

21 September 2004

Dear Children's Bill Stakeholder

Report back on the Children's Bill parliamentary hearings

On all accounts, the parliamentary hearings on the Children's Bill were a great success. The submissions clearly showed that the Bill needs a lot more work to ensure that it can adequately address children's needs.

The hearings also showed the members of parliament (MPs), and the executive drafting team (Children's Bill Inter-departmental Steering Committee) that there are many challenges facing children and the children's sector that need urgent attention, either through the Children's Bill process or other reform processes. It was clear from the responses of the decision makers that they were shocked to hear of the many challenges and the extent of the challenges.

Submissions that really brought the messages of non-delivery home included the submissions from two groups of children, the Dikwankwetla and Molo Songololo children and youth groups. These submissions and the children's responses to the MP's questions made a noticeable impact on the MPs and the Executive Steering Committee. The MPs deliberately asked the children questions that were aimed at testing whether the many laws that Parliament spends so much time and money on debating and passing, were filtering down to the children. The answers clearly demonstrated that there is a big gap between the laws and actual implementation.

Submissions such as Qhamani Educare, a case study of an Early Childhood Development (ECD) centre, and its struggle to access government funding, showed the challenges faced by a medium sized ECD centre in the Western Cape Province. For any MPs who may have thought that these problems were isolated, the South African Congress for Early Childhood Development (SACECD) and Early Learning Resource Unit (ELRU)'s joint submission clearly showed that the problems experienced by Qhamani Educare were endemic across the country.

The submissions outlining the bigger policy picture such as the South African Society for the Prevention of Child Abuse and Neglect (SASPCAN), Childline, Children's Institute and HIV sector submissions clearly showed that there was an urgent need for a national policy framework and better co-ordination of service delivery for children.

The Human Rights Watch and Aids Law Project joint submission on consent for medical treatment and HIV testing, and the Community Law Centre's submission on courts, parenting rights and corporal punishment, focussed in on specific legal problems and provided the drafting team with clear and drafting solutions.

Submissions from the Alliance for Children's Entitlement to Social Security (ACCESS), Johannesburg Child Welfare Society, Resources Aimed at the Prevention of Child Abuse and Neglect (RAPCAN), Network Against Child Labour (NACL) and the HIV sector (presented by the Children's Institute on behalf of a number of organisations), stressed the need for poverty alleviation, early intervention and support for families to care for children. These submissions clearly demonstrated that these areas need urgent policy choices and committed resourcing in order to address the increasing strain experienced by children and families due to the rising levels of poverty, unemployment and HIV infection.

Focussed sub-sector submissions from the National Alliance for Street Children, National Association of Child Care Workers, Lawyers of Human Rights and the Disabled Children's Action Group (DICAG) provided overviews of the problems facing the sub-sectors and made proposals for how these systemic problems could be addressed through the Bill.

The submissions mentioned above are just examples of the excellent submissions that were made from a range of children's sector organisations. If you would like to see the full list of submissions and the minutes of the hearings, take a look at the Parliamentary Monitoring Group website (<http://www.pmq.org.za>).

The mix of submissions seems to have been successful with no major complaints from the MPs. However, some MPs suggested that next time there should be more submissions from rural organisations. Others felt that they needed more technical legal arguments and solutions. We need to consider these suggestions when we plan for the next round of hearings on the section 76 Bill, sometime in 2005. These hearings may be heard in Cape Town or in the provinces, before the provincial parliaments. We will keep you posted as soon as they are announced.

Developments after the hearings

After a well deserved break, the MPs and the Executive Steering Committee came back to Parliament later in August to start the deliberations process.

The top issue on the agenda was the National Policy Framework (NPF) proposed in the SALC Children's Bill, and whether the NPF would adequately address the problem of lack of co-ordination between government departments, levels of government and civil society.

Parliament called each affected government department to give their view on co-ordination and on their respective duties in terms of the Bill. It was clear from the different department's presentations that co-ordination was lacking and that the different departments did not have a common vision and plan for the way forward. This policy vacuum left Parliament in a rather difficult position and tensions were running high as everyone tried to grapple with the complex political and technical issues of co-operative governance and inter-sectoral co-ordination.

The tension subsided considerably when Dr Maria Mabetoa, the chairperson of the Executive Steering Committee, and Chief Director of Children and Families in the Department of Social Development, made a presentation on the Bill and the NPF in particular, that showed that the Steering Committee was starting to come to a point of consensus. From her presentation it was clear that the Department of Social Development and most of the affected departments recognise the need for better co-ordination and are mostly in favour of the re-insertion of the NPF, albeit in a different form in order to ensure that it complies with government's existing co-ordination mechanisms and co-operative governance policies.

Dr Mabetoa proposed that the recently completed *Draft National Policy Framework and Strategic Plan for the Prevention and Management of Child Abuse, Neglect and Exploitation* could be used as a basis for the NPF. This draft policy was drafted by an inter-sectoral team including members of the Executive Steering Committee and the Children's Bill Working Group, over a period of a few years. However the draft policy is focussed mainly on the formal child protection system. In recognition of this limitation, Dr Mabetoa said that the draft policy would need to be broadened to extend its reach beyond the formal child protection system to include provisioning for all children in especially difficult circumstances, and provisioning for primary prevention and early intervention. The sub-sector policies such as the draft ECD Policy and Draft Child Labour White Paper would continue to stand alone but would fall under the co-ordinating umbrella of the NPF.

However, there is still much information and discussion needed before the Executive Steering Committee and Parliament can start making decisions. While technically the decision making rests with Parliament now that the Bill has been tabled, it is important that the Executive Steering Committee supports Parliament in its law making function by presenting Parliament with clear policy positions and the detailed information that Parliament needs to make well informed decisions. On the other side of the coin, in order to enable the Executive Steering Committee to come to a consensus that works for everyone, the departmental officials sitting on the Steering Committee need to

be adequately heard and supported by their Director Generals and Ministers. Director Generals and Ministers need to make the Children's Bill a priority issue on their agendas over the next 6 months in order to enable Parliament to move forward with the process.

What lies ahead?

The MPs are now on a constituency break and they will be back in Parliament on about the 18th of October. We will then find out how the process will be moving forward. However, as matters stand now, the section 75 Bill will definitely not be passed by the end of 2004. Over the next four months remaining in the year, we will therefore need to dedicate most of our time to contributing to the s. 75 Bill debates and law making process. With regards to the section 76 Bill, it would be a good idea to start our consultation processes within our own sub-sectors in order to be ready in mid 2005, which is the earliest that we can expect the s.76 Bill to be tabled in Parliament.

We will keep you updated on a monthly basis. Please contact Elizabeth Myburgh on 021 – 689 5404 or emyburgh@rmh.uct.ac.za if you need more detailed information. Elizabeth will refer you to the relevant person in the Working Group who can help you with your query.

Kind regards

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On behalf of the **Children's Bill Working Group**