

SUBMISSION

**TO THE PARLIAMENTARY PORTFOLIO COMMITTEE
ON SOCIAL DEVELOPMENT**

ON THE CHILDREN'S BILL

Dikwankwetla – Children in Action



**CHILDREN ARE THE FUTURE –
GIVE THEM THEIR RIGHTS!**

CONTENTS:

Profile of DIKWANKWETLA – Children In Action

1. Introduction
2. Basic Principles
3. Concerns regarding the Children's Amendment Bill
4. Concerns not addressed in the Children's Bill
5. Conclusion

DIKWANKWETLA – CHILDREN IN ACTION A BRIEF PROFILE

"I'm from Northwest. And I really like being one of the [Dikwankwetla] group. The most important things about me are that I am very respectful of other people. And I am sensitive in everything. I think before I act. I'm responsible. I care for others ... I help other children who want to know about HIV/AIDS. I am proud of myself!...I have many problems." Rita¹, girl, 15 years old.

DIKWANKWETLA is a group of children from South Africa who have been engaged with the Children's Bill, expressing their concerns and providing recommendations in an attempt to ensure that the Bill adequately addresses the needs of children in the context of HIV/AIDS in South Africa.

Recognizing that the Children's Bill is the single most important and comprehensive piece of child-related legislation in South Africa, the children's sector has worked together to establish working groups on a range of issues including children's rights, parental rights and responsibilities, protection, abuse and HIV/AIDS. Each of these working groups is made up of experts within their relevant fields and each is responsible for providing and facilitating input into the relevant provisions within the draft Bill.

The HIV/AIDS programme within the Children's Institute is responsible for co-ordinating the working group around HIV/AIDS. Within this working group, it was deemed necessary to make provision for children to be included in the deliberations and advocacy initiatives surrounding the drafting and implementation of the Children's Bill.

In October 2003 the Children's Institute started working with partner organizations from the Western Cape, Limpopo, Kwa-Zulu Natal and North West to establish a children's working group on HIV/AIDS. Twelve children between the ages 12 and 17, who were made vulnerable in the context of HIV/AIDS, were selected. They named themselves DIKWANKWETLA – **Children in Action**. DIKWANKWETLA means **Heroes**, and this is what they see themselves as in the face of

¹ Not her real name. All the names of the children have been changed.

the AIDS pandemic. Their slogan is **Children Are The Future, Give Them Their Rights.**

DIKWANKWETLA'S main purpose is to:-

- 1. Engage with the Children's Bill,**
- 2. Formulate their opinions about the Bill,**
- 3. Draw upon their own life experiences to make recommendations on the provisions of the Bill,**
- 4. Raise awareness amongst other children and decision makers about the Bill.**

1. INTRODUCTION

Children in South Africa have long been faced with multiple challenges such as poverty, child abuse, lack of access to basic services and HIV/AIDS. While the wellbeing of children has been high on the agenda of the democratic government, there has not been a comprehensive law that deals with children's issues since the Child Care Act of 1983. It is with a level of jubilation then, that we acknowledge the positive strides taken to draft this comprehensive law. It is with even more excitement to recognize that children have been able to interact with the proposed law, so they can register their satisfaction and/or dissatisfaction with the Bill.

The submission below is a reflection of children's opinions on different parts of the Bill. These opinions were solicited through a series of participatory workshops with the relevant group, DIKWANKWETLA. The popular education process involved informing the children about the contents of the Bill, and soliciting their opinions and recommendations. DIKWANKWETLA has given their permission to the Children's Institute to draft this submission on their behalf.

The section directly below deals with what the children believe should be the basic underpinnings of the Bill. Section 3 addresses those issues that have been dealt with in S. 75, and Section 4 addresses those issues that have been dealt with in S. 76. Section 5 raises some concerns about important issues that have not been addressed in the Bill, such as child poverty, difficulties facing young people and issues related to HIV/AIDS. DIKWANKWETLA'S recommendations are tabled regarding these issues.

2. BASIC PRINCIPLES

"The Children's Bill is a law that is being made to address all the problems of children in South Africa." This is what Siphos² (17) said when asked what the Bill is.

Most members of DIKWANKWETLA agree that the Children's Bill is meant to address all the problems faced by children in South Africa. However, some participants commented that this is what the Bill ***should*** be doing, but that it does not do this successfully, because some issues are left out of the Bill. **DIKWANKWETLA believes that the Children's Bill should deal with a wide range of issues that are of concern to children.** These issues include Children's Rights and Responsibilities, Parental Rights and Responsibilities, the Prevention of and the Protection from Abuse, Child Poverty, Access to Education, Health Care and Shelter, HIV Related Issues, and Difficulties faced by Young People. Below is a diagrammatic representation of the issues the children raised as their main concerns:-



² Not his real name. Comment from a Workshop held in Polokwane from the 12 – 14 July 04.

Among these problems, DIKWANKWETLA were most concerned about child abuse, child neglect by care-givers and poverty.

"Ngiyafisa ukukuluma no baba ukuthi ayenke le ndlela asiphatangayo namakuke kufike abanye abantu bazo khuluma naye..." Sizwe, boy, 14 years old.

"We all have problems in our houses. No one can live a great life at all the times. Sometimes our parents are fighting. The man is always starting because he is coming home drunk..." Temba, boy, 16 years old.

"I am an orphan. At home I live with my older sisters. I grow the garden there. I have green fingers! But this year all the plants are not there because there was no water..." Rose, girl, 13 years old.

"Home is the most difficult place in my life. At home my mother is HIV+. My father is HIV+. My father doesn't take good care for us. My mother struggles alone ... I don't know what kind of a human being is my father. He is aggressive. He is always shouting at us. He pushes us aside. He is always drinking." Khunjulwa, girl, 16 years old.

"I have one sister. And one brother. I have father only. I don't have mom. My mom died in 2000 in June 9. My sister died in 2002 May. I live at my primary school. I am in grade six. Next year I in grade 7. My hobbies are playing soccer. At home we don't have something to shelter. At home we don't have food. At home we don't have money to buying food. My brother does not learn because we don't have money..." Ndumiso, boy, 12 years old.

"My mother is not working. She is HIV positive and she can't work because she is sicking. So we have nothing. No money, no clothes and even a house of our own." Jason, boy, 16 years old.

Secondly, the children of DIKWANKWETLA were chosen in particular because they have been exposed to challenges that have made them vulnerable in the context of HIV/AIDS. However, the problems they are most concerned about affect most children in South Africa. **This means that the Bill needs to be mindful of addressing needs of ALL children,** instead of separating them into groups such as the disabled, those infected by HIV/AIDS etc. While there are issues that will affect certain categories of children, it is important to recognize that issues around poverty affect most children in South Africa, not just the disabled or those infected by HIV/AIDS, and this results in extreme vulnerability.

3. CONCERNS REGARDING S. 76 OF THE BILL

Chapter 7: Protection of Children

In the spirit of the Bill, DIKWANKWETLA agrees that children need to be protected from harmful things such as abuse and neglect. In order to protect a child, DIKWANKWETLA feels that one must be willing to:-

- **Listen to what the child is saying,**
- **Stop the problem immediately or as soon as possible,**
- **Deal with the perpetrator of the problem, and**
- **Provide counseling for the child.**

The Children's Bill indicates that any member of staff that is in the education system, the medical profession, social work, child protection, police and labour system has an obligation to report child abuse or neglect. Any other members of the society **MAY** report similar findings to a child protection organization. Members of DIKWANKWETLA stated that they would be most comfortable reporting abuse to the people closest to them such as other siblings, friends, and care-givers. They would also want to report to teachers, social workers, teachers and school principals and the police. **In light of this, the recommendation is that ALL members of society should be obligated to report cases of child neglect and abuse, so that protecting children is a community's responsibility.**

Where a case is an emergency, the Bill indicates that the child must be removed from the situation, or the perpetrator must be removed. **DIKWANKWETLA feels very strongly that removing a child from his or her environment away from family and friends should be the last resort.**

"The person who is abusive must be the one who is removed from home, not the child. Whatever is done must be done to the interest of the child. Children who don't leave with their biological parents, the child should be removed because the care-giver cant be removed from their own homes even if they are the one who are wrong."

If a child has to be removed, the first option for places of safety should be in the community, so that a child can still go to the same school and have the same friends. For instance, DIKWANKWETLA suggested that a child can be placed with other family members or members of the community, at a teachers or pastors house, a police man's or social workers house, or a place of care and safety for children.

"The police have a duty to take the perpetrators of child abuse and violence to jail with no second chance."

In cases of neglect, where the perpetrator is willing to change and accept help, support structures such as counseling and parenting classes should be provided. Children who have been neglected and abused must also receive counseling.

Other measures to protect children from abuse should include:-

- **Empowering children to look after and protect themselves, even though the primary responsibility lies with the care-giver.**
- **Making court processes easier for children to access e.g. going to court should be free.**
- **The court must stop abusive care-givers from seeing their children.**
- **Government must bring more social workers nearer to communities where they are needed.**
- **Government must create a 24 hour toll free number in different provinces (and different languages) where children can call to report abuse.**

Protective Measures Relating to the Health of Children:

Members of DIKWANKWETLA feel that one of the greatest challenges children are dealing with is grief that comes from the loss of relatives, siblings and friends because of HIV/AIDS. This not only affects their physical being, but also their mental health and this must be addressed in the Bill. **While providing free treatment and support is prerequisite, it is also important to provide counseling for children suffering from such loss. Furthermore, counselors should pay special attention to children who are taking care of their siblings by performing home visits and providing counseling and training for the children.**

Corporal Punishment:

DIKWANKWETLA agrees with the Children's Bill that corporal punishment should be banned from public service institutions such as schools. However, the Bill states that such a prohibition is not enforced in the home, where care-givers have the right to smack their children. The children constituting DIKWANKWETLA had some difficulty understanding the difference between smacking, hitting and beating a child in an abusive way, especially since such a distinction does not exist in most South African languages.

After discussion, DIKWANKWETLA identified the following distinction as satisfactory:-

- **Hitting a child constitutes abuse when “you hit the child repeatedly” and when “you hit a child until he/she bleeds or have bruises.”**
- **Smacking is “a soft nudge.” “Don’t use something dangerous (glasses, hard belt, broomstick)”.**

Most of these children felt that hitting a child is wrong, under any circumstances. The nine children who believed that hitting a child is wrong stated that:-

- Parents or caregivers must talk to their children and show them what is right and what is wrong.
- They should talk to them not to repeat what he/she did because its wrong.
- When parents and caregivers talk to children they must not shout and yell at them, they should also show concern and be calm.
- They should also give then responsibility around the house - washing duties, watering the garden or clean the house for day.
 - They can also ground them for a week as a form of punishment.
- Some children, when they have been hit, will repeat their action because they are not afraid of being hit.
 - If parents smack children, they create a scary environment at home.

“We think that a better way of disciplining a child is talking to him/her so that the child can understand what you telling them to do, and if they don’t follow then you give them a small punishment e.g. Maybe if you’re a boy, they can tell you to clean up the whole house for the whole week, and if you’re a girl, then they can tell you to cook for everyone in the house and also do the garden because most of the girls hate doing the garden!”

The 2 children who believed that smacking at home was acceptable, had very strict conditions under which it was acceptable.

**Caregivers should be able to hit you,
but only under strict conditions:
Age limit (for hitting a child) = 10yrs not older**

- **Only hit on the hand or bottom.**
- **Not more than twice.**

Chapter 8: Prevention and Early Intervention

The Children's Bill rightfully states that there should be interventions put in place to help children and their families before their problems become too serious. DIKWANKWETLA recognizes that a lot of different people would have to work together to make prevention services effective.

The Children's Bill should state that an effective prevention service will require government service personnel such as nurses, psychologists, social workers, educators and the police to work together with the community, i.e., home-based caregivers, churches and non governmental organizations. It will also require the existence of support mechanisms such as rehabilitation centers, parenting classes, community leisure activities e.g. play grounds and sports fields ("so that parents can go there to socialize instead of going to the shebeen!"), transport facilities to get people where they need to go to ask for help.

"People to help must be patient, listen and understand."

Chapter 9: Children in need of Care and Protection

The Children's Bill states that when a child is in need of care and protection, they may be removed to temporary safe care with or without a court order. DIKWANKWETLA agrees with this, but as stated before, feels that first priority should be to keep the child in a familiar environment while detaining or removing the perpetrator. The Bill further states that only when a police official is "satisfied that it will be in the best interest of the child" to remove the offender, can a written notice to leave the home be issued to the offender.

DIKWANKWETLA feels very strongly that removing a child from his or her environment away from family and friends should be the last resort. From the time the child reports abuse, the perpetrator should be removed from the home and must be prevented from coming back. It is only fair that only he or she should experience discomfort for their actions, instead of the child. **Only when a child is cared for by care-givers other than his or her biological parents would it make sense to remove the child and take him or her to a place of safety.**

Perpetrators of child abuse and violence should be subjected to the harshest forms of punishment entailing imprisonment. In cases of neglect, where the perpetrator is willing to change and accept help, support structures such as counseling and parenting classes should be provided. Children who have been neglected and abused must receive counseling.

Chapter 14: Shelters and Drop-In Centres

DIKWANKWETLA recommends that the government should build places of care and safety in all communities, so that children have a place to go when they need protection and shelter. Also, government must create a system of funding the NGO's that run child and youth centers, so that they are better able to provide for children.

4. CONCERNS NOT ADDRESSED IN THE CHILDREN'S BILL

As stated in the beginning, DIKWANKWETLA feels strongly that the Children's Bill should become a law that addresses ALL issues affecting children in South Africa. It is with some disappointment then to note that there are key issues that have been left out of the Bill, such as assisting children in poverty, dealing directly with HIV/AIDS, and addressing problems affecting the youth such as teenage pregnancies, prostitution, and violence. Below are some of the recommendations that DIKWANKWETLA would like to see as provisions in the Bill that will address some of these problems.

Poverty Related Issues

"I'm [J]. I come from Limpopo. At home, I'm living with my grandparents. My mother is not working. She is HIV positive and she can't work because she is sick. So we have nothing. No money, no clothes and even a house of our own. We are forced to live with my grandparent inside a four-roomed. Our life is too hard - no privacy and no freedom. We are slaves inside it..." Jason, boy, 16 years old.

(a) Access to food:

The UN convention on the Rights of the Child states that children have a right to proper nutrition, and the Bill states that children have a right to basic nutrition. To deal with the reality of children without proper nutrition in South Africa, the DIKWANKWETLA recommend that government should:-

- Ensure that all children have food at all times.
- Set up a system of identifying those vulnerable children.
- Supply them with equally distributed food supplies.
- Supplement this with subsidized food and grants made up of food coupons and cash transfers.

"Food is not enough at home."
"At times I don't have food to eat before I go to school."

- Provide nutritional supplements to HIV positive mothers of children less than 2 years old.
- Develop the skills base of family members so that they can grow their own food, become self-reliant and claim back their dignity.
- Create systems of protecting food gardens such as fencing and providing water.
- Ensure better administration of existing feeding schemes and food parcel distribution by employing more people and preventing corruption.
- Set up feeding schemes in secondary schools as well, and make sure that they are run well.

(b) Access to shelter

"We are 10 in a four roomed house that belongs to my granny." Rita, girl, 15 yrs old.

"My infected mother is always staying with neighbors because we are over-crowded." "We are not safe at home because our house has broken windows and doors." Mandisa, girl, 15 years old.

For those families who do not have access to shelter, government should:-

- **Build RDP houses.**
- **Build shelters in all communities for children who do not have shelter like street children.**

(c) Access to income

Most families in South Africa who are battling with poverty are in trouble because of unemployment and therefore lack of income. This inevitably affects children in household where there is no income, as their basic human needs cannot be met. In this regard, DIKWANKWETLA recommends that government should:-

- **Develop the community's skills base to start small businesses.**
- **Provide them with the start up capital that will enable the establishment of such businesses.**
- **Create job opportunities for the unemployed, and**
- **Assist them with income grants.**

(d) Access to education

"Iskole yisona esimqoka. Ngaphandle kwesikole awulutho ezweni. Esikoleni uthola ulwazi..." Sizwe, boy, 14 years old.

Every child in South Africa should have a right to education. To this end, government should do all that is in its power to make sure that all children are at school, from Grade R to Grade 12.

"(I am) not allowed to go to school because of shortage of school uniform which I don't have."

"Not allowed to be move to next grade because I've got no money for school fund."

- **Where children cannot afford school fees, children should be exempted from paying school fees and this must be enforced in schools.**
- **Where children cannot afford school uniform, they should not be prevented from going to school.**

Children who live far away from school do not have transport. They end up being punished for being late at school or dropping out. Government should:-

- **Ensure that children have school buses to take them to school.**
- **Build more schools which are closer to children's communities.**
- **Make schools understand the situation of children without transport and not punish them unnecessarily.**
- **Forms of punishment at schools should not result in a child missing a class period.**

Schools in rural areas struggle to teach properly because they do not have resources. In this regard, government needs to:-

- **Build more classrooms to eliminate overcrowding.**
- **Provide for the needs of the schools e.g. furniture, equipment, etc.**
- **Train more teachers to teach in schools where there is lack of capacity.**
- **Food must be provided in schools to help those children who need it the most.**

"At home, I don't have time to study because I look after my brothers and sisters. I don't get much time to rest. I'm always fighting with my mother [who drinks and is abusive, and leaves her for months at a time to look after her siblings]. My friend often thinks I am avoiding her because we don't spend time together. When I come home after school, I clean the house. After cleaning I cook. So she doesn't understand what I am going through! And at school, when I am feeling sleepy because I couldn't get enough rest at night, the teacher shouts at me..." (Rita, girl, 16 years old)

(e) Access to health care

Children should not only have a right to access to information about health care as stated in the Bill, they should also have a right to free health care.

- **Nurses must visit schools to give information about health issues such as pregnancy, HIV/AIDS, and sex.**
- **In hospitals and clinics, doctors and nurses must not be aggressive and unfriendly, so that children can feel free to ask for information and help regarding health issues.**
- **Parents must be responsible for their children's health and take children to clinics and hospitals when they are sick.**
- **Government should supply clinics that are nearer to the communities where they are most needed, including farms and rural areas.**
- **There should be first aid kits in all schools for emergencies and accidents.**

Issues Related to HIV/AIDS

"I am talking care of my 4 siblings with my old grandmother and that doesn't mean that my mother is not alive. She is very alive but the problem is that she doesn't stay at home with us and take care of us, she is always away and when she comes home she comes drunk and abuse us emotionally. These affect me mentally I cannot cope well with my school and don't have enough time to rest and that goes to my other two sisters who come after me, they don't have time to play like other children and I think that, that's abuse." Rita, girl, 16 years old.

(a) Dealing with HIV/AIDS stigma

It is important to inform and educate communities more about HIV/AIDS so that the stigma is reduced. This can be done by establishing information centers in different communities. Also, more social workers could be employed and trained as counselors. Members of the communities can also be recruited and trained as lay counselors to help infected and affected people not to worry about the stigma. More people need to be employed to take care of people infected with HIV/AIDS.

(b) Caring for sick parents and siblings

"I think that every child in South Africa has a right to play and a right to rest and I also think that it should/must be in the Children's Bill. Please help for these to be possible. Children who are talking care of their siblings for e.g., they need NGO's etc." Rita, girl, 16 years old.

Children need to have access to Home Based Care-givers so that they can take care of their sick parents while the children go to school. Families in need should also receive food parcels so that both the parents and the children can have their nutritional needs taken care of. When care-givers are sick, it is important to provide families with an alternative source of income and medical support. To support children further, they should be able to go to school even if their sick parents cannot afford school fees.

(c) Dealing with loss and grief

Children who have witnessed their care-givers and siblings get sick and die suffer emotional trauma.

- The whole community should be mobilized to offer support to such children by identifying and referring them to the relevant people.
- Also, communities could further support such children by not discriminating against them and by being kind.
- If the children have lost a care-giver, social workers must make sure that someone from their family or community will take care of them and not abuse them.
- There should be counselors (social workers and psychologists) to identify these children and offer them support such as counseling.
- During the counseling process, death should be explained to the children clearly and honestly.
- If the children are poor, they should receive other forms of support such as food parcels, clothing vouchers, grants and free education.

Issues affecting Young People

It is important for the Children's Bill to address problems that young people face in South Africa. Some of these problems are the following:-

(a) Teenage pregnancy

- "Government must provide free prevention services to girls. A girl must have a right to use contraceptives without someone saying it is wrong".
- "Teenagers should be encouraged to abstain from sex and wait. Girls should be encouraged to say NO. (To let them know that it is ok to say no, that they have the power.)"
- "If they fail to do so, they must go to the clinic and ask for condoms."

- "Clinics must supply free condoms and warn against unsafe sex".
- "Should a teenager fall pregnant, the government or clinic should provide her with the option of free and safe abortion".
- "A lower dosage pill should be given to girls who are younger or who's bodies can't take the high dosage oestrogen. It makes them sick and vomit, so they would rather not go on the pill".
- "Girl condoms should be more available, because some boys don't what to wear condoms. (but they really feel they are ready for sex.)"

(b) Teenage Prostitution

- "I think parents must not encourage their children to work as prostitutes as a form of getting money".
- "I think that government must create job opportunities for people because some of them do prostitution as a self-employment mechanism".
- "Child prostitution should be highly illegal. Should someone find a pimp, someone using a child or someone having sex with a child, they should be sent to jail and the child should be counseled and taken to a safe place".
- "Government should give food and clothes coupons so there won't be so much prostitution".
- "There should be more free, but good rehabilitation centers, so people can get help with their addiction to drugs and sex".

(c) Violence

- "Movies, tv dramas and music should be censored [for violence]".
- "There should be strict law enforcement on what can be shown on tv".
- "There should be monitoring of people going to movies, so that age restriction is abided by".

5. CONCLUSION

"My name is [K]. I'm from the city of goodwill, in North West ... Please let us fight HIV/AIDS and child abuse together. Lets take action. Because together without action is useless ..." Kunjulwa, girl, 15 years old.

DINKWANKWETLA appreciates the opportunity to be able to talk to Members of the Steering Committee about our concerns. We hope that you will be able to take them into consideration as you finalize the Bill.

"CHILDREN ARE THE FUTURE, GIVE THEM THEIR RIGHTS!!"