

The South African National Child Rights Coalition (SANCR)



Submission to the United Nations Committee on the Rights of the Child to inform the List of Issues Prior to Reporting (LOIPR)

Submission by the children of South Africa on matters to be included in the List of Issues for the UN Child Rights Committee

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Introduction

A child consultation workshop took place on 31 October 2020 involving 12 child ambassadors from each of the provinces who serve as representatives for their province in the Children's Parliament. The following is a record of their contribution to the LOI with regards core issues that continue to impact them and their peers.

The issue

The children acknowledge that South Africa has one of the most comprehensively structured constitutions in the world and seeing as the CRC was the first international treaty that the South African democratic government ratified¹, with these and the subsequent development of legislative frameworks that are, for the most part, inclusive of children and children's issues, the government gave the public the impression that it would be dedicated to prioritising and protecting the rights of children in the country.

However, since then, government's implementation of existing legislative frameworks, particularly the UNCRC, has not been enough to meet the needs of the children of South Africa. There is a deep lack of transparency, and therefore accountability, and monitoring of resources in all spheres of government. Critical systems and mechanisms that should allow for the realisation of children's rights either lack cohesive coordination or are yet to be put into place, mainly due to a lack of inter-sectoral and interdepartmental coordination and collaboration.

Many individuals, and in particular children, do not know their rights, or of the officials that are meant to uphold the protection of their rights, due to government neglecting its mandated responsibility to ensure that all are aware of and understand their rights and the legislation that govern this nation. Practical and coordinated implementation remains at the heart of the child rights issues that child continue to face today, and it is around this that we frame the submission for the issues raised by the child ambassadors consulted.

General measures of implementation

The children consulted identified the following challenges:

GMI 3 - Development of comprehensive strategies or agendas for children

Despite the development of the National Plan of Action for Children and other strategic plans geared towards putting legislation into action, the outcomes of such strategic frameworks are yet to be seen. Strategies to implement solutions to issues children face are either not comprehensive enough or are simply not present. Substance abuse is one of such issue that children in vulnerable areas are frequently exposed to. There are no strategies to combat substance abuse and quality services to combat this problem are inaccessible, i.e. quality rehabilitation centres are expensive and scarce in South Africa.

¹ Please see : https://www.parliament.gov.za/storage/app/media/Pages/2019/november/19-11-2019_30_Year_Commemoration_of_the_United_Nations_Convention_on_the_Rights_of_the_Child/docs/FAST_FACTS_UNCRC_draft_2_19_November_2019final.pdf

GMI 4 - Development of permanent governmental coordination mechanisms

The children acknowledge the development of largely inclusive and comprehensive legislation that exists in the country, however, the coordination of systems to implement them are insufficient.

GMI 5 - Systematic monitoring – data collection and evaluation

This measure of implementation are largely neglected with regard to data collection on children's issues. This issue is further explored under the child protection sub-heading below.

GMI 6 - Allocation of resources for children (budget analysis, etc.)

Allocation of resources to address children's issues are simply not prioritised and the needs of children are treated as an afterthought in government budgeting. One such example is that government denied children their right to nutrition during the COVID-19 lockdown due to a lack of prioritisation of this dire need and systems to continue to roll out the National School Nutrition Programme. Not enough resources are allocated to civil society to assist in the continuation of provision of nutrition to children.

GMI 7 - Education, training and awareness-raising on the CRC

The government has neglected to educate the public on the rights of children and the CRC in particular. Vulnerable households do not have access to information on the CRC. Without such knowledge, the public is unable to hold the government accountable for the implementation of the CRC and other legislation, hence transparency in government is a point of concern that needs addressing.

GMI 8 – Collaboration in the process of implementation with civil society including children

During the disruption to the National School Nutrition Programme during the COVID-19 lockdown, government had the opportunity to collaborate with civil society to ensure continued roll out. This opportunity was not taken, however, which led to the infringement on the rights of thousands of children.

The children are of the opinion that in order for effective collaboration to take place, children must be consulted by government first before civil society, professionals, businesses and the media, in matters that affect them. Many professionals, businesses and the media only work with children when it is beneficial to them; to "tick the box" to meet Corporate Social Responsibility quota, for example. Hence, no real collaboration or consultations with children takes place.

Government is expected to put pressure on these entities to collaborate effectively with children and push forward the mandate ensuring their activities are carried in the best interests of children. However, government itself fails to fulfil this mandate.

Children's survival

The problem of stagnant or slow-paced implementation of the Convention and the country's legislation impacts greatly on children's survival. The lives of many children are placed at risk and their ability to live fulfilling lives is stifled due to government failure to systematically provide the shelter, health, nutrition and other basic social services that children need to thrive and survive. The gaps in provision of basic social services became particularly evident during the COVID crisis.

In particular, the collection and reporting of data on the mortality rates of children over the age of 5 years to 17 years of age by government is practically non-existent. Information on child-related the statistics

are heavily reliant on the work of CSOs and NGOs which, as established in the issues regarding GMI 6, are generally underfunded and are therefore unable to report on these issues as comprehensively as required. This further reflects the extent to which children's issues, and their right to survival, are given low priority.

The issue was identified as impacting on the following rights of children in terms of child survival:

- Right to life
- Right to nutrition
- Right to shelter/adequate living conditions
- Right to access to medical services

Child Protection

Violence against children is simply not prioritised and therefore implementation to protect children is greatly lacking. Cultural practices such as ukuthuwala persist today where children are kidnapped and forced into marriages, with little to no governmental intervention and a general societal silence on this problem. Safe havens to protect children from harm, especially from harmful situations in the home, are required to avoid the re-victimisation of vulnerable children; access to shelters exist for women much more than they do for children.

The children commend government for developing legislation that prohibits corporal punishment from being practiced in schools, however, there remains challenges in terms of implementation and the monitoring of this legislation. The child ambassadors shared personal stories of threatened and actual corporal punishment still occurring in schools. One ambassador admitted that she was almost expelled for approaching teachers demanding that they find an alternative solution to physically disciplining students and admitted that teachers in her school do not like her because she is a child advocate. Another ambassador informed the workshop of a school in her area that is well known for practicing severe corporal punishment and that there is a widely held belief in her own school that corporal punishment is the only way to help children learn. This further illustrates the argument that there is not enough roll out of much needed school interventions, such as Positive Discipline in Everyday Teaching (PDET) and efforts to implement legislation that prohibit this act.

When reporting on VAC, the media must take measures to protect the identity of the child victims. The ethics of the media houses in South Africa are not monitored and there is unsatisfactory regulation of the media. The government must sign and ratify protocol on regulating and monitoring all forms of media.

This issue impacts on the following rights of children, among others:

- Right to safety
- Right to be protected from exploitation
- Right to be protected from abuse
- Right to a safe environment
- Right to access to social services

Development in the Education sector

COVID has highlighted the inequalities within the education sector in the country. A clear and standard education system that caters to children from all walks of life is needed to be developed and implemented to ensure fairness in access to quality education. Schools are not prioritised in the allocation of governmental funds resulting in, among other issues, poor infrastructure, i.e. pit latrines, disable-friendly infrastructure and classroom structures, which has kept children from learning effectively and in some cases, placed their lives at risk. For resources that are allocated to schools, there is a lack of transparency and monitoring of the use of these resources.

The issue was identified as impacting on the following rights of children in terms of child development:

- Right to basic education
- Right to a safe environment
- Right to freedom from all forms of violence

Child Participation

The issue of child tokenism was identified to be a great hindrance to the implementation of government's responses to issues affecting children. In a discussion on IDPs and the involvement of the ambassadors as their respective provincial child representatives, the tokenism of child participation, for example on junior councils, was identified as an ambassador from the Western Cape, who served as a deputy junior mayor, indicated that they were not as involved or even consulted in any municipal planning as they should have been and that the position itself has not resulted in any involvement in decision making processes.

This has further created a culture of tokenism in society where children's rights are not truly given priority required to facilitate meaningful change in the lives of children. Online child tokenism was identified when one or few crimes against children are reported on and cause short-lived uproar online, however many other cases are not spoken about and a true picture of the problem that is VAC is not presented. In addition to that, there is rarely any follow through of media's reporting of these cases and the outcomes are not shared. The feeling is that few cases are reported or "trend" in the media to create a sense that something is being done to help children, when in actual fact, VAC or other issues children face are not prioritised or considered matters that require urgent and meaningful addressing.

Questions to government

1. Why hasn't government made it mandatory for Junior City Councils to exist in every city/municipality?
2. Why do we not have child representatives in the creation of IDPs?
3. What actions are being put into place to ensure that all children in South Africa, including those living with disabilities and children from vulnerable background, receive the same quality of education?
4. How does the DBE plan to ensure that all schools are in proper learning condition?
5. What is being/will be done about the infrastructure of schools so that children living with disabilities has access to them? What budget allocations are planned for this? Where is the money that was supposed to go to upgrading school infrastructure?
6. How can the media be regulated to protect the child victims they report on?

