

The 12 rights of the African Movement of Working Children and Youth (AMWCY)

***Juridical foundation, platform of demands
or instrument of development?***

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This study is a comparison between the 12 rights of the African Movement of Working Children and Youth (AMWCY) and the international Conventions on the Rights of the Child.

Each right stated by the Working Children and Youth (WCY) is thus compared to international texts that are contained in the United Nations' Convention on the Rights of the Child (CRC) and in the African charter on the Rights and Well-being of the Child (ACRWC).

Most of the principles and rights contained in the CRC are found in the ACRWC. Considering specificities of the African continent, adaptations have been made so as to facilitate their implementation.

This comparative study questions the real nature of the twelve rights of working children: Are they a juridical foundation to their aspirations, a platform of demands or rather an instrument of development?

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Table of contents

p. 2	The 12 rights of the Working Children and Youth
p. 3	Some landmarks
p. 4	Introduction
p. 5	Comparative analysis
	* rights
	* duties
p. 16	Synthesis
p. 21	Appendix:
	* Referendum "The Voice of Youth" UNICEF October 1999 and the 12 rights of the WCY

The 12 rights of the African Movement of Working Children and Youth *(reminder)*

- ✳ **Right to be taught a trade**
- ✳ **Right to remain in the village (no exodus)**
- ✳ **Right to work in a safe environment**
- ✳ **Right to light and limited work**
- ✳ **Right to rest when sick**
- ✳ **Right to be respected**
- ✳ **Right to be listened to**
- ✳ **Right to health care**
- ✳ **Right to learn to read and write**
- ✳ **Right to play**
- ✳ **Right to self-expression and to form organizations**
- ✳ **Right to access to equitable legal aid (in case of trouble)**

Some landmarks on Working Children and Youth (WCY)

Labor Day 1994: For the first time, Working Children and Youth of Dakar, Ziguinchor, Cotonou and Bamako celebrated the International Labor Day, during which they received support from their peers from several countries in Africa, Latin America and Europe.

A few months later, the Bouaké meeting in Côte d'Ivoire in July 1994 between adult delegates and delegates of the WCY from five African cities, marked a decisive stage in the emergence of the African Movement of Working Children and Youth (AMWCY): it has been for them an opportunity to identify, from their daily lives and their essential aspirations, 12 rights that they propose to defend together and to concretize in actions and in acts by means of a common action plan.

Labor Day 1995: the WCY celebrated the Labor Day in 13 West African cities. At the end of the year, more than 130 delegates of organized groups of WCY from 21 West African cities convened in Bamako where they discussed the twelve rights, adopted them as a platform and envisaged their mode of organization at both local and regional levels. They reformulated their action plan and fixed the deadlines.

They came into contact with the urban populations thanks to the Neighbourhood Development Associations (NDA) who received them. They also met with the political and municipal authorities, among which the President of the Republic of Mali who encouraged them. In the end, they identified some common duties: love, faith and respect for work, self-respect, attention to elders' advice, assiduity, honesty, exemplary behavior, no prostitution, organization and creation of legal associations.

From 1996, the participation of the WCY delegates in the international debate on child labor has brought their movement to confront its position, its ideas, with those of the international community.

Today, the African Movement of Working Children and Youth (AMWCY) exists in twenty four cities of eleven African countries: Benin, Burkina Faso, The Democratic Republic of Congo, Côte d'Ivoire, Guinea Bissau, Guinea Conakry, Mali, Mauritania, Niger, Senegal, and Togo. Organization processes are under way in eight other cities and three other countries: Angola, Madagascar, and Chad.

Some associations have been legally constituted, some are in the process of legal recognition, others are still under the cloak of their supporting institutions.

Since 1999, they have been actively taking part in the elaboration and / or the national execution programs of the struggle against child exploitation at work, sustained by ILO/IPEC, notably in Benin, Burkina Faso, Mali and Senegal.

Still in 1999, they published a book in French “*Voix des Enfants d’Afrique*” (Voice of African Children) prefaced by Mr. Federico Mayor, UNESCO General Director, and largely based on these twelve rights. They then cast a 28 minutes film entitled “*La Force des Petits*” (The Strength of the Little Ones), which is actually an adaptation of their book.

Introduction

The Bouaké meeting has had a stimulating and federative effect on the organization of the WCY. Before that meeting, there was practically no WCY association in Africa. After Bouaké, actions in respective countries had ended in the creation of several associations (Cf. Landmarks). Gradually, Working Children and Youth became conscious of the challenge their participation represented at local, national or even sometimes at a regional level, so as to obtain recognition of the Movement and an improvement of their own status.

As far as they were concerned, ILO and UNICEF -the former by its normative vocation and the latter by its commitment to the rights and well being of children - have intensified their reflection in the 90's so as to contain, or rather, to normalize the complex phenomenon of child labor.

We propose to make a comparison between the 12 rights and international conventions. For each right claimed by WCY, we will see what international texts contained in the United Nations' Convention on the Rights of the Child (CRC) and in the African Rights Charter on the Rights and Well-being of the Child (ACRWC)¹ say about that.

¹ Currently submitted for ratification by member States of the OAU

To this end, it is interesting to observe that most principles and rights contained in the CRC are found in the ACRWC, with adaptations that take into account the specificities of the African continent in order to facilitate their implementation.

This comparative study will bring us to ask ourselves questions about the real nature of the twelve rights of the working children: Do they constitute a juridical foundation to their aspirations, a platform for claim or rather an instrument of development?

Comparative analysis

A - The rights

1 - Right to be taught a trade

Article 29 of the CRC and article 11 of the African charter mention the right to education, which has to prepare the child for an active life and to be in keeping with the cultural values of his/her community. This vision of CRC and the African charter has the support of the WCY but the latter have a pragmatic ambition in correlation with their daily life. They wish to be able to benefit from the right to education even if they work most of the time. A practical training adapted to their condition of working children would allow them to widen their knowledge and improve their know-how in their activities.

WCY want to organize themselves so as to be able to create training structures, to have access to both public and private ones.

2 - Right to remain in the village (no exodus)

Children are constrained (by poverty, difficult living conditions and the absence of minimal infrastructures) to leave their village with the hope of finding an activity in the city that allows them to take care of themselves, and perhaps to sustain their families in the village. But it has often proven that the dire realities of urban life reduce working children to a condition of exploitation. Hence their wish for a strengthening of development activities in rural zone which could offer them the choice to remain in the village.

This yearning of the working children, aiming at remedying the causes to rural depopulation of young people, however legitimate though, is neither taken into consideration by the CRC, nor by the ACRWC. And the problem of village / city migration constitutes a real plague that touches the working children in their majority.

The CRC just mentions the right of the child to live with his/her relatives, the right not to be severed from their relatives unless incompatible with their best interest (Article 9), and the right not to be displaced (Article 11).

3 - Right to work in a safe environment

Working children aspire to execute their activities without being constricted or mistreated by the authorities, or by adults. They wish to be able to be involved in non-violent activities.

The CRC thoroughly addresses this claim and shows us both the advantages and the limits of such a juridical approach to the question of child labor. The exploitation of children is taken into consideration in articles 19, 32, 33, 34, 35, 36 and 38.

- Article 19 deals with the protection of the child from mistreatment, from any form of violence and from abuse: it is a major preoccupation of the working children (cf. the right to respect).
- Article 32 concerns itself with child labor (cf. p.9).
- Article 33 relates to the consumption and trade of drugs: Each child has the right to be protected from drug and psychotropic substance consumption, and from their getting involved in the production and the distribution of such substances.
- Article 34 gives the child the right to be guarded against violence and sexual exploitation.
- Article 35 invites government parties to take all the appropriate measures to prevent kidnapping, sale or bondage of children.

- In case there are eventual forms of exploitation forgotten by the legislator, a concluding clause (article 36) has been anticipated: it protects children from all other forms of exploitation prejudicial to their well-being, and which are not stated in articles 32, 33, 34 and 35.

- Article 38 addresses the problem of the utilization of children in armed conflicts (allusion to the case of children - soldiers in Angola, in Mozambique, in Uganda, etc.): obligation of the governments to respect and to enforce the rules of the humanitarian law related to children; the principle that no child under 15 shall directly participate in conflicts or be enrolled in armed forces, and that any child affected by armed conflicts should be given protection and care.

In addition, the African charter forbids the exploitation of children in articles 16, 22, 29: protection of children from mistreatment and sexual exploitation; in case of armed conflict; from kidnapping, sale or bondage of children; the African charter goes even further than the CRC by forbidding the utilization of children in begging (taking into account the African specificity).

Its Article 16 mentions the right to a protection from abuse and mistreatment, including sexual abuse. It anticipates the creation of supervisory organizations that will provide children and their guardians with the necessary support as well as other forms of preventive measures, and also effective procedures for:

- the detection and denunciation of cases of negligence or of mistreatment inflicted to a child ;
- the suing and inquiry on this account, the processing of the case and its follow-up.

The line of conduct fixed by these articles of the CRC and the African charter ensures children a juridical protection against "the worst forms of labor ". They are along the same line, in this sense, as the WCY's ambitions and reinforce them in their struggle against any form of exploitation.

All these exploitation situations are not explicit in the 12 rights but make us remember the position of the WCY about the hazardous conditions that constitute as such forms of exploitation for them, namely:

- too hard tasks, too heavy loads, and too long working hours that do not allow them to learn,
- the fact that they are not respected, or verbally and/or physically mistreated,
- the fact of having no protection from illnesses, of having to rely solely on themselves in order to be able to have access to health care, of having to work even when they are ill ;
- the fact of being continually victims of forced displacement and arrests,
- the fact of working at night,
- of being exposed to sexual aggressions, of being obliged to prostitute.

At another level of comparison, finally, where the CRC makes reference to the right for children to a certain standard of living (article 27, paragraph 1)², the African charter acknowledges children the right to life (article 5 al.1)³. The WCY abound in this sense: they struggle more for a right to life at all (contained in the African charter) than for a right to a certain standard of living (mentioned by the CRC).

4 - Right to light and limited work

Very often the task is too heavy and the work hours too long. The Working Children wish that the work required from them be adapted to their development, and especially that it be determined according to their capacities and not to their age.

We have seen previously what were the advantages of a juridical approach to and a protection of child labor. Now, we are going to see the limits of such an approach.

If we refer to Article 32 of the CRC⁴ -an article that would have conferred a full legitimacy to any claim of struggle against work exploitation - we observe that among the measures that governments have to take to ensure its implementation figures the fixing of a minimum age for access to work [article 32, al. 2, a)].

This last disposition actually deprives an important category of working children of any juridical protection. Indeed, the fixing of a minimum age for access to work brings us to deny the existence of the working children of an age inferior to that beforehand fixed by the competent authorities of a given State. As such, if the minimum age is fixed at 15 years for example, that means that there is no considering at all of younger working children. Or worse, that means that they are prohibited to work in order to survive and we ultimately make them "outlaws"!

² - " Government parties recognize the right of each child to a standard of living sufficing to allow his/her physical, mental, spiritual, moral and social development "

³ - "Each child has the right to life. This right is imprescriptible. This right is protected by the law".

⁴ - "Government parties recognize the right of each child to be guarded against economic exploitation and not to be compelled to do hazardous work, or work likely to compromise his/her education or to harm his/her health or physical, mental, spiritual or social development"

Those working children will see themselves as marginalized by a legislation that ignores them, or considers them as "offenders".

That is why they assert that work is not a question of age, but force and capacity to accomplish it, and that it is necessary to limit it so that it does not hinder their growth.

Article 32, al.2 a) constitutes an obvious example of the perverse effects of an excessive normative production on the question of child labor. It refers us to the Convention No 138 of the International Labor Organization that has been very difficult to implement in Africa, due to the reticence, or even the impossibility of the governments to give it real effect.

For the African charter, as stipulated in its Article 15, the working children have the right to a protection from any forms of economic exploitation and from any harmful work likely to disturb their education or to compromise their health or their development (al.1).

Partaking governments to the African charter are taking all the appropriate administrative and legislative measures to ensure the effective implementation of Article 15.

These measures aim at the official and informal sectors as well as at parallel labor sectors. The parties are committed notably:

- "to fixing, by law to this end, the minimum age required to be admitted to do such or such job" al. 2 a)
- "to adopting appropriate regulations concerning working hours and conditions" (al.2 b)
- "to favor the distribution of information on child labor hazards to all the sectors of the community" (al.2 d).

The African charter recommends the fixing of a minimum age for work too.

5 - Right to rest when sick

Article 31 of the CRC recognizes children "the right to rest and to leisure, to engage in games and to recreational activities suitable for their age, and to participate freely in artistic and cultural life".

Article 26 stipulates that "Government parties recognize to every child the right to have access to social security, including social insurance...": that article acknowledges the right to social security for children. This point is in correlation with the right to health care and the right rest when sick.

These two articles address the legitimate aspirations of the WCY, but the latter go further by asking an acceptance of the right to interrupt their economic activity in case of sickness. There too, we observe that the WCY have identified a specific right to their condition of working children.

The right to rest when sick claimed by children domestics and apprentices, denounces situations where sick children are obliged to continue to work by their employers. For independent working children the situations are more complex because some continue their activity "for lack of means to stop".

6 - Right to be respected

Working Children and Youth hold particularly on to this right because they are frequently treated with contempt and disdain in their daily activities. They want that their trades and their contribution to the national economy be recognized; they want to be respected as human beings, children and actors fully taking part in the development of their countries.

Article 16, al. 1 of the CRC makes reference to the right to respect: "No child shall be the object (...) of illegal breaches to their honor and to their reputation". The article adds the notion of legal protection ("illegal or arbitrary interference") that bears particular importance, considering the informal character of activities led by the working children.

Similarly, in its Article 10, the African charter mentions the right to a protection of private life, a protection from any forms of intrusion, breach to the honor or reputation. Each child has the right to the protection of the law from such intrusion or breaches.

7 - Right to be listened to

Working children ask that their viewpoint be requested on all questions concerning them.

This fundamental right is fully recognized by the CRC to which two articles are devoted:

- Article 12, al. 1 concerning the right to express their own opinion,
- and Article 13 on freedom of expression, the " freedom of seeking, receiving and to spreading information ...".

The CRC also assures them the right to be heard in any administrative or juridical procedure concerning them.

The African charter reinforces these rights, and precises in its Article 4 that any action concerning a child has to take in consideration his/her interest beforehand. "In any administrative or juridical procedure affecting a child who is capable of communicating, everything should be done to have the child's views either directly, or by means of an impartial representative who will take part in the procedure, and his/her views will be taken into consideration by the competent authority according to the legal dispositions applicable in this case" (article 4, al.2).

The consideration of children's best interest implies that they have the right to be listened to and to freedom of speech (article 7).

8 - Right to health care

Article 24 of the CRC recognizes children the right to enjoy "the best possible health condition and to have access to medical care and to re-education".

The African charter also recognizes that the access to primary health cares and to medical services is essential (article 14).

Beyond this fundamental right, working children have identified the necessity to be protected from diseases and accidents that could occur at the workplace. They wish to be able to benefit from preferential rates adapted to their means and to put up solidarity mutual.

(also refer to Article 26, described in point 5 : The right to rest when sick).

9 - Right to learn to read and write

The question of the education for the working children is quite complex. According to Article 29 of the CRC "education must aim to favor the growing of the child's personality, the development of his/her skills and his/her physical and mental aptitudes with all their potentialities".

The African charter is in the same line as the CRC on this point (Article 11) since according to it, among many others, the aim of education is to :

- a) promote and develop the personality of the child, to favor the growing of his/her talents and physical and mental abilities;
- b) to encourage the respect of human rights and fundamental liberties ;
- c) to preserve and strengthen positive African moral, traditional and cultural values;
- d) to prepare the child to lead a responsible life in society ;
- e) to promote and effect African unity and solidarity ;
- f) to promote the comprehension of primary health cares by the child (=> awareness raising and information efforts towards children - refer to the right to health).

The main concern of the African charter to "stick" to African realities is manifest here: the education of a child has to take into account the specificity of the African culture and values considered positive.

The African charter asserts therefore the necessity of an education impregnated with African realities.

Further instances could be added. In its Article 21 concerning the protection of the child from negative social and cultural practices the African charter stipulates: " Government parties (...) have to take appropriate measures to abolish negative customs and practices, whether cultural or social that are detrimental to the well-being, the dignity, the growth and the normal development of the child" (the article refers to precocious and forced marriages, and to the practice of excision, etc.).

The African charter recommends the right to free and obligatory basic education for all. It recognizes the importance to grant equal access to education (here implying "school") for girls, and the right for unmarried mothers to continue their education according to their individual aptitudes.

The CRC too, in its Article 28, anticipates free and obligatory education, thus reminding us of the importance of a vocational training while it advocates measures to encourage school attendance.

One observes that the African charter as well as the CRC use only the term "education" and not "schooling", the word "education" having a broader meaning than "schooling".

The WCY have, on their part, a more qualified position. Confronted with the limits of an educational system that does not often take in the majority of them, as well as being tough and expensive for insignificant outcome, they go on to the essential and just require to learn to read and write.

They prefer to attend literacy classes that are in conjunction with their work (classes allowing them to lead their activities in parallel, and which are therefore held during off-hours). Aware of the importance of vocational training, they wish to be able to alternate work and training (refer to the right to be taught a trade). That training has to be the basis whereby a system specially conceived for them shall originate from.

Even if they agree on the principle of a free and good quality education, the WCY claim a right to an adapted teaching, that is to say flexible and not compulsory (this obligation they believe to be the government's, since the latter has to provide this type of teaching for everyone). Children ask for an education with methods that are adapted to their situation of workers, in other words, with specific schedules and pedagogy.

This aspiration of the WCY is partially taken up by the African charter in its Article 11, al. 2 c) where it is stipulated each child's education has to aim at "the preservation and the strengthening of positive African moral, traditional and cultural values".

The recognition of African traditional values supposes a better adaptation of the educative system to the aspirations of the beneficiaries.

10 - Right to play

On this plan, the concordance between the working children's ambitions on the one hand and the CRC and the African charter, on the other hand, is perfect (article 31) (article 12). Everyone recognizes the right for each child to play games, to leisure, to recreational, cultural and artistic activities.

11 – Right to self-expression and to form organizations

Article 15 of the CRC stipulates that "Government parties recognize the right of each child to freedom of association and freedom of peaceful meetings". The African charter also recognizes the right to freedom of expression (Article 7), the right to freedom of association (Article 8) as well as the right to freedom of opinions, conscience and religion (Article 9).

The two texts are welcomed by the working children who draw their strength to live from their being in associations and from the protagonist aspect of life which allows them to defend their interest and confer them a legitimacy as a Movement of Working Children and Youth in front of the decision-making instances. (refer to the right to be listened to).

12 - Right to access to equitable legal aid (in case of trouble)

Children are aware that in spite of the principle according to which all men are equal before the law, in their countries justice is often on the side of the strongest, those who have the means and relations. As such, they can be imprisoned on a simple declaration of their employer. They desire to change that situation or at least attract the attention on this imbalance and to solicit special protection from the authorities.

That preoccupation has been kept by article 40 of the CRC which reads that "Government parties recognize any suspected child, defendant or convicted of infringement to the penal law the right to treatment that is of nature to favor his/her sense of dignity and personal value ...". Consequently, not only do children have the right to equal justice, but, in addition, that justice has to be adapted.

Making reference to tortures and other forms of deprivation of liberty, Article 37 recommends that the child be treated "with humanity (...) and in a manner taking into account the needs of a person of his/her age".

Article 12, al. 2 gives the child "the possibility to be heard in any administrative or juridical procedure interesting him/her either directly or by the intermediary of a representative ...".

The African charter in its Article 5, al. 3 adds "the death penalty shall not be pronounced for crimes committed by children". In its Article 17 devoted to the administration of justice to children under age, it mentions the right to a special treatment of any child guilty of having broken the penal law.

(also refer to the article 4, al. 2 mentioned previously).

B - Duties

There is an African viewpoint that is shared by the WCY and the African charter. Indeed, once their rights identified, the WCY have committed themselves to respecting some duties which are:

- to respect and like their work,
- to be assiduous,
- to self respect,
- to be frank,
- not to prostitute,
- to listen to the advice of their elders,
- to have an exemplary behavior,
- to believe in the necessity of union,
- to organize and create legal associations.

The African charter makes reference to the duties of children: it is another aspect of its singularity as compared to the CRC. Article 31 stipulates that "each child has responsibilities towards their families, their society, the government and any other legally constituted community as well as towards the international community. Depending on their age and their abilities, and with the restrictions contained in the present charter, each child has the duty:

- a) to work towards the cohesion of their families, to respect their parents, their elders and elderly people in any circumstances and to assist them if need be;
- b) to serve their countries by putting their intellectual and physical skills at their disposal;
- c) to preserve and strengthen the solidarity of their society and their nations;
- d) to preserve and strengthen African cultural values in their interactions with other members of their society in a spirit of tolerance, dialogue and consultation, to contribute to the moral well being of their society;
- e) to preserve and strengthen the national independence and the integrity of their countries ;
- f) to contribute to, at the best of their capacities, in any circumstances and at any levels, to promote and to realize the African unity".

Here also, just as for their rights, we observe that there is a correspondence between the duties of the WCY and those mentioned by the African charter. This dual viewpoint rights / duties does not appear, however, in the CRC which simply limits itself to the protection of the children.

Synthesis

The comparison between the aspirations of the WCY and juridical instruments that are the CRC and the African charter, points out their particularities, and even their differences, while revealing a certain complementarity. However, far from leading to certainties, it incites us to further the reflection.

Approaches

The divergences of approaches result from different historical backgrounds and processes.

The CRC, as well as the African charter, originate from the necessity to create a framework of reference for children and their needs. It is therefore an intervention of the international community dictated by its will to regulate a certain reality worldwide by stipulating the "rights" specific to children. It is a step that proceeds from the abstract to the concrete, the way down from up.

The approach adopted by the WCY is dissimilar because they go from their condition of working children to take the other way round, by seeking to identify themselves with the "rights" that constitute the answers to their problems.

The existence of a real gap between what international law--which is meant to be universal--says, and everyday reality can be easily noticed. Not considerate of this universal regulation demand, the WCY have analyzed this humdrum, and then identified the rights that suit their reality. Therefore, unhappy about being simple beneficiaries of the rights-- defined by adults who have decided what they think to be good for children-- they have emerged as authors of their own rights.

Texts and their interpretation

Conventional texts, resulting from a long process of dialogue and negotiation between representatives of sometimes divergent interests, are more detailed and less flexible than the 12 rights that are borne out of the pragmatic self-defense demands of the WCY.

The confrontation of international juridical dispositions with the reality can annihilate the dreams but surely does allow avoidance of recurrence of the same errors. It is this confrontation with reality that has led UNICEF to insist on the concept of the "best interest of the children" (well-being of children) contained in the CRC. As such, any interpretation of the law as regards children (and especially working children) has to be guided by the major interest of the children themselves so as to avoid aberrations due to an excessive normative rigidity, and to better take into consideration reality in order to adapt to particular cases.

Diversities

* The fixing of a minimum age for employment, already contained in several African legislations, contrasts with the WCY's will for recognition and valorization of their activities. The former oppose to the minimum age, notions of light and limited work that leave a space for instruction, for training and for leisure.

Is this incompatible? Does the notion of "employment" (= "labor"= exploited brutalized work) expressed on the one hand, bear the same meaning as the notion of "work" (= "work"= deserving and socializing work) expressed on the other one?

Does not the majority of the populations in African urban areas live under a tolerated illegal regime of their economic activities (popular or informal sector, far closer to the notion of work than that of labor)?

The preoccupation of "those concerned" and the "legislators" "is the same: the protection of the working children from abuse and exploitation (= bad work). This common objective appears to us stronger than the apparent contradiction between minimum age and light work.

* Similarly, in matters concerning education, there appear differences between the conception of obligatory education that excludes any idea of work, and the aspiration to learn to read and write as a complement of work. Here also, the common challenge that prevails is that which aims to construct an educational system which is of quality, free, flexible and which integrates all the children, including those working.

To this end, it is necessary to find a balance between two viewpoints of education:

- an educational system based on an obligatory and full time schooling for all the children up to a certain age (12-14-16 years) and which is also articulated with a minimum age;
- the emergency in addressing a demand for training, know-how, rooted in local realities, and which takes into account the specificity of the condition of all the children especially those working and the conditions of their communities.

In any case, the most impressive achievements of the African Movement of Working Children and Youth, just as their peers of the MLAC NATS (The Latino-American Movement of working children and Youth of Latin America), are precisely in the construction of educational integrative alternatives.

These movements and the structures that support them thus bring their contribution to the "universal research" into easing and improving educational systems, which has been active since a long time, and revived during the Jomtien conference. This research of alternative is particularly vigorous and innovative in Africa, and, without doubt is due to the low schooling rate in many regions.

Complementarity

Despite the difference of approach, from the direct confrontation between the 12 rights of the WCY and those stated by the CRC / the African charter offer much similitude, perhaps even a complementarity has come up.

Indeed, the rigor in the identification of the different situations envisaged by the CRC / the African charter can give more weight to the aspirations of the WCY, as well as the original and functional

character of the 12 rights, could confer more flexibility to these two international conventions and facilitate their implementation.

The comparative analysis has the merit, on the one hand, to make apparent the differences between the two ways -the CRC and the African charter / Twelve rights of WCY--, and , on the other hand, to show that they strengthen and complete each other. All that brings us to ask ourselves questions on the real nature of the twelve rights of the working children: what does mean after all?

The nature of the 12 rights of the WCY

In no way can they be considered as a norm or a juridical foundation because they lack characteristic elements.

Any juridical norm has to appear in the form of an abstract estimate of a concrete situation (facti species) and has an imperative character in the sense that it imposes a certain conduct to the contracting parties. It does not limit itself to a simple formulation of intentions or advice. It goes further than that.

While the twelve rights of the WCY, as expressed, rather correspond to intentions, imperative yearnings, which lack the abstract and constrictive aspects for lack of contracting parties. Of course, the WCY are looking forward to concretizing their ambitions and solicit the attention and sympathetic ear of the decision makers, but one cannot talk, in this case, of real injunctions.

There prevails the dimension of the real necessity to recognize a particular situation. Instead of camping the working children in the distant sphere of school and leisure, the twelve rights make them real interlocutors on subjects concerning them and who advocate the implementation of educational systems adapted to their double condition of children and workers...

In fact, the twelve rights encompass a natural or even "immanent" dimension of law, that is to say, an original juridical dimension rooted in reality : they only lack the abstract character of the juridical norm to which is substituted an imperative dictated by God.

These are original rights of the human being and therefore sacred rights. In this sense, they are placed beyond international conventions.

One could also consider these twelve rights as a platform of demands, which will lead us to assimilate the African Movement of Working Children and Youth to unions or other similar associative forms. The African Movement of Working Children and Youth has an associative form indeed; the context in which evolve African working children -as the majority of adults - is that of popular or informal economy, that one where unions are absent and that where any form of protection is borne out of solidarity.

Eventually, to give our opinion on the nature of these twelve rights of the WCY, we can say that it is the expression of a collective wish, and, at the same time, a starting point for the conception of alternative development strategies.

The Movement is a laboratory for development: through its struggle for the realization of its rights, it experiments and creates innovative strategies adapted to its context with the help of structures that support it. The twelve rights of the working children constitute the foundation of their organization and the point of reference in the research of concrete alternative improvement of their lives, and therefore of development.

The comparison between the CRC / the African charter and 12 rights of WCY therefore makes to reemerge the broader debate between "civil and human rights" and "economic, social and cultural rights". While the CRC expresses the first aspect and opens itself to the second, the WCY, combine, integrate in the same ensemble, their aspirations to civil and human rights as well as to economic, social and cultural rights.

Appendix

Referendum "the Voice of Youths" (Unicef October 99) and 12 rights of WCY

The cyber - referendum of the Unicef "the voice of youths" <http://www.unicef.org/voy/fr/rally/rig/crc-vote.html>), articles of Convention on the Rights of Children (CRC) have been grouped under some greater headings. The table hereafter shows the equivalence between these greater headings and the 12 rights of Working Children and Youth (WCY).

UNICEF	The African Movement of Working Children (AMWC)
The right to express yourself and have access to information (articles 12 to 15)	The right to self-expression and to form organisations The right to be listened to The right to be respected
The right to a family (article 9)	The right to remain in the village (no exodus)
The right to a safe and healthy life (articles 6,24,26,27)	The right to security when working The right to health care
The right for special protection in times of war (articles 22,38,39)	The right to security
The right to an education (articles 28 and 29)	The right to learn to read and write
The right to protection from discrimination (articles 2 and 30)	The right to be respected
The right to protection against abuse (articles 11,19,34, 35 and 36)	The right to work in a safe environment
The right to protection from harmful work (articles 31 and 32)	The right to light and limited work (adapted to our age and possibilities) The right to rest when sick The right to play
The right to special treatment if arrested (articles 37 and 40)	The right to access to equitable legal aid (in case of trouble)
The right to an identity (articles 7 and 8)	
The right to special care for the disabled (article 23)	
	The right to be taught a trade