

Introduction

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There can be no keener revelation of a society's soul than the way in which it treats its children.

Nelson Mandela

Children's rights are not isolated from other human rights. They are – without hesitation – universal. The starting point for this book was research conducted within the Human Rights and Documentation Centre (HRDC) of the University of Namibia's Faculty of Law in 2009. The research aimed at determining the extent to which Namibia had complied with its international obligations, the extent to which the various institutions and statutory enactments aimed at affording the necessary respect and protection to children's rights in Namibia existed, and the extent to which such rights had been implemented successfully.

The research found the legal framework relating to children in Namibia to be wide-ranging. However, it also showed that, regardless of the legislation and policy in place, the majority of children are still not conversant with the Namibian Constitution or the child protection system in Namibia. In the context of and in order to abide by the principle of serving the best interest of the child, the objective of this publication is to refer to all the issues that commonly affect children and, in so doing, adequately address them.

On 28 September 2009, an Expert Workshop on Children's Rights was held in Windhoek. The workshop, conducted by the HRDC in cooperation with the Konrad Adenauer Foundation in Namibia, accommodated contributions from prominent experts in the field of children's rights in Namibia, members from human rights organisations, and researchers in the children's rights field. The aim was to create a platform for correlating the thinking of all stakeholders. The workshop was well attended by various stakeholders in children's rights and the relevant line ministries were represented. These included the Ministry of Gender Equality and Child Welfare and the Ministry of Justice. The discussions touched on all kinds of issues that affect not only the Namibian child, but also children in general. All of the topics addressed during the workshop (and more) are reflected in the various contributions of this publication.

It becomes very clear from the overall findings of the research that the Namibian government has committed itself to address the situation of children in the country in a comprehensive manner in order to foster their development, protect them, and

prepare them more effectively to serve society. Children in Namibia are a priority on the government agenda, notwithstanding that some work still needs to be done, especially with regard to child poverty, policy support and services, HIV and AIDS, education, discrimination and, in some cases, harmful cultural practices.

With regard to cultural practices such as certain initiation rites and circumcision, the following question has been raised: How can serving the best interests of the child be rendered compatible with traditional African values in traditional societies? The answer is reflected in the research: the sensitive aspects under customary practices that do not conform to the constitutional principles of equality, fairness, and justice need to be identified, and those concerned need to be informed that such practices are not in line with Namibia's constitutional values.

A functioning child justice system can result in a significant reduction of youth delinquency and youth crime rates. Some law reform still needs to be done in this respect. With the envisaged Child Care and Protection Act, Namibia plans to address the challenges children and young people face. This long-awaited piece of legislation has received tremendous support from the various stakeholders, and its drafting by the Ministry of Gender Equality and Child Welfare is in the final stages. This law will help service providers and community members to improve the way they care for and protect children. The legislation addresses the fact that the challenges and issues that children face today are different from those at Independence in 1990. The scale or impact of the HIV and AIDS pandemic, urbanisation, the gradual erosion of traditional family life, a rise in international child trafficking, sexual abuse which children endure, and the large number of child-headed households are some of the principal issues which endanger Namibian children today.

The Child Care and Protection Act will become responsive to many of the findings of the HRDC research by outlining and improving the provision made for foster care, adoption, children's homes, medical treatment, child trafficking, child labour, and crimes relating to child abuse and neglect. The legislation will mark a milestone for Namibia, as it can be used as one of the best practices in the Southern African Development Community (SADC) – if not Africa. It will provide greater protection and prevention measures, and will promote the well-being of children in Namibia. As the 2010 FIFA World Cup approaches, attention is increasingly focused on two of the most pervasive crimes expected to accompany the boom in the southern African tourism industry: human trafficking and child prostitution. To this end, it is very important that the Namibian government works closely with its SADC neighbours to implement measures to prevent these crimes.

Overall, Namibia can be applauded for initiating law reform for the improvement of children's rights. This reflects Namibia's remarkable and strong commitment to protecting children's rights by, amongst other things, incorporating a broad variety of international legal instruments into the domestic system. Namibia is a State Party to the most relevant

legal instruments on the protection of children's rights at the global, regional and sub-regional level. Of course, effective implementation and the entire reporting system, which are imperative for enhancing the situation of children, can only work if States Parties collaborate to improve the situation in which children find themselves.

The contributions contained in this publication critically address a number of aspects of children's rights in Namibia. It is hoped that these multifaceted articles encourage all stakeholders from governmental and non-governmental organisations, the judiciary and civil society to enhance and protect the rights of children in order to put into practice one of the sub-visions contained in Namibia's Vision 2030:¹

Namibia will be a just, moral, tolerant and safe society with legislative, economic and social structures in place to eliminate marginalisation and ensure peace and equity and a conducive environment for child and youth development.

Please note that the content of the articles, including any final errors or omissions that remain, is the sole responsibility of the individual contributors.

¹ Government of the Republic of Namibia. 2004. *Namibia Vision 2030. Policy Framework for Long-term National Development. Main document.* Windhoek: Office of the President, p 113.