

Children's Rights and the role of civil society

Change is a process not an event.

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Introduction: key events on the road to change

- Years prior to South Africa's transformation, Child Rights movements existed both in and outside of the country.
- The coming together, over many years, of a network of child rights activists resulted in strong child rights approach in our law and in practice.
- Children's laws took a long time in their development but they now embody **key foundational principles** of the Convention on the Rights of the Child (CRC): survival, protection, development and participation of the child.

Key Events led to entrenching Children's Rights in Constitution

Year	Key event
1980's/90	Strong rights movement inside and outside South Africa
April 1990	National Committee on the Rights of the Child formed in Botswana (NCRC)
1992	Children's Summit held and Children's Charter adopted (Summit organised by NGO Molo Songololo)
1993	Interim Constitution of South Africa – opened the door to the protection of child's rights
1994	President Mandela presented with outline of National Programme of Action . A promise is made to prioritise children's rights at the Highest Level.
1995	South Africa ratified the Convention on the Rights of the Child (CRC)
1996	Final Constitution of South Africa – Enshrines Children's Rights in S 28 Cabinet approved National Programme of Action Framework

Entrenching Rights – Role played by Child's Movement in SA

- In April 1990, in Botswana, an umbrella body that consisted of more than 200 NGOs and CBOs who worked with children in South Africa was formed.
- This body was referred to as the National Committee on the Rights of the Child (NCRC)
- The NCRC was first national structure in South Africa aimed at promoting the rights of children, working in close collaboration with Unicef.
- The NCRC played a pivotal role in ensuring that children's rights were entrenched in the final Constitution 1996 of South Africa.

Pre-Constitutional Role of NCRC in South Africa

With respect to the inclusion of Child Rights in the Constitution, NCRC was key in:

- **addressing** major political parties in the country – to ensure that children were prioritised;
- **encouraging** the participation of Children in a ‘real’ manner – giving children a voice;
- **bringing together** experts from all over the country - provide input on Children’s rights to for the Human Rights Committee of the Constituent Assembly;
- **carrying out** mandate to work on a National Programme of Action (NPA) for children in South Africa.

Constitutional Change

- The South African Constitution is the primary legislative framework for children's rights delivery in South Africa.
- The specific provisions in the Constitution are aligned with the CRC and these must be taken into consideration when interpreting Section 28.
- Although, children have the same rights as adults (where appropriate) there are also a number of socio-economic rights that only apply to children:
'S 28(1)(c) every child has the right to basic nutrition, shelter, basic health care services and social security'.

Excerpt from Section 28 of the Constitution of South Africa 1996

Children

28(1) Every Child has the right –

- (a) To a name and nationality from birth
- (b) to family care or parental care, or to appropriate alternative care when removed from the family environment;
- (c) To basic nutrition, shelter, basic health care services and social services;
- (d) To be protected from maltreatment, neglect, abuse or degradation;
- (e) To be protected from exploitative labour practices;
- (f) Not to be required or permitted to perform work or provide services that – (i) are inappropriate for a person of that child's age; or (ii) place at risk the child's well-being...

Constitutional and International Obligations

- In order to give effect and fall within the duties imposed by the international obligations of the CRC, the ACRWC and section 28 of the Constitution the country must pass additional legislation.
- Previous child laws in South Africa did not reflect a child's rights perspective and did not consider the equality of all children, particularly with respect to welfare/social security. It was therefore time to review.
- From 1998 -1999 the South African Law Reform Commission commenced with a comprehensive review of children's law.

Policy Development Process

Year	Responsible Body	Role/Task
1997 - 1999	South African Law Reform Committee	Review of Children's Law – to develop a new comprehensive state for children
	SALRC	Research, consultation and development of the Bill
2002	SALRC	Released Draft Bill with 26 Chs covering wide range of issues
	Civil Society	Accept New Bill
March 2003	Civil Society	Children's Bill Working Group (Funded)
August 2003	Department & Cabinet	Revised and diluted version of Draft Children's Bill published for comment
Oct 2003	Parliament	Tabled a split Bill – without considering civil society comments
July 2004	Parliament	Debate delayed to after elections as a result of active lobbying by The Working Group

Civil Society Participation

- During the final stages of the Children's Bill, the executive failed to engage with the concerns raised by civil society.
- Not engaging at this stage lengthened the parliamentary process because of the complex debates raised by civil society.
- After public hearings, study tours, departmental briefings gaps in coordination and service delivery were revealed.
- Finally in 2005 the Children's Act passed into law and in 2007 the Children's Amendment Act followed.
- The Children's Act, as amended, is a significant achievement in law reform. Taking SA into a new era of child-care and protection.

Lessons learned

- The process leading up to development of the Children's Act highlights the concerted action taken by civil society to influence policy-making.
- Realisation that - Complex issues/challenges such as these cannot be solved by one sector alone. There is a need for a collaborative, integrated, multi-actor approach – involving both government and civil society - where resources are shared and all actors work to achieve a common interest/goal.
- Methodology used was built around research, consultation and dialogue with organisations on the ground.
- There is a strong move toward using an evidence based approach to influence policy making and implementation.

What Works?

- 1) Relationships Matter – Advocacy helped when strong alliances with legislatures formed.
 - Building strategic partnerships – with individual decision makers - in both parliamentary bodies and with government representatives
- 2) Communication is fundamental – open communication and sharing of knowledge and information.
 - Access to information through dissemination: Without information people may be excluded.
 - To make information accessible - may need to be simplified or provided in an understandable manner. Workshops also help to pass on information as do briefings and the distribution of fact sheets.
- 3) Children matter – children’s voices should be heard and respected . Children should be consulted on issues that affect them.

In Conclusion

- Through civil society, and the organisations within it – NGOs, CBOs and FBOs - and the private sector there are channels through which people are able to participate in the political and social life of their society.
- In this way they are able to demand and advocate for children's rights as can children themselves.
- Engagement can take place at local, provincial and national level with government and can provide effective and efficient services that extend government capacity through partnerships and networks.

“There can be no keener revelation of a societies soul than the way in which it treats its children’. (Nelson Mandela)