



**Interview with Dr. Benyam Dawit Mezmur, Second Vice
Chairperson, African Committee of Experts on the Rights
and Welfare of the Child**

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This interview was conducted by The African Child Information Hub of The African Child Policy Forum (ACPF).

Thank you Dr. Benyam for accepting to be interviewed for The African Child E-Newsletter of The African Child Information Hub

Thank you very much and thank you having me for this interview.

Please tell us about yourself?

I was born in 1980 in Addis Ababa. I was raised in an area of Addis Ababa called *Merkato* and I can safely say that, by sheer luck, I was born into a relatively “privileged” family so I had a privileged childhood. As a result, I benefitted fully from a loving and supportive family environment throughout my childhood, I was well taken care of and I went to a private school. After finishing high school at the St Joseph School here in Addis Ababa, I joined the Addis Ababa University. I did my LLB at the Faculty of Law. Immediately after that I started my official engagement on children’s rights when I was employed by Dr. Assefa Bequele at The African Child Policy Forum in June 2003.

Maybe one thing that I should mention is that immediately after I finished high school in 1998, I volunteered in an orphanage called Medical Missionaries of Mary in Addis Ababa. I volunteered in the orphan support programme so immediately after high school I had some exposure to children’s rights in Addis Ababa.

What is your general assessment of child rights in Africa?

If you had given me the option to describe it with two words, I usually tell my students that children's rights in Africa is "stumbling forward". And I will explain why.

First the stumbling part is critical because the implementation and realization of children's rights in Africa is faced with a number of challenges. It helps us to realize that there are still a number of challenges...there is a long way to go...so that we are not complacent...that we make every effort possible to make sure that...our children have a better childhood than the one we have had. We need to make sure that we hand over a better Africa than the one we have lived in. I am not necessarily saying that the one we are living in is bad but it can be far better for our children. That is why I am saying "stumbling" indicating the challenges, indicating the fact that we still have a long way to go before we get there.

But then "forward"...because we have made a number of progresses in the realization of children's rights in Africa in the last decade. It is also important to look into the base at which African countries started to implement children's rights the way we understand it today. I mean if you look at figures from the 1990s pertaining to the rights to free and compulsory primary education, enrollment levels, the gender gap between boys and girls...if you look at the figures that indicate the number of children that die before their fifth birthday...if you look at the number of children that die as a result of diarrhea, malaria and so forth....quite a significant achievement has been made in the last decade. That's why I say "forward" and I think the Millennium Development Goals (MDGs), have also set a good pace with which a number of African countries can work on. So I would prefer to describe children's rights in Africa as "stumbling forward".

Has the African Committee of Experts on the Rights and Welfare of the Child made any impact on children's wellbeing in Africa so far? How does

the new Committee, which you are a member of, plan to do things differently to enhance its impact?

Instead of answering the first question on a yes or no basis, I would rather first give some sort of a backdrop which is the fact that the current Committee to which I am a member of is standing on the shoulders of those that were there before us. And I think that everybody knows that those that were there before us operated in a more tight and challenging environment than the one that we are currently operating in. So I think that this disclaimer is very important. Now, having said that, I am under no illusion and no one should be under any illusion that the current Committee has its own challenges. It starts with political challenges, economic challenges, the financial issue and a whole range of other related issues that make our mandate a more challenging one.

With that said, I think the Committee has had some impact on children's wellbeing on the African continent. I might not have the concrete data to back it up but I think if you are talking about impact of the Committee, you are in a way implying the extent to which African governments have taken on board the African Charter on the Rights and Welfare of the Child, which the Committee monitors. For example, if you look at children's laws in the last three to five years that have come out in a number of countries on the African continent that include South Africa, Tanzania, Botswana, Sierra Leone, just recently last week Lesotho, and so forth, you will see some important elements of the African Children's Charter that are not necessarily explicitly provided for under the UN Convention on the Rights of the Child that have been incorporated in these national legislations. So I think this is one example where the Charter is starting to have impact. But as far as direct data on the extent to which the African Committee has directly impacted on the realization of children's rights on the African continent will be something that requires more detailed research with appropriate indicators.

How does the new Committee plan to do things differently? As I have already said, we are operating in a relatively better environment. By “better environment” I mean more people and more governments know about the African Children’s Charter now. The ratification level stands at forty-six. We still have seven countries that need to ratify but I think forty-six is also a fairly good number to work with. I think a number of institutions be it within the United Nations family or even the African Union itself know about the work of the Committee and there are already a number of initiatives to collaborate in areas that are of common interest. I think as the current Committee, we need to capitalize on this environment that is relatively favorable than the one that existed when the previous Committee members were operating. We need to be, for lack of a better word, “aggressive” in pursuing the implementation of children’s rights in Africa. This means a number of things such as being proactive; trying to convince the remaining seven countries to ratify; to explain to them the added value of coming on board the African Charter; Pursuing in a more proactive way the countries that have not yet reported to the African Committee; There are for instance ten countries whose state party reports were due in 2001 and we are currently standing in 2011 and these reports are long overdue by ten years. So I think we need to be more proactive in engaging and in trying to solicit these and state party reports that are over due. I think these are some examples of areas that we hope to build on the contribution that the previous Committee members have made to the realization of children’s rights in Africa. Of course it’s not an exhaustive but an indicative list.

The Committee is trying to strengthen its working relationship with the UN Committee on the Rights of the Child. Have any concrete steps been taken?

The answer to that is yes. You might recall that last year during the March session, members of the UN Committee on the Rights of the Child were present at the 15th Session of the African Committee of Experts. At that meeting, a

number of discussions were held between the two Committees in order to coordinate our efforts in the realization of children's rights in Africa. Following that, there was a working group that was established to follow up on the details of this collaboration that has been formed both on the side of the UN Committee on the Rights of the Child but also on the side of the African Committee. I am personally a member of that working group within the African Committee and I can tell you some details of some of the things we have tried to do over the last few months. For example during the 17th session, we have tried to identify two activities that we believe can be undertaken in 2011 in collaboration with the UN Committee on the Rights of the Child. Moving further, I think in order to achieve those two identified activities for 2011, a terms of reference has already been drafted and is currently being shared I believe with the UN Committee in order for us to be able to undertake those two specific activities. Secondly, we were involved in the negotiations for the adoption of an Optional Protocol to establish a communications procedure for the UN Committee on the Rights of the Child. There are also a number of discussions that are ongoing for instance on how the two Committees can collaborate to convince the seven countries that have not yet ratified the African Charter ...how can the two Committees collaborate to increase the number of countries reporting to the African Committee...how, if it is possible, can a follow up be done on concluding observations that were given to specific African countries jointly by the UN Committee but also by the African Committee. I think these measures will take more concrete root in the coming few months and I am absolutely convinced that there is the caliber, the spirit and the commitment on both the UN Committee and the African Committee to identify areas where we can collaborate in order to move the children's rights agenda in Africa a step forward.

What do you think are the two or three most important problems faced by children in Africa that deserve special and priority attention?

I would start with poverty. Poverty is one of the main issues that the realization of children's rights in Africa has to contend with. I say one of the main because there are also others, maybe not equally challenging but nonetheless still pose a challenge to the realization of children's rights in Africa. I would go with HIV/AIDS and armed conflict as being the second and third issues. These three are in any case interrelated. When a child is living in poverty, his or her chances of having his or her rights violated are high. Then violence against children is perpetrated more (for arguments sake) on children that are living below the poverty line than those that are not. Children are more prone to be involved in armed conflict especially if they are living in poverty. Children are subject to sexual violence, HIV/AIDS and so forth if they are living in poverty. So while I think these issues are interrelated, I would say that poverty is one of the main ones. I think that all this is on a sad note.

But on a positive note, I think there are a number of initiatives in a number of African countries that are trying to address these issues. For instance, in relation to poverty I can mention my own country Ethiopia that is rolling out a safety-net programme addressing seven million people in the country that has helped to boost the life chances of children. This programme, as you might well know, is targeted to families whose food security is not sustainable and government is rolling out support to them. Seven million is a very huge number even in a country like ours that has a population of approximately 80 million people. It's not necessarily targeted on children but there is overwhelming evidence that shows that from that support that government is giving to these people, it has generally increased the life chances of children that are in these households.

If you look at the HIV/AIDS sphere, I think countries such as Zambia have made headway in, for instance, minimizing mother to child transmission. By using SMS technology, South Africa has increased the number of children that have been tested and counseled. Rolling out of anti-retroviral drugs for instance in places like Uganda has made a tremendous effect on the life chances of children in that

country. I can also mention Malawi here which has ensured treatment equity in accessing free HIV/AIDS treatment which has once again increased the life chances of children in Malawi. There are a number of practices that have facilitated the implementation and realization of children's rights in Africa in these two areas.

By "armed conflict" I don't mean necessarily the practical full-fledged act of war. I think if we have learned anything from the Arab uprisings, especially involving the North African countries I think we have realized how children can be vulnerable in any strife/conflict situation. For instance, there have been a number of reports from Egypt indicating how street children were grossly and inappropriately affected by the uprisings. Of course you can inject education in the context of poverty. If the continent is to have any proper stand in the 21st century, education is also very central to the realization of children's rights in Africa.

So I would personally say that the three-namely poverty, HIV/AIDS, and armed conflict should be a priority.

How do you find the current state of inter-country adoption in Africa? Is it profit driven?

I think Africa is the new frontier for inter-country adoption. It has its own historical, social and economic background that explains why Africa is becoming the new frontier for inter-country adoption. Generally speaking (I put emphasis on the word "generally") Africa is not yet prepared to address inter-country adoption especially in terms of its legislative framework, social protection framework and so forth. I have said in one meeting last year that if I was to generalize and describe the current inter-country adoption situation in Africa with one sentence, I would say that the golden rule for inter-country adoption in Africa is that one who owns the gold makes the rule.

So that relates to your second question whether or not it is profit driven. I don't want to put all countries in Africa in one basket but the majority of African countries, if we were to generalize, are ill equipped to address the issue of inter-country adoption. But of course there are also those that can offer good examples. Kenya is one. Kenya has ratified the Hague Convention on Inter-Country Adoption and they are also implementing the Hague Convention which has improved the kind of legal and social environment that transpires in the country as far as regulating inter-country adoption is concerned. Another country is South Africa that has done the same thing and has regulated the practice in a fairly comprehensive manner. I mean judges have been given training on that specific issue, social workers [in South Africa] know relatively better on the issue than many social workers in other African countries. The same is true with the police and other stakeholders. So that has helped to minimize any form of abuse including undertaking intercountry adoption for improper financial or other gains.

But again on a positive note, a number of African countries are realizing that the kind of framework that they have within their domestic environment is not sufficient enough to regulate inter-country adoption. This includes countries such as DRC, Liberia, at some stage Lesotho and these are countries that suspended inter-country adoption by saying that the legal framework that they have is not sufficient to regulate the practice. So the idea was that they will only open the practice once they have addressed the issue at the domestic level and have put in place the necessary framework to regulate the practice. So I think these are positive trends and I think these are practices that need to be duplicated and imitated by other African countries that do not have the necessary domestic framework to regulate the practice. I think on this note I encourage African countries that have not yet ratified the Hague Convention on Inter-Country Adoption to ratify and implement it.

Accusations of child witchcraft are on the rise in Africa. How does the Committee plan to address this issue? What can governments do?

I have seen one report from UNICEF dated April 2010 that indicated that accusations of child witchcraft are on the rise in Africa especially in countries such as Senegal, Niger, Angola, Benin, DRC and so forth. I think in the past, I'm talking about 10 to 20 years back, it was women and elderly people that were usually accused of witchcraft but in recent years the number of children that have been accused of witchcraft has been increasing for a number of reasons which includes HIV/AIDS, urbanization, poverty, the lack of awareness on the rights of persons with disabilities, being an orphan, a street child, albino and a whole range of other factors that I can't go into detail. As far as the African Committee is concerned, I think my colleagues and I will have to come to an agreement that we will try and place some emphasis on it in the consideration of state party reports. So when state parties report and we have information that there has been violation of children's rights by way of accusing children of witchcraft then we can try and raise it with the state party and maybe recommend some measures that can be taken by the government.

One thing that I also have to mention and I might not be politically correct in saying this is the fact that the accusation of children of witchcraft is also being fueled in some countries by some religious leaders. I know instances where evangelical pastors have claimed that they can undertake a certain ceremony or exorcism where they would be able to do away with the evil spirit from these children. And some of them generate money from this practice. I have read about instances where petrol has been poured into children's eyes claiming that they would be able to do away with the alleged evil spirit that is in these children. So I think it's important to get the religious leaders on board. Whether we like it or not, accusing children of witchcraft has a direct relationship with harmful traditional and religious practices. So I think in the same way as we try and address Female Genital Mutilation or any other harmful traditional practice, we have to get on board the opinion makers at the grassroots level which includes religious and traditional leaders. I think that is one way forward. I think from that we can move

to the legislation stage. For example, the legislature in Congo has propagated a provision that indicates that accusing children of witchcraft is prohibited. That is a start but unless people have awareness about the practice and about this law, it doesn't translate into something meaningful to these children that are being accused of witchcraft. So I think the awareness level, getting on board traditional and religious leaders and then moving towards legislation and also the implementation of such legislation could be some of the ways that we as a Committee can recommend to state parties of the African Charter in addressing this problem.

Are children within the criminal justice system in Africa marginalized and forgotten within legislative and policy frameworks?

I think again it is difficult to generalize. In the majority of African countries yes children within the criminal justice system are marginalized but there are also a few countries that have made headway in addressing children that come in conflict with the law and these countries not only promulgated legislation that is in children's best interest, even when they are in conflict with the law, but this legislation has a rehabilitation spirit. It talks about diversion, making sure that children are not sentenced to life in prison or imprisonment. It makes sure that children are in contact with the normal or formal justice system as a measure of last resort. For instance, in Uganda traditional ways of addressing justice have been included in the legislation to make sure that children are kept away from the formal justice system as much as possible. This has also been done in South Africa. But more remains to be done in many African countries. I mean if children come in conflict with the law, the priority should not be having them before a court of law and then sentencing them to harsh sentences but the priority should be to make sure that these children are diverted away from the formal justice system. In English there is a saying that "it is better to dry a swamp than fight the alligator". I think our approach to issues pertaining to children that come in conflict with the law should primarily focus on addressing the root causes of why

children come in conflict with the law than trying to punish once these children have come in conflict with the law. I think that kind of approach is paying its dividends in a few African countries.

I think it is a recommendation that a number of African countries should take seriously that if we manage to minimize the reasons for children coming in conflict with the law, children who are orphans and vulnerable children, children on the streets and a whole range of other vulnerable groups of children that often come in conflict with the law...if we address the root causes at the grassroots level then we wouldn't have situations where children come in conflict with the law. But once children come in conflict with the law I think their best interest and the provisions of the Convention on the Rights of the Child as well as the African Children's Charter clearly indicate that the priority should be to divert them from the formal justice system, and to rehabilitate them so that they can join the community as soon as possible.

What is your assessment of the quality of legal frameworks in Africa that address children's rights?

Here I think we need to give credit to a number of African countries that have done away with their colonial era and archaic laws and have introduced children's statutes that comply with many of the standards within the African Children's Charter and the UN CRC and other child-related instruments at the regional but also at the international level. If you look at for instance the nineteen countries in Eastern and Southern Africa, many of them have passed legislation in the last ten years that comply with the African Children's Charter and the CRC and in the process of preparing these laws, many of these countries have been able to include child participation, they have been able to include participation from civil society organizations. There have been a number of instances where experience sharing between different countries has taken place, for instance, where people involved in the law drafting process from Malawi visited South

Africa or from Ghana visited another country...so that regional experience sharing has helped not only the end result but also the process by which this end result is achieved in trying to make sure that these laws are as comprehensive as possible, as child friendly as possible and as compliant to the provisions of the CRC and the African Children's Charter as possible. There have also been experiences where good traditional measures that help to promote children's rights have been included in some of these legislations...I have already mentioned the practice of Uganda in the context of children that come into conflict with the law. If you look at the Child Rights Act of Nigeria it talks about the duties of the child in a similar way that Article 31 of the African Children's Charter talks about the duties of the child. This is another example where rights attached to them have duties and within the African context children have duties that are in compliance with their age and take into account their evolving capacity and that, mark my words, do not violate any of their rights that they have under the African Children's Charter.

But in the meantime, I think there are a number of areas where there is room for improvement. One of them is on violence against children, for instance in relation to corporal punishment. Many of the laws that we have here in Africa do not expressly address the issue.

So I think it is a mixed feeling in that many countries are doing away with colonial era legislation and trying to comply with the provisions of the CRC and the African Children's Charter and in doing so they are sharing experiences in the region, they are including traditional practices that help to promote children's rights and so forth but in the meantime these documents are not necessarily perfect and they can always be perfected. And of course this is in line with the understanding that law reform is not a once-off practice, it is something that needs to be revisited on the basis of the implementation challenges and on the basis of the current developments in that specific country. In other words, it is important to understand that law reform is not an event but a process.

Do you have any other comments, suggestions which you would care to add?

I would just like to summarize and say that that attitude that says “children are mini-human beings with mini rights”, and that “children are to be seen and not to be heard” etc needs to change, and needs to change fast. This change needs to take place fast within the family, community, in schools, in policy and law making, in international development partners etc. Since children’s rights are predominantly children’s issues too, we need to include children as much as possible in the work that we do. Moreover, I think the attitude that says “children are the future” while it has its own positive connotations, it also has its own negative connotations. Children of course are the future but children also want and have to be part and parcel of the present. We need to take children’s interests and children’s rights seriously in order to make sure and prepare a better future for our children.

Finally, I think all persons in Africa and outside need to adopt a children first attitude. What do I mean by that? I think politicians need to have a children first attitude. One of the challenges with coming up with a children’s statute in Africa pertains to the fact that children’s rights legislation wait for a very long time in Parliament. That’s why we have a number of draft legislations in a number of African countries that have been languishing in Parliaments for an unreasonably long period of time. Adopting a children first attitude requires Parliamentarians, the Executive, the Judiciary, the media, CSOs etc to take children’s rights seriously,. If we are to achieve many of the MDGs that pertain to children’s rights, a children first attitude needs to be instilled in everyone. It is a collective responsibility that everybody who is involved in it needs to take it seriously and a collective responsibility which includes children themselves. So I usually claim that I am neither an optimist nor a pessimist, but a pragmatist and I think that slowly but surely we shall make some concrete and sustainable headway in the

realization of children's rights here in Africa if we have this children first attitude instilled in almost all of the the work that we do.

Thank you very much Dr. Benyam! I hope to have more conversations like this with you in the future.

Thank you and I look forward to that.

Biography of Dr. Benyam Dawit Mezmur

Second Vice-Chairperson, African Committee of Experts on the Rights and Welfare of the Child (2010-Present)

Mellon-Research Fellow based at the Community Law Centre, University of the Western Cape (UWC) in Cape Town, South Africa (Present)

Lecturer of the LLM module on Children's Rights and the Law at UWC.

Legal Officer, The African Child Policy Forum (ACPF) (2003-2005)

Part-time lecturer in two private academic institutions in Addis Ababa

He has been invited as a guest lecturer in academic institutions in Africa and Europe, has been awarded research fellowships by the Universities of Utrecht and Groningen (Netherlands) and Abo Akademi (Finland), and presented in national and international conferences.

He received his LLB from the Addis Ababa University, a LLM from the University of Pretoria (the Centre for Human Rights), and a Doctorate in Law from the University of the Western Cape.