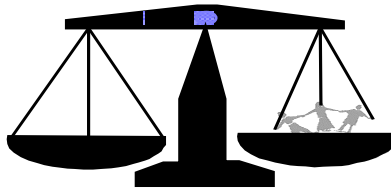


JUSTICE FOR CHILDREN TRUST



CHILDREN'S SUMMIT ON THE CONSTITUTION: A CALL FOR CHILDREN'S RIGHTS IN THE CONSTITUTION

REPORT



VENUE: CROWNE PLAZA

DATE: 4 AUGUST 2009

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1.0. INTRODUCTION

Justice for Children Trust (JCT) organized a Children's Summit on the 4th of August 2009, which was attended by three hundred and twenty two (322) high school students from Harare, Chinhoyi, Chegutu and Bindura, teachers, officials from the Ministry of Education, the two co-chairpersons of the Parliamentary Select Committee, Honourables Mangwana and Mwonzora, the Deputy Minister of Education, the Deputy Minister of Justice and Legal Affairs and JCT stakeholders and partners. JCT had realised that children did not have adequate platforms to present their concerns which they would want to be considered in the constitution making process. The Children's Summit was therefore held to create a forum for children to present their views to the co-chairpersons of the Select Committee and stakeholders. This report outlines the summit objectives, the speeches that were presented, the children's views, their questions to the parliamentary select committee on the constitution and proposals for the constitution and the constitution making process. The workshop facilitators were Mr Mazula, the Deputy Director in the Ministry of Education Sports & Culture and Princess Alice Sibanda, a former JCT club member.

2.0. OBJECTIVES OF THE CHILDREN'S SUMMIT;

- To build the capacity of children on what a constitution is, why their rights should be in the constitution and the constitutional making process.
- To give children an opportunity to articulate their concerns and views in respect of the constitutional making process.
- To come up with a list of children's rights that should be included in the constitution.
- To lobby policy makers to include and prioritize children's rights and responsibilities in the constitution.

3.0. SUMMIT SPEECHES AND REMARKS

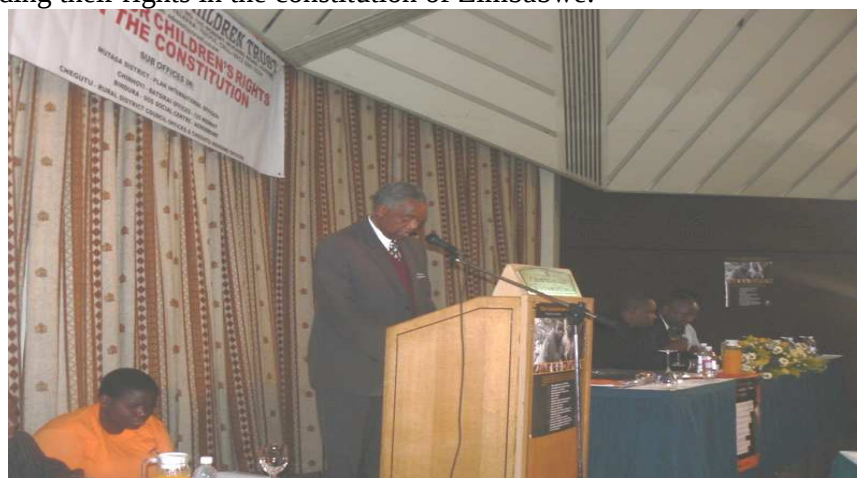
Welcome remarks

Mr Mazula welcomed all the participants and children from the three invited districts. After the singing of the national anthem, Mrs. Mudenha, from the Ministry of Education, opened the workshop with a word of prayer. Mr. Mazula introduced the officials present. These were Honourable Mangwana, Honourable Mwonzora, Honourable Deputy Minister Jessie Majome, Honourable Deputy Minister Dokora,

Dr. Guni (JCT Board Chairperson), Mr. Dhobha (Provincial Education Director), Mr. Mudiwa (Ministry of Education Bindura), Mr. Chirobho, Mr. Masocha (CACLAZ), Mrs. Mudenha (Ministry of Education), Mrs. Kudya (LRF), teachers, students and JCT staff. Mr. Mazula introduced the Board Chairperson who proceeded to give an opening speech.

Opening Speech by JCT Board Chairperson (Dr. V. G. Guni)

Dr. Guni remarked that the Children's Summit was organised in order to give children an opportunity to understand the constitution making process and to present their views on issues they would want considered. He encouraged children to demand that their rights be enshrined in the constitution. Dr. Guni also emphasized on the need for children to use the provided opportunity wisely for their benefit and to the future children's benefit. The Board Chairperson went on to highlight that this was a historical moment as it was a first event to call for children's participation in demanding their rights in the constitution of Zimbabwe.



Dr. V. G. Guni (JCT Board Chairperson), giving the opening speech

The Board Chairperson also encouraged children to learn and understand their rights and responsibilities so that they become adults who understand and practice their obligations to make the world a better place for children. He also indicated that the process is going to benefit both adults and children and this can only be made possible if everyone respects, protects and promotes children's rights.

Speech by the Honourable Deputy Minister Dokora

The Deputy Minister of Education Sport & Culture, Honourable Lazarus Dokora, reiterated Dr. Guni's point that the Children's Summit was the first event to give children a platform to be heard. He made it clear that this forum was for children to speak on what they wanted in the constitution. The Deputy Minister highlighted that

children's rights are not in the current constitution. He also pointed out that this failure to enshrine children's rights in the constitution has resulted in inconsistencies in the enactment of children's laws. The fact that children's rights are bundled together with adult rights in the constitution was noted to cause inadequate protection of children's rights. The need for socio-economic rights that cover children's education, health, clean environment, water, food and shelter were highlighted as important in protecting children's rights. The Honourable Deputy Minister also indicated the need for the state to constitutionally protect orphans and vulnerable children (OVCs) and children with disabilities as they are the weaker members of the society. The state was recommended to ensure that basic education is free and compulsory. It was further highlighted that it is the state's obligation to provide learning and teaching resources. Honourable Dokora went on to state that, ***"parents would be sued for failing to send their children to school as it would be free of charge and every child's right"***.

The Honourable Deputy Minister highlighted that children with disabilities required special and particular attention and that most institutions which cater for them had outdated resources. He also pointed out that it was the duty of the state to make sure that there is a provision in the Bill of Rights which protects children with disabilities. According to him, the state was obliged to provide resources which ensure the protection of vulnerable children. The issue of the right to life, a name and identity was noted in the speech to be of great concern as many children do not have birth certificates. It has been noted with great concern that the most parents of children without birth certificates were aliens who do not have birth certificates and identity documents themselves, greatly prejudicing their children. Dr Dokora emphasized the need for parents and the state to recognize the right of a child to security, development, protection and participation in order to show that they are a dedicated and caring state and society.

Remarks by Honourable Deputy Minister, Jessie Majome

The Deputy Minister of Justice and Legal Affairs, Honourable Majome, stated that she was proud and humbled to be at the historical event where children are accorded an opportunity to deliberate on their rights. As a member of the Select Committee, she expressed an appreciation of JCT's efforts to have children participate on issues that concern them. She went on to encourage the children present to go back to their communities and sensitize other children, including adults, on the constitution and children's rights.



Honourable Deputy Minister Lazarus Dokora- (left) and Honourable Deputy Minister of Justice and Legal Affairs Jessie Majome-(right)

Speech by JCT National Coordinator, Mrs Petronella Nyamapfene

Justice for Children Trust National Coordinator, Mrs Petronella Nyamapfene acknowledged the presence of all esteemed officials and everyone in attendance. In her speech, she brought to light the reason why children require constitutional protection, highlighting some of the rights of children that should be included in the constitution. Mrs Nyamapfene also highlighted that the current constitution has bundled children's rights together with adults' rights and this has resulted in some children's rights being infringed upon without much protection from the law. Children are the most vulnerable members of the society as they are dependant on their parents, families, communities and the state; their welfare and care should be the primary consideration of the state. The Coordinator went on to draw attention to the fact that Zimbabwe had ratified the United Nations Convention on the Rights of the Child (CRC), and by constitutionalising children's rights it will be honouring its international obligations. From a welfare perspective, she pointed out that the state should honour its obligation in ensuring that children receive the necessary care that enables them to reach their potential.

Mrs. Nyamapfene stressed that children's rights are critical as they have been victims of the socio-economic and political environment. She went on to explain that children have a right to life and the needs that are most basic to existence; the right to education, access to information, freedom of thought, conscience and religion. Children thus required the necessary protection that safeguards them from all forms of abuse. As their abilities develop, children should be allowed to participate in activities that prepare them for responsible adulthood. Mrs. Nyamapfene went on to highlight

that the constitution should guarantee protection so that children's rights are regarded as primary rather than secondary by the courts. She pointed out that certain key values should be considered when drafting the constitution, viz, there should be no discrimination of children on the basis of their race, gender and age as they are all entitled to the same rights as adults, the best interest of the child principle and child participation. This inclusion of children's rights in the constitution would force policy makers and resource allocators to take children into account in making decisions e.g. National Action Plan (NAP) and the fact that children's voices should be heard in matters that affect them and issues could be raised and put in the political agenda for the best interests of the child. She lamented the fact that adults have always been making decisions without children's views and participation and the children are the ones who always suffered the consequences.

The National Coordinator reminded children and all those present that Zimbabwe had ratified the Convention on the Rights of the Child (CRC) and the African Charter on the Rights and Welfare of the Child (ACRWC), which oblige it to take legislative measures to ensure that children enjoy their rights. The Constitution should therefore incorporate the rights contained in these instruments. The power to change the constitution should not only vest in policy makers and adults, but children should also take part in constitutional reform. She called on the children of Zimbabwe not to be left out in defining their right to survival, development, protection and participation as the country is undergoing this historical moment of drafting a new constitution for children who are the future generation.

Speech by Honourable Paul Mangwana

Honourable Mangwana explained how the current constitution came about and reemphasized the fact that children's rights are not included in the constitution. He highlighted that the constitution making process will allow children to speak out their views in order for them to be heard. He advised that he will try by all means to ensure that children's rights are recognised not as national objectives but as justiciable rights enshrined in the Bill of Rights. In his speech, Honourable Mangwana advised that members of the Select Committee would be moving around the country to sensitize communities on the constitution. The need for children to speak out their concerns was highlighted as important as it is their right to be heard in matters that affect them. He also acknowledged JCT's work and encouraged the organization to initiate such events in every constituency in Zimbabwe so that more issues from children are listed and forwarded to the attention of the committees.



Honourable P. Mangwana addressing the participants

Speech by Honourable Mwonzora

Honourable Mwonzora said that a civilized country is governed by the supreme law which is the constitution. The constitution sets a basis of any other law in a country and it should incorporate issues of basic freedoms e.g. freedom of expression and speech, fair elections, parental care amongst other issues. He also highlighted that children's issues which include the right to life, identity, education and employment are very critical and children needed to enjoy them. Children were also urged to know and understand their responsibilities and to be able to speak out on their rights and issues that affect them.



Honourable D. Mwonzora highlighting the need to constitutionalize children's rights.

4.0. PROPOSALS BY CHILDREN ON WHAT THEY WOULD WANT CONSIDERED IN THE CONSTITUTION.

Children were given the platform to air their views and suggestions on what should be key priorities in the constitution.



Children articulating their views on issues that affect them

General proposals

- The starting point should be a Child Friendly National Budget in order to alleviate child poverty.
- There is need for a clause that allows monitoring of the development of children and environment by midwives and social workers from birth to five years.

- The state should set aside a budget for children that caters for incurable diseases e.g HIV/AIDS, cancer and other rare medical conditions that need special attention.
- The state should provide basic nutritious food to children living with HIV and AIDS.
- The state should provide free access to Anti-retroviral medication e.g. prevention treatment and care tool kits to all children infected by HIV and AIDS.
- Child participation on issues of children's rights regardless of gender and race is important.
- The state should provide free health facilities e.g. hospitals and clinics that have adequate resources and that constantly provide quality services to all children.
- The state should provide shelter that is in an environment conducive for the development of all children.
- The state should provide free birth registration services to all children. Birth registration facilities should be available at hospitals and clinics.
- Birth certificates should be provided to all children regardless of their parent's citizenship status (aliens), gender and race, as long as they are Zimbabweans.
- Every child should have a passport to avoid being left out of school activities.
- Children should be protected from child trafficking, exploitation, kidnapping and child labour.
- The issuing of Presidential Scholarships should be transparent in order to allow every child eligible to benefit.
- The state should build schools and provide adequate learning and teaching resources.
- The constitution must guard against corruption in allocation of resources and funds to children in education and health sectors.
- Every child must have the right to free and compulsory education.
- The school curriculum should cater for all native languages spoken in Zimbabwe as well as sign language so as to accommodate every child.



Children participating in the 'air your view' platform.

- Children should be protected from teachers who have sexual relationships with students.
- The state should ensure that children's examinations are marked and returned on time.
- The Ministry of Education should ensure that ZIMSEC is recognised not only in Zimbabwe but internationally.
- Schools that promote talent should be built so as to cater for those who are not academically gifted so that every child realises his/her talent.
- Child adoption must only be done in the best interest of the child.

- Family units/set ups should be developed in all orphanages to eradicate discrimination and isolation.
- Children should be protected from political violence and forced participation in politics.
- The state should give child headed households allowances and all the basic needs the orphans require.
- The court system should be harmonised to cater for all children and should be child friendly.
- The constitution should have a provision on the criteria used to select Child Parliamentarians and the Child President.
- The Ministry of Education should not be associated with politics.
- Corporal punishment should be abolished at all as it is difficult to gauge moderation when teachers beat children in schools.



A child from Emerald Hill giving her views on how children with disability should be treated.

- BEAM should be under the Ministry of Labour and Social Welfare instead of the Ministry of Education, in order to cater for all children in difficult circumstances.
- The constitution should have a clause that protects children from being taught by untrained and unqualified teachers
- Children's legal age of majority should be increased to 22 years as many children still attend school at 22 years.

The Rights of the Girl Child

- The constitution should have a clause that protects the girl child against cultural practices such as appeasement of spirits, pledging, early childhood marriages, and sexual organs' mutilation amongst other discriminatory cultural and religious actions.
- The marriage laws need to be harmonised with international law. No child is to be married before the age of 18 years. The child should be at school.
- There should be non discrimination of the girl child and equal opportunity on issues like education.
- The constitution should incorporate the girl child's needs in the national budget.
- The constitution should set a provision that protects children from verbal abuse especially the girl child on the streets.
- The constitution should address issues of abortion on the girl child.
- The right to education should be enshrined in the constitution and resources should be made available and free so that girls do not resort to prostitution.
- The state should subsidise sanitary wear for the under privileged including the disabled and girls on the streets and in prisons.





When it comes to needs of the girl child, both boys and girls are concerned.

- Girls who get pregnant must be given an opportunity to proceed with their education.
- Protection of children from sexual abuse by parents and perpetrators should not be overlooked.
- Stiff penalties for parents who force children into marriages before the age of majority are called for.
- The constitution should provide a clause that punishes parents who keep silent or are bribed when their children would have been abused.
- School rules and regulations should be applied equally on both girls and boys e.g. hair cuts and opportunities.
- Girls should be allowed to participate in decision making in families.
- Girls should also participate in sports like soccer.
- The state should ensure a clean environment as a right to all children.
- Children should be protected from any form of discrimination.
- Parents who do not register their children's birth between the stipulated times should be prosecuted.

The Rights of Children Living with Disability

The policy and law makers were urged to recognize disabled children's concerns and rights and take them as priority; with the state considering the particular disabilities children have. The issues below highlight children's concerns that the state should be responsive to;



Evelyn from Emerald Hill School for the Deaf and Dumb speaks out in sign language on the need to accommodate children with disability in the constitution.

- A part of the national budget should be specifically allocated to children living with disabilities.
- The constitution should provide a clause that allows the law to punish parents who discriminate against their disabled children.
- A constitution that provides for all school learning resources that caters for all children including the disabled children becomes representative of all classes of children.
- Hospitals should register all disabled children from birth and follow up to monitor their development.



- The state is obliged to upgrade already existing schools to accommodate the disabled children.
- Tertiary institutions should accommodate disabled people especially in universities.
- Schools should be provided with interpreters who understand the deaf children in sign language. Every child in school should be taught sign language, Ndebele, Shona and other languages like Tonga.
- Child Parliament should include all children including children with disabilities.
- Disabled children who are also mentally challenged should be enrolled at schools that can best cater for them in terms of resources and personnel.
- Schools should employ experts who can deal with disabled children at all levels.
- The state should provide clothing and food for the disabled children in institutions and those living in difficult circumstances.

The Rights of Children in Prisons

- No child should be housed in the same prisons with adult prisoners.
- The state should provide free, adequate and nutritious food and clothing for children in prison.
- The state should provide children in prison with mattresses and blankets.
- Prisons that house children should be provided with basic cooking and eating utensils, disinfectants and detergents, protective clothing and all necessary material needed for the upkeep of these facilities.
- The state should provide sanitary wear for girls.
- The state should provide prisons with qualified doctors, nurses, adequate essential drugs and doctors who deal specifically with mentally challenged prisoners.
- Free Anti-retroviral drugs should be made available to prisoners who are living with HIV and AIDS.
- Vehicles and a constant supply of fuel should be provided to all prisons for purposes of taking child prisoners to and from courts and hospitals.
- The state should provide adequate learning and teaching resources in all prisons.
- A budget should be set aside to cater for all children born to mothers who are incarcerated.
- The state should provide farming resources for the prison farms and resources for self development projects.

- Supplementary food should be provided for children whose mothers are living with HIV and AIDS.
- The state should constantly monitor the state of environment for children and their development in prisons.
- A clean and safe environment should be created for the development of all children.
- The state should renovate and upgrade all prisons.
- Clean and safe drinking water should be made available at all times.
- The state should employ qualified and dedicated prison officers and monitor their work constantly.
- There should be a clear difference between abuse and punishment for children in prison. Adequate provisions that address issues of protecting children from abuse by prison officers are necessary.

The Rights of Children on the Streets

- Education should be provided for these vulnerable children.
- Children on the streets should have access to free shelter.
- Social security measures need to be put in place and should cater for children on the street.
- Free medication should be provided in every hospital and specifically allocated for children on the streets in every hospital and clinic.
- All children should have free access to Anti-Retroviral medication e.g. prevention treatment and care tool kits to all children infected with HIV and AIDS.
- Children on the streets also need information on personal growth, reproductive health education and STI and HIV/AIDS prevention.
- The state should provide sanitary wear for the girl child on the street.
- Stiffer penalties should be put in place against perpetrators of all forms of abuse of street children.
- The state should provide birth certificates even without parent's information for every child on the streets.
- Every child deserves to grow up in a family set up. There should be provision for family reunification or placement in adequate and appropriate set up.
- The views of children on the street should be taken into account in the constitutional making process.
- The state should have a budget specifically meant for the support and development for children on the streets.

Children's Responsibilities

- The constitution should incorporate children's responsibilities as well.
- Children have the responsibility to respect school property and teachers.
- Bullying in schools should not be tolerated.
- Children should also respect all elders and authorities.
- Children are obliged to respect the laws of the country.
- Children should respect each other in school set ups and at home.
- Reporting all abuses is the responsibility of every child.
- Children should not discriminate against each other.
- Children are expected to attend school and put effort in their studies.
- Children need to advise each other not to engage in alcohol, sex and drug abuse.

5.0. QUESTION AND ANSWER FORUM

The Honourable Ministers present gave the children an opportunity to ask questions.

Question 1

- *What is the difference between putting children's rights as national objectives and having them entrenched in the constitution as rights so as to seek recourse at the courts?*

Response

- Honourable Mwonzora explained that national objectives are expectations and the Bill of Rights contains the rights that are justiciable. One can sue if their rights have been violated.

Question 2

- *Is it possible for the court to pass lengthy sentences on perpetrators of abuse e.g. life sentence for rape.*

Response

- Honourable Mwonzora explained that although sentences are passed on an accused depending on the circumstances of the case, the current law had provision for such deterrent sentences.

Question 3

- *Why is it that all other languages even those that are regarded as minor languages are recognised, but sign language is not made compulsory so that everyone communicates well even those that are deaf and dumb?*

Response

- Honourable Mangwana highlighted that there is need to enhance the development of languages. There is a thematic committee on languages; hence it was most likely that there would be a provision in the constitution for recognition of all languages.

6.0. RECOMMENDATIONS

- The state needs to take concrete steps to unbundle and incorporate children's rights in the constitution so that their rights are recognized and responded to as primary rather than secondary needs.
- Children should be issued with a simplified version of the constitution so that they have an insight of what constitutes a constitution.
- There is need for the Select Committee, stakeholders, parents and guardians to allow and increase child participation in the constitution making process.
- The select committee should strengthen their efforts to reach out to every child in every school, in every constituency, in order to collect their views and responses that should be included in the constitution.
- There is need for JCT as an organisation to sensitise and empower its stakeholders working with guardians and children on children and the constitution.
- JCT should consider having suggestion boxes in its areas of operation wherein children will be able to submit their concerns and other child related issues for the constitutional making process and for other issues for intervention.
- All stakeholders working with children should ensure that they integrate children's rights and responsibilities in their activities so that children are enlightened on both aspects.
- The state should provide sustainable remuneration for civil servants e.g teachers and nurses /doctors to avoid collapse of the education and health delivery system.
- A separation of the Ministry of Child Welfare from that of Health is imperative so that children have a budget specifically catering for their needs as they are also different.
- The State should consider making education from primary to high schools free and compulsory.
- There is also a need to sensitise church leaders, parents, guardians and traditional leaders on children's rights and their importance so as to create a way of reaching out to them. Some religions violate children's rights and hence by sensitising their leaders, children's rights violations are brought to light and their children would be allowed to participate and be involved in issues that relate to them.

7.0. CONCLUSION

The Children's Summit was an eye opener to the issues that children, including those living with disabilities, want to be included in the constitution making process. The initiative was urged to be replicated in all provinces in order to have a full and true representative of children's views on the constitution making process.

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