parties must ensure that military and para-military establishments are trained and adequately equipped to ensure that children in such zones are adequately protected from exploitation.

61. Significant efforts must be undertaken to build the capacities of relevant agencies across various governance levels through regular training programmes that integrate child-sensitive approaches. Judicial mechanisms should prioritise diversionary programmes for children involved in the production of narcotics and illicit psychotropic substances. Moreover, these mechanisms must ensure that children engaged in trafficking are treated through a victim-oriented approach that emphasises their welfare. Children must not be held in the same facilities as adults.

62. States Parties must also prioritise transnational cooperation, especially to prevent trafficking and protect child victims of trafficking. Such cooperation must exist at all levels and across various governmental arms. Moreover, States Parties should prioritise the

establishment of robust cross-border data management across the Regional Economic Communities (RECs). Significant efforts should also be undertaken towards creating robust partnerships with international agencies engaged in drug law administration, trafficking and migration governance.

### III. Other measures

63. In preventing the use of children in the production and trafficking of substances, States Parties should prioritise upstream public health prevention tools. As such, action should be geared towards the root causes of substance use disorders. There should be deliberate, targeted action towards combating poverty, the socio-economic conditions of their caregivers, conflict, unemployment, neglect and inadequate social services, corruption, criminal gangs and trafficking rings and irregular migration.

64. States Parties also initiate trauma-informed and positive child development programmes to ensure that children, particularly adolescents, are empowered and that their resilience is built against exploitation by traffickers. This involves empowering them to make the right choices, creating safe spaces and supportive networks and developing adequate mentorship programmes.

65. There should also be an emphasis on building life-skills alternatives for parents/caregivers of children in order to tackle the drug economy and protect children. States must invest in decent work, technical and vocational training, and in expanding market opportunities, leveraging national, regional, and continental development plans, including the African Continental Free Trade Area (AfCFTA). States Parties should also provide social protection for vulnerable families and foster equity, leveraging a rights-based approach.

66. Moreover, there should be significant efforts towards education, including advocacy and campaigns. These measures should be population-wide, across various establishments, including educational, sporting, religious, social and recreational centres. Significant efforts should be made towards sensitising populations in high-risk areas across rural and urban centres. Moreover, there should be efforts made towards training school-age children

across all ages, and caregivers including parents and guardians. States Parties should ensure targeted skills support and training for mothers, including pregnant mothers. Trainings should also be conducted in partnership with community-based mechanisms, including traditional leaders and village heads.

67. States Parties should also leverage technology, including telecommunication structures, to enable effective monitoring. Hotlines should be instituted and popularised across telecommunication networks. Moreover, States Parties should incentivise reporting and protect whistleblowers and other persons who choose to provide information anonymously. Special mechanisms should be established within law enforcement structures to provide protection for informers as may be required on a case-by-case basis.

68. Budgetary commitments must also accompany efforts towards preventing the use of children in the production and trafficking of such substances. These budgetary commitments should be geared towards funding the institutions and programmatic interventions. States Parties should prioritise collaboration with the private sector, international agencies and development partners to close funding gaps, particularly where national budgetary allocations may not be sufficient or adequately robust to address the situation. As earlier noted, it is good practice for such fund to be drawn as first-line budget charge.

## VII. Interventions for child affected by substance abuse as an auxiliary component of article 28

69. For children who are affected by substance abuse, either in the context of use, production or trafficking, States Parties must take adequate steps to ensure that their welfare is protected. As such, States Parties must take efforts towards their treatment, rehabilitation, and reintegration into society.

70. It is important that the difference in how girls and boys are affected by substance abuse is given due regard and addressed. As such, States Parties should take a gender-sensitive lens

in providing interventions for children affected by substance abuse. In this regard, states should adopt gender-responsive drug demand reduction strategies and engage in gender-sensitive treatment, rehabilitation and reintegration programming. The gender-sensitive approach should address the specific vulnerabilities of girls, including sexual exploitation, gender-based violence, pregnancy and stigma-related barriers to care.

## A. Treatment

71. States Parties should ensure robust treatment regimens for children who are affected by substance abuse. The treatment should be tailored towards the type of substance and must be child-sensitive. States Parties must prioritise free and accessible treatment for children across public and, if possible, private hospitals and licensed care centres.

72. It is crucial that States Parties adopt screening, brief intervention and referral to treatment in schools, health centres and establishments where there are children. States Parties should also establish routine screening and early intervention mechanisms for substance use and mental distress among children in schools, primary healthcare facilities, juvenile justice systems, child protection services and humanitarian settings. Screenings should include referral pathways to appropriate services. It is pertinent that these screenings be conducted with respect for the dignity of the child and geared towards ensuring treatment, not as a punitive measure.

73. Treatment must be evidence-based, age-appropriate and participatory, as such involving children and their caregivers. Treatment must also be consistent with child-rights standards and should be geared towards addressing substance use disorder and also addressing the psychological effects through age-appropriate counselling, therapy and support systems. In addition to medical treatment, States Parties should also ensure that caregivers are involved to provide adequate support and aid in recovery.

74. Cognitive-behavioural therapy should be prioritised, particularly for adolescents, to foster healthy behavioural patterns and address thought processes that create substance use

dependence. The therapy should address various diagnostic aspects, including compulsion, cravings, control and consequences of drug abuse.

75. Moreover, it is imperative that the approach to treatment should be holistic, focusing on all aspects of the child's development, including social, mental, intellectual and emotional development. Treatment regimens should also integrate intersectional dimensions as may be suited to the circumstances of each child. Significant technical and budgetary commitment must be geared towards addressing the mental health of children affected by substance abuse, as it is imperative for effective rehabilitation and reintegration.

76. Treatment must also be provided to children who are affected due to prenatal drug exposure. As these children may experience Neonatal Abstinence Syndrome, it is important to provide them with adequate care that is specific to their situation, with a significant focus on non-pharmacological interventions and special attention from qualified health professionals.

77. States Parties must ensure that there is adequate and effective aftercare to ensure sustained support beyond the treatment phase. These aftercare mechanisms should be supported and sustained within communal and family structures.

## B. Rehabilitation

78. States Parties must ensure that significant efforts are taken towards rehabilitating children affected by substance abuse. Rehabilitation centres must not be prisons and must support the psychosocial welfare of children. Rehabilitation centres must also be equipped and staffed with personnel who have certified training on child welfare. Efforts should be geared towards relapse-prevention planning that addresses triggers and reinforces healthy coping skills.

79. States must ensure that an intersectional approach, including gender and disability dimensions, is integrated within rehabilitation centres. As such, there should be trauma-informed care tailored to the specific needs of children, supported by multidisciplinary

teams that are adequately trained on rehabilitation protocols. Moreover, there should be accessible counselling formats, including for children with physical, intellectual and sensory disabilities.

80. States Parties must also ensure that the duration of rehabilitation – whether long or short term – support is suited to the condition and specific needs of the child and determined by licensed medical practitioners.

81. Efforts should be geared towards enhancing Multisystemic Therapy that fosters a holistic restoration integrating caregivers, schools, communities and establishments where there are children beyond treatment protocols.

Where community-based rehabilitation centres exist, states must take steps to ensure that these centres do not violate children’s rights or subject them to cruel and inhumane treatment. It is good practice for States Parties to establish guidelines for community-based rehabilitation centres to ensure that they are child-sensitive and rights-responsive. Moreover, States Parties should ensure collaboration with gender and disability rights organisations to evaluate the efficiency of these processes. Rehabilitation care and support that enable children to continue with their education should be prioritised.

## C. Reintegration

82. States Parties must ensure that children affected by substance abuse are properly reintegrated into society. For this purpose, there must be sustained support systems that integrate family structures and community-based mechanisms. There must be significant sensitisation across communities to foster social cohesion and address the stigmatisation that such children may face.

83. States Parties must ensure that societal environments are conducive for children affected by substance abuse, including through age-appropriate measures, to prevent a relapse into substance abuse and practices. Moreover, States Parties should invest in motivational

interviewing approaches that promote positive behavioural change to ensure relapses do not occur.

## VIII. Data collection and research

84. Data collection on populations (including children) involved in substance abuse should also be prioritised. Across Africa, there is scant data on the extent to which children are involved in substance abuse, and this is due, in part, to the fact that there is limited focus on data related to substance abuse within governmental institutions engaged in data collection across national governance levels. To address this, States Parties should consider incorporating technical capacities within national statistical bureaus that can coordinate a multisectoral data collection process. Data should be disaggregated by sex, age, type of substance, geographical region, specific vulnerabilities and nature of involvement of children (i.e. use, production or trafficking). States Parties should leverage technology in gathering data and create a centralised data collection system to ensure harmonisation. Moreover, it is pertinent that data should be collected with significant regard for the privacy of the child.

85. Data systems should generate routine indicators on age of initiation, treatment completion, relapse rates, school reintegration and mental health outcomes. It is important that States Parties evaluate the effectiveness and cost-efficiency of prevention and treatment programmes. Moreover, States Parties should seek partnerships with organisations, research institutions and data centres that work in this field to promote efficiency in the process.

86. Research must also be prioritised on children to provide evidence-based knowledge that can inform context-specific responses. In this regard, it is pertinent for States Parties to engage in partnership with educational centres and research institutions at various governance levels. Research should be multidisciplinary, encompassing a plethora of fields including health, law, education, sociology, child welfare, psychology, psychiatry, behavioural science, pharmacology, medicine and social sciences.

## IX. Emerging intersectionality

87. It is important for states to pay attention to emerging issues that are integral to providing a holistic solution to the protection of children from substance abuse. Two of these issues are discussed in this section, namely: climate change and digital technologies.

### A. Climate change

88. There is evidence to suggest that climate-induced stresses exacerbate substance abuse.<sup>28</sup> One of such evident connection relates to substance use disorders due to rising temperatures. There is research that correlates extreme weather conditions with the use of psychotropic substances as a coping strategy to counteract heat-related stress.<sup>29</sup> This is an area where more nationally-led research is required across the continent particularly reflecting on specific vulnerable groups including pastoralist populations, with the loss of livelihood capacities due to the impacts of climate stresses. Given that the African continent is especially vulnerable to the impact of climate change, it is important for States Parties to pay attention to this intersection, focusing on solutions that tackle the issue of climate change as a precipitant of drug abuse. The impact of rising temperatures creates dependence on substance abuse. In advancing solutions, it is imperative for States Parties to invest in evidence-based contextual research to inform policy and practice.

### B. Digital technologies

89. While the rapid advancements in digital technologies are imperative to the transformation of societies, they are also being used to negatively drive substance abuse. Digital technologies are contributing to the exposure of children to substance abuse through online trading, messaging apps and social media. **There has been evidence to the effect that drug traffickers exploit platform algorithms to connect with buyers. Aside from serving as an**

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<sup>28</sup> 'The climate crisis is driving people to substance abuse' *Wired* 27 September 2023; Luca Tomassini et al 'Exploring the nexus of climate change and substance abuse: a scoping review' (2024) 21(7) *International Journal of Environmental Research and Public Health* 896.

<sup>29</sup> See B Parkes, JR Buzan and M Huber 'Heat stress in Africa under high intensity climate change' (2022) 66 *International Journal of Biometeorology* 1531; Godfrey S Bhosa and Haruna Muwonge 'Alcohol and substance use in extreme environment temperatures exposures, neural mechanisms, coping mechanisms, substance use disorders, and increased hospital visits' (2026) 20 *Frontiers in Human Neuroscience* 1.

economic hotbed in the drug economy, social media platforms are being used to advertise and create an appeal for substance abuse.

90. In addressing the situation, it is important for States Parties to foster content moderation, ensure that tech companies are accountable and positively leverage these digital technologies to engage in campaigns against substance abuse. States Parties should require digital platforms to remove content promoting substance use to minors, establish reporting mechanisms for harmful content, share intelligence with child protection authorities, and integrate child-safeguarding design standards.

## X. State Reporting on Article 28

91. States Parties must report on measures taken to implement the provision of article 28 of the African Children's Charter in line with their obligations under article 43 of the African Children's Charter. States Parties must ensure that, in reporting on this provision within their State Party reports, there are internal broad-based consultations across relevant sectors and levels of governance to inform a robust report.

## XI. Dissemination of the General Comment

92. States Parties should take appropriate measures to disseminate this General Comment widely across their territories. This includes ensuring its availability in the official languages of the state, and where possible, in local languages, and in formats that are accessible to children with disabilities.

93. In popularising this General Comment, States Parties are encouraged to collaborate with relevant institutions at various governance levels, including at the level of the RECs and the AU. At the national level, such efforts should involve collaboration with national human rights institutions, governmental agencies on child protection, civil society organisations, international organisations and development partners.

94. This General Comment must also be incorporated in training for various arms of government, including the executive, legislature and judiciary. It must be incorporated in

the manual of trainings for law enforcement officials, military and para-military officers, judges, teachers, legal practitioners, caregivers, media, academia, health workers, social services, other related persons and the public.

95. This General Comment should also be available in child-friendly formats that are appropriate to different age groups. States Parties are further encouraged to include information on the measures taken to disseminate and implement this General Comment in their periodic reports to the ACERWC.

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## **ANNEX 1: EXAMPLES OF NATIONAL LEGISLATIVE FRAMEWORKS RELEVANT TO ARTICLE 28**

### ***National laws that criminalise the use of narcotics and the illicit use of psychotropic substances***

- Algeria: Law No. 04-18 relating to the Prevention and Repression of the Illicit Use and Trafficking in Narcotics and Psychotropic Substances (2004)
- Angola: Law No 03/99 on Trafficking in and Consumption of Narcotic Drugs, Psychotropic Substances and Precursors (1999)
- Benin: Law No 97-025 of 18 July 1997 on the control of drugs and precursors (1997); Botswana: Drugs and Related Substances Act (1992)
- Burkina Faso: Law No 017/99 concerning the Drug Code (1999); Burundi: Law No 1/05 of 22 April 2009 – Penal Code (2009)
- Cape Verde: Decree No 92/92 of 20 July 1994 on the Control of Licit Trade in Narcotic Drugs, Psychotropic Substances and Precursors (1994)
- Cameroon: Law No 97-019 of 7 August 1997 relating to the control of narcotics, psychotropic substances and precursors and to extradition and mutual legal assistance in matters of trafficking in narcotics, psychotropic substances and precursors (1997)
- Central African Republic: Law No 01.011 adopting the harmonized law relating to Drug Control, Extradition and Mutual Legal Assistance in matters of Illicit Trafficking in Narcotic Drugs and Psychotropic Substances (2001)
- Chad: Law No 022/PR/1995 of 28 September 1995 relating Drug Control (1995); Comoros: Law No 20-038/AU of 29 December 2020 - Penal Code (2020)
- Congo Brazzaville: Congolese Act of 12 July 1916 on Narcotics (1916)
- Cote d'Ivoire: Law No 88-686 of 22 July 1988 on the Suppression of Illicit Trafficking and Use of Narcotics, Psychotropic Substances and Poisonous Substances (1988); Democratic Republic of Congo: Order No 91-107 of 23 August 1991 creating a Committee to Fight against Drugs (1991)
- Djibouti: Law No 171/AN/81 on Psychotropic Substances (1985)
- Egypt: Law No 182 of 1960 concerning the Control of Narcotic Drugs (1960)
- Equatorial Guinea: Law No 3/1993 of 15 September prohibiting the Production, Sale, Use and Illicit Trafficking of Drugs in the Republic of Equatorial Guinea (1993)
- Eritrea: Penal Code (2015); Ethiopia: Proclamation No 176/1999: A Proclamation to Provide for Drug Administration and Control (1999)
- Gabon: Law No 21/63 of 31 May 1963: Penal Code (1963)
- Gambia: Drug Control Act (2003)
- Ghana: Narcotic Drugs (Control, Enforcement and Sanctions) Law (1990)
- Guinea: Law No 027/PRG/SGG/89 of 10 April 1989 on Narcotics and Psychotropic Drugs (1989)
- Guinea Bissau: Law No 1/76 of 21 April 1976 on Narcotics (1976)
- Kenya: Narcotic Drugs and Psychotropic Substances (Control) Act (1994)
- Lesotho: Drugs of Abuse Act (2008)
- Liberia: Controlled Drugs and Substances Act (2023)
- Libya: Law No 23 of 1971 on Narcotics (1971)

- Madagascar: Law 97-039 on Control of Narcotics, Psychotropic Substances and Precursors (1997)
- Malawi: Dangerous Drugs Act (1956)
- Mali: Law No 01-078 of 18 July 2001 on Drugs Control and Precursors (2001)
- Mauritius: Dangerous Drugs Act (2000)
- Mauritania: Law No 93-37 on the Suppression of the Production, Trafficking and Illicit Use of Narcotics and Psychotropic Substances (1993)
- Morocco: Law No 1-73-282 of 21 May 1974 on Repression and Prevention of Drug Addiction (1974)
- Mozambique: Act No 3/97 of 13 March 1997 on the Prevention and Combatting of Drugs (1997)
- Namibia: Abuse of Dependence-Producing Substances and Rehabilitation Centres Act 41 (1971)
- Niger: Order No 99-42 of 23 September 1999 relating to the Fight against Drugs in Niger (1999)
- Nigeria: National Drug Law Enforcement Agency Act (1989)
- Rwanda: Penal Code (1980)
- São Tomé and Príncipe: Law No 6/2012: Penal Code (2012)
- Senegal: Law No 18/97: Code on Drugs of 11 November (1997)
- Seychelles: Misuse of Drugs Act (2015)
- Sierra Leone: The National Drugs Control Act (2008)
- Somalia: Act No 46 of 3 March 1970 concerning the Production of Trade in and use of Narcotic Drugs (1970);
- South Africa: Prevention of and Treatment for Substance Abuse Act (2008)
- South Sudan: Penal Code Act (2008), arts 382-387
- Sudan: Narcotic Drugs and Psychotropic Substances Act (1994)
- Tanzania: Drug Control and Enforcement Act (2019)
- Togo: Law No 98/008 of 18 March 1998 on Drug Control (1998)
- Tunisia: Law No 92-52 of 18 May 1992, relating to narcotics (1992)
- Uganda: Narcotic Drugs and Psychotropic Substances (Control) Act (2015)
- Zambia: Narcotic Drugs and Psychotropic Substances Act (2021)
- Zimbabwe: Medicines and Allied Substances Control Act (1969)

***Constitutional provisions in some countries also emphasise the protection of children from exploitation and abuse***

- Angola: Constitution of the Republic of Angola (2010), art 80(1)
- Burkina Faso: Constitution of the Republic of Burkina Faso (1991), art 24
- Burundi: Constitution of the Republic of Burundi (2005), art 44
- Cape Verde: Constitution of the Republic of Cape Verde (2010), art 74
- Central African Republic: Constitution of the Central African Republic (2004), art 6
- Comoros: Constitution of the Union of Comoros (2001)
- Congo Brazzaville: Constitution of the Republic of Congo (2002), art 31
- Cote d'Ivoire: The Constitution of Cote d'Ivoire (2000), art 6
- Democratic Republic of Congo: The Constitution of the Democratic Republic of Congo (2005), art 41

- Egypt: Egypt Constitution (2014), art 80
- Equatorial Guinea: Equatorial Guinea Constitution (1991), art 23(1)
- Ethiopia: Constitution of the Federal Democratic Republic of Ethiopia (1995), art 36(1)(d)
- Gambia: Constitution of Gambia (1996), art 29(2)
- Guinea: Constitution of Guinea (2010), art 19
- Kenya: The Constitution of Kenya (2010), art 53(1)(d)
- Lesotho: The Constitution of Lesotho (1993), art 32(b)
- Libya: Libya Constitution (2011), art 5
- Malawi: Constitution of Malawi (1994), art 23(4)
- Mozambique: Constitution of the Republic of Mozambique (2004), art 47(1)
- Namibia: Constitution of Namibia (1990), art 15(2)
- Niger: Niger's Constitution (2010), art 21
- Nigeria: The Constitution of Nigeria (1999), art 17(3)(f)
- Rwanda: The Constitution of the Republic of Rwanda (2003), art 28
- São Tomé and Príncipe: Political Constitution of São Tomé and Príncipe (1975), art 51
- Senegal: Constitution of the Republic of Senegal (2001), art 20
- Sierra Leone: The Constitution of Sierra Leone (1991), art 9(1)(b)
- Somalia: Provisional Constitution (2012), art 29(2)
- South Africa: The Constitution of the Republic of South Africa (1996), art 28(1)(d);
- South Sudan: The Transitional Constitution of the Republic of South Sudan (2011), art 17(1)(d)
- Sudan: Constitution of Sudan (1998), art 14
- Togo: Constitution of Togo (1992), art 36
- Tunisia: The Constitution of Tunisia (2014), art 47
- Uganda: Constitution of the Republic of Uganda (1995), art 34
- Zambia: Constitution of Zambia (1996), art 11(c) & 24
- Zimbabwe: Constitution of Zimbabwe (2023) art 19 (1)(c).