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POLICY BRIEF

Draft African Charter on the Protection of the Family, Sovereignty, and Values: *A Critical Legal and Policy Analysis*

Prepared for practitioners in reproductive justice, public health law, and civil society advocacy

Authors: J. Oga, S. Ssebibubbu, M. Mukone, A. Fanilo, C. Baguma, G. Nakanwagi, and M. Mulumba

1. Purpose and Scope

This brief provides practitioners in reproductive justice, public health law, and civil society advocacy with an analysis of the Draft African Charter on the Protection of the Family, Sovereignty, and Values (hereinafter, the Charter). It identifies three structural legal weaknesses, explains why those weaknesses do not eliminate the policy threat, maps the threat pathways through seven analytical diagrams, and sets out targeted strategic responses.



The analysis is grounded in a foundational recognition: that Africa has, through decades of constitutional litigation, treaty negotiation, and scholarly development, built one of the most sophisticated regional human rights systems in the world, a system that is authentically, irreducibly African in its origins, its philosophy, and its authorship.

The Banjul Charter was negotiated and adopted by OAU member states through a committee of African legal experts and government delegates.[1] The Maputo Protocol was forged by African women's rights advocates.[2] The African Court on Human and Peoples' Rights was constituted by African states asserting their sovereign commitment to human dignity.[3] These are not concessions to foreign pressure. They are Africa speaking in its own voice about the kind of continent it chooses to be.

This brief demonstrates that the Charter does not represent that voice. It contradicts it -legally, philosophically, and historically. And it does so while claiming, falsely, to embody authentic African values. This analysis names that contradiction with the precision and force it demands, and equips practitioners with the legal architecture to dismantle it.

1 Christoph Plath, 'Nairobi 1981: The African Charter on Human and Peoples' Rights' *(Online Atlas on the History of Humanitarianism and Human Rights* April 2019) <https://hhr-atlas.ieg-mainz.de/articles/plath-nairobi>.
2 Zoe Clark and Kelvin Kimaili, 'Reflecting on Two Decades of the Maputo Protocol Promoting Women's Rights in Africa' (*Westminster Foundation for Democracy*11 July 2023) <https://www.wfd.org/commentary/reflecting-two-decades-maputo-protocol-promoting-womens-rights-africa>.
3 AFCHPR, 'Welcome to the African Court', https://www.african-court.org/afchpr/welcome-to-the-african-court-2/>

2. What the Charter Is

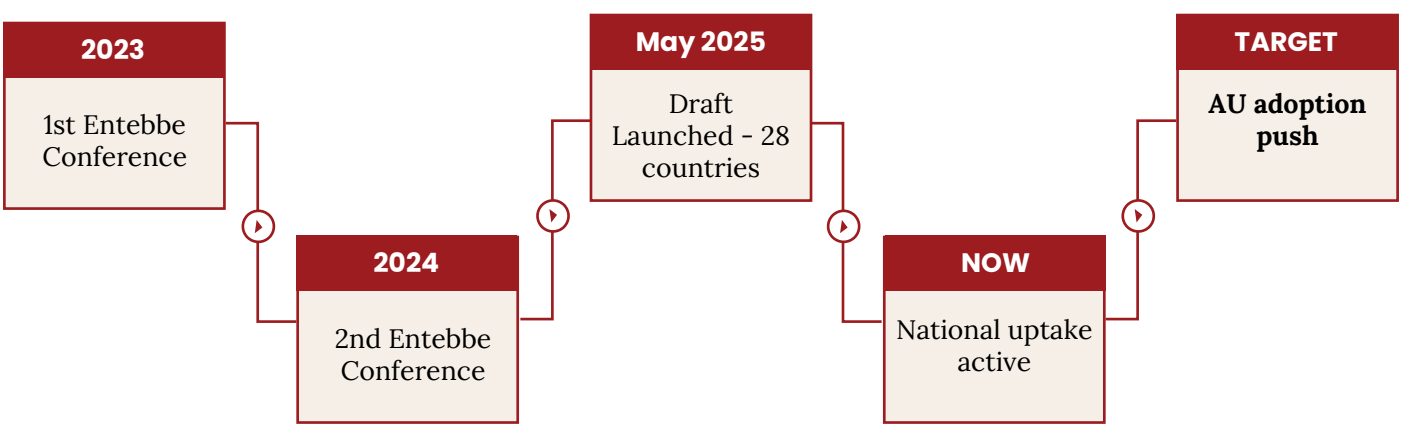
The Charter emerged from three Inter-Parliamentary Conferences on Family Sovereignty and Values convened in Entebbe, Uganda (2023, 2024, 2025), organised by the Interparliamentary Network on Family Sovereignty and Values in partnership with the African Bar Association and the Foundation for African Cultural Heritage.[4] The third conference, held in May 2025, produced the consolidated draft text with participation from 28 African countries.

Styled as a continental treaty addressed to Governments and Heads of State of the African Union (AU), the document spans 10 chapters and 26 articles. Its core commitments include: defining the family exclusively as marriage between a man and a woman; rejecting all international references to sexual and reproductive health rights (SRHR); eliminating comprehensive sexuality education (CSE); defining gender as solely male and female; directing states to resist international human rights norms framed as foreign impositions; and proposing a new African Committee of Experts on Family, Sovereignty, and Values within the AU. Diagrams 1 and 2 below summarise its legal status and development trajectory.

DIAGRAM 1 — Charter Legal Status and Threat Profile

FORMAL LEGAL STATUS	POLICY THREAT LEVEL
Binding AU Treaty? NO - lacks AU institutional process	**National Legislation Risk:** HIGH - active parliamentary advocacy
Conflicts with Ratified Treaties? YES - African Charter on Human and Peoples' Rights (ACHPR), Maputo Protocol, African Charter on the Rights and Welfare of the Child (ACRWC), United Nations Convention on the Rights of the Child (UNCRC)	**Administrative Policy Risk:** HIGH - curriculum and health channels
Consistent with African Jurisprudence? NO - inverts Ubuntu dignity principles	**Judicial Citation Risk:** MODERATE - persuasive authority trajectory

DIAGRAM 2 — Charter Development Timeline



3. Three Principal Legal Weaknesses

Examined against the architecture of African regional law, the Charter presents three structural deficiencies. Each is independently sufficient to challenge its provisions before any African judicial or quasi-judicial forum applying established regional human rights law. Taken together, they expose the Charter as not merely legally deficient, but as an instrument that actively subverts the legal and philosophical foundations it purports to defend.

4 African Bar Association, '1st African Parliamentary Conference', https://afribar.org/tag/1st-african-inter-parliamentary-conference/. See also, WEB TV, '2nd African Inter-Parliamentary Conference on Family Values & Sovereignty', <https://webtv.parliament.go.ug/video/2nd-african-inter-parliamentary-conference-family-values-sovereignty>. See also, WEB TV, 'African Leaders Meet in Uganda to Push Back Against Foreign influence on Family', https://webtv.parliament.go.ug/video/2nd-african-inter-parliamentary-conference-family-values-sovereignty

3.1 Direct Conflict with Existing AU Treaty Obligations

A. *The Principle of Legality: What It Requires and How the Charter Fails It*

The principle of legality is one of the foundational pillars of any legal order that claims legitimacy in a free and democratic society.[5] Scholars have defined legality as requiring, at minimum, that law must be accessible -meaning that those subject to it can know what it demands; precise -meaning that its terms are defined with sufficient clarity to prevent arbitrary application; general -meaning that it applies equally to all without caprice; prospective -meaning that it does not punish conduct that was lawful when performed; and capable of compliance -meaning that those subject to it can conform their conduct to its requirements.[6] As Lon Fuller argued in his foundational account of the internal morality of law, a system that fails these criteria does not merely function poorly; it is not law at all in any meaningful sense.[7]

In the African context, the principle of legality has been articulated with particular force. The African Commission on Human and Peoples' Rights has consistently held that restrictions on rights guaranteed by the Banjul Charter must be lawful, necessary, and proportionate. The African Court on Human and Peoples' Rights, in ***Lohé Issa Konaté v Burkina Faso* (2014)**, held that limitations on Charter rights must be provided by law, must pursue a legitimate aim, and must be necessary in a democratic society -a standard that imports the content of the legality principle directly into the regional human rights framework.[8] Any normative instrument that fails to meet these requirements cannot ground lawful state action, and state action purportedly taken on its authority is directly challengeable before African human rights bodies.

The Charter fails the legality principle at every point. Article 1 of the Charter defines the family 'in accordance with African values', without specifying which values, whose interpretation of those values, or how conflicts between competing value claims are to be resolved. Article 4 vests parents with authority over children's health and education decisions, without defining the scope of that authority, its limits, or the mechanism for adjudicating conflicts between parental authority and children's independent rights. Article 7 directs states to resist international human rights norms framed as foreign impositions, without defining what constitutes a 'foreign imposition', who makes that determination, or what legal consequences follow from resistance.

This vagueness is not accidental. It is structural. A normative instrument built on undefined terms like 'African values', 'family integrity', 'cultural sovereignty', cannot be applied consistently, cannot be challenged with precision, and cannot be constrained by courts. It creates a licence for arbitrary state power dressed in the language of cultural authenticity. What cannot be defined cannot be challenged. What cannot be challenged cannot be held accountable. This is not the rule of law. It is the rule of those who control the definition.

The ambiguity compounds into a second, equally serious legal violation: the Charter uses undefined terms to create enforceable restrictions on fundamental rights -the right to health, the right to education, the right to identity, the right to dignity. In the South African Constitutional Court's formulation in ***Dawood v Minister of Home Affairs* (2000),** laws that confer broad discretionary powers without adequate guiding principles infringe the rule of law because they enable the arbitrary exercise of power.[9] The Charter is, in its entirety, an instrument of precisely this kind.

B. *The Free and Democratic Society Standard and the Charter's Failure to Meet It*

A society that is genuinely free and democratic recognises the equal dignity of every person within it; not as a courtesy, but as a legal obligation that constrains the exercise of state power. The standard of what is 'justifiable in an open and democratic society based on human dignity, equality and freedom', articulated in the South African Constitution[10] and echoed across multiple African constitutional orders, provides the benchmark against which limitations on rights must be assessed.

The Constitutional Court of South Africa applied this standard in ***National Coalition for Gay and Lesbian Equality v Minister of Justice* (1998),** striking down the criminalisation of consensual same-sex conduct as a violation of dignity, equality, and privacy that could not be justified in a society committed to these values.[11] Justice Ackermann held that the constitutional value of dignity requires recognising the **'value and worth of all individuals as members of our society',** Sachs J went further, holding that recognising a right to dignity is '**an acknowledgement of the intrinsic worth of human being',** and that '**human beings are entitled to**

5 Lon Fuller, *The Morality of Law* (Yale University Press 1969).
6 Joseph Raz, *The Authority of Law Essays on Law and Morality* (Oxford Oxford University Press 1979). See also, Tom Bingham, *The Rule of Law* (Penguin 2011).
7 Lon Fuller, supra note 5.
8 Application No. 004/2013, African Court on Human and Peoples' Rights, Judgment of 5 December 2014
9 2000 (3) SA 936 (CC); 2000 (8) BCLR 837 (CC).
10 Constitution of the Republic of South Africa, 1996, Section 36(1) (Limitations Clause); see also Section 39(1) (Interpretation of Bill of Rights).
11 CCT 11/98) [1998] ZACC 15; 1999 (1) SA 6 (CC); 1998 (12) BCLR 1517 (CC); 1998 (2) SACR 556 (CC), 9 October 1998.

be treated as worthy of respect and concern', a worth that the state may not diminish, deny, or conditionally withhold. The Court in that case rejected the argument that majoritarian cultural preferences could constitute justification for the systematic exclusion of a group of persons from the full protection of the law. **Mere popularity of a restriction, however loudly asserted, however wrapped in cultural authority, does not make it justifiable in a free and democratic society**.

The Botswana Court of Appeal applied precisely this reasoning in ***Letsweletse Motshidiemang v Attorney General (2019)***, when it struck down Section 164 of the Penal Code, which criminalised consensual same-sex conduct. The Court held[12] that the sodomy provisions '**are a relic of the Victorian era and were influenced by Judeo-Christian teachings'-colonial impositions that were introduced into Botswana during the colonial period, derived from the Indian Penal Code, and never subjected to genuine post-independence democratic deliberation**.

It further held that the Constitution 'must be interpreted according to imperatives of the prevailing socio and political context', reaffirming the Botswana Court of Appeal's foundational holding in ***Attorney General v Dow***[13] that the **Constitution cannot be allowed to be a lifeless museum piece, that courts must continue to breathe growth and development of the state through it...**, and that the primary duty of judges is to make the Constitution grow and develop in order to meet the just demands and aspirations of an ever-developing society governed by some acceptable concept of human dignity.

Crucially, the Court did so as an African court, applying an African constitution, in response to a petition by an African citizen. The argument that African courts cannot or should not apply these standards because they are foreign importations was explicitly before the Court and was explicitly rejected. The Court found that the values of dignity, equality, and freedom are not Western inventions. They are universal human values that the people of Botswana, through their Constitution, have claimed as their own.

The Charter, by contrast, mandates the exclusion of entire categories of persons from legal recognition, health services, and educational protection. It defines the family in terms that render millions of African families -single-parent families, same-sex families, extended kinship families, childless couples, either invisible or legally subordinate. It denies children access to health information that African and international law has recognised as a right. It grants parents authority over their children's lives that no binding African instrument has ever recognised as absolute. None of these provisions could survive scrutiny under the free and democratic society standard. None of them would be justifiable before any African court applying the legality and proportionality analysis that the African human rights system demands.

C. *The Groups the Charter Harms: Women, Girls, and Children Under African Law*

African states operate within a binding hierarchy of regional human rights treaties. The apex instrument is the African Charter on Human and Peoples' Rights, which guarantees dignity, equality, freedom of conscience, and non-discrimination.[14] Two subsequent instruments are directly relevant: the Maputo Protocol on the Rights of Women in Africa,[15] which establishes reproductive health rights; and the African Charter on the Rights and Welfare of the Child, which protects children's rights to health information and education.[16] Both are binding on ratifying states and ground the jurisprudence of the African Commission and the African Court on Human and Peoples' Rights.

The Draft Charter directly contradicts all three instruments. It rejects the SRHR framework that the Maputo Protocol guarantees, removes CSE protections the ACRWC provides, overrides gender equality obligations under the ACHPR, and grants parents near-absolute authority over children's health decisions,[17] inconsistent with both the ACRWC and the UNCRC. Diagram 3 maps the specific treaty conflicts.

The Charter's impact on women and girls cannot be described in abstract legal terms. The Maputo Protocol was forged from the lived experience of African women -from the reality of maternal mortality rates that have stripped generations of women of their futures, from the reality of forced marriage that strips girls of their agency, and from the reality of female genital mutilation that inflicts lifelong injury in the name of tradition.

The Protocol's guarantees -of safe abortion where pregnancy results from rape or incest, of the right to control one's own fertility, of freedom from forced marriage- represent decades of African feminist legal struggle. The Charter does not engage with these realities. It erases them. Article 4's wholesale rejection

12 Letsweletse Motshidiemang v Attorney General (LEGABIBO as Amicus Curiae), High Court of Botswana, Case No. MAHGB-000591-16, Judgment of 11 June 2019.
13 [1992] BLR 119 (CA)
14 African Charter on Human and Peoples' Rights, Articles 2 (non-discrimination), 3 (equality), 5 (dignity and integrity), and 8 (freedom of conscience and religion), adopted 27 June 1981, entered into force 21 October 1986, OAU Doc. CAB/LEG/67/3 rev. 5.
15 Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa, Articles 2 and 14, adopted 11 July 003, entered into force 25 November 2005, AU Doc. CAB/LEG/66.6.
16 African Charter on the Rights and Welfare of the Child, Articles 10, 11 and 14, adopted 11 July 1990, entered into force 29 November 1999, OAU Doc. CAB/LEG/24.9/49.
17 Article 4, commitment 3 and Article 4, commitment 6 and Article 4, commitment 8.

of the SRHR framework is not a cultural position. It is a normative instrument that systematically withdraws the only binding continental protections for women's reproductive health, with consequences that are measurable in maternal deaths, forced pregnancies, and lives circumscribed by the denial of bodily autonomy.

Children are equally exposed. The African Charter on the Rights and Welfare of the Child establishes that the best interests of the child are the primary consideration in all actions affecting children, a principle that exists precisely because children cannot protect themselves from the exercise of adult authority over their lives.[18]

Comprehensive sexuality education **is not** a values question. It is a public health intervention with an extensive African and international evidence base demonstrating that it reduces rates of HIV transmission, early pregnancy, and gender-based violence.[19]

The Charter's removal of CSE from African schools is the removal of a proven tool for their survival, justified by appeals to parental authority that no binding African instrument has ever made absolute. A parent's right to determine their child's education does not extend to a right to deny that child information necessary for their health and safety.

DIAGRAM 3 - Treaty Conflict Matrix

Instrument	Rights Protected	Charter Conflict
ACHPR (Banjul Charter)	Dignity, equality, non-discrimination, freedom of conscience	Gender definition; SOGI restrictions; parental rights overriding individual autonomy
Maputo Protocol	Reproductive health rights; gender equality; protection from discrimination	Wholesale SRHR rejection; abortion provisions; reproductive service restrictions
ACRWC	Children's rights to health information, education, protection from harm	CSE removal; parental veto over children's health; absolute parental authority
UNCRC	Best interests of child; right to health, identity and education	Parental consent barriers to health; CSE elimination across all settings
ICESCR	Right to highest attainable health (Art.12); right to education (Art.13)	Health service restrictions; CSE removal; objection to international health frameworks

D. *Discrimination: The African Legal Test and the Charter's Systematic Failure*

Discrimination, as defined in the jurisprudence of the African Commission and the African Court, involves the differential treatment of persons on a prohibited ground that lacks objective and reasonable justification, assessed against the proportionality principle.[20] The prohibited grounds under the Banjul Charter include, by virtue of Article 2, non-exhaustive 'any status' provision, sexual orientation, and gender identity. The African Commission recognised this expressly in Resolution 275,[21] in which it invoked Article 2 of the Charter as the basis for condemning violence and violations against persons based on their real or imputed sexual orientation or gender identity, and urged States to enact laws protecting theM, thereby applying the Charter's non-discrimination guarantee to SOGI persons as a matter of African regional human rights law. The Commission has held that African states bear an obligation under the Banjul Charter to protect all persons from violence, abuse, and discrimination.[22]

The Charter fails the discrimination test at the definitional level. Its exclusive definition of the family as heterosexual marriage -Articles 1 and 4- legally erases

18 African Charter on the Rights and Welfare of the Child, Article 4(1), OAU Doc. CAB/LEG/24.9/49, adopted 11 July 1990, entered into force 29 November 1999.

19 World Health Organization, 'Comprehensive Sexuality Education' (*World Health Organization*18 May 2023) <https://www.who.int/news-room/questions-and-answers/item/comprehensive-sexuality-education>. See also, UNESCO, 'Comprehensive Sexuality Education: A Global Review 2015' (*Unesco.org*2021) <https://unesdoc.unesco.org/ark:/48223/pf0000235707>. See also, Michael T Mbizvo and others, 'Comprehensive Sexuality Education Linked to Sexual and Reproductive Health Services Reduces Early and Unintended Pregnancies among In-School Adolescent Girls in Zambia' (2023) 23 BMC Public Health.

20 African Commission on Human and Peoples' Rights v Republic of Kenya (the Ogiek case), Application No. 006/2012, African Court on Human and Peoples' Rights, Judgment of 26 May 2017, para 139.

21 African Commission on Human and Peoples' Rights, Resolution 275, ACHPR/Res.275(LV)2014, adopted 55th Ordinary Session, Luanda, Angola, 28 April to 12 May 2014

22 Á*Zimbabwe Human Rights NGO Forum v Zimbabwe*, Communication No. 245/2002, African Commission on Human and Peoples' Rights, 2006 (21st Activity Report), para referring to equality of treatment irrespective of sexual orientation.

all others, denying recognition, protection, and access to services to persons and families on the basis of their identity. Beyond this erasure, it offers no objective and reasonable justification for this differential treatment that could survive scrutiny under the proportionality analysis required by African human rights law. The invocation of 'African values' and 'cultural sovereignty' does not constitute objective justification; it is precisely the kind of majoritarian preference argument that the free and democratic society standard and the non-discrimination guarantee were designed to override.

The Charter's discriminatory architecture is not incidental. It is the design. And Africa knows what systematic, state-sanctioned discrimination produces. The apartheid system was the most elaborate legal architecture of discrimination the world has seen, and it justified itself, at every stage, by appeals to culture, tradition, and the natural order of things.[23]

The Bantustan policy denied millions of African people full legal personhood within the country of their birth, based on their identity.[24] The colour bar stripped people of access to health services, education, and economic participation -in the name of a cultural and civilisational claim. The Charter participates in this tradition of using law to create hierarchies of human worth. That must be recognised and named as such.

3.2 Internal Contradiction with African Human Rights Jurisprudence: The Vulgarisation of Ubuntu and the Decoloniality Argument

A. *Ubuntu as African Courts Have Applied It: The Authoritative Record*

The Charter grounds its normative authority in Ubuntu, a philosophical concept of profound depth and sophistication that has animated African legal thought for decades.[25] This appeal is the Charter's central claim to legitimacy. If Ubuntu means what the Charter says it means, the subordination of individual dignity to communal authority, the vesting of near-absolute power in parents and states over individual lives, then the Charter has a philosophical foundation in African thought. If it does not, the Charter has nothing. The authoritative jurisprudential record is unambiguous.

In ***S v Makwanyane,*** the South African Constitutional Court deployed Ubuntu as the philosophical foundation for abolishing the death penalty.[26] Justice Mokgoro, drawing on her deep knowledge of African philosophical tradition, held that Ubuntu, understood as humaneness, personhood, and morality, cannot coexist with the state's deliberate destruction of a human life.[27] Ubuntu, in this reading, generates obligations of restraint on state power, not expansions of it. It demands that the state protect human dignity, not that individuals submit their dignity to state authority. Justice Sachs articulated Ubuntu as recognising the profound interconnectedness of human beings -an interconnectedness that creates obligations of ***solidarity and protection***, not hierarchy and exclusion.

Similarly, the Botswana High Court in Motshidiemang held that the constitutional commitments to dignity and equality, values the Court grounded in a purposive, living-constitution jurisprudence, could not accommodate the criminalisation of consensual conduct between adults.[28] The Court was direct about the limits of state authority, asking what regulatory purpose was served by prescribing and criminalising 'the conduct of two consenting adults, expressing and professing love to each other, within their secluded sphere, bedroom, confines and/or precinct' (para 189). It further held, at paragraph 151, that human dignity **'belongs to every human being qua human. It does not admit of any degrees. It is equal for all humans'**. The decision was upheld on appeal by the Botswana Court of Appeal in 2021. This is Ubuntu applied in Gaborone, by Botswana judges, to the Batswana people.

In Uganda, the ***Constitutional Court in Centre for Health, Human Rights and Development and Others v Attorney General*** (Constitutional Petition No. 16 of 2011, Judgment of 19 August 2020)[29] held that the government's failure to provide basic maternal health care and emergency obstetric care in public facilities violated the constitutional rights to health, life, and the rights of women, and constituted cruel, inhuman and degrading treatment in violation of human dignity.

The Court held that 'there can be no argument that without the right to health, the right to life is in jeopardy', recognising the interdependence of constitutional rights and confirming that the right to health has a place in Uganda's Constitution even

23 Donald Woods and Mike Bostock, *Apartheid* (H Holt 1988).. See also, South African History Online, 'A History of Apartheid in South Africa' (*South African History Online*15 March 2018) <https://sahistory.org.za/article/history-apartheid-south-africa>. See also, Nofi Media, 'Apartheid: Genealogy of a State-Sanctioned Racism in Southern Africa' (*Nofi Media*23 July 2025) <https://www.nofi.media/en/2025/07/apartheid-genealogy-statesanctioned/96561>.

24 Nelson Mandela Foundation, '1959. Promotion of Bantu Self-Government Act No 46 - the O'Malley Archives' <https://omalley.nelsonmandela.org/index.php/site/q/03lv01538/04lv01828/05lv01829/06lv01899.htm>.

25 S v Makwanyane and Another 1995 (3) SA 391 (CC) at paras 224 (Mokgoro J), 263 (Sachs J) and 307 (Mahomed J), available at https://www.saflii.org/za/cases/ZACC/1995/3.html. See also, Thaddeus Metz, 'Metz, T - African Human Rights Law Journal (AHRLJ)' (www.ahrlj.up.ac.za 2011) <https://www.ahrlj.up.ac.za/metz-t>.

26 S v Makwanyane and Another (CCT 3/94) [1995] ZACC 3; 1995 (3) SA 391 (CC), Constitutional Court of South Africa, 6 June 1995, Mokgoro J at para 308.

27 Ibid.

28 Letsweletse Motshidiemang v Attorney General, supra note 12.

29 Centre for Health, Human Rights and Development (CEHURD) and 3 Others v Attorney General, Constitutional Petition No. 16 of 2011 [2020] UGCC 12, Constitutional Court of Uganda at Kampala, Judgment of 19 August 2020.

though it is not expressly named therein. This holding strikes directly at the Charter's architecture: an instrument that vests parents and states with authority to deny health services to individuals cannot survive the indivisibility principle that Uganda's Constitutional Court affirmed. The normative content of these rights is not determined by the identity of the person claiming them, nor by the cultural or religious convictions of those in authority over them. That is what equality, in African constitutional law, demands.

The African Commission established in **SERAC *v* Nigeria**, that the Banjul Charter rights impose layered obligations -to respect, protect, promote and fulfil- and that states are prohibited from directly threatening the health and survival of those within their jurisdiction through their own instruments and policies.[30] A Charter instrument that restricts access to reproductive health services and suppresses sexuality education does not only fail to protect; it constitutes a direct threat, which SERAC establishes is itself a Charter violation.

The communities the Draft Charter on African Family Values seeks to render legally invisible -LGBTQ+ persons, women seeking reproductive health services, and young people seeking sexuality education- are communities whose health, survival, and identity are directly threatened by its provisions. The binding obligation not to threaten them applies with full force.

Across West Africa, the ECOWAS Community Court of Justice in **SERAP *v* Nigeria** (Suit No. ECW/CCJ/APP/12/07, Judgment of 30 November 2010) affirmed that the right to education under the African Charter is a justiciable human right enforceable against ECOWAS member states, not a directive policy at the discretion of governments. The Court held that every Nigerian child is legally entitled to free, compulsory, quality education by virtue of Article 17 of the Charter.[31] Where the authoritative international evidence base, including the UN Inter-Agency Technical Guidance on Sexuality Education, establishes that comprehensive sexuality education is an integral component of quality education, the elimination of CSE from African educational systems is not a legitimate exercise of cultural sovereignty. It is a denial of a judicially recognised, regionally enforceable right.[32]

Rwanda's constitutional architecture provides the most powerful rebuttal of all, not from a court judgment, but from a society's collective reckoning with what happens when law is used to define some human beings as less than others. The 2003 Constitution of Rwanda was written in the aftermath of a genocide in which identity-based legal exclusion was the instrument of mass murder.[33] Rwanda's constitutional commitments to non-discrimination, to the prohibition of all forms of divisionism, to 30 percent women's parliamentary representation as a constitutional floor,[34] are not Western imports, but the conclusions of a people who experienced, at the most devastating possible cost, the end point of the logic the Charter now seeks to revive.

B. *The Vulgarisation of Ubuntu: A Philosophical and Legal Critique*

The Charter's deployment of Ubuntu amounts to vulgarisation -a reduction of one of Africa's most sophisticated philosophical traditions to a rhetorical instrument for the legitimation of hierarchy and exclusion.[35] The concept of Ubuntu –'umuntu ngumuntu ngabantu', a person is a person through other persons, was developed in African philosophical tradition as an account of the relational constitution of personhood. The point is not that community overrides the individual. The point is that personhood itself is constituted through relationships of recognition, care, and mutual responsibility. Ubuntu is an account of how human beings come to be fully human, and that process requires that each person be recognised in their full humanity by others.

Philosopher Thaddeus Metz, whose work on Ubuntu and African jurisprudence is among the most authoritative in the field, has argued that Ubuntu as a moral and legal principle generates a conception of human dignity grounded in the human capacity for community -the ability to identify with others and to exhibit solidarity with them.[36] On this account, human rights violations are egregious degradations of that communal capacity, and states bear obligations to protect every person's dignity precisely because that dignity is constituted through and sustained by communal recognition. Those who are marginalised or rendered legally invisible are, on this account, those whose communal dignity has been most grievously threatened.

30 Communication No. 155/96, 2001
31 Registered Trustees of the Socio-Economic Rights and Accountability Project (SERAP) v Federal Republic of Nigeria and Universal Basic Education Commission, Suit No. ECW/CCJ/APP/12/07; Judgment No. ECW/CCJ/JUD/07/10, ECOWAS Community Court of Justice, Judgment of 30 November 2010.
32 UNESCO, 'International Technical Guidance on Sexuality Education an Evidence-Informed Approach' (2018) <https://www.unfpa.org/sites/default/files/pub-pdf/ITGSE.pdf>. See also, Joanna Herat and others, 'The Revised International Technical Guidance on Sexuality Education - a Powerful Tool at an Important Crossroads for Sexuality Education' (2018) 15 Reproductive Health.
33 Constitution of the Republic of Rwanda, adopted by referendum 26 May 2003, as revised in 2015, Preamble; Articles 10, 16 and 37.
34 UN Women, 'Revisiting Rwanda Five Years after Record-Breaking Parliamentary Elections' (*UN Women*13 August 2018) <https://www.unwomen.org/en/news/stories/2018/8/feature-rwanda-women-in-parliament>.
35 Draft African Charter (2025), Article 1 (defining Ubuntu as emphasising shared humanity and interconnectedness) with Articles 4(8), 7(1)(e) and 7(2)(f) (subordinating the child's individual rights to parental and state authority).
36 Thaddeus Metz, 'Ubuntu as a Moral Theory: Reply to Four Critics' (2007) 26 South African Journal of Philosophy 369. See also, Thaddeus Metz, 'Human Dignity, Capital Punishment, and an African Moral Theory: Toward a New Philosophy of Human Rights' (2010) 9 Journal of Human Rights 81. See also, Thaddeus Metz, 'African Conceptions of Human Dignity: Vitality and Community as the Ground of Human Rights' (2011) 13 Human Rights Review 19.

The Charter inverts this. By defining the family exclusively as a heterosexual marital unit, it denies the relational personhood -the Ubuntu, of every person whose family does not fit that definition. By removing comprehensive sexuality education, it denies young people the knowledge they need to navigate their relationships, their bodies, and their identities. By granting near-absolute parental authority over children's health, it subordinates the child's personhood to parental authority in a manner that no African court and no mainstream African philosophical tradition has ever sanctioned.[37]

C. *Decoloniality as a Legal Principle: Who Is Actually Importing What*

The Charter presents itself as a bulwark against foreign cultural imposition. This framing is the Charter's central ideological engine, given express legal form in Article 7, which directs African states to actively resist international human rights norms it characterises as foreign impositions incompatible with African values.

Article 7 is the provision through which the Charter seeks to arm African states with a continental mandate to reject the Maputo Protocol, the ACRWC, the ACHPR's equality guarantees, and the entire regional human rights framework that African states themselves built. This framing demands direct challenge as a matter of historical and legal fact.

The claim that heterosexual, patriarchal family structures are authentically African, while rights-based frameworks are European impositions, is itself **a colonial inheritance**.[38] It requires examination through the lens of decoloniality, which has been increasingly recognised in African constitutional and legal scholarship as a principle that guides the interpretation of post-colonial legal orders. When Article 7 is subjected to that examination, its inversion is exposed: **it is not the rights framework that is foreign. It is Article 7 itself, and the colonial legal architecture it seeks to preserve, that represents the foreign imposition.**

Decoloniality, as theorised by Achille Mbembe, Walter Mignolo, and Ngũgĩ wa Thiong'o, demands that post-colonial societies rigorously interrogate which of their inherited legal, cultural, and social frameworks were constructed from within their own intellectual and moral traditions, and which were imposed, frozen, and given artificial cultural permanence by those who colonised them.[39] Mbembe, writing from within the African postcolonial condition, argues that the postcolony is a site where colonial structures of power continue to operate through the very legal and cultural instruments that ostensibly replaced them -that formal independence without epistemic decolonisation is no independence at all.[40]

Mignolo, developing his concept of the 'coloniality of power', establishes that colonialism did not merely occupy territory; it occupied knowledge, restructured legal categories, and redefined what counted as legitimate cultural practice.[41] Ngũgĩ wa Thiong'o, the most direct of the three, identifies the colonial inheritance with surgical precision: the coloniser's deepest instrument was not the gun but the reordering of values; the systematic replacement of indigenous frameworks with European ones, conducted so thoroughly that the replacement came to feel like tradition.[42] Applied to law, decoloniality requires African legal systems to identify which of their norms are genuinely indigenous and which are colonial impositions that were never examined, challenged, or consciously adopted.

It is precisely in this light that the claim that heterosexual, patriarchal family structures are authentically African, while rights-based frameworks are European impositions, must be understood for what it is: a colonial inheritance presenting itself as cultural memory. As the historical and legal record establishes without ambiguity, no anti-LGBTQ+ legislation predating colonialism has been found anywhere on the continent.

The Indian Penal Code of 1860 and the Queensland Criminal Code of 1899 were transplanted into African legal systems by British colonial administration.[43] The rigid, exclusionary conception of the African family -defined against queerness, against women's sexual autonomy, against gender plurality- was constructed

37 UN Committee on the Rights of the Child, General Comment No. 14 (2013): The Right of the Child to Have His or Her Best Interests Taken as a Primary Consideration (Article 3, paragraph 1), UN Doc CRC/C/GC/14, 29 May 2013. See also, Ann Skelton, 'Oo Much of a Good Thing? Best Interests of the Child in South African Jurisprudence' (*www.dejure.up.ac.za*) <https://www.dejure.up.ac.za/skelton-a>.

38 Jim Jormanainen, 'Colonial Legacy, Religion and Politics – the Roots of Homophobia in Africa - the Nordic Africa Institute' [2022] Nai.uu.se <https://nai.uu.se/stories-and-events/news/2023-01-20-colonial-legacy-religion-and-politics---the-roots-of-homophobia-in-africa.html>. See also, Marc Epprecht, *Heterosexual Africa? The History of an Idea from the Age of Exploration to the Age of AIDS* (Athens Ohio Univ Press Scottsville, South Africa Univ Of Kwazulu-Natal Press 2010). See also, Kamau Muiga, 'African Homophobia and the Colonial Roots of African Conservatism' (*Africasacountry.com*13 February 2019) <https://africasacountry.com/2019/06/african-homophobia-and-the-colonial-intervention-of-african-conservatism>.

39 Achille Mbembe, *On the Postcolony* (Wits University Press 2001). See also. Achille Mbembe and Daniela Ginsburg, *Out of the Dark Night : Essays on Decolonization* (Columbia University Press 2019). See also, Walter Mignolo, *Local Histories/Global Designs: Coloniality, Subaltern Knowledges, and Border Thinking* (Princeton University Press 2000). See also, Walter Mignolo, *The Darker Side of Western Modernity: Global Futures, Decolonial Options* (Duke University Press 2011). See also, Ngũgĩ Wa Thiong'o, *Decolonising the Mind: The Politics of Language in African Literature* (James Currey 1986).

40 Ibid

41 Ibid.

42 Ibid.

43 Alok Gupta, 'This Alien Legacy' (*Human Rights Watch*17 December 2008) <https://www.hrw.org/report/2008/12/17/alien-legacy/origins-sodomy-laws-british-colonialism>.

by colonial ethnographers, enforced through colonial customary law, and given artificial cultural permanence by colonial administrators who needed a stable, manageable, patriarchal social order to facilitate resource extraction.[44]

Pre-colonial African societies contained enormous diversity in family structure, gender expression, and sexual practice. The anthropological and historical record -from the 'female husbands' of the Igbo and Yoruba peoples, to the 'mummy baby' relationships documented in colonial-era records of Southern African mine compounds, to the multiple gender categories recognised in various East African societies- documents this diversity extensively.[45] The claim that a single European-Christian model of the nuclear heterosexual family represents the authentic African tradition is a historical falsification. It is the coloniser's family, dressed in kente cloth and presented as indigenous heritage.

The instruments Article 7 seeks to subordinate -the Banjul Charter, the Maputo Protocol, the African Court- are not European gifts to Africa. They were negotiated by African governments, drafted by African women lawyers and activists drawing on African women's lived experience, and established by African states asserting their capacity to hold each other accountable.[46] To characterise these instruments as foreign impositions is not a decolonial argument. It is a colonial act of mind, the denial of Africa's authorship of its own liberation.

Makau Mutua's framework of 'savages, victims, and saviours' in international human rights discourse identifies the risk of African human rights being framed as externally imposed standards that Africans must receive rather than create.[47] Article 7 of the Charter operationalises this misframing precisely; it intends to convert the risk Mutua identifies into a binding legal directive, instructing African states to treat the human rights obligations they themselves negotiated, ratified, and built into continental treaty law as foreign contamination to be resisted. This is the intellectual capture Mutua warned against, encoded into a normative instrument. The correct response to the risk of externally imposed human rights is not Article 7's rejection of African-authored treaties.

It is to assert Africa's role as co-creator and co-owner of the international human rights framework, to claim, as African constitutional courts have done from Pretoria to Gaborone, that dignity, equality, and freedom are not European gifts to Africa but universal values that African peoples have claimed, fought for, and written into their own constitutions and treaties. Article 7's false binary -colonial rights versus authentic African values- is the binary that the African legal tradition, in Makwanyane, Motshidiemang, the Maputo Protocol, and the Banjul Charter itself, has consistently and authoritatively rejected. It asserts that human dignity is African. Article 7 denies it.

> Africa has been subjected to centuries of systematic dehumanisation-the transatlantic slave trade, in which African bodies were converted into property; colonialism, in which African lands, resources, and governance structures were seized and reorganised for the benefit of external powers; apartheid, in which legal personhood was parcelled out according to racial classification; and structural adjustment programmes, in which African states were stripped of the economic sovereignty that is the precondition for protecting their citizens' rights.[48] Each of these systems was justified by appeals to culture, civilisation, and the natural hierarchy of human beings. The Charter, which proposes to write certain African people out of legal recognition on the basis of their identity, participates in this tradition of using law to create hierarchies of human worth.

44 Ibid.

45 Ifi Amadiume, *Male Daughters, Female Husbands: Gender and Sex in an African Society* (Zed Books 1987). See also, Kenneth Nwoko, 'Female Husbands in Igboland, Southeast Nigeria' (*ResearchGate*2020) <https://www.researchgate.net/publication/344199766_Female_Husbands_in_Igboland_Southeast_Nigeria>. See also, Marc Epprecht, *Hungochani* (McGill-Queen's Press - MQUP 2004). See also, Sylvia Tamale, *African Sexualities : A Reader* (Pambazuka 2011). See also, Mohammed Elnaiem, 'The 'Deviant' African Genders That Colonialism Condemned' (*JSTOR Daily*29 April 2021) <https://daily.jstor.org/the-deviant-african-genders-that-colonialism-condemned/>.

46 Christoph Plath, supra note 1. See also, Zoe Clark and Kelvin Kimaili, supra note 2.

47 Makau Mutua, 'Savages, Victims, and Saviors: The Metaphor of Human Rights Savages, Victims, and Saviors: The Metaphor of Human Rights Makau Mutua Savages, Victims, and Saviors: The Metaphor of Human Rights' (2001) 42. See also, Makau W Mutua, 'The Banjul Charter and the African Cultural Fingerprint: An Evaluation of the Language of Duties'.

48 David Brion Davis, *Inhuman Bondage: The Rise and Fall of Slavery in the New World* (Oxford University Press 2008). See also, Orlando Patterson, *Slavery and Social Death: A Comparative Study* (Harvard University Press 1982). See also, Slave Voyages, 'Slave Voyages' (*Slavevoyages.org*2019) <https://www.slavevoyages.org>. See also, Walter Rodney, *How Europe Underdeveloped Africa* (Verso 1972). See also, Frantz Fanon, *The Wretched of the Earth* (Grove Press 1963). See also, S v Makwanyane (CCT 3/94) [1995] ZACC 3. See also, Moses Mulumba and others, 'Health Equity and the Global Social Contract: Beyond Incrementalism and Illusionary Solidarity' [2026] International Journal for Equity in Health.

DIAGRAM 4 — Ubuntu: Established Jurisprudence vs. Charter Deployment

Ubuntu in African Courts	Ubuntu in the Draft Charter
✓ Strengthens dignity of vulnerable persons (Makwanyane)	− Deployed to justify state and parental authority over individual lives
✓ Grounds solidarity in mutual responsibility	− Used to restrict rather than extend human dignity
✓ Extends protections to marginalised groups	− Deploys community values to override individual rights
✓ Reinforces individual autonomy within community	− Removes health information from children in the name of parental authority
✓ Generates positive state obligations to protect health and identity (SERAC v Nigeria)	− Defines millions of African families out of legal existence
✓ Used to abolish the death penalty (South Africa)	− Inverts every authoritative judicial interpretation of Ubuntu in African law
✓ Used to decriminalise consensual conduct (Botswana) + Applied to affirm indivisibility of rights (Uganda)	− Reproduces the colonial logic of identity-based exclusion in the language of African philosophy
✓ Grounds prohibition of discrimination on identity (Banjul Charter, Resolution 275)	

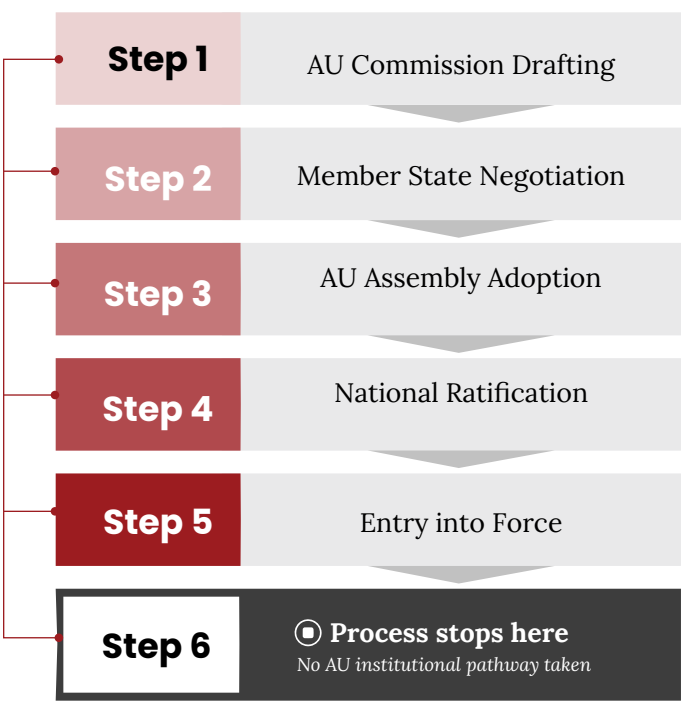
The Charter does not represent African values. It represents a politically motivated misappropriation of African philosophical language, stripped of its jurisprudential content, and weaponised in service of an exclusionary agenda that the African legal tradition -from Makwanyane to Motshidiemang, from the Banjul Charter to the Maputo Protocol -has consistently and authoritatively rejected.

3.3 Deficient Institutional Legitimacy: Process as a Substantive Human Rights Requirement

Regional treaties derive authority from process as much as from content. The AU's treaty-making architecture is mandatory and sequential.[49] But the requirement of proper process is not a bureaucratic formality. It is a substantive expression of the human rights principle of participation -the principle, recognised across the African human rights system, that the people affected by law have a right to participate in its making. The African Commission has held repeatedly that states must ensure meaningful participation by affected communities in the development of laws and policies that affect their rights. The Charter was produced by a self-convened inter-parliamentary network. The communities most directly affected by its provisions -women, girls, LGBTQ+ persons, young people seeking education- had no voice in its drafting.

The Charter was not produced by the AU Commission. It was not negotiated among Member State delegations through the AU's treaty-making procedures. It was not adopted through the AU organs. It has not been subject to civil society consultation, public comment, or independent legal review within the AU system. The Charter itself acknowledges its origins in inter-parliamentary conferences convened in Entebbe. It stops, in the AU treaty-making process, at the very first step. Diagram 5 shows exactly where.

DIAGRAM 5 - AU Treaty-Making Process: Where the Charter Stops



*** Charter was drafted by an inter-parliamentary network, not the AU Commission, and has not been adopted through AU organs.**

49 Constitutive Act of the African Union, Articles 7 and 28, adopted 11 July 2000, entered into force 26 May 2001; see also T Maluwa, 'Ratification of African Union Treaties by Member States: Law, Policy and Practice' (2012) Melbourne Journal of International Law, available at https://law.unimelb.edu.au/__data/assets/pdf_file/0006/1687380/Maluwa.pdf

The significance of this procedural failure extends beyond the formal question of legal validity. A document that bypasses the participatory procedures of the AU treaty-making system -procedures designed to ensure that binding norms reflect the genuine consensus of African states and their peoples- embodies a claim to impose normative standards on populations without their consent. That claim is not merely legally defective. It is antithetical to the foundational commitment of the African human rights system to the sovereignty of peoples, not governments, not inter-parliamentary networks, but peoples, as the source of legitimate authority.

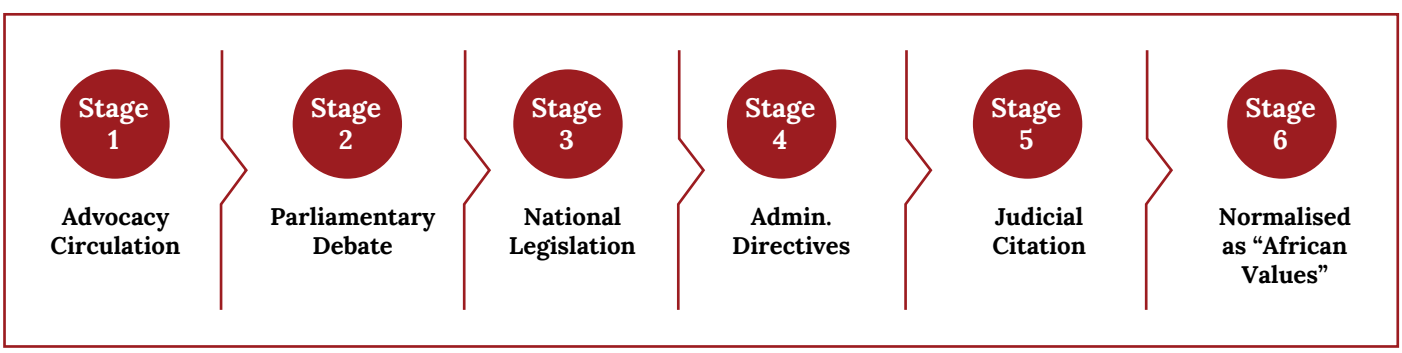
4. Why Formal Invalidity Does Not Eliminate the Threat

The weaknesses above are real and exploitable in legal proceedings. They do not, however, make the Charter a manageable risk. Normative frameworks routinely begin as non-binding documents and harden into legal effects through a different pathway: citation in parliamentary debates, incorporation into national bills, adoption in administrative circulars, and invocation as evidence of prevailing norms in court.[50] The Charter's proponents understand this pathway and are actively pursuing it.

The immediate route to impact is not formal AU ratification. It is national bills aligned with its family definition and CSE provisions; ministerial circulars restricting reproductive health services; parliamentary resolutions adopting its sovereignty framing; and judicial citation of its text as established African cultural values, each producing enforceable legal effects without the Charter completing the AU treaty process.[51] The Charter's proponents maintain active networks across 28 countries. The legislative pathway is in motion.

The danger is that by the time the Charter's provisions have been enacted into national law, incorporated into ministry circulars, and cited in court judgments, the legal record will have been rewritten. African 'values' will have been defined -in statute, in policy, in precedent- as the Charter defines them, not as the Banjul Charter, the Maputo Protocol, and decades of African jurisprudence define them. The intervention window is now, at Stages 1 and 2 of the soft-law hardening process. After Stage 3, reversal requires litigation -expensive, slow, and uncertain. Diagrams 6 and 7 map the pathways.

DIAGRAM 6 - Soft-Law Hardening Pathway



Intervention window: Stages 1 and 2 are the most effective points for engagement. After Stage 3, reversal requires litigation.

DIAGRAM 7 — Risk Channels for Charter Influence

Channel	Nature of Threat	Risk Level
National legislation	Bills adopting Charter family definition, anti-CSE, or SRHR restrictions cite Charter as continental authority	HIGH
Education policy	Ministries issue circulars removing CSE curricula using Charter as continental standard, bypassing parliamentary scrutiny	HIGH
Health policy	Health ministries restrict reproductive health services based on Charter's SRHR rejection without legislative process	HIGH

50 CM Chinkin, 'The Challenge of Soft Law: Development and Change in International Law' (1989) 38 The International and Comparative Law Quarterly 850.

51 The legislative pathway is already in motion, as evidenced by Uganda's Anti-Homosexuality Act 2023, Ghana's Human Sexual Rights and Family Values Bill (currently before Parliament in 2026), and Kenya's Family Protection Bill 2023, all framed explicitly around protecting African family values and sovereignty — the same normative framework the Charter seeks to consolidate at continental level.

Channel	Nature of Threat	Risk Level
Judicial reasoning	Courts cite Charter as evidence of established African values in constitutional interpretation cases	MODERATE
Treaty body responses	Governments invoke Charter when responding to UN/AU reviews to justify non-compliance with Maputo obligations	MODERATE
AU institutional capture	Proponents push for formal Charter adoption through AU Commission or Specialised Technical Committees	EMERGING

5. Key Questions and Direct Answers

If the Charter has no legal force, why treat it seriously?

Because the primary threat is not a ratified continental treaty. The threat is national bills, curriculum changes, ministry circulars, and court submissions that draw on Charter language for authority. A non-binding document cited three times in a parliamentary committee report has acquired political weight regardless of its formal status. The Universal Declaration of Human Rights was initially non-binding. The Ottawa Treaty on landmines began as a civil society declaration. The Charter's proponents understand how soft law hardens into binding effect. The counter-response must match that understanding.

What is the strongest legal counter-argument to deploy?

The strongest counter-argument operates on three levels simultaneously. First, ratified treaties prevail: for every state that has ratified the Maputo Protocol, those reproductive health obligations are binding law that no Charter-aligned bill can override. Second, the African jurisprudential record: Makwanyane, Motshidiemang, SERAC, the ECOWAS Court's education jurisprudence -these are African courts, in African countries, applying African law, in ways that directly contradict every substantive provision of the Charter. Third, the decoloniality argument: the Charter does not represent African values. It represents colonial-era restrictions, specifically, British imperial Penal Code provisions, dressed in the language of African identity. The criminalisation frameworks that the Charter now seeks to continentalise were written by colonial administrators. Rights are not a European gift to Africa. They are Africa's own articulation, through its own courts and treaties, of what Ubuntu requires in law.

What should partners do immediately?

Coordinate prevention, not reaction. Map the parliamentary entry points in every jurisdiction. Build the jurisprudential counter-record now -cross-referenced, jurisdiction-specific, and grounded in the full arc of African case law from Enugu to Gaborone to Johannesburg. When Charter language surfaces in legislative proposals, the counter-argument must already be documented, authoritative, and ready for deployment in parliamentary testimony, court submissions, and treaty body reviews.

6. Strategic Recommendations

Immediate (within six months)

1. Map parliamentary entry points in each jurisdiction. Identify committees, individual allies, and caucuses most likely to encounter Charter-aligned proposals and establish communication channels before a bill is introduced.
2. Prepare jurisdiction-specific legal memoranda documenting the exact treaty obligations, specific Maputo Protocol articles, ACRWC provisions, ACHPR guarantees, and the applicable African case law that Charter-aligned national legislation would breach. These memoranda must be grounded in the African jurisprudential record, not merely in international standards.
3. Establish early warning monitoring of parliamentary agendas, government gazettes, ministry communications, and education policy consultations for Charter language, including when source attribution is absent.
4. Brief constitutional and human rights lawyers on all three structural weaknesses - the legality principle, the decoloniality argument, and the institutional illegitimacy, so that these can be deployed rapidly and with full authority in parliamentary testimony, treaty body submissions, and court proceedings.

Medium-term (six to eighteen months)

1. Engage the African Commission on Human and Peoples' Rights proactively to establish the correct jurisprudential record of Ubuntu and African cultural values in dignity-centred law, before the Charter's framing becomes the default reference point in African legal discourse.
2. Build cross-border information sharing so that effective counter-strategies developed in one jurisdiction are immediately available to partners across all 28 countries in which the Charter's advocates are operating. The coordination asymmetry must be corrected.
3. Train frontline health workers, community organisations, women's groups, children's rights advocates, and affected communities in the legal arguments, so they can provide testimony grounded in lived experience and legal authority in legislative consultation processes.
4. Monitor all AU institutional channels – AU Commission, Specialised Technical Committees, Pan-African Parliament, for attempts to advance the Charter through formal AU processes, and engage civil society participation mechanisms at each stage.
5. Commission a dedicated scholarly counter-brief on decoloniality and the African rights tradition, authored by African scholars including constitutionalists, philosophers, and historians, for deployment in academic, judicial, and parliamentary forums.

7. Conclusion

The Draft African Charter on the Protection of the Family, Sovereignty, and Religious and Cultural Values is legally vulnerable and politically dangerous. Its three structural weaknesses -the violation of the legality principle, the jurisprudential contradiction with established African human rights law, and the institutional illegitimacy born of bypassing AU treaty processes- provide a sound and well-grounded legal basis for challenging any Charter-aligned provision before African courts, the African Commission, the African Court, and national constitutional bodies across the continent.

But the deeper analysis demands a deeper conclusion. The Charter is a colonial instrument wearing African clothes. It deploys the language of Ubuntu to destroy what Ubuntu, in every authoritative judicial interpretation, requires. It invokes African values to reinstate colonial-era legal frameworks that were imposed on African peoples by British, French, Belgian, and Portuguese administrators and never subjected to genuine post-colonial democratic deliberation. It uses the rhetoric of sovereignty to deny the sovereignty of the millions of African women, girls, children, and LGBTQ+ persons over their own bodies, identities, and lives.

Africa has a rich, sophisticated, and genuinely indigenous human rights tradition -built in African courts, by African jurists, in African languages, addressing African realities. That tradition, from Makwanyane to Motshidiemang, from the Banjul Charter to the Maputo Protocol, from Rwanda's post-genocide constitutional architecture to the ECOWAS Court's education jurisprudence, speaks with one voice on the central fact: human dignity is not conditional. It does not depend on the identity of its bearer. It does not yield to cultural preference, parental authority, or state power. It is, in the most precise legal and philosophical sense, the ground on which all other rights stand.

The Charter asks Africa to abandon that ground. The answer -grounded in Africa's own law, Africa's own philosophy, and Africa's own hard-won experience of what happens when that ground is abandoned, must be an unequivocal no.

Early, coordinated engagement at the parliamentary and administrative level, equipped with the full weight of the African jurisprudential record and the decoloniality argument, is the most effective response. The Charter's proponents will arrive. They are already arriving. The question is whether the counter-argument is ready.