TAPIWA`S STORY

Working with children in difficult circumstances sometimes requires one to go the extra mile considering the dynamic nature of some issues brought to your attention. Tapiwa Shumba* is a healthy, nice looking and intelligent 16 year old boy in Form 4 at a school in Harare. At first sight one would not even think that he is in the facing a predicament that eats him away by each passing day.

His parents, divorced when he was a few weeks old and his mother migrated to Mozambique, her country of origin where she unfortunately passed away. As if that was not enough, Mr. Shumba later died of Aids leaving Tapiwa orphaned at a very tender age. All this happened before Tapiwa had obtained a birth certificate. Tapiwa is now staying with well wishers in Harare and these people are assisting him by paying for his school fees among other issues. He has since lost track of his relatives since he last saw many of them the day his father was buried.

Tapiwa suffered a lot of emotional stress and psychosocial problems due to the fact he did not have a birth certificate. This was worsened by his peers who constantly told him that he did not have an identity and he was as good as non existent. His peers called him all sorts of names like orphan, destitute and it not only pained him but made him lose his self esteem too. Despite weeping quite often this sometimes impacted negatively on his school performance. When he heard people talking about identity documents, his heart bled and he felt embarrassed, guilty and discriminated against. Tapiwa was good in sport but he always suffered the agony of failing to participate at several events since he did not have a document specifying his name and age.

Obtaining a birth certificate looked liked a pipe dream and Tapiwa could not sleep thinking of the possibility of failing to sit for his final examinations signalling doom for his erstwhile promising life. Tapiwa would always dream of obtaining a birth certificate and something at the back of his mind kept telling him that one day things would be alright.

One day as he listened to the Radio Zimbabwe on the programme “Zivai Mutemo”, he saw a glimmer of light at the end of a supposedly very long tunnel. This was when he heard one of JCT’s legal officers in an interview with one radio station and fortunately the topic was on birth registration. The boy immediately wrote a letter to JCT explaining his predicament and the organization was swift in response calling him to the offices for discussions.
Tapiwa cursed himself when he heard the requirements for a person in his situation to obtain a birth certificate, in particular the requirement for him to bring witnesses. Efforts were made to try and locate some of his relatives in Bindura but in vain.

JCT then wrote a letter to the Registrar’s office introducing Tapiwa and explaining his situation. This led to him obtaining a birth certificates and a national I.D card at long last. He was so ecstatic and he felt that a new chapter had begun in his life and that he was having a new beginning.

**Issues arising**

**Tapiwa’s story is just a tip of a huge iceberg in terms of the problems and despondency that thousands of children in the country face as a result of failing to obtain a birth certificate. Several people underestimate the emotional and psychosocial stress that a child undergoes if they do not have a birth certificate. Personal identity is very important for children and lack of it can cause a lot of problems to their growth and development. There are several children in the same situation as Tapiwa and they are not aware of other avenues in place to help them solve their dilemma.**

Tapiwa knew non of his relatives because he had last seen them when he was 5 years old but the officers at the Registrar General’s office could not understand it. Through JCT’s intervention one of the officers used her discretion to give Tapiwa the document but this should be provided for by the law.

From the ground research on birth registration carried out by JCT it was noted that there is a huge number of children who are in the same predicament as Tapiwa yet they do not know that they can get help from organisations that help children in difficult circumstances. Due to the intricacies posed by the Aids pandemic, some children cannot trace their relatives to stand as witnesses let alone have information for example on their place of birth for purposes of obtaining a birth record. The same problem befalls children of alien parents who themselves are unregistered. The problem is also exacerbated by the increasing rate of migration to neighbouring countries as people flee the rising levels of poverty, shortage of basic commodities, astronomical levels of inflation and poor employment prospects in Zimbabwe.
TAWANDA’S STORY

The current inheritance law framework has been observed to present some problems to children. In June 2008, JCT hosted a consultative workshop on inheritance where various stakeholders were invited. The topic under discussion concerned the problems faced by step children due to the current inheritance law framework. A typical case study of such problems was met by one of JCT’s officers in the process of providing legal services. Among the problems is the fact that people are not aware of the law to the extent that each person interprets it to their benefit and in the absence of the law some children could be disinherited.

Mr. and Mrs. Shumba got married under the unregistered customary law union ten years ago and they were blessed with two children, Tawanda and Simba. The eldest is Tawanda and he is an intelligent and jovial 17 year old boy who always aspired to be a pilot when he was still young. He is bright at school such that he envisages a fruitful life ahead and hopes to take care of his brother.

Tawanda’s life took a sharp twist in 2001 when his father died and this was a blow to his aspirations and hope for the future. At the time of Mr. Shumba’s death Tawanda was ten years old while Simba was six. His mother, Alice was not employed and it was apparent that it would not be easy for her to send him to school and provide all the other requirements like food and health care. During the days of Mr. Shumba’s death the Zimbabwean economy was experiencing unprecedented decline and the ordinary Zimbabweans were finding it extremely difficult to make ends meet. Alice then acquired the after house they were living in after Mr. Shumba’s death and she continued to stay there with Tawanda and his younger brother Simba.

Life was increasingly becoming more unbearable until Alice met one Mr. Mike Dube, who worked at a local bank and the two got married in 2003 under the Marriages Act (5:11). Alice then changed her name from Alice Shumba to Alice Dube and they began a new chapter in their lives. Mr. Dube introduced his son from his previous marriage, Ben who was 20 years old at that time and they began living together as one family at Alice’s house since Mr. Dube had no house of his own. Mr Dube was really a good figure head to Tawanda and Simba such that he sent them to school, bought them clothes and the boys appreciated such that they called him their father. They respected him so much and in Ben they saw a big brother to advice them and protect them from bullying by other children as is the norm with children growing up in high density areas of Harare.
The hope that Tawanda had in his life was to be short lived when his step father Mr. Dube died late 2003. Alice’s short-lived marriage with Mr. Dube did not produce any child and Alice began to stay with his children including Ben although Ben was making arrangements of staying with his maternal relatives.

Tawanda felt that his life was always meant to be full of misfortunes and at sixteen, he sometimes contemplated consulting a n’anga to have “the wicked evil spirits” around his life cleansed. Whilst he was recovering from the loss of his stepfather the final blow to his already shattered life descended upon him. His mother, the last hope and source of inspiration, died. Alice succumbed to TB at Parirenyatwa Hospital on the 5th of January 2004. Tawanda narrated that his mother died of Aids leaving him and his brother orphaned and with no one to look after them.

Events that started to unfold after his mother’s death made Tawanda to believe that he was cursed somehow since life could just not go according to his wishes and he began to compare his life to that of his friends and neighbours. Ben was ill advised by his maternal relatives that he was the rightful person to inherit the house on the basis that he shared the same surname with Alice since the house had now been registered under the name Alice Dube. He argued that he was supposed to have sole and exclusive ownership of the house to the total exclusion of Tawanda and Simba. Determined not to let his rights violated, Tawanda quickly visited JCT to seek legal representation in the matter as he believed that losing the house was the end of his life.

**Issues arising**

_In this matter it can be observed that it is important for children to know what the law says in the protection of their rights. Of particular note in this case is that there is need for the law to move in line with changing times and appreciate the social realities resulting from the Aids pandemic. Ben got information from his relatives that he could benefit from the Alice’s estate on the basis that they share the same surname. If Alice had died first then Mr. Dube would have inherited the house as the surviving spouse. This would mean that after his death, Ben would have successfully acquired the house._

This case is an example of a multitude of cases that JCT and other organisations face due to the current inheritance law framework. There are several children who are being disinherited from their parents’ estates for the total benefit of people they are not related to, in most cases these beneficiaries would not have an idea of how the property was acquired. JCT and LRF are taking the necessary steps to ensure that Tawanda and Simba get ownership of their parents’ house.

In the consultative workshop on inheritance hosted by JCT, the participants indicated the need for popularising the laws and most significantly the need for legal reforms to ensure the protection of step children in cases that one of their parents remarries.
NGONI’S STORY

Ngoni* is a 16 year old boy who was unable to continue with his secondary education because of financial constraints. He stays with his elderly maternal grandmother, Gogo, at one of the high density suburbs of Harare. Due to lack of economic growth, high rate of inflation and poor job opportunities in the formal market in Zimbabwe, Ngoni’s mother Nyarai who was a teacher, has resorted to the informal cross border trading to be able to take care of her children through buying wares for resell in Kenya on a monthly basis. Ngoni’s father passed away in 2003. Ngoni last saw his paternal relatives the day his father was buried and all along he has been staying with Gogo.

Gogo also looks after four other orphaned children, Tariro, Tendai, Sipho and Temba and cannot take on heavy tasks for income generation. The mothers of these orphans are still surviving and therefore are primarily responsible for the upkeep of their children. The mothers of these children have moved in with their boyfriends and have left the burden of child care with Gogo.

After knowing about the work of JCT an anonymous caller alerted the organization about an alleged physical abuse of a minor child and the child turned out to be Ngoni. Ngoni’s Gogo is faced with no choice but to ensure that once she gets food supplies, they have to last for as long as possible. She has therefore designed a coping mechanism and resorted to a method of food rationing where the children eat one meal every three days.

It is during the two days of involuntary fasting that Ngoni decided to look for more extra food in the house as the hunger was too much for him to fear. Ngoni decided to take some of his grandmother’s green mealies and cooked them. When the Gogo discovered that some of her mealies were missing she quizzed the children and the others then indicated that Ngoni was responsible.

Since she is old and unable to discipline the children on her own, Gogo then took Ngoni to the nearest Police station for a thorough beating as a disciplinary measure. When JCT heard about the case we visited Ngoni’s home. He was visibly swollen and had suffered serious head injuries from the physical abuse.

Issues arising
It is then that we discovered that the case presented many dilemmas. Ngoni’s grandmother is very old and to have her arrested for child abuse would be tantamount to sentencing her to death. She is also responsible for the other orphaned children in her care and this could result in the children having no caregiver.

A pertinent realization in this matter is that the police have no right to discipline children by canning. Even after being begged by Gogo to do so it is outside the police officers’ parameters to beat up the child. It has regrettably become the norm in Zimbabwe that police officers assault members of the public, including children at will since they know that they will get away with it.

The police officers are actually liable for assaulting the child and causing injuries as they are not supposed to do this but to investigate cases and bring them to court.

Nyarai and her sisters have the primary responsibility for the upkeep of their children and they are legally liable to maintain the said children according to their means. It is due to the fact that they have neglected their children that the children are being denied their right to food and being physically abused and have failed to access the right to education.

This is a clear case of how the economic context directly affects children’s access to their rights. The mothers are finding it difficult to make ends meet because of the hyperinflationary environment. Although Ngoni’s mother sells some wares, she normally gives them to her customers on credit and by the time they pay her, the money would have lost value due to the hyper-inflationary environment and would not be enough to ensure that Ngoni accesses his rights to food, education and a healthy environment.

The mothers of the orphaned children will find it hard that they can be sued by their own mother for maintenance. Culturally, grandmothers are considered the safest haven for children and the daughters may take it that Ngoni’s grandmother has refused or neglected to look after her own blood, being her grand children and as a result they may sever all ties with her. Clearly the old lady is caught between a rock and a hard place. This case presented a dilemma in terms of protecting children and the socioeconomic realities and cultural considerations.