



PARLIAMENT
OF THE REPUBLIC OF SOUTH AFRICA

Promoting Children's Rights in South Africa:

A Handbook for Members of Parliament



Acknowledgements

UNICEF South Africa (André Viviers) for the review of the document and the technical assistance in the design, layout and printing.

© Parliament of Republic of South Africa

This publication is intended to support Members of Parliament and Members of Provincial Legislatures in South Africa. The opinions expressed herein and any statements represented as fact do not necessarily reflect the views and policies of Parliament of Republic of South Africa nor should they be assumed to do so. With an identification of Parliament of Republic of South Africa as source, the document may be freely quoted, reviewed, abstracted, reproduced and translated, in part or in whole, but not for sale nor for use in conjunction with commercial purposes. Original sources should be acknowledged where indicated in the publication.

Electronic copies can be downloaded from the following website:

Parliament of Republic of South Africa

Website: <http://www.parliament.gov.za/>

Citation: Abrahams, K. and Matthews, T. 2011. Child Rights Manual: Handbook for Parliamentarians. Cape Town: Parliament of the Republic of South Africa

Design and typesetting: Hannelie Visser

Photography: © G Pirozzi/UNICEF South Africa



Promoting Children's Rights in South Africa:

A Handbook for Members of Parliament

**Written by Kashifa Abrahams & Tasneem Matthews
Edited by Joy Watson, Research Unit, Parliament of
the Republic of South Africa**





TABLE OF CONTENTS

Forewords	1
Introduction	5
Using the Manual	6
Structure of the Manual	7
1. Key Moments in the History of the Child Rights Movement	10
2. International Treaties, Conventions, Declarations, Protocols	20
2.1 Universal Declaration on Human Rights	22
2.2 International Covenant on Civil and Political Rights (ICCPR)	22
2.3 International Covenant on Economic, Social and Cultural Rights (ICESCR)	24
2.4 United Nations Convention on The Rights of the Child (CRC)	24
2.5 United Nations Millennium Declaration	25
3. Regional treaties, conventions, declarations, protocols	28
3.1 African Charter on the Rights & Welfare of the Child (ACRWC)	28
3.2 African Youth Charter	28
3.3 NEPAD Agreement	31
4. Domestic legislation	33
4.1 South African Constitution (Act 108 of 1996)	33
4.2 Laws	34
5. Children in context	38
5.1 Demographics	39
5.2 Vital registration	39
5.2.1 Registered Births	39
5.2.2 Child Deaths	40
5.2.3 Orphan Status	41

5.3	Health Status of Children in South Africa	42
5.3.1	Diseases of Poverty	42
5.3.2	HIV and AIDS	42
5.3.3	Health Implications of Violence	43
5.4	Socio-economic status of children	44
5.4.1	Poverty	44
5.4.2	Education	45
5.4.3	Basic Services	45
5.4.4	Social Security	46
5.4.5	Crime	47
6.	Case studies	52
6.1	Case Study Approach	52
6.2	Case Study 1: HIV and AIDS	53
6.3	Case Study 2: Child Poverty	56
6.4	Case Study 3: Child Abuse	60
6.5	Case Study 4: Education	63
6.6	Case Study 5: Children in Conflict with the Law	66
6.7	Case Study 6: Refugee Children	70
7.	References	89
	Appendix 1	92
	Appendix 2	95
	Appendix 3	99



FOREWORDS



Hon D Ramodibe

Chairperson of the Portfolio Committee for Women, Youth, Children and Persons with Disabilities

Children are resilient in times of adversity, yet their vulnerability within families and society should not be underestimated. The rights of children have remained on the global agenda for discussion at various forums. Since the advent of democracy, the discourse on child rights has focussed on the realisation of such imperatives. Testament to this is enshrined in the Constitution of the Republic of South Africa and in the Bill of Rights with a particular expression of children's rights. It is Government's obligation to protect and promote the survival, development and well-being of children to attain a good quality of life.

South Africa is a signatory to numerous international treaties and agreements such as the Universal Declaration on Human Rights, the International Covenant on Civil and Political Rights, the United Nations Convention on the Rights of the Child and the Millennium Declaration, of which the Millennium Development Goals are the targets for achievement. The domestication of treaties and implementation through programmes and services is an expression of a government's commitment to give effect to what has been agreed upon. Giving expression to such treaties and commitments will certainly enhance child rights.

Every Government Department has a significant role to play as duty-bearers of children's rights to ensure that the quality of life of children in the country is improved. Notwithstanding, in terms of the work undertaken by the Executive to deliver on rendering services that would benefit children, more still needs to be done. The Children's Act is an example of the progressive strides made in entrenching children's rights in the country. However, the full implementation of the Act remains a challenge due to numerous factors of which resourcing is central.

The Portfolio Committee on Women, Youth, Children and Persons with Disabilities has to carry out its mandate in ensuring the mainstreaming of these target groups in all Departments. In addition, it seeks to work with civil society, communities and all other formations, to monitor the work of

the Department in enhancing the quality of the lives of these target groups. In fact, it would be appropriate if each and every Department established a unit to ensure that children's rights are mainstreamed and the co-ordination of sectors to ensure fulfilment of the commitments made by Government. The fight against poverty is fought by all Departments and cannot be isolated from the HIV/AIDS pandemic, violence and abuse and many other challenges. A holistic and integrated approach is required to address these challenges.

A country that does not protect or develop its children has no future. But more importantly, as rights holders, children are entitled to live decent lives. Policies that have been developed with regard to fostering the well-being of children must be implemented.





Hon P Mabe

Chairperson of the Select Committee for Women, Children and Persons with Disabilities

"There can be no keener revelation of a society's soul than the way in which it treats its children." This statement by former President Nelson Mandela provides the background against which we must ensure and protect the rights of the children of South Africa. To sustain our democracy, it is imperative that we prioritise the health, education, safety and general well-being of our children. To this end, we all have a vital role to play.

National, Provincial and Local spheres of Government must take responsibility for promoting the rights of, and addressing the needs of our children. Section 28 of the Bill of Rights in our Constitution provides that every child has the right to basic nutrition, shelter, basic healthcare services and social services, and to be protected from maltreatment, neglect, abuse or degradation. Taking cognisance of these binding provisions, all levels of Government must take up the call to guarantee a better life for the children of South Africa. In particular it is vital that we begin to plan and target our budgets and expenditure in a manner which will optimally benefit this very vulnerable group in our society. "Safety and security don't just happen – they are the result of collective consensus and public investment. We owe our children, the most vulnerable citizens in our society, a life free of violence and fear."

The Select Committee for Women, Children and Persons with Disabilities has a mandate to oversee the implementation of provincial legislation and programmes that impact on the lives of women, children and persons with disabilities. It also champions issues relating to these groups across departments. In addition, the Committee intends to work collaboratively with stakeholders and other partners in mainstreaming issues of gender, children and persons with disabilities.

The Committee acknowledges that the enforcement of children's rights and their protection requires an inter-disciplinary and holistic approach and strives to promote this in its oversight function.



Message from UNICEF

Aida Girma

UNICEF Country Representative to South Africa

Parliament plays a vital role, through its different functions, in the realisation of the rights of children in South Africa. Members of Parliament are a representation of the total population of the country, 18.6million of which are children. Parliament's obligation to protect the Constitution, ensuring that its provisions for human rights are implemented, is critical for the fulfilment of the rights of all children in South Africa. Indeed, every Parliamentarian should be a champion of the rights of children in the country. This is because children form a sizeable part of the population. Moreover, children represent the future of the country.

The South African constitution is unique in that it provides additional rights to children, through section 28 of the Bill of Rights. Both Houses of Parliament, as well as their committees and other structures and committees, have an important role in monitoring the implementation of child rights provisions from the country's laws. Enhanced oversight for legislation, approval of plans and budgets and as well monitoring the implementation of various programmes, is key for accelerated realisation of child rights. The rights of children are an undisputedly integral and unavoidable component in all areas of parliamentary work.

Furthermore, Parliamentarians occupy an important and influential position in society. Children need the influence of Parliamentarians for their voices to be heard. Oversight visits, public hearings and other special consultative forums should be important vehicles for the participation of children in decision-making. Not only does Parliament play the role of promoting the constitutional right of children to participation in decision making and policy development on matters that affect them, it also has the potential to make an invaluable contribution towards the development of a society that respects the rights of every one of its children, including freedom of expression.

UNICEF is proud to be associated with the development of this publication, which seeks to provide important information on how South African Parliamentarians can expedite the fulfilment of the rights of all children in the country. It is our hope that the publication will contribute in a meaningful way to the work of Parliament in the realisation of child rights in the country.



INTRODUCTION

South Africa has enshrined children's rights in the Constitution (Act 108 of 1996), the supreme law of the country that was designed to respect, protect, promote and fulfil the rights of all people in the country.¹ This commitment resonates strongly with international principles. The former United Nations Secretary General, Mr Kofi Annan, argued "there is no trust more sacred than the one the world holds with children. There is no duty more important than ensuring that their rights are respected, that their welfare is protected, that their lives are free from fear and want and that they can grow up in peace."² In so doing, governments have an obligation to protect and promote the survival, development and well-being of children, which ultimately affects their quality of life.³

It is worth taking the time to consider the question "What are human rights?" In essence, human rights are not merely abstract notions. On the contrary, they are intended to transform people's lives. Thus fostering a culture of human rights goes beyond the attainment of material conditions. Instead, it defines one's sense of nationhood. Closely related to this is the inculcation of a set of values that underpin a culture of human rights and bringing to the fore systems of beliefs that further develop the shared objectives of shared values.⁴ Hence a human rights culture can only be built on value systems; herein lies the challenge for children's rights. Society's notions of childhood and how this is defined as well as what this means within a particular context and time, are significant variables in shaping the manifestation of children's rights. This publication attempts to explore what the promotion of children's rights entails and the role of Parliament in this regard.

The Portfolio Committee on Women, Children, Youth and Persons with Disabilities and the Select Committee on Women, Children and Persons with Disabilities are the lead committees that oversee children's matters in Parliament. The newly established Ministry on Women, Children and Persons with Disabilities has a branch that deals with children's rights which replaces the former Office on the Rights of the Child, which was located in the Presidency. In addition, the South African Human Rights Commission; the

1 The Constitution of the Republic of South Africa (1996) Act 108 of 1996.

2 United Nations General Secretary, Mr Kofi Annan, Children's Rights Quotes, Accessed: [<http://www.betterworld.net/quotes/children-quotes-3.htm>

3 Dutschke and Abrahams (2006)

4 Manuel Trevor (2007) Forum: The need for a human rights culture. Law, Democracy and Development, (11): 85-90

Commission for Gender Equality; the Commission for the Promotion and Protection of the Rights of Cultural, Religious and Linguistic Communities and the National Youth Development Agency all play a vital role in this regard even though these institutions may serve a broader mandate.

Given the importance of the Government's mandate to advance children's rights, it is imperative that Members of Parliament have the knowledge and understanding of all the relevant structures, legislation, protocols, agreements and declarations to advance this cause. Hence, knowledge of how best to promote children's rights is critical to conducting effective oversight and legislative reform. This manual outlines the key international and regional child-rights instruments, as well as South Africa's national legislative and policy framework for promoting and mainstreaming children's rights. The manual is intended to serve as a guide, information source and reference document for Members to effectively oversee the implementation of child sensitive service delivery.

USING THE MANUAL

The purpose of the handbook is to provide Members of Parliament with pertinent information on children's issues that equips them to integrate a child rights perspective into the work of their Committees. Specifically, it seeks to encourage Members to conduct effective oversight and to enable them to ensure accountability with regards to service delivery from a child-rights perspective, as well as to enhance public participation in this regard. In so doing, it is envisaged that Committees will become better capacitated to promote children's rights in Parliament. It is hoped that the manual could also be used to enhance the promotion of children's rights in the constituency work of Members.



STRUCTURE OF THE MANUAL

For ease of reference, the handbook is sub-divided into 5 sections:

- **Section 1** commences with a brief history of the children’s rights movement in South Africa. This historical overview is useful in locating the journey of the promotion of children’s rights in South Africa.
- **Section 2** contains a description of key international instruments and domestic legislation that pertains to children’s rights.
- **Section 3** describes children in the South African context and the major challenges facing children in the country.
- **Section 4** highlights major challenges facing children in South Africa using a case study approach. While stories are fictitious, cases were drawn from observations and other literature that documents the challenges South African children face. With a selection of 5 key issues, this section is intended to demonstrate hypothetical case studies of rights impacted on and the roles and responsibilities of duty-bearers in this regard.
- **Section 5** will conclude with a comprehensive list of key stakeholders of children’s organisations that Members can refer to.





SECTION 1

Historical overview of South Africa's Child Rights Movement

1

KEY MOMENTS IN THE HISTORY OF THE CHILD RIGHTS MOVEMENT SINCE THE 1980s

A historical perspective of the child rights movement in South Africa provides an important contextual background for understanding the evolution of child rights in the country. Notions of childhood and child rearing manifested itself amidst a myriad of value systems, norms, cultural and religious beliefs of both the inhabitants of South Africa and immigrants. During the apartheid era, children's rights were grossly violated and as such, large numbers of children were arrested, imprisoned and held in custody for participating in political activities.⁵ During this period, non-governmental organisations (NGOs) and community-based organisations (CBOs) sought to run various programmes to promote the rights of socially vulnerable children in the country. However these initiatives were not co-ordinated and operated with significant resource constraints.⁶ Between the **mid-1970s** and **early 1990s**, NGOs and CBOs played a significant role in the growth of child rights activism in South Africa, the focus of which was largely concentrated on children in an apartheid context.⁷ The same applied to women's interest groups and the overall solidarity by the liberation movement to fight against oppression for human rights.⁸

A brief timeline of key events in the child rights movement in South Africa since the **1980s** has been captured in Table 1.

It is important to note that it is beyond the scope of this handbook to capture the complex history of the child rights movement. The handbook merely extrapolates a few highlights from South Africa's history. Significant events that shaped the outcomes of children's rights in the country will be discussed in brief.

In the **1980s** and **1990s**, international and national conferences in and around South Africa focussed on the impact of apartheid on the lives of children, women and families in South Africa. For example, in **1987**, a Rädä Barmen- sponsored conference⁹, entitled "Children, Repression and the Law in Apartheid South Africa" was held in

5 IDAF, 1988 and Skelton, 1999: 89

6 Mabusela (2000)

7 Rama and Bah (2000)

8 Lund (2008)

9 Rädä Barmen (Save the Children, Sweden) was founded in 1919 in Sweden as a member organisation, working primarily for children's rights. It is a non-governmental organisation. The United Nations Convention on the Rights of the Child is a fundamental tool in its effort.

Table 1: Key moments in the history of South Africa's child-right's movement

YEAR	EVENT
1987	<p>Rädda Barnen¹⁰ sponsored conference, entitled "Children, Repression and the Law in Apartheid South Africa" held in Harare, Zimbabwe.</p> <p>UNICEF's publication "Children on the Frontline: The Impact of Apartheid, Destabilisation and Warfare on Children in Southern and South Africa"(updated in 1989 to include a section on Namibia) motivates organisations to lobby and campaign more ardently for the protection of children's rights in South Africa.</p>
1990	National Committee on the Rights of the Child (NCRC) is formed in Botswana, following a number of meetings between members of the Mass Democratic Movement, NGOs from South Africa and UNICEF.
1992	<p>Children's Summit is organised by Molo Songololo, Children's Charter adopted.</p> <p>International Conference on Child Rights held in Cape Town.</p>
1993	<p>Interim Constitution adopted - provisions made for the inclusion of the protection of children's rights in the country.</p> <p>National Children's Rights Committee (NCRC) and UNICEF launch the publication "Children and Women in South Africa: A Situation Analysis".</p> <p>F.W. de Klerk and Nelson Mandela jointly sign the 1990 Declaration and Plan of Action of the World Summit for Children and the Convention on the Rights of the Child.</p>
1994	President Mandela is presented with an outline of the National Programme of Action for Children at Orlando Stadium in Soweto by National Programme of Action Task Team.
1995	South Africa ratifies the United Nations Convention on the Rights of the Child.
1996	<p>Cabinet approves the formation of the National Programme of Action for Children.</p> <p>"Children, Poverty and Disparity Reduction: Towards Fulfilling the Rights of South Africa's Children" is published by the National Institute for Economic Policy /Reconstruction and Development Programme.</p>
1997	South Africa submits its initial country report to the United Nations Committee on the Rights of the Child.
1998	The co-ordination of the National Programme of Action for Children is moved from the Department of Health to the Office of the Deputy President.
1999	The Children's Desk is relocated from the Department of Health to the Office of the President.
2000	South Africa presents its initial and supplementary country reports to the United Nations Committee on the Rights of the Child.
2009	Establishment of the Ministry for Women, Children and People with Disabilities.

¹⁰ Rädda Barnen (Save the Children, Sweden) was founded in 1919 in Sweden as a member organisation, working primarily for children's rights. It is a non-governmental organisation. The United Nations Convention on the Rights of the Child is a fundamental tool in its efforts.

Harare, Zimbabwe. The conference served as an important event for the international mobilisation on issues of the worsening plight of children in the country.¹¹ Events of this nature significantly shaped the child rights discourse as activists spoke of the effects of apartheid on children and their rights. The **1987** Harare Rädna Barnen sponsored Conference in conjunction with other international conferences and efforts, provided an opportunity and challenge to the African National Congress (ANC) in exile, and the Mass Democratic Movement, to strongly advocate for the protection, survival and development of children's rights in South Africa. Publications produced in the **1980s**, such as UNICEF's "Children on the Frontline: The Impact of Apartheid, Destabilisation and Warfare on Children in Southern and South Africa", significantly motivated organisations to lobby and campaign more for the protection of children's rights in South Africa.¹²

In **April 1990**, following a number of meetings between members of the Mass Democratic Movement, NGOs from South Africa and UNICEF, the National Committee on the Rights of the Child (NCRC) was formed in Botswana. The NCRC was an umbrella body of more than two hundred NGOs and CBOs working with children in South Africa. An agreement was reached with child rights structures that operated in various provinces, to become one national structure. Although there were difficulties, most organisations agreed, in the interest of child rights, to be part of the child rights national structure.¹³

The NCRC became the first national organisation in South Africa to promote the rights of children. The NCRC, in collaboration with UNICEF, recognised the need for a situational analysis of women and children in South Africa in order to determine their needs.

During **1991 and 1992**, the time of the Convention for a Democratic South Africa (CODESA) negotiations, the NCRC addressed the major political parties in the country on the need for the Government of National Unity to prioritise the rights of children. The NCRC highlighted the fact that during the transition period, the situation of children had not been prioritised, even though children were also victims of apartheid and had actively participated in the anti-apartheid movement. Subsequently, children submitted the South African Children's Charter to participants at CODESA. The South African Children's Charter was based on the document drawn up by those children who participated in the **May 1992** Children's Summit, organised by Molo Songololo, as part

11 Omar (1992b), p11

12 Knutsson and O'Dea (1998), p21

13 Mabusela (2000)

of the NCRC social mobilisation effort. The Summit comprised of children from different backgrounds from across the country who discussed and debated the problems they faced as children.

In **June 1992**, an international conference on child rights was held in Cape Town where the Charter was presented again. The decision to hold that conference was based on the premise that it would have the potential to intervene and impact on the situation positively and in so doing, promote democratic change.¹⁴ The conference highlighted the huge inequalities that existed between racial groups in South Africa because of the application of apartheid laws.¹⁵ Participants at the conference argued that children's rights were only achievable through the ending of apartheid, the election of a democratic government and the drawing up of a new constitution for the country.¹⁶

... the NCRC played a critical role in getting child rights entrenched in the Constitution of South Africa.

At the time of writing the Constitution, the NCRC played a critical role in getting child rights entrenched in the Constitution of South Africa. With Rädä Barnen's support, the NCRC brought together experts from all the provinces to give input on the promotion of children's rights to the Human Rights Committee of the Constituent Assembly. The prioritisation and recognition of the situation of children in South Africa was evident in the drafting of the Interim Constitution. The Interim Constitution, which was adopted in **1993**, made provisions for the inclusion of the protection of children's rights. The result of this is Section 28 of the Constitution, which refers specifically to children's civil- and socio-economic rights. The section gives children the right to a name, citizenship as well as care and protection, in addition to all the other rights safeguarded in the Bill of Rights.

On **16 June 1993**, the NCRC and UNICEF launched the publication "Children and Women in South Africa: A Situation Analysis". This situation analysis was a significant piece of work, highlighting the plight of children and women in terms of education, health, nutrition, violence and abuse. One of the main objectives of the report was to provide baseline data on the situation of children in South Africa.¹⁷ In this regard, the report found that there were major data constraints. These included the under-enumeration in the national statistics of the black population, especially of those residing in the independent homelands; the methods of collecting, reporting and classification of data

¹⁴ Omar (1992a)

¹⁵ Ibid

¹⁶ Knutsson and O'Dea (1998), p32

¹⁷ UNICEF/NCRC (1993) p1

resulted in under-reporting and poor quality of data especially with regard to vital statistics; and that national policies had had an effect on the reliability of the data.¹⁸ The report recommended that in the developing of future information systems for data, racial; geographic; gender and urban/rural disparities would have to be taken into account. It argued that such a system would be important not only for the delivery and planning of social services, but also to assess and monitor changing trends in the situation of women and children in South Africa.¹⁹

The report was an important tool for advocacy and mobilisation. The NCRC and UNICEF used the launch of the publication to call for a National Programme of Action for Children (NPA). This was based on the Agenda for Action of the **1990** Declaration and Plan of Action of the World Summit of Children and on the Convention on the Rights of the Child.²⁰ The launch of the NCRC/UNICEF report was followed by a two-day conference, held in Thembisa, entitled “The State of the African Child: An Agenda for Action”. At this conference, the report on the situation analysis of children and women was examined and proposals for the formation of the National Programme of Action for Children (NPA) were discussed. The NCRC and UNICEF were mandated to oversee and follow-up on the recommendations from the Thembisa Declaration (adopted on **19 June 1993**) for the establishment of a National Forum for Children as well as the NPA for children.

In **December 1993**, former Presidents F.W. de Klerk and Nelson Mandela jointly signed the 1990 Declaration and Plan of Action of the World Summit for Children and the United Nations Convention on the Rights of the Child (CRC) in Sweden. Guided by its mandate from the Thembisa Declaration, the NCRC began work on the outline of the National Programme of Action for children in South Africa. In **February 1994**, a conference was held to discuss the draft NPA outline. Representatives at the conference included non-governmental organisations, community-based organisations, trade unions, political organisations, etc. The conference was significant for a number of reasons. Firstly, it made recommendations as to the way forward for the establishment of the NPA, the structures and processes that were needed, the consultative mechanisms and the technical resources that would be required. Secondly, it established an elected NPA Task Team drawn up from the NCRC, UNICEF and representatives from organisations across the country. The NPA Task Team was

The State of the African Child: An Agenda for Action

18 UNICEF/NCRC (1993), p13

19 UNICEF/NCRC (1993), p131

20 UNICEF/NCRC (1993)

responsible for preparing the NPA outline for presentation to the Government-to-be in **June 1994**.

The NPA was developed after the ratification of the United Nations Convention on the Rights of the Child. The NPA sought to ensure that Government policies were child-friendly. Child rights advocacy groups were active in ensuring that the rights of children were given priority. On **16 June 1994**, former President Mandela was presented with an outline of the NPA. At the time, he promised to not only put children first, but that the newly elected Government would prioritise children's rights at the highest level. The former President established the Inter-ministerial Cabinet Committee on the Rights of the Child to oversee the development of the Government-led NPA process. The Inter-ministerial Cabinet Committee's Steering Committee comprised of Director-Generals from the Departments of Health, Justice, Education, Welfare, Water Affairs and Forestry, the NCRC and UNICEF. Other structures that later came on board included the National Youth Commission; the South African Human Rights Commission; representatives from the nine provinces; the Departments of Finance and Foreign Affairs and the Office of the President. They were tasked with developing and ensuring the implementation of the NPA Framework.

The NPA sought to ensure that Government policies were child-friendly.

At a broader level, the Reconstruction and Development Programme (RDP) Office, which was headed by the Minister without Portfolio, Jay Naidoo, focused on promoting growth and addressing the poverty and inequalities of apartheid. A Child Rights Officer was seconded from the NCRC to work in the RDP office in order to ensure that children's issues were part of the RDP. Hence, the Government of National Unity afforded recognition to children's rights within the framework of the Reconstruction and Development Programme. Furthermore, the RDP Office commissioned the National Institute of Economic Policy (NIEP) to undertake a second situation analysis of children in South Africa. The NIEP/RDP report, "Children, Poverty and Disparity Reduction: Towards Fulfilling the Rights of South Africa's Children" was published in **1996**. The report provided a comprehensive description of children and poverty in terms of the effects of apartheid, access to health services, education, housing, water, food security, land, etc. It also highlighted the lack of empirical data pertaining to children's issues and argued that a major constraint was the lack of reliable, representative national and provincial data on children, especially data on Black/African children²¹ in South Africa.

21 NIEP (1996), p9-10

This report confirmed some of the findings of the report published by the UNICEF/NCRC in **1993**. The NIEP/RDP report also stipulated that without reliable and representative data, the development of specific service-delivery programmes for poverty reduction, especially for children, was problematic.

During the **1990s**, the civil service underwent massive transformation. This transformation saw former child rights activists occupying senior positions in different rights-based Government agencies. A major task that the National Programme of Action Steering Committee²² and the Children's Desk undertook during this period, was the preparation of the initial country report for submission to the United Nations Committee on the Rights of the Child. In **1997**, South Africa submitted its initial country report to the United Nations Committee on the Rights of the Child. In **January 2000**, South Africa again presented its initial report as well as a supplementary country report to the Committee.

In **1998**, the NPA co-ordination was moved from the Department of Health to the Office of the Deputy President. This relocation of the NPA was seen as a necessary and significant step towards the mainstreaming of children's rights and issues into the work of Government Departments. The mainstreaming approach calls for each Government Department to prioritise children's issues in its budget, work-plan and programmes.

The mainstreaming approach calls for each Government Department to prioritise children's issues.

In **1999**, after the second democratic elections, the Children's Desk was relocated to the Office of the President and was then known as the Office on the Rights of the Child (ORC). The ORC was tasked with working with stakeholders and NGOs to improve children's well-being and promote the rights of children. It worked closely with the National

Programme of Action Steering Committee. In addition, it also played an advisory role, by advising the President and his Office on the situation and needs of children in the country.

In **2009**, the Office on the Rights of the Child was relocated to a new department called the Department of Women, Children and Persons with Disabilities. The purpose of the programme dealing with the promotion of children's rights is to ensure the realisation of children's rights and responsibilities by:

²² As some of these organisations were part of the NPA Steering Committee (NPASC), the NPA whilst part of Government continued to be supported by child rights activists. The NPASC was drawn from a cross-section of Government departments, parastatals, NGOs, the NCRC, UNICEF, the Human Rights Commission and the National Youth Commission. More Governmental Departments were added to the initial group.

- Providing leadership and support for planning, coordination, oversight and comprehensive reporting in the national Children’s Rights and Responsibilities Programme.
- Developing and maintaining a child rights and responsibilities monitoring and evaluation framework.
- Developing and managing catalytic projects for children’s rights and responsibilities.
- Facilitating public-private partnerships in the interests of children.
- Participating in sectoral coordination and in national children’s rights forums.

... children’s rights have found its expression in law and policy reform

Post-1994, with a surge of new laws being introduced and old laws repealed, children’s rights have found its expression in law and policy reform; this transformation is in keeping with international trends. Key legislative developments in which the child rights movement has been vociferous was the initiation and introduction of the Children’s Act and the Child Justice Act. Civil society lobbied Parliament at length during the associated law reform process; the implementation of legislation still remains a challenge for Government. In this regard, Parliament has a particular role to play in terms of its oversight and accountability function.

Notwithstanding significant gains made, there are still critical challenges that threaten the plight of children. These include the HIV/AIDS pandemic and its associated consequences for children, high numbers of children that go missing every year, high levels of violence and abuse against children and poverty and poor living conditions.





SECTION 2

Legislative Framework

2

INTERNATIONAL TREATIES, CONVENTIONS, DECLARATIONS, PROTOCOLS

The rights of children are legally defined in international human rights treaties, such as the United Nations Convention on the Rights of the Child (CRC), regional human rights treaties, such as the African Charter on the Rights and Welfare of the Child (ACRWC) and country-specific legislation. The extent to which international instruments and laws are able to improve the lives of children across the world is dependent on the extent to which State parties implement them and adopt domestic measures to comply with the relevant obligations.²³

There are nine core international human rights treaties that promote children's rights. These are listed in the table below. Since the adoption of the Universal Declaration of

Human Rights in 1948, all UN Member States have ratified at least one core international human rights treaty and 80% have ratified 4 or more. Each of these treaties has established a committee of experts to monitor implementation of the treaty provisions by its States parties. Some of the treaties are supplemented by optional protocols dealing with specific concerns as noted in the

There are nine core international human rights treaties that promote children's rights.

table. There are seven human rights treaty bodies, which are committees of independent experts that monitor implementation of the core international human rights treaties. These were created in accordance with the provisions of the treaty that each monitors. The Office for the High Commissioner for Human Rights (OHCHR) assists treaty bodies in harmonising their working methods and reporting requirements through their secretariats.²⁴

In addition to the International Bill of Rights and the core human rights treaties, there are many other universal instruments relating to human rights. The legal status of these instruments varies and they can take the form of declarations, principles, guidelines, standard rules and recommendations. All of these have no binding legal effect, but such instruments have an undeniable moral force and provide practical

²³ Sloth-Nielsen and Mezmur (2007)

²⁴ United Nations Human Rights, Office of the High Commissioner for Human Rights (1989)

Table 2: Core International Human Rights instruments for children

ABBREVIATION	CORE INTERNATIONAL HUMAN RIGHTS TREATIES
ACRWC	African Charter on the Rights of the Child
CEDAW	Convention on the Elimination on all Forms of Discrimination Against Women
CRC	Convention on the Rights of the Child (1989)
CRC-OPSC	Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography
CRC-OPAC	Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict
CRPD	Convention on the Rights of Persons with Disabilities
ICESCR	International Covenant on Economic, Social and Cultural Rights
ICCPR	International Covenant on Civil and Political Rights
MAC	Minimum Age Convention, 1973 (No.138)
WFCLC	Worst Forms of Child Labour Convention, 1999 (No.182)
UNCRPD	United Nations Convention on the Rights of Persons with Disabilities

guidance to States in their conduct. Covenants, statutes, protocols and conventions are legally binding for those States that ratify or accede to them. An example of such a declaration of such a nature is that of the United Nations Millennium Declaration which will be discussed further. The human rights instruments that deal specifically with child rights are illustrated in Table 2.

It is beyond the scope of this manual to discuss all of the aforementioned binding and non-binding human rights instruments. Hence for the purposes of this publication, a select few have been chosen to provide Members with a brief overview as it relates to the context in which Parliament formulates law and conducts oversight and holds the Executive accountable with respect to children in the country.

The following international treaties and commitments that the South African Government have agreed to will be discussed:

- Universal Declaration on Human Rights
- International Covenant on Civil and Political Rights (ICCPR)
- United Nations Convention on the Rights of the Child (CRC)
- Millennium Development Goals (MDGs)/ Millennium Declaration

For a more comprehensive list on international and regional treaties to which South Africa has ratified or is a signatory to, refer to Appendix 2, Table 5.

There are three interdependent categories of child rights, namely, civil and political rights; socio-economic; and cultural rights. Civil and political rights are rights that limit physical and legal abuse by governments (and other parties) against children. They entitle children to be free from feeling physically threatened and abused by the political system, law or another person. Examples include the child's right to life, to be registered after birth and to be heard in any judicial and administrative proceedings affecting the child, either directly, or through a representative or an appropriate body. Cultural child rights are rights that are aimed at protecting and promoting the rights of marginalised groups. Socio-economic rights include those relating to health-care, education, minimum income, nutrition and shelter. These rights are aimed at meeting children's basic needs.

2.1 UNIVERSAL DECLARATION ON HUMAN RIGHTS

The international human rights movement was strengthened in 1948 when the United Nations General Assembly adopted the Universal Declaration of Human Rights (UDHR). It was drafted as 'a common standard of achievement for all peoples and nations'²⁵. The Declaration, for the first time in human history, articulated clearly the basic civil, political, economic, social and cultural rights that all human beings should enjoy. In so doing, the UDHR was the first international statement to use the term "human rights".²⁶ It has, over time, come to be widely accepted as the fundamental norms of human rights that everyone should respect and protect.

2.2 INTERNATIONAL COVENANT ON CIVIL AND POLITICAL RIGHTS (ICCPR)

The ICCPR was adopted and opened for signature, ratification and accession by General Assembly resolution 2200A (XXI) on 16 December 1966 and entered into force on 23

²⁵ United Nations General Assembly (1948)

²⁶ United Nations Human Rights Website, A Summary of United Nations Agreements on Human Rights. Accessed: Internet. [<http://www.hrweb.org/legal/undocs.html>].

March 1976. This followed almost two decades of negotiations and rewriting. In 1976, after being ratified by the required thirty-five States, it became international law.

The Preamble of the Covenant notes the recognition of the inherent dignity and the equal and inalienable rights of all members of the human family, which is at the foundation of freedom, justice and peace in the world. The Covenant promotes the following rights:

- The right to legal recourse when an individual's rights has been violated, even if the violator was acting in an official capacity;
- The right to life;
- The right to liberty and freedom of movement;
- The right to equality before the law;
- The right to presumption of innocence until proven guilty;
- The right to appeal a conviction;
- The right to be recognised as a person before the law;
- The right to privacy and protection of that privacy by law;
- Freedom of thought, conscience, and religion;
- Freedom of opinion and expression;
- Freedom of assembly and association. The right of people to choose freely whom they will marry and to found a family. (The Covenant requires that the duties and obligations of marriage and family be shared equally between partners. It guarantees the rights of children and prohibits discrimination based on race, sex, colour, national origin, or language).

The Covenant forbids the following:

- torture and inhuman or degrading treatment;
- slavery or involuntary servitude;
- arbitrary arrest and detention, and debtor's prisons;
- propaganda advocating either war or hatred based on race, religion, national origin, or language.

It also restricts the death penalty to the most serious of crimes, guarantees condemned people the right to appeal for commutation to a lesser penalty, and forbids the death penalty entirely for people under 18 years of age. The Covenant permits governments to temporarily suspend some of these rights in cases of civil emergency only, and lists those rights, which cannot be suspended for any reason. It also establishes the United Nations Human Rights Commission (UNHRC). This was regarded as the UN's principal mechanism and international forum concerned with the promotion and protection of human rights. It has subsequently been replaced by the United Nations Human Rights Council in 2006.

2.3 INTERNATIONAL COVENANT ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS (ICESCR)

The ICESCR was adopted and opened for signature, ratification and accession by the General Assembly resolution 2200A (XXI) of 16 December 1966 and entered into force on 3 January 1976. The text of this Covenant was finalised in 1966 along with that of the Covenant on Civil and Political Rights, but has not been ratified yet by South Africa. The ICESCR places an obligation on States to promote universal respect for and observance of human rights and freedoms. The Convention forbids the exploitation of children, and requires all nations to cooperate to end world hunger. States are to submit annual reports on progress in providing for these rights.

2.4 UNITED NATIONS CONVENTION ON THE RIGHTS OF THE CHILD (CRC)

The CRC was adopted and opened for signature, ratification and accession by the United Nations General Assembly resolution 44/25 on the 20th of November 1989 and entered into force on 2 September 1990, in accordance with article 49. Most countries acceded to the treaty rapidly across the world. This rapid progress towards ratification signalled the rights which have contributed towards the protection of children.²⁷ South Africa signed the treaty in 1993 and ratified in 1995.

The preamble sets out the civil, political, economic, social and cultural rights of children.²⁸ The Convention also reaffirms the fact that children, because of their vulnerability, require the following:

- The need for legal and other protection of the child before and after birth.
- The importance of respect for the cultural values of the child's community.
- Children need special care and protection. Special emphasis is placed on the primary caring and protective responsibility of the family.
- The vital role of international cooperation in securing children's rights.

The protection measures within the CRC include the protection of children from abuse and neglect and interventions required to investigate and prevent child abuse. In addition, more specialised children's provisions are also provided for in the CRC and

²⁷ Sloth-Nielsen and Mezmur (2007)

²⁸ Child Rights Information Network, Convention on the Rights of the Child. Accessed: Internet: [<http://www.crin.org/docs/resources/treaties/uncrc.asp>].

concerned children's decision-making forums that include either local or more specialised courts. The CRC forbids capital punishment towards children. This Convention also has 2 optional protocols that have subsequently been adopted by the General Assembly in 2000, which are only applicable to States who signed and ratified the CRC. Given the importance of the CRC in shaping the rights provisions for children in South Africa, more detail has been provided in this regard. A summary of the provisions of the CRC has been tabulated in Appendix 3, Table 6.

2.5 UNITED NATIONS MILLENNIUM DECLARATION

The United Nations Millennium Declaration was adopted by the General Assembly resolution 55/2 on 8 September 2000. In terms of the Declaration, States have a collective responsibility to uphold the principles of human dignity, equality and equity at global level.

There are eight Millennium Development Goals (MDGs). These include halving extreme poverty and hunger; achieving universal primary education; empowering women and promoting equality between women and men; reducing under-five mortality by two-thirds; reducing maternal mortality by three-quarters; reversing the spread of diseases, especially HIV/AIDS and malaria; ensuring environmental sustainability; and creating a global partnership for development, with targets for aid, trade and debt relief (see Table 3). The Declaration provides for time-bound and measurable goals and targets for combating poverty, hunger, disease, illiteracy, environmental degradation and discrimination against women, namely the Millennium Development Goals (MDGs). The Summit's Millennium Declaration also outlined a wide range of commitments in human rights, good governance and democracy.

Progress towards the attainment of MDGs globally is uneven and slow. It is argued that the large majority of nations will reach the MDGs only if they get substantial support – advocacy, expertise and resources. The challenges for the global community, in both the developed and developing world, are to mobilise financial support and political will, re-engage Governments, re-orient development priorities and policies, build capacity and reach out to partners in civil society and the private sector.²⁹

²⁹ United Nations Department of Public Information (2002)

Table 3: Millennium Development Goals & Targets for 2015

GOAL	TARGET
1. Halve extreme poverty and hunger	Target 1. Halve proportion of people whose income is less than \$1 a day by 2015. Target 2. Halve the proportion of people who suffer from hunger by 2015.
2. Achieve universal primary education	Target 3. Ensure that, by 2015, children everywhere, boys and girls alike, will be able to complete a full course of primary schooling.
3. Empower women and promote equality between women and men	Target 4. Eliminate gender disparity in primary and secondary education, preferably by 2005, and in all levels of education no later than 2015.
4. Reduce under-five mortality by two-thirds	Target 5. Reduce by two-thirds, the under-five mortality rate by 2015.
5. Reduce maternal mortality by three-quarters	Target 6. Reduce by three-quarters, the maternal mortality ratio by 2015.
6. Reverse the spread of diseases, especially HIV/AIDS and malaria	Target 7. Halt and begin to reverse the spread of HIV/AIDS by 2015. Target 8. Halt and begin to reverse the incidence of malaria and other major diseases by 2015.
7. Ensure environmental sustainability	Target 9. Integrate the principles of sustainable development into country policies and programs and reverse the loss of environmental resources. Target 10. Halve the proportion of people without sustainable access to safe drinking water and basic sanitation by 2015. Target 11. Significantly improve the lives of at least 100 million slum dwellers by 2020.

GOAL	TARGET
<p>8. Create a global partnership for development, with targets for aid, trade and debt relief</p>	<p>Target 12. Develop further an open, rule-based, predictable, non-discriminatory trading and financial system (includes a commitment to good governance, development, and poverty reduction, both nationally and internationally).</p> <p>Target 13. Address the special needs of the least developed countries (includes tariff- and quota-free access for least developed countries' exports, enhanced program of debt relief for heavily indebted poor countries [HIPCs] and cancellation of official bilateral debt, and more generous official development assistance for countries committed to poverty reduction).</p> <p>Target 14. Address the special needs of landlocked developing countries and small island developing States (through the Program of Action for the Sustainable Development of Small Island Developing States and 22nd General Assembly provisions).</p> <p>Target 15. Deal comprehensively with the debt problems of developing countries through national and international measures in order to make debt sustainable in the long term.</p> <p>Target 16. In cooperation with developing countries, develop and implement strategies for decent and productive work for youth.</p> <p>Target 17. In cooperation with pharmaceutical companies, provide access to affordable essential drugs in developing countries.</p> <p>Target 18. In cooperation with the private sector, make available the benefits of new technologies, especially information and communications technologies.</p>

3

REGIONAL TREATIES, CONVENTIONS, DECLARATIONS, PROTOCOLS

The South African Government has also led a number of regional treaties and agreements namely: the African Charter on the Rights and Welfare of the Child, the African Youth Charter and the NEPAD agreement.

3.1 AFRICAN CHARTER ON THE RIGHTS & WELFARE OF THE CHILD (ACRWC)

The ACRWC was drafted to give the Convention of the Rights of the Child (CRC) specific application in the African context since the representation by African countries at the time of the drafting of the CRC was deemed inadequate. Hence, the ACRWC was the first regional treaty on the human rights of the child. It was adopted by the Organisation of African Unity (OAU) on 11 July 1990.³⁰

The CRC and ACRWC are premised more on the rights of the child than the powers of the parent over the child. More emphasis has been placed on continent specific issues in the ACRWC such as inter-country adoptions and child trafficking.

3.2 AFRICAN YOUTH CHARTER³¹

In 1995, the United Nations strengthened its commitment to the youth of the world by adopting the World Programme of Action for Youth to the Year 2000 and Beyond (WPAY) to effectively address the problems of young people and to increase the opportunities for the participation of youth in society.³² The WPAY provided a policy framework and practical guidelines for national Governments and regional organisations to improve the situation of youth within countries and regions.³³ The key thematic areas dealt with by the WPAY are: ³⁴

³⁰ Sloth-Nielsen and Mezmur (2007)

³¹ Children 14-18 years fall within the youth category (14-35 years)

³² <http://www.un.org/events/youth98/backinfo/ywpa2000.htm>

³⁴ <http://www.un.org/events/youth98/backinfo/ywpa2000.htm>

- Education;
- Employment;
- Hunger and Poverty;
- Health;
- Drug Abuse;
- Juvenile Delinquency;
- Leisure-time activities;
- Girls and Young Women; and
- The full and effective participation of youth in the life of society and in decision-making.

The key responsibilities placed on Governments are:³⁵

- To formulate and adopt an integrated national youth policy as a means of addressing youth-related concerns;
- Undertake special efforts to develop and disseminate model frameworks for integrated policies and to identify and organise an appropriate division of responsibilities among governmental and non-governmental entities concerned with youth-related issues;
- Strengthen national capacities for data-collection and dissemination of information, research and policy studies, planning, implementation and coordination; and
- Establish or strengthen national coordinating mechanisms for integrated youth policies and programmes.

The WPAY is regarded as an important tool for the development of an integrated youth policy in South Africa. It sets the scene for co-operation between countries in the development of a youth policy, as well as outlining key areas of concern when developing a youth policy. Whilst the WPAY does not confer on signatories certain obligations, it does provide a pivotal benchmark in the implementation and evaluation of a youth policy, once implemented.

One of the key provisions of the WPAY is the recognition of the role of regional organisations in the development of a youth policy. The African Youth Charter (AYC) represents such a measure. The AYC represents a strategic framework for the development of a youth policy at national and regional levels; South Africa ratified the AYC on 8 August 2009.

The AYC places an obligation on State Parties to develop a comprehensive and

³⁵ <http://www.un.org/events/youth98/backinfo/ywpa2000.htm>

coherent national youth policy as well as obligations that signatory states need to abide by when developing and implementing their respective youth policies. These include:³⁶

- That the youth policy be cross-sectoral in nature considering the inter-relatedness of the challenges facing young people;
- That the development of a national youth policy shall be informed by extensive consultation with young people and cater for their active participation in decision-making at all levels of governance in issues concerning youth and society as a whole;
- That a youth perspective be integrated and mainstreamed into all planning and decision-making as well as programme development;
- That mechanisms to address youth challenges shall be framed within in the national development framework of the country;
- That the policy shall provide guidelines on the definition of youth adopted and specify subgroups that shall be targeted for development;
- That the policy shall advocate equal opportunities for young men and women;
- That a baseline evaluation or situation analysis shall inform the policy on the priority issues for youth development;
- That the policy shall be adopted by Parliament and enacted into law;
- That a national youth coordinating mechanism shall be set up and shall provide a platform as well as serve as a linking agent for youth organisations to participate in youth policy development as well the implementation, monitoring and evaluation of related programmes;
- That national programmes of action shall be developed that are time-bound and that are connected to an implementation and evaluation strategy for which indicators shall be outlined; and
- That the programme of action shall be accompanied by adequate and sustained budgetary allocation.

As a Signatory State, the South African Government has to ensure that in terms of the development and implementation of a youth policy, attention is paid to the regional obligations that are enforceable under the AYC. These provisions will have a direct impact on the development of the youth policy – a policy that will greatly impact on structures such as the National Youth Development Agency (NYDA). The NYDA initiates, implements, facilitates and monitors youth development interventions and is aimed at reducing youth unemployment and promoting social cohesion. While this structure is

³⁶ <http://www.un.org/events/youth98/backinfo/ywpa2000.htm>

situated within the Presidency, its mandate of mainstreaming youth issues should involve interaction with all sectors in order to embody the definition of youth mainstreaming as highlighted earlier. Parliament is able to monitor and help foster relationships through its oversight function.

3.3 NEPAD AGREEMENT

The New Partnership for Africa's Development (NEPAD) is a pledge by African leaders, based on a common vision and a firm and shared conviction. They have a pressing duty to eradicate poverty and to place their countries, both individually and collectively, on a path of sustainable growth and development, and at the same time to participate actively in the world economy and body politic. The Programme is anchored on the determination of Africans to extricate themselves and the continent from the malaise of underdevelopment and exclusion in a globalising world.

Hence African leaders will take joint responsibility for a range of issues that will aid development on the continent of which the following have a direct bearing on children:

- Strengthening mechanisms for conflict prevention, management and resolution at the regional and continental levels, and to ensure that these mechanisms are used to restore and maintain peace.
- Promoting and protecting democracy and human rights in their respective countries and regions, by developing clear standards of accountability, transparency and participatory governance at the national and sub-national levels.
- Restoring and maintaining macroeconomic stability, especially by developing appropriate standards and targets for fiscal and monetary policies, and introducing appropriate institutional frameworks to achieve these standards.
- Revitalising and extend the provision of education, technical training and health services, with high priority given to tackling HIV and AIDS, malaria and other communicable diseases.
- Promoting the role of women in social and economic development by reinforcing their capacity in the domains of education and training; by the development of revenue-generating activities through facilitating access to credit; and by assuring their participation in the political and economic life of African countries.
- Building the capacity of the states in Africa to set and enforce the legal framework, as well as maintaining law and order.³⁷

The MDGs and NEPAD share common values with human rights instruments and their value lies in that they set time frames for the realisation of these rights.³⁷ When NEPAD was drawn up in 2001, African leaders incorporated the MDGs into the plan. As such African youth leaders identified conflict, HIV and AIDS, poverty and corruption as the main obstacles for Africa in achieving progress. Thus given the challenges facing youth and children in Africa, it will be imperative that strategies and programmes devised to achieve the aforementioned goals, take into consideration the needs of children and youth.³⁹

37 NEPAD (2001)

38 Fukuda-Parr (2004) p395

39 Randle (2004)

4

DOMESTIC LEGISLATION

The following legislation has particular bearing on children's rights in South Africa but is by no means a complete list, which is beyond the scope of this document.

4.1 SOUTH AFRICAN CONSTITUTION (ACT 108 OF 1996)

The South African Constitution contains a number of socio-economic rights that only apply to children. In terms of section 28(1)(c) every child has the right to basic nutrition, shelter, basic health-care services and social services. These rights are free of internal limitations in terms of progressive realisation. Socio-economic rights applicable to everyone have internal limitations because the Constitution requires that the State must take reasonable legislative and other measures within its available resources to achieve the progressive realisation of these rights. No such limitation applies to the socio-economic rights of children.⁴¹ In addition, the Constitution makes provision for children's right to be protected from abuse, neglect and degradation. The Constitution also ensures that no child should work when under-age, or do work that would interfere with his or her education or development. Children should be jailed only as a last resort and should not have to share a cell with adults. They should not take part in wars and should be protected during times of conflict. The second sub-section, a very important clause, says that a child's interests are the most important consideration in any matter concerning the child.

The Constitution also contains the right to life in section 11 and the right to equality in section 9. The Constitution further requires the interpretation of rights to consider international law.⁴²

As prescribed in international law, the State has various layers of obligations. In terms of section 7(2) of the Constitution, the State has a duty to respect, protect, promote and fulfil all the rights in the Bill of Rights. The Constitution adds the duty to 'promote' these rights, which is absent from international law.

⁴¹ Dutschke (2007)

⁴² See section 39 of the Constitution

4.2 LAWS

Specific laws that are currently in place to give effect to children's rights include, but are not limited, to the following:

- **Sexual Offences and Related Matters Act (No 32 of 2007):**

Extension of the definition of rape: The definition of rape is extended to include sodomy and other forms of sexual penetration. Reference is no longer made to the sex of the perpetrator or the victim, and the Act does not prioritise certain forms of sexual penetration above others. Sexual and physical autonomy and integrity are protected.⁴³

Consensual sexual acts with certain children: The Act criminalises acts of sexual penetration and sexual violation with children between the ages of 12 and 16 years, regardless of consent. An accused can, however, raise a defence that the child deceived him or her into believing he or she was above the age of consent. An accused can also raise the defence that the age difference between them is no more than two years where there was consensual sex with a child between the ages of 12 and 16 years.

Sexual exploitation of children: A ban is placed on child prostitution and those who engage the services of child prostitutes, as well as those who benefit from the sexual exploitation of a child. Primary caregivers and parents or guardians are prohibited from intentionally allowing a third person to commit a sexual act with a child. Persons who know of the sexual exploitation of a child are obliged to report this to the police. New offences involving the sexual grooming of children, engaging in sexual acts in the presence of children and the flashing, display or exposure of pornography or sexual acts to children, have also been created.

National Register of Sex Offenders: A National Register of Sex Offenders is to be established and a person who has been convicted of a sexual offence is prohibited from working with children. A convicted sex offender must disclose his or her conviction when applying for employment which would involve working with children; and an employer who provides services to or for children is prohibited from employing such a person.

⁴³ Combrinck, H. (2006)

Human trafficking: Human trafficking for the purposes of sexual exploitation becomes a separate, substantive offence, acknowledging the vulnerability of women and children.

Medical and counselling services for victims and the compulsory HIV testing of alleged sex offenders: Services provided to victims of sexual offences include the right to have the HIV status of an alleged perpetrator tested, as well as counselling and post exposure prophylaxis (PEP) treatment which is needed to prevent mother to child transmission of HIV where victims are in advanced stages of pregnancy. Compulsory HIV testing of alleged sex offenders was considered a necessary invasion of an accused's rights to privacy compared to the harm that may ensue if victims do not receive treatment timeously.

- **Children's Act (No. 38 of 2005) as amended by Children's Amendment Act (No. 41 of 2007):**

The Children's Act was officially launched by President Zuma as an overarching piece of legislation that enhances the protection of children. This Act outlines that decisions should be made in the best interests of the child, and that each child has a right to participate in decision-making that concerns him or herself. The Act also changed the age of majority from 21 years to 18 years and further obliges Government to ensure substantive equality and equal access to social services for children with disabilities and chronic illnesses. With the current Act, the age of 12 years serves as a threshold for consent, and the child's maturity and ability to understand the risks and benefits of any medical treatment or testing must also be assessed before the child can consent on their own. The Act provides for the following, namely: early childhood development programmes; partial and foster care services; prevention and early intervention services for vulnerable children; protection services for abused children; support groups for child-headed households; and partial and secure care facilities for children and adoption.

The Children's Act was officially launched by President Zuma as an overarching piece of legislation

- **Child Justice Act (No. 75 of 2008)**

The Child Justice Act deals specifically with children and youth in conflict with the law and was drafted to bring the legislation in line with the provisions in the Constitution, particularly those pertaining to children’s rights. The former Joint Monitoring Committee on the Improvement of Quality of Life and Status of Children, Youth and Disabled Persons was instrumental, along with many other stakeholders, in shaping the outcome of the Bill by providing written submissions. Most of the Committee’s recommendations made to the Portfolio Committee on Justice and Constitutional Development were incorporated into the legislation. These included the minimum age of criminal responsibility (MACR), assessments for all youth and children awaiting trial, reference to the relevant international treaties, the importance of diversion programmes and access to identification documents. The Child Justice Bill was enacted by the President on 11 May 2009.

- **Social Assistance Amendment Act (No. 5 of 2010)**

The Social Assistance Amendment Act (No. 5 of 2010) came into effect in September 2010. This Act gives effect to social security grants that would directly benefit children. The purpose of this Act is to “amend the Social Assistance Act, 2004, so as to enable applicants and beneficiaries to apply to the Agency (South African Social Security Agency) to reconsider its decision; to further regulate appeals against decisions of the Agency; to effect certain textual corrections; and to provide for matters connected therewith”.⁴⁴

The Act also deals with matters pertaining to cash grants e.g. disability grants, foster care grants and care dependency grants, all of which affect children and youth who are eligible for obtaining it. Children also have a right to social security, hence the provision of cash grants.

⁴⁴ Social Assistance Amendment Act (No. 5 of 2010), p.2



SECTION 3

Children in Context

5

CHILDREN IN CONTEXT

The purpose of this section is to focus on children in the South African context and to provide a demographic profile of the nation's children by tabling statistics followed with analytical commentary on each indicator. The disaggregated data includes indicators on:

- Number of children in SA, per province by age group, sex, race
- Infant Mortality Rate (IMR)⁴⁵
- Under-five Mortality Rate (U5MR)⁴⁶
- Registered births per province
- Orphans
- Number of children enrolled at primary schools
- Number of children living in income poverty
- Number of children living in formal housing and informal dwellings
- Number of children in households with access to basic services (water and sanitation, electricity)

Children constitute 38% of the population in South Africa, which amounts to approximately 18.6 million individuals. More than two-thirds of these children resided in households with an income of R520 or less a month during 2009.⁴⁷ In 2008, over 95% of children between 12 and 15 years old were attending school. However, of these children, many are at grades below the ones corresponding to their ages.⁴⁸

It has been noted that children's legislation appears to be implemented in a piecemeal manner and mostly in urban settings.⁴⁹ To this end, State measures have been developed and implemented to ensure that children's rights are realised and redress is brought about. Parliament, as an institution, is one of the key structures tasked with overseeing children's rights in South Africa. The role of Parliament includes, among others, the promotion of the values of human dignity, equality, non-racialism and non-

45 Number of children under the age of 1 year who have died for every 1 000 live births.

46 Number of children under the age of 5 years who have died for every 1 000 live births

47 Statistics South Africa (2009) General Household Survey (2009). Pretoria, Cape Town: Statistics South Africa. Analysis by Chennells and Hall, Children's Institute, University of Cape Town (2011)

48 Loaiza and Lloyd (2008)

49 Sloth-Nielsen and Mezmur (2007)

sexism. It also enacts legislation that prevents or prohibits unfair discrimination. Parliament also has the responsibility to promote the principles of co-operative government and intergovernmental relations and ratifies international agreements, which are binding on the Republic.

5.1 DEMOGRAPHICS

For 2011, Statistics South Africa (Stats SA) estimated the mid-year population as just over 50 million.⁵⁰ Exactly half of all children live in three of the nine provinces: KwaZulu-Natal (23%), Eastern Cape (15%) and Limpopo (12%).⁵¹ Children are fairly equally distributed across the age groups, with roughly one million children in each age year under 18. Similarly, the gender split for boys and girls are nearly equal, accounting for 51% and 49% of the child population respectively.⁵² (Refer to Table 3, Appendix 1).

5.2 VITAL REGISTRATION

5.2.1 Registered births

The number of births that are officially registered via the Department of Home Affairs has come under scrutiny given the huge discrepancies that exist between the different sources of data ranging from the Department of Health's recording of the number of births in hospitals to Statistics South Africa's collection of vital statistics through surveys such as the census. The estimation of completeness of the South African National Population Register (NPR) for recording vital events and other characteristics is an important undertaking that provides an indication of the efficiency of the Department of Home Affairs' registration system. Furthermore, the number of births and deaths adjusted for incompleteness of registration can be used in the analysis of birth and death statistics and for estimating the overall population size of the country.⁵³

Stats SA explains that estimates of completeness of birth registration are provided for current births (births registered within the year of birth) and for updated birth occurrences (recorded births as at 30 June 2011). Findings indicate that the percentage of births registered within the year of birth increased from

⁵⁰ Statistics South Africa (2011) Mid-year population estimates

⁵¹ Meintjes & Hall (2011)

⁵² Ibid.

⁵³ Statistics South Africa (2010) Mid-year population estimates

47.9% in 2002 to 83.3% in 2010, although there was a slight decrease between 2008 and 2009.⁵⁴

Stats SA reported that in 2011, the highest number of birth registrations was in Gauteng (395 097), accounting for 30.5% of all births. It was followed by KwaZulu-Natal (258 286) and then Eastern Cape (134 580). The lowest number of birth registrations was in the Northern Cape (25 944). In 2011, there were only 379 recorded births with unspecified information about province, unlike the 2009 data which had 16 152 births with unspecified information about province. With the exception of Gauteng, there were more current than total late registrations in all provinces.

5.2.2 Child deaths

The United Nation's General Assembly adopted the United Nations Millennium Development Declaration with 8 goals and 18 targets that were intended to improve the health status of people and alleviate poverty. For South Africa, attaining the goal of health for all is imperative for all socially vulnerable groups

such as children, youth, women and persons with disabilities.⁵⁵ South Africa currently has the largest number of people living with in HIV in the world.⁵⁶ Many children are HIV positive or have become ill and died due to AIDS. The majority of children are infected before and during the birth process and some later through breastfeeding – in other words, paediatric HIV is driven by the adult epidemic.⁵⁷

However, the majority of these child deaths are preventable.⁵⁸ Over 100 000 children (under 18 years) die annually as a result of communicable diseases, intentional and unintentional injuries.

Furthermore, the high incidence of domestic violence and abuse and crimes against and by children in the context of poverty compounds the vulnerability of children. The main causes of child deaths were due to AIDS, diseases of poverty (e.g. diarrhoeal disease, malnutrition, pneumonia); neonatal causes of deaths (i.e. related to maternal care and obstetrics) and trauma.

South Africa currently has the largest number of people living with in HIV in the world

⁵⁴ Ibid.

⁵⁵ Mbeki, T (2008)

⁵⁶ African Economic Outlook (2011)

⁵⁷ Roman and Hall (2011)

⁵⁸ Ibid

5.2.3 Orphan status

An orphan is defined as a child under the age of 18 years whose mother, father, or both biological parents have died.⁵⁹ The General Household Survey 2009 indicates that 34% of children in South Africa live with both their biological parents. Thirty nine percent of all children – more than seven million – live with their mothers but without their fathers. Only 3% of children live in households where their fathers are present and their mothers absent. Twenty-four percent of children live with neither biological parent. This does not necessarily mean that they are orphaned: in most cases (78%) at least one parent is still alive, and half of all children who live without co-resident parents have both parents living elsewhere. In both the Western Cape and Gauteng provinces, the proportion of children living with both parents is significantly higher than the national average, with more than half of children resident with both parents (56% and 53% respectively). Similarly, the number of children living with neither parent is low in these two provinces (12% and 13%). In contrast, over a third of children (36%) in the Eastern Cape live with neither parent. These patterns are consistent from 2002 to 2009.⁶⁰

Meintjies and Hall (2011) notes that less than one third (28%) of African children live with both their parents, while the vast majority of Indian and White children (84% and 85% respectively) are resident with both biological parents. Just over one quarter (27%) of all African children do not live with either parent and a further 42% of African children live with their mothers and without their fathers. These figures indicate an absence of fathers in the domestic lives of large numbers of African children. Younger children (0 – 5-year-olds) are more likely to be living with their mothers (whether or not their fathers are present) than older children (6 – 17 years), who are more likely than younger children to be living with neither parent. While 15% of children aged 0 – 5 years were not residing with either parent in 2009, this situation applied to 29% of children aged 6 – 17 years.

⁵⁹ Meintjies and Hall (2011)

⁶⁰ Ibid.

5.3 HEALTH STATUS OF CHILDREN IN SOUTH AFRICA

5.3.1 Diseases of poverty

Diseases of poverty include health-related issues such as low birth weight, diarrhoeal disease, lower respiratory infections and malnutrition. In 2009, nearly three million children (16%) were living in households where child hunger was reported. Overall, there has been a significant drop in reported child hunger from 30% of children in 2002, to 18% of children in 2007.⁶¹ The causes of preventable deaths are exacerbated by a lack of access to basic services such as water and sanitation, good health services for children including comprehensive HIV and AIDS interventions, and high levels of trauma and violence. The poorest children make up a disproportionate share of the mortality figures. The State of the World's Children Reports for 2006 and 2007 makes explicit that income inequalities threaten children's survival and that the poorest 20% of children are four times more likely to die before their fifth birthday than the richest 20% of children in South Africa. The deaths of many children under-five years of age in South Africa remain unacceptably high and are preventable. The South African Medical Research Council's (SAMRC) National Burden of Disease Study findings also indicated that the leading cause of childhood deaths from 1-4 years in 2000 was closely linked to poor socio-economic conditions with external causes of death such as road traffic accidents, homicide and suicide contributing to the deaths of older children.⁶²

5.3.2 HIV and AIDS

Due to its relatively large population among the southern African countries, South Africa has the largest number of persons living with HIV infection in the world (4.9-5.7 million). It is estimated that about a quarter of a million of these are children below the age of 15 years. An estimated 350 000 children and adults died in South Africa of AIDS in 2007 alone.⁶³ The impact of the HIV and AIDS pandemic in South Africa has contributed significantly to South Africa's high mortality rates (particularly for children) as compared to other countries with similar income levels and health expenditure.⁶⁴ Notwithstanding the devastating

61 Roman and Hall (2011)

62 Ibid

63 Matjila et. al (2008)

64 Victoria et al, (2003)

effects of child mortality as result of the HIV and AIDS pandemic, the impact of children whose parents have died because of AIDS is as alarming. The HIV and AIDS pandemic has resulted in the increase in the number of orphans, placed a financial burden on poor families and in so doing, disrupted family units.

Given the regressive trend around child survival (with HIV and AIDS contributing to a significant number of deaths in the country and the high prevalence of HIV amongst young adults), existing efforts to combat this, such as the Prevention-of-Mother-to-Child-Transmission-Programme (PMTCT), are essential.

5.3.3 Health implications of violence

The incidents of violence perpetrated against children and youth remain unacceptably high in South Africa.

In the period 2010-2011, most of the victims of crimes committed against children were between 15 – 17 years old. Fifty five percent of murders, 59.6% of attempted murders, 70.8% of assaults for grievous bodily harm (GBH), 63.1% of common assaults and 39.5% of sexual offences committed against children were in the age group of 15 – 17 years.⁶⁵

... most of the victims of crimes committed against children were between 15 – 17 years

It is, however, disturbing to notice that in the case of the most prevalent crime against children, that of sexual offences, most of the crimes in this regard involved children below the age of fifteen years. Of the 20 141 cases of sexual offences recorded during 2008/2009, 60.5% were committed against children below the age of 15 years. It is even more disturbing to note that 29.4% of these sexual offences involved children aged 0 – 10 years.⁶⁶

Notwithstanding the official administrative data, research has shown that the number of rapes that are reported is lower than the actual number of rapes that have occurred.⁶⁷ A key concern linked to the number of rape survivors entering the criminal justice system has been the restructuring of the South African Police Services' Family Violence, Child Protection and Sexual Offences (FCS) Units. This restructuring had a negative impact on the services rendered to the victims that

⁶⁵ Donson (ed) (2008)

⁶⁶ *Ibid.*

⁶⁷ Frank, Waterhouse, Griggs and Ronstch (2008)

required specialist intervention. Inadequate budgetary planning and allocation, loss of specialised and skilled staff along with the required infrastructure and the placement of inexperienced personnel have greatly affected the morale of staff, which in turn directly impacts on the type of services being rendered.⁶⁸

In terms of fatalities,⁶⁹ the majority of non-natural deaths were among young adults aged 15 to 29 years (36% of all non-natural deaths), followed by the age group 30-44, comprising 32% of non-natural deaths.⁷⁰ Five percent of the deaths were children younger than 5 years and another 4% were aged 5 to 14 years. In the 15 to 29 years group, violence with a sharp object was the main cause of death, followed by death as a result of firearm usage. There were 6.5 male deaths for every female death. Blunt objects were the major external cause of violence for those children aged 0-4 years and 10-14 years. The study also revealed that the most violence-related deaths occurred in and around private homes.⁷¹ What these statistics bring to light is that even with the promulgation of the Firearm Control Act (No. 60 of 2000), in many instances illegal guns are used in violent crimes of which children and youth bare the detrimental outcome.

5.4 SOCIO-ECONOMIC STATUS OF CHILDREN

5.4.1 Poverty

Research findings indicate that South Africa has very high rates of child poverty. In 2009, nearly two-thirds of children (61%) lived in households with a per capita income below R552 per month. In addition, research has also shown that a disproportionate number of poor people are children living in poor households, which results in a high incidence of visible malnutrition and stunting among children. Hence, the most seriously affected children are those in rural areas whose mothers have relatively low levels of education.⁷³ Children living in poverty are at a greater disadvantage in terms of their health, well-being and development being negatively affected. Thus the provision of a holistic package of services is essential and example hereto is providing Early Childhood Development programmes. It is critical that across the country the monetary

68 Ibid.

69 South African Medical Research Council's, National Injury Mortality Surveillance System Annual Report (2008)

70 Donson (editor) (2008)

71 Ibid.

73 Michael (2002)

allocation for Early Childhood Development and the increase in the number of children attending Early Childhood Development facilities needs careful scrutiny.⁷⁴

5.4.2 Education

In 2009, there were 25 906 ordinary public schools in South Africa. KwaZulu-Natal (6 091, or 23.5% of the national total) and the Eastern Cape (5 809, or 22.4% of the national total) had the highest and second highest number of ordinary schools, while the Northern Cape (617, or 2.4% of the national total) had the smallest number. Of the 25 906 schools in the country, 1 207 (4.7%) were independent schools.⁷⁵ The Department of Basic Education reported that in 2009, approximately 29 in every 100 people in South Africa were learners in the education and training system. There are 32 103 institutions in the country which include the following:

- 25 906 ordinary public and independent schools
- 3 312 Early Childhood Development (ECD) centres
- 2 395 public Adult Basic Education and Training (ABET) centres
- 418 special schools
- 49 public Further Education and Training (FET) colleges
- 23 public higher education institutions⁷⁶

The highest number of children enrolled at a primary school are in the KwaZulu-Natal, Limpopo and Eastern Cape Province, the provinces where the highest number of children reside. The Northern Cape Province (with the least number of children) has the lowest numbers enrolled in school. While the enrolment figures of children at school appear to be high (refer to Table 4, Appendix 1), this is not necessarily an indication of the number of children who in fact remain at school, attend regularly and who do not drop out prior to the compulsory school going age of 15 years.

5.4.3 Basic services

The provision of basic services is essential for the livelihood and survival of children. The disruption of energy supply and lack of access to adequate, clean water and sanitation facilities have had a direct impact on the health status of

⁷⁴ Berry and Rudolph (2006) in Monson J, Hall K, Smith C and Shung-King M (eds) (2006)

⁷⁵ Department of Basic Education (2009) Education statistics in South Africa 2009.

⁷⁶ Ibid

children. It was acknowledged that the disruption in the supply of electricity was regarded as a national emergency and particularly impacted on and further impoverished the poor. The South African Medical Research Council has examined the link between exposure to indoor air pollution and acute lower respiratory infections (ALRI) such as pneumonia for children.⁷⁷ The findings indicated a high prevalence of ALRI amongst children in households with no electricity and prolonged indoor exposure to fumes from fires made of wood, corncob and/or cow dung. Hence, the provision of adequate housing, which is tied to basic services, is crucial for the livelihood of people, particularly the poor. When diseases of poverty such as ALRI cannot be addressed solely through medical interventions, an integrated approach is required.⁷⁸ This entails ensuring that the environments within which children live are conducive to healthy lifestyles.

Research has shown that the Eastern Cape (32%), Limpopo (32%) and KwaZulu-Natal (47%) have the lowest proportion of children with access to drinking water on site in South Africa, as compared to the Western Cape (93%), Free State (90%) and Gauteng Province (90%). Similarly, the Eastern Cape and Limpopo Province have the lowest proportion of children living in households with basic sanitation. The Eastern Cape Province also has the highest proportion of children living in circumstances of income poverty.⁷⁹ The provision of basic services affects large numbers of children across the country, the majority of whom are impoverished. Non-fulfilment of these basic services is a breach of children's constitutional rights. These socio-economic rights are not subject to progressive realisation and must therefore be addressed with urgency.

5.4.4 Social security

In terms of social grant reforms, the Government has prioritised the following social grant reforms namely ensuring age parity with regards to the Old Age Pension Grant and completing the work on the comprehensive social grant system. These social security provisions have important policy implications for the Department of Social Development. They require the Department to amend the Social Assistance Act (No. 13 of 2004), which stipulates the age of eligibility for pensions for the aged and for the Child Support Grant. In addition, the Department will have to ensure that its management, administration and information technology systems are enhanced to accommodate the increase of

77 Barnes and Mathee (2002)

78 Bradshaw, Bourne and Nannan (2003)

79 Statistics South Africa (2005; 2006) General Household Survey 2004; General Household Survey 2005, Children's Institute, University of Cape Town (2006)

beneficiaries.⁸⁰ The former Minister for Social Development, Dr Zola Skweyiya, indicated that the Department would review the means test for all the social grants⁸¹ as the research undertaken by the Economic Policy Research Institute (EPRI) revealed that the non-adjustment of the means test over the past few years, especially of the Child Support Grant (CSG), has led to the erosion of the value of the grants. Since April 2010 the CSG has become the single biggest programme for alleviating child poverty in South Africa.⁸² Take-up of the CSG has increased dramatically over the past decade, and by mid-2009, the monthly CSG was paid to nine million children aged 0 – 14 years.⁸³

The initial rollout of the Child Support Grant in 1998 involved a cash-transfer of R100 per month to the primary caregivers of all eligible children under the age of 7. The age limit has been raised several times to expand the coverage of the Child Support Grant.⁸⁴ In response to the alleged success of the Child Support Grant, the age-limit was increased to 16 years from January 2010. It is envisaged that this will gradually be increased to include all eligible children under 18 years from January 2012. From the 1st April 2011 the Child Support Grant increased to R260 per month.⁸⁵

5.4.5 Crime

The South African Police Services has indicated that eradicating violence against women and children is a top priority. However, notwithstanding this priority, the statistics reflect that among the dominantly social contact crimes committed against children, 51.9% were sexual offences. Data has shown that sexual offences against children have increased by 2.6% for the 2010/2011 period.⁸⁶

Data has shown that sexual offences against children have increased by 2.6%

Despite a world-renowned Constitution and a legislative overhaul that safeguards children's rights, South Africa still has high levels of violence against women and children⁸⁷. According to the South African Police Services, approximately 50 000 children were victims of violent crimes

80 Minister of Social Development (2008) Minister Skweyiya Announces Changes to Means Test to Allow More People to Apply for Social Grants

81 Ibid

82 Hall (2010)

83 Ibid.

84 The Child Support Grant is monthly income support to adults in need, who care for children who are under the age of 17. Parents and primary caregivers qualify for the Child Support Grant if their child is born on or after 31 December 1993.

85 Coetzee (2010)

86 South African Police Service Crime Report 2010/2011

87 UNICEF, (2009) Annual Report

between the years 2008-2009⁸⁸. The following key issues must be considered if child protection is to be enhanced:

- **Child abuse and neglect** – South Africa continues to deal with high numbers of incidents of child abuse and neglect due to a range of reasons. The causes of abuse and neglect are due to a myriad of reasons and are complex in nature. Additional factors that render children more vulnerable to abuse and neglect include high levels of gender-based violence; domestic violence; the preponderance of the sexual exploitation of children (includes increased prevalence of child abuse images); the impact of the HIV and AIDS pandemic; drug abuse; economic recession; poverty and high unemployment. All these issues negatively affect the stress/trauma levels of parents and caregivers, leaving children more vulnerable to be abused and/or neglected. It is also important to note that children fall victim to accidents and injuries if not supervised and cared for appropriately, for example, poisoning, drowning, etc.
- **Child survival** – The protection of children, when understood more holistically, extends beyond a focus on the abuse and neglect of children. If children are not protected, their right to survival and development is violated. Many children in South Africa continue to die from largely preventable causes of deaths, as protection mechanisms have either failed them or were not in place. This failure has a direct bearing on the country's ability to attain progress with respect to Millennium Development Goal 4, namely, to reduce child mortality. In South Africa, children are also victims to murders, firearm fatalities and motor vehicle accidents that are referred to as intentional injuries.
- **Human Trafficking** –The South African Government tabled a bill to combat human trafficking in Parliament in 2010. The Bill addresses the shortcomings of existing legislative infrastructure on human trafficking. It provides for more extensive domestic legislation to combat and curb this crime. Specifically, it provides for the protection of and assistance to victims of trafficking and the prosecution of persons engaged in trafficking. Government indicated during child protection week that dedicated provincial anti-human trafficking police coordinators and task teams have been established and that human trafficking investigators were employed within every Organised Crime Unit.

⁸⁸ Ibid.

In addition, it has been reported that regular training workshops are presented to the police, especially to front line officers working at Police stations. The Children's Act also makes it a crime to traffic children. In addition, the Criminal Law Sexual Offences and Related Matters Amendment Act of 2007 contains provisions that criminalise human trafficking for sexual purposes or any other purpose.

- **Missing children** – According to Missing Children South Africa, there have been more than 1000 children that have been reported as missing since 1994 who have not been found. Approximately, 1 200 children are reported missing each year. The organisation has also linked missing children to the demand for children who are trafficked for cheap labour or for sexual exploitation.⁸⁹
- **Parental care and responsibility** – Children require age appropriate supervision and care in order to be protected as far as possible from harm and injury. To this end, parents and caregivers need to be available and equipped with the requisite skills to care for children e.g. first aid training. During the festive season and holiday periods, children without or with limited supervision, are more prone to being injured and exposed to situations that leave them unprotected.

⁸⁹ Missing Children South Africa (2010)





SECTION 4

Case Studies



6

CASE STUDIES

6.1 CASE STUDY APPROACH

As previously noted, cases are fictitious; they were drafted from observations and other literature that documents the challenges South African children face. The cases may resonate with issues that Members may have encountered in various communities. These case studies have been drawn up with the purpose for illustrating the various rights violations experienced by children in the country and looking at what should be done to remedy the situation.

This section contains six case studies that reflect key concerns affecting children. Each case study describes various scenarios of how children's survival and development can be impeded in South Africa. The case study approach illustrates the following:

- The rights violation within the issue e.g. xenophobic attacks and implications for children.
- Legislation that gives effect to the right identified (problems with the implementation of the law, gaps in the legislation, amendments required if any, interrelation of laws or lack thereof).
- Services offered in fulfilment of the right (problems with implementation of services/programmes in terms of access, capacity constraints, lack of disaggregated data for monitoring and evaluation purposes).
- Budget: a brief commentary on whether budgetary provisions are adequate or not is provided.
- The duty bearer responsible for giving effect to the rights concerned is also highlighted.

The case study approach makes use of tables to illustrate information pertaining to the rights violation, legislation, services and duty bearer. An emphasis is placed on the role of Parliament as a duty bearer and its responsibilities in relation to its core functions, namely:

- Oversight and accountability – briefings at Committee meetings, oversight visits, study tours;
- Legislation;
- Public Participation; and Constituency work.

Key questions for consideration are posed in relation to each function.

6.2 CASE STUDY 1:

HIV AND AIDS

Baby Sarah (age 3 months) and mother Gladys (age 27 years) migrated from the Western Cape to the Eastern Cape Province shortly after baby Sarah was born. Gladys died soon hereafter with pneumonia as the primary cause of death and HIV as the underlying cause. Baby Sarah arrives with her grandmother at a local authority clinic in the Umtata Region, as she is sickly. The grandmother is unsure if the baby was registered in the Western Cape and whether or not she received a birth certificate or anti-retroviral treatment. Grandmother took baby Sarah to the clinic many times for a chest infection and for being malnourished, as the treatment did not work. The torrential rains, cold and damp weather exacerbated Baby Sarah's condition and she died before reaching 5 months. The cause of death may have been due to HIV and AIDS. However, this was not confirmed. No formal burial service was held. So Baby Sarah was neither officially registered at birth nor was she captured in her death. The family of five (Baby Sarah and 4 other siblings) survived on the grandmother's pension.



Facts	Rights	Duty-bearer	Duties
Death of Baby Sarah	Right to life.	<ul style="list-style-type: none"> Department of Health 	<ul style="list-style-type: none"> Delivery of an effective health-care system. Providing accessible and affordable health-care. Treating illnesses and preventing death.
No birth certificate	Name and nationality	<ul style="list-style-type: none"> Department of Home Affairs in collaboration with Department of Health 	<ul style="list-style-type: none"> Provide identification documentation and the upkeep of vital registration.
Inadequate health-care	Right to basic healthcare services [Section 28(1)(c)]	<ul style="list-style-type: none"> Department of Health 	<ul style="list-style-type: none"> Delivery of an effective health-care system.
Poverty of Baby Sarah's family	Right to basic nutrition [Section 28(1)(c)] Right to sufficient food and water [Section 27(1)(b)]	<ul style="list-style-type: none"> Department of Social Development – South African Social Security Agency Department of Water and Environmental Affairs 	<ul style="list-style-type: none"> Providing accessible and affordable health-care. Poverty alleviation initiatives.
No access to social security and social service	Right to access social security [Section 27(1)(c)] Right to social services [Section 28(1)(c)]	<ul style="list-style-type: none"> Department of Social Development – Social Security Agency of South Africa 	<ul style="list-style-type: none"> Providing mentorship, support and psycho-social intervention.

SECTION 10:
 Everyone has the right to have their dignity respected and protected.
 Section 28 (2): The Child's best interests shall be of paramount importance.

Parliament as Duty-Bearer in overseeing service delivery to Baby Sarah

Duty	Key questions for consideration
Oversight and accountability – in terms of legislation	<ul style="list-style-type: none"> • How are the respective Departments implementing the Children’s Act?
Oversight and accountability (this includes briefings at Committee meetings)	<ul style="list-style-type: none"> • What is currently being done to improve the vital registration system? • What progress is being made to improve the outcome of MDG 4 and 5? • How effective is the Prevention-of-Mother-to-Child-Programme, Integrated Management of Childhood Illness Programme, Expanded Immunisation Programme and the Integrated Nutrition Programme?
Conducting oversight visits	<ul style="list-style-type: none"> • Visit to local authority clinics in peri-urban and rural areas to engage with health-workers and patients about the PMTCT programme. • Visit to NGOs offering services to women and children infected and affected by HIV and AIDS.
Public Participation initiatives	<ul style="list-style-type: none"> • Taking Parliament to the People: This serves as an ideal opportunity to ensure that issues pertaining to vital registration and PMTCT are discussed as well as other key child survival initiatives.
During Constituency work	<ul style="list-style-type: none"> • Engaging with community members and documenting cases where children have not been registered and have struggled to access Government programmes.

6.3 CASE STUDY 2:

CHILD POVERTY

Simphiwe is 12 years old and is teased and bullied at school for not wearing the proper uniform and paying school fees. He has two siblings aged 5 and 8 years, who are at the same school. Upon investigation by a concerned teacher, it was discovered that Simphiwe is responsible for rearing his siblings, as their mother had died a year ago and they do not know where their father is. They were not receiving any social security benefits and their access to food was mainly from the neighbours and the school feeding scheme. This only applied during term times so they often go hungry. All three siblings sleep on the same bed in a shack with no electricity. They get water from a communal tap and share the ablution facilities with more than twenty other families in the neighbourhood. The toilets are always blocked and the children often have diarrhoea.



Facts	Rights		Duty-bearer	Duties
Simphiwe as head of a household	Right to family care or parental care [Section 28(1)(b)] Right to social services [Section 28 (1)(c)]	SECTION 10: Everyone has the right to have their dignity respected and protected. SECTION 28 (2): The child's best interests shall be of paramount importance.	<ul style="list-style-type: none"> Department of Social Development 	<ul style="list-style-type: none"> Programmes to support child-headed households. Providing mentorship, support and psycho-social intervention.
Poverty of family	Right to have access to social security [Section 27(1)(c)]		<ul style="list-style-type: none"> Department of Social Development – Social Security Agency of South Africa 	<ul style="list-style-type: none"> Cash grants to acquire basic necessities in the house e.g. food, clothing.
Lack of food	Right to basic nutrition [Section 27(1)(c)]		<ul style="list-style-type: none"> Department of Social Development, Department of Agriculture Department of Education 	<ul style="list-style-type: none"> Food parcels would assist the family to cover meals outside of the Primary School Nutrition Programme
Inadequate shelter	Right to shelter [Section 28(1)(c)] Right to have access to adequate housing [Section 26(1)]		<ul style="list-style-type: none"> Department of Human Settlements 	<ul style="list-style-type: none"> Provision of low cost housing
No running water and a blocked toilet	Right to have access to sufficient water & an environment that is not harmful to health & well-being		<ul style="list-style-type: none"> Department of Water and Forestry Department of Provincial and Local Government 	<ul style="list-style-type: none"> Provision of clean water and sanitation facilities
Bullying and teasing	Right to be protected from maltreatment, neglect, abuse and degradation		<ul style="list-style-type: none"> Department of Education 	<ul style="list-style-type: none"> A safe environment where children can learn
Repeated episodes of diarrhoeal disease	Right to basic health-care services [Section 28 (1)(c)]		<ul style="list-style-type: none"> Department of Health 	<ul style="list-style-type: none"> Provision of health care; accessible and affordable health care

Parliament as Duty-Bearer in overseeing service delivery to Simphiwe & siblings

Duty	Key questions for consideration
Oversight and accountability including briefings at Committee meetings	<ul style="list-style-type: none"> • How is the Department of Education dealing with bullying at school? What programmes are currently in place and how effective are these? • How does the Integrated Management of Childhood Illness of the Department of Health assist children in primary school against diarrhoeal disease?
Conducting oversight visits	<ul style="list-style-type: none"> • Visits to primary schools, local clinics and non-governmental organisations to gain insight into programmes targeting vulnerable children.
Public Participation initiatives	<ul style="list-style-type: none"> • Focussed themes around understanding the plight of vulnerable children and to hear from a range of stakeholders what the concerns, challenges and success stories are.
Constituency work	<ul style="list-style-type: none"> • Gain information about number of children living in households infected and affected by HIV and AIDS. Determine what the challenges are for communities affected by the HIV and AIDS pandemic.

6.4 CASE STUDY 3:

CHILD ABUSE

Alice was being physically abused at home. Upon investigation, it was found that Alice was sexually abused by her father in Johannesburg. However nothing came of the investigation. Her mother then sent her to live in Nelspruit where she pursued a sexually active lifestyle. This caused her mother to physically punish her. Nurses at the local clinic scolded Alice when she requested contraception. She subsequently contracted HIV, became pregnant and left school. Alice is only 13 years old.



Facts	Rights		Duty-bearer	Duties
Physical and sexual abuse	Right to be protected from maltreatment, neglect, abuse or degradation [Section 28(1)(d)]	SECTION 10: Everyone has the right to have their dignity respected and protected. SECTION 28 (2): The child's best interests shall be of paramount importance.	<ul style="list-style-type: none"> • Department of Social Development, Department of Health, Department of Police, • Department of Justice & Constitutional Development 	<ul style="list-style-type: none"> • Provide prevention and early intervention programmes to children who have been abused, maltreated or neglected and at risk of the aforementioned. • Provide adequate redress in the criminal justice system.
Teenage pregnancy	Right to basic health care services [Section 28(1)(c)] Right to have access to health care including reproductive health care [Section 27(1)(a)]		<ul style="list-style-type: none"> • Department of Health, Department of Education 	<ul style="list-style-type: none"> • Provision of healthcare to mother and child. • Support to teen mother to obtain education.
No access to social security and social services	Right to have access to social security		<ul style="list-style-type: none"> • Department of Social Development – Social Security Agency of South Africa 	<ul style="list-style-type: none"> • Provision of cash grant and social services.
Failure of criminal justice system	Access to courts		<ul style="list-style-type: none"> • Department of Justice and Constitutional Development 	<ul style="list-style-type: none"> • Provision of judicial services.

Parliament as Duty-Bearer in overseeing service delivery to Alice

Duty	Key questions for consideration
Oversight and accountability – briefings at Committee meetings	<ul style="list-style-type: none"> • Briefings by Department of Health and Education – how are Departments dealing with teenage pregnancy? What programmes are currently in place? • Determine from a briefing of the Department of Social Development which provinces have a functional protection plan against child abuse and neglect. • Determine the extent to which the Domestic Violence and Sexual Offences and Related Matters Act is being enforced by the Department of Police and Department of Justice and Constitutional Development.
Conducting oversight visits	<ul style="list-style-type: none"> • Visit projects and programmes targeted at teenagers who are pregnant and hear what the challenges and successes are in running such initiatives. • Visit local authority clinics to evaluate the effectiveness and efficiency of the National Adolescent Friendly Clinic Initiative.
Public Participation initiatives	<ul style="list-style-type: none"> • Include as topics for discussion at Taking Parliament to the People, People’s Assembly, Youth and Women’s Parliament (namely, the abuse of children, and teenage pregnancy).
Constituency work	<ul style="list-style-type: none"> • Working with community forums to deal with the root cause of problems related to teenage pregnancy.

6.5 CASE STUDY 4:

EDUCATION

Adam is 5 years old with a hearing impairment (he has no hearing aids) and his mother has been struggling to get him into a school. In their neighbourhood there are several early childhood development centres but none of them were prepared to take Adam because of his special “needs”. Adam’s mother is very worried that he attends Grade R and he would need to enrol for Grade 1 in the following year and there are no schools for the deaf close by.



Facts	Rights		Duty-bearer	Duties
Discrimination on basis of disability	Equality rights and non-discrimination [Section 9] Right to have – dignity and respected and protected [Section 10]	SECTION 10: Everyone has the right to have their dignity respected and protected. SECTION 28 (2): The child's best interests shall be of paramount importance.	<ul style="list-style-type: none"> • Department of Education • Department of Justice and Constitutional Development 	<ul style="list-style-type: none"> • Providing an environment in which a child can learn free of discrimination. • Access to the courts and justice.
No hearing aids	Right to basic healthcare [Section 28 (1)(c)]		<ul style="list-style-type: none"> • Department of Health 	<ul style="list-style-type: none"> • Provision of basic healthcare and access to assistive devices such as hearing aids
Access to education denied	Right to education [Section 29]		<ul style="list-style-type: none"> • Department of Education 	<ul style="list-style-type: none"> • Provision of education
No access to social security and social services	Social security		<ul style="list-style-type: none"> • Department of Social Development – Social Security Agency of South Africa 	<ul style="list-style-type: none"> • Provision of cash grants and social services

Parliament as Duty-Bearer in overseeing service delivery to Adam

Duty	Key questions for consideration
As the legislature	<ul style="list-style-type: none"> • How is the United Nations Convention on the Rights of Persons with Disabilities being incorporated into national health laws?
Oversight and accountability - this includes briefings at Committee meetings	<ul style="list-style-type: none"> • Briefing by the Department of Health on current provision of assistive devices in provinces, the backlog incurred and the budget appropriated. • Briefing by the Department of Education as to status of White Paper on Inclusive Education and progress hereto.
Conducting oversight visits	<ul style="list-style-type: none"> • Meeting with Disabled People’s Organisations such as Disabled Children’s Action Group and Deafsa to hear what the challenges and concerns are for children with disabilities and their caregivers.
Public Participation initiatives	<ul style="list-style-type: none"> • Ensure that persons with disabilities are adequately represented at public platforms hosted by Parliament.

6.6 CASE STUDY 5:

CHILDREN IN CONFLICT WITH THE LAW

Simpiwe lives on the street. He was caught for shoplifting a can of fish and a packet of chips. His not quite sure how old he is so when the police arrest him and take him to a holding cell, Simpiwe is not very co-operative. Simpiwe is kept in an adult holding cell, where he was sexually assaulted and later transferred to prison. Three months down the line, Simpiwe has yet to appear again before the magistrate to have his case taken up.



Facts	Rights	SECTION 10: Everyone has the right to have their dignity respected and protected. SECTION 28 (2): The child's best interests shall be of paramount importance.	Duty-bearer	Duties
Child living on street	Right to family care or parental care, or to appropriate alternative care when removed from the family environment [Section 28(1)(b)]		<ul style="list-style-type: none"> • Department of Social Development 	<ul style="list-style-type: none"> • Provision of services to children living on the street such as child and youth care centres.
Sexual abuse	Right to be protected against abuse and neglect		<ul style="list-style-type: none"> • Department of Correctional Services, Department of Health • Department of Justice and Constitutional Development 	<ul style="list-style-type: none"> • Provision of services to children who have been abused, maltreated and or neglected.
Sharing holding cell with an adult	Right not to be detained except as a measure of last resort [Section 28 (1)(g)] Right to be kept separately from detained persons over the age of 18 years [Section 28(1)(g)(i)]		<ul style="list-style-type: none"> • Department of Correctional Services 	<ul style="list-style-type: none"> • Provision of detaining facilities for children in conflict with the law.
No education	Right to education [Section 29]		<ul style="list-style-type: none"> • Department of Education 	<ul style="list-style-type: none"> • Provision of education.
Lengthy trial procedure	Right not to be detained except as a measure of last resort – child may be detained only for the shortest appropriate period of time [Section (1)(g)] Right to have a legal practitioner assigned to the child [Section (1)(h)]		<ul style="list-style-type: none"> • Department of Justice and Constitutional Development 	<ul style="list-style-type: none"> • Access to effective justice system. • Ensuring fair and swift trial.
Lack of formal identification documents	Right to a name and a nationality from birth [Section 28 (1)]		<ul style="list-style-type: none"> • Department of Home Affairs 	<ul style="list-style-type: none"> • Provision of identification documents and up keep of vital registration system.
No access to social security and social services	Social security		<ul style="list-style-type: none"> • Department of Social Development – Social Security Agency of South Africa 	<ul style="list-style-type: none"> • Provision of social services.

Parliament as Duty-Bearer in overseeing service delivery to Simpiwe

Duty	Key questions for consideration
As the legislature	<ul style="list-style-type: none"> • What progress have Departments made in implementing the Child Justice Act and the Criminal law (Forensic Procedures) Act? How much has been allocated from the Department's budget to ensure effective implementation of these Acts?
Oversight and accountability – briefings at Committee meetings	<ul style="list-style-type: none"> • Briefings by Department of Correctional Services and the South African Police Service to determine official number of children and youth awaiting trial and the number sentenced. • Enquire from Department of Correctional Services how many youth awaiting trial were able to continue with formal schooling while incarcerated.
Conducting oversight visits	<ul style="list-style-type: none"> • Visit to secure-care facilities for children in conflict with the law to gain insight into conditions children live in. • Meet with parole officers, policeman and wardens working with children in conflict with the law and ascertain what the challenges on the ground are for them.
Public Participation initiatives	<ul style="list-style-type: none"> • Engage with community and police forums and street children's organisations to hear what the challenges exist for children in conflict with the law.
Constituency work	<ul style="list-style-type: none"> • Document incidents of children living on the street who have been unjustly treated and bring this to the attention of the authorities.

6.7 CASE STUDY 6:

REFUGEE CHILDREN

Memory lived with her cousin Yolanda in a downtown flat in central Johannesburg. They are both under 18 years and are from Mozambique. During a drug raid by a Special Narcotics Unit of the police, these two young women were found locked up in a flat. On investigation, it was revealed that Memory and Yolanda were promised good paid work in South Africa but instead were trafficked into the country, held against their will and subjected to prostitution and pornography. Their passports were taken from them when they arrived in Johannesburg.



Facts	Rights	SECTION 10: Everyone has the right to have their dignity respected and protected. SECTION 28 (2): The child's best interests shall be of paramount importance.	Duty-bearer	Duties
Trafficked young women who are held against their will	Right to be protected from maltreatment, neglect, abuse or degradation		<ul style="list-style-type: none"> • Department of Social Development • Department of Justice and Constitutional Development 	<ul style="list-style-type: none"> • Provision of social services.
Sexual abuse, prostitution, pornography	Right to be protected from maltreatment, neglect, abuse or degradation [Section 28 (1)(d)] Right to be protected from exploitative labour practices [Section 28 (1)(e)]		<ul style="list-style-type: none"> • Department of Social Development • Department of Health • South African Police Services • Department of Justice and Constitutional Development 	<ul style="list-style-type: none"> • Department of Social Development: Provision of services to children who have been abused, maltreated and or neglected. • Department of Health: Provision of reproductive health service (issue of prophylaxis). • SAPS: Police to investigate crime and arrest criminals. • Department of Justice and Constitutional Development: Access to courts and legal representation. Prevention of trafficking for labour and sexual exploitation.
No access to social security and social services	Right to have access to social security [Section 27 (1)(c)]		<ul style="list-style-type: none"> • Department of Social Development – Social Security Agency of South Africa • Department of Home Affairs 	<ul style="list-style-type: none"> • Department of Social Development – Social Security Agency of South Africa- provision of Social Security grants.
No formal identification	Right to a name and nationality [Section 28(1)(a)]		<ul style="list-style-type: none"> • Department of Home Affairs 	<ul style="list-style-type: none"> • Provision of formal identification documents.
Held in captivity	Right to freedom and security of the person [Section 12]		<ul style="list-style-type: none"> • Department of Justice and Constitutional Development • Department of Police 	<ul style="list-style-type: none"> • Repatriation.

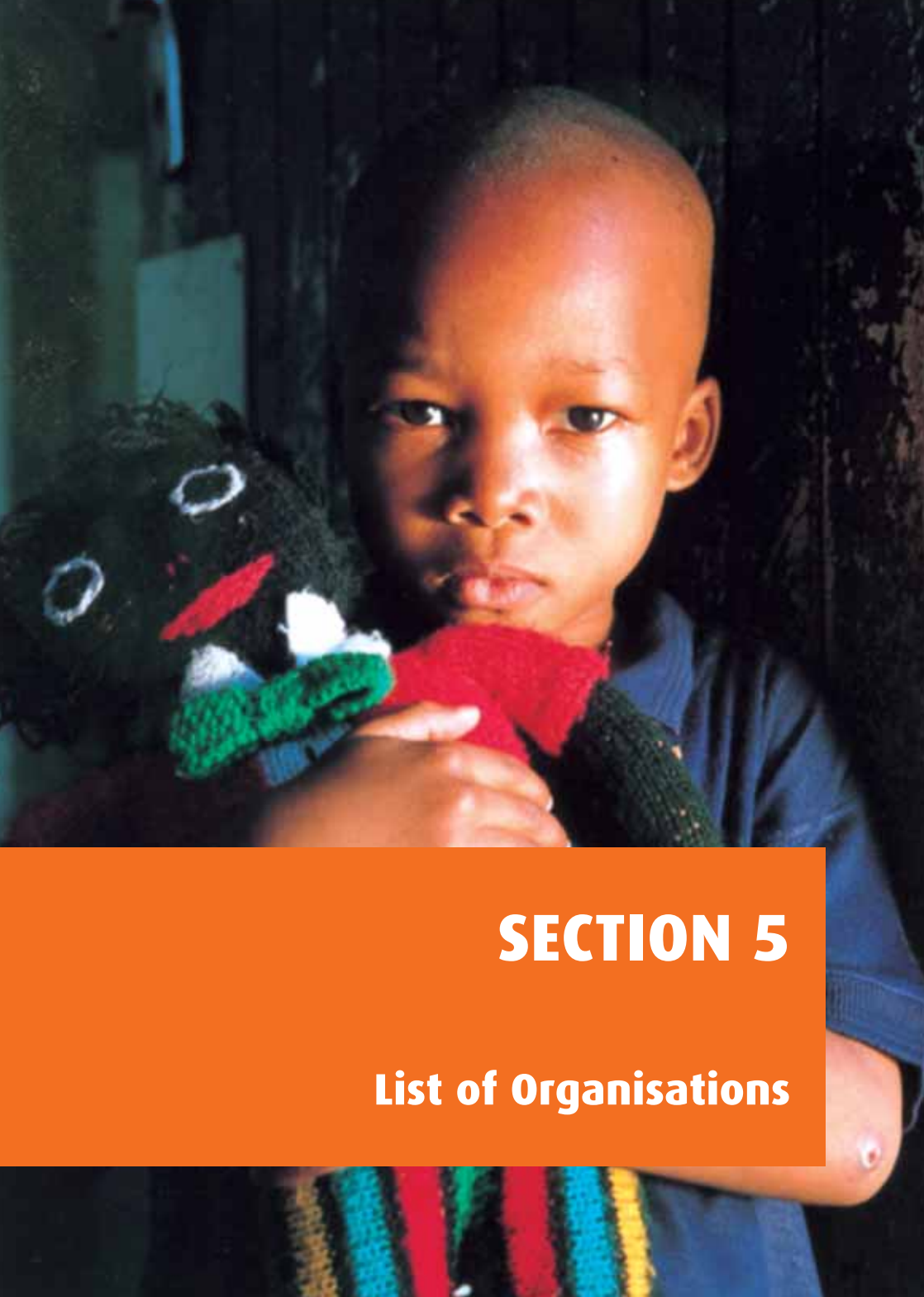
Parliament as Duty-Bearer in overseeing service delivery to Memory and Yolanda

Duty	Key questions for consideration
As the legislature	<ul style="list-style-type: none"> • Enquire about status of Trafficking Bill
Oversight and accountability including briefings at Committee meetings	<ul style="list-style-type: none"> • Track implementation of trafficking provisions in other pieces of legislation such as the Sexual Offences Act • What programmes do the Department of Health and Social Development have in place to deal with children who have been abused, neglected and or maltreated? What psycho-social interventions are in place? • How effective is the Victim Empowerment Programme?
Conducting oversight visits	<ul style="list-style-type: none"> • How are police being sensitised to deal with gender-based violence?
Public Participation initiatives	<ul style="list-style-type: none"> • Visit centres for abused women and children. • Ensure that platforms such as parliamentary plenaries, Taking Parliament to the People and People’s Assembly are opportunities to give voice to issue of gender-based violence.
During Constituency work	<ul style="list-style-type: none"> • Visit centres for abused women and children. • Engage with community and policy forums.

6

Conclusion

As previously stated, this handbook provides Members of Parliament with information on children's issues and their rights. Its purpose is to equip Members with the tools to integrate a child-rights perspective into all work that Members engage with. The key to integrating a child-rights focus is to keep children, their rights, needs and issues at the forefront of all discourse both within and outside of Parliament.



SECTION 5

List of Organisations

NATIONAL ALLIANCES AND NETWORKS

NON-GOVERNMENTAL ORGANISATIONS

ORGANISATION	Aids Consortium		
CONTACT DETAILS	Tel	011 403 0265 014 592 2942 015 291 4541	Fax 011 403 2106
WEBSITE	http://www.aidsconsortium.org.za		
WHAT THEY DO	The AIDS Consortium (The AC) is a network organisation primarily concerned with servicing people infected and affected by HIV and AIDS through its affiliate constituencies. It provides communication, capacity, information, collective services, leadership and guidance to its affiliates, and are able to help shape the response to the fight against HIV and AIDS in various communities.		

ORGANISATION	Alliance for Children's Entitlement to Social Security		
CONTACT DETAILS	Tel	021 761 0117	Fax 021 761 4938
WEBSITE	http://www.aces.org.za		
WHAT THEY DO	ACCESS is an alliance of more than 1223 children's sector organisations committed to working together to realise our vision of a comprehensive social security package that respects the dignity of all and gives practical substance to children's rights.		

ORGANISATION	Child Justice Alliance		
CONTACT DETAILS	Tel	021 959 2950	Fax 021 959 2411
WEBSITE	http://www.childjustice.org.za		
WHAT THEY DO	<p>The Child Justice Alliance is a network of NGOs, CBOs, academic institutions and individuals working to ensure that the Child Justice Bill is passed by the South African parliament. The alliance was established to facilitate co-operation between members of civil society and other interested parties. One of the main objectives of the alliance is to ensure that the debates about the bill are well informed.</p>		

ORGANISATION	Treatment Action Campaign		
CONTACT DETAILS	Tel	021 422 1700 021 364 5489 011 873 4130 017 811 5085 015 307 3381 039 253 1951/2 033 394 0845	Fax 021 422 1720 021 364 4187 011 872 4105 039 253 1376
WEBSITE	http://www.tac.org.za		
WHAT THEY DO	<p>The Treatment Action Campaign (TAC) advocates for increased access to treatment, care and support services for people living with HIV and campaigns to reduce new HIV infections. TAC's core programmes consist of: Prevention and Treatment Literacy, Community Health Advocacy, Policy, Communications and Research.</p>		

ORGANISATION	Gun Control Alliance		
---------------------	-----------------------------	--	--

CONTACT DETAILS	Tel: 011 886 5803	Fax: 011 886 7604
	021 461 7211	021 461 7213
	033 342 0052	

WEBSITE	http://www.gca.org.za
----------------	---

WHAT THEY DO	The Gun Control Alliance aims to help in building a safe and secure South Africa, free from fear, by reducing the number of firearms in society. To achieve this goal, we are involved in a number of activities, including:
---------------------	--

- Campaigning for strict gun control laws;
- Training people to use the Firearms Control Act;
- Promoting firearm- and gun-free zones; and
- Conducting research on relevant issues.

ORGANISATION	SA Society for the Prevention of Child Abuse and Neglect		
---------------------	---	--	--

CONTACT DETAILS	Tel: 0800 055 555	Fax: 011 339 8123
------------------------	-------------------	-------------------

WEBSITE	http://www.saspcan.org.za
----------------	---

WHAT THEY DO	SASPCAN's aim is to promote awareness among the general public and professionals on issues relating to child abuse and neglect in South Africa, and to co-ordinate and distribute information relating to the management and prevention of abuse and neglect to all agencies, societies and persons in South Africa.
---------------------	--

ORGANISATION	South African Council of Churches		
---------------------	--	--	--

CONTACT DETAILS	Tel: 011 241 8000	Fax: 011 492 1448
------------------------	-------------------	-------------------

WEBSITE	http://www.gca.org.za
----------------	---

WHAT THEY DO	The SACC works for moral reconstruction in South Africa, focussing on issues of justice, reconciliation, integrity of creation and the eradication of poverty and contributing towards the empowerment of all who are spiritually, socially and economically marginalised.
---------------------	--

ORGANISATION	Children's Rights Centre
CONTACT DETAILS	Tel: 031 307 6075
WEBSITE	http://www.childrensrightscentre.co.za
WHAT THEY DO	The Children's Rights Centre is a non-profit organisation based in Durban that strives to transform South Africa through a vision of a child-friendly society. They work towards this vision by: Building in civil society and State the capacity to take action around children's rights through training, information services, advice and referrals, monitoring the situation of women and children, and raising awareness, advocacy initiatives, facilitating a movement for children's rights and enabling children's participation.

ORGANISATION	Childline
CONTACT DETAILS	Tel 031 207 9108 Fax 031 563 5718
WEBSITE	http://www.childlin@global.co.za

ORGANISATION	RAPCAN
CONTACT DETAILS	Tel 021 712 2330 Fax 021 712 2365
WEBSITE	http://www.rapcan.org.za
WHAT THEY DO	RAPCAN's work is focused on the prevention of child victimisation and offending and the promotion of children's rights, and we operate locally, at provincial and national levels in South Africa, as well as in the region and internationally. RAPCAN's work includes primary, secondary and tertiary prevention approaches to the following issues within the children's rights arena: child sexual abuse, corporal and humiliating punishment, child offending, especially sexual and violent offending.

ORGANISATION	Soul City		
CONTACT DETAILS	Tel	861 768 524	Fax 011 341 037
WEBSITE	http://www.soulcity.org.za		
WHAT THEY DO	Soul City is a health promotion organisation aimed at achieving real, measurable social change for individuals and communities in South Africa, Southern Africa and Africa; particularly as far as HIV prevention and violence reduction via alcohol control are concerned.		

ORGANISATION	Idasa		
CONTACT DETAILS	Tel	012 392 0500	Fax 012 320 2414/5
WEBSITE	http://www.idasa.org		
WHAT THEY DO	Idasa is an independent public interest organisation committed to building sustainable democratic societies in collaboration with African and global partners. It maintains international links with many similar organisations through the world movement for democracy.		

ORGANISATION	Lawyers for Human Rights		
CONTACT DETAILS	Tel	031 301 0531 011 339 1960 012 320 2943	Fax 031 301 0538 011 339 2665
WEBSITE	http://www.lhr.org.za		
WHAT THEY DO	Lawyers for Human Rights is an independent human rights organisation with a thirty-year track record of human rights activism and public interest litigation in South Africa. LHR uses the law as a positive instrument for change and to deepen the democratisation of the South African society. To this end, it provides free legal services to vulnerable, marginalised and indigent individuals and communities, both non-national and South African, who are victims of unlawful infringements of their Constitutional rights.		

ORGANISATION		Legal Resources Centre			
CONTACT DETAILS	Tel	011 836 9831	Fax	011 834 4273	
		011 836 9831		011 836 8680	
	021 481 3000		021 423 0935		
	031 301 7572		031 304 2823		
	WEBSITE		http://www.lrc.org.za		
WHAT THEY DO	The LRC is a human rights organization in South Africa. The LRC uses the law as an instrument of justice for the vulnerable and marginalised, including poor, homeless, and landless people and communities who suffer discrimination by reason of race, class, gender, and disability or by reason of social, economic, and historical circumstances.				

ORGANISATION		Black Sash			
CONTACT DETAILS	Tel	072 66 33 739			
		046 622 8091			
		041 487 3288			
		031 301 9215			
		WEBSITE		http://www.blacksash.org.za	
WHAT THEY DO	The Black Sash is an independent, non-governmental Human Rights organisation that has worked tirelessly for justice and equality in South Africa for more than 55 years. Since the end of Apartheid in 1994, the Black Sash has focussed on the promotion and protection of our hard-won freedoms, particularly in the areas of social and economic rights.				

RESEARCH ORGANISATIONS

ORGANISATION	AIDS Law Project			
CONTACT DETAILS	Tel	011 356 4100	Fax	011 339 4311
WEBSITE	http://www.alp.org.za			
WHAT THEY DO	<p>The AIDS Law Project forms part of SECTION27, a public interest law centre that was established in May 2010. The AIDS Law Project is one of South Africa's most successful post-apartheid human rights organisations. SECTION27 is a public interest law centre that seeks to influence, develop and use the law to protect, promote and advance human rights.</p>			

ORGANISATION	Centre for Applied Legal Studies			
CONTACT DETAILS	Tel	011 717 8429	Fax	011 717 8539
WEBSITE	http://www.law.wits.ac.za/cals			
WHAT THEY DO	<p>The Centre for Applied Legal Studies is an independent organisation committed to:</p> <ul style="list-style-type: none">• promoting democracy, justice, equality and peace in South Africa,• addressing and undoing our country's legacy of oppression and discrimination,• through the realisation of human rights for all South Africans under a just constitutional and legal order,• by undertaking rigorous research, writing, analysis and briefings,• teaching and providing public education and training ,• the collection and dissemination of information and publications; and• legal advice and litigation, participation in policy formulation, law reform, dispute resolution and institutional development and coordination.			

ORGANISATION	Children's Institute
CONTACT DETAILS	Tel 021 689 8343 Fax 021 689 5404
WEBSITE	http://web.uct.ac.za/depts/ci
WHAT THEY DO	The Children's Institute is a leader in child policy research and advocacy in South Africa. Its activities focus on four areas that are critical to children's well-being: child rights, child poverty, child health services, and care in the context of HIV/AIDS. The CI's purpose is to provide evidence to assist policy-makers and practitioners to create policies, programmes and institutions that support the best interests of children in South Africa.

ORGANISATION	Community Law Centre
CONTACT DETAILS	Tel 021 959 2950 Fax 021 959 2951
WEBSITE	http://communitylawcentre.org.za
WHAT THEY DO	The Community Law Centre, forms part of the Law Faculty at the University of the Western Cape and seeks to advance human rights and democracy. Based on high quality research, the Centre engages in policy development, advocacy and educational initiatives, focusing on areas critical to the realisation of human rights and democracy in South Africa and Africa in general.

ORGANISATION	Education Policy Unit
---------------------	------------------------------

CONTACT DETAILS	Tel 011 717 3076
-----------------	------------------

WEBSITE	http://www.wits.ac.za/epu
---------	---

WHAT THEY DO	<p>The Wits Education Policy Unit (EPU) was founded in 1987 as a joint venture of the University of the Witwatersrand and the National Education Co-ordinating Committee (NECC) for the specific purpose of providing a scholarly context for the development of post-apartheid education policy. With the transition to democratic government in 1994, the EPU's objectives were extended to include:</p>
--------------	--

- providing policy support, research and analysis to the democratic movement and to national and provincial governments;
- functioning as a rapid response mechanism for decision-makers and policy-makers in education;
- producing high quality impact research;
- ensuring training for black and female researchers; and
- fulfilling a resource and dissemination function.

ORGANISATION	UNICEF
---------------------	---------------

CONTACT DETAILS	Tel 012 354 8201
-----------------	------------------

WEBSITE	http://www.unicef.org/southafrica
---------	---

WHAT THEY DO	<p>With a strong presence in South Africa, UNICEF is a leading advocate for children. UNICEF believes that nurturing and caring for children are the cornerstones of human progress. UNICEF was created with this purpose in mind - to work with others to overcome the obstacles that poverty, violence, disease and discrimination place in a child's path.</p>
--------------	---



REFERENCES

African Union (2006) African Youth Charter, Adopted by The Seventh Ordinary Session of The Assembly, held In Banjul, Gambia on 2nd July 2006, Accessed: [Internet:http://www.africa-union.org/root/au/Documents/Treaties/Text/African_Youth_Charter.pdf].

Aliber, Michael. 2002. Overview of the Incidence of Poverty in South Africa for the 10-Year Review. Paper prepared by the Human Sciences Research Council.

Bradshaw D, Nannan N, Laubscher R, Groenewald O, Joubert J, Nojilana B, Norman R, Pieterse D and Schneider M (2004) South Africa National Burden of Disease Study 2000: Estimates of Provincial Mortality. Tygerberg, Cape Town: Medical Research Council of South Africa.

Centre for Justice and Crime Prevention (2008) Youth Crime Stat-At-A-Glance, Accessed: [Internet: www.cjcp.org.za].

Chennells, M and Hall, K. (2011) Income poverty, unemployment and social grants. In the Child Gauge 2010/2011. Children's Institute: University of Cape Town.

Coetzee, M (2010). Finding the Benefits: Estimating the Impact of the South African Child Support Grant. Stellenbosch Economic Working Papers: 16/11. Department of Economics: University of Stellenbosch.

Combrinck, H. (2006) Well worth the wait? The Sexual Offences Bill in 2006. Crime

Quarterly, 17 [Internet]. Available from:

[http://www.iss.co.za/dynamic/administration/file_manager/file_links/COMBRINCK_Q17.PDF?link_id=26&slink_id=3740&link_type=12&slnk_type=23&tmpl_id=3]

[Accessed 13 July April 2008]

Committee on the Rights of the Child General Comment No. 5: General measures of implementation of the Convention on the Rights of the Child, (Thirty-fourth session) CRC/GC/ 2003/5 CRC.

Committee on the Rights of the Child Reporting Guidelines Regarding the Form and Contents of Periodic Reports to Be Submitted by States Parties Under Article 44, Paragraph 1(B), of the Convention (1996)

Constitution of the Republic of South Africa Act 108 of 1996.

De Lannoy, A. and Lake, L. (2009) Children's Access to education Statistics South Africa (2003; 2008) General Household Survey 2002-2007. Pretoria, Cape Town: StatsSA. Analysis by Double Marera and Katheribe Hall, Children's Institute, University of Cape Town. In Pendlebury S, Lake L and Smith S (2009) South African Child Gauge 2008/09, Children's Institute, University of Cape Town.

Department of Basic Education (2010). Education statistics in South Africa 2009. Pretoria: Department of Basic Education.

Donson, H. (editor) (2008) A Profile of Fatal Injuries In South Africa Ninth Annual Report 2007 Of The National Injury Mortality Surveillance System, Medical Research Council /University Of South Africa Crime, Violence And Injury Lead Programme: Cape Town.

Dorrington, Rob, et al. (2007) South Africa: Saving children's lives by scaling up early infant diagnosis in The Demographic Impact of HIV/AIDS in South Africa: National and provincial indicators for 2006, Centre for Actuarial Research, South African Medical Research Council and Actuarial Society of South Africa, Cape Town, 2006; Department of Health (South Africa), 'South African National HIV and Syphilis Antenatal Sero-Prevalence Survey in South Africa 2006', Pretoria, 2007, p. 22.

Dutschke M and Abrahams K (2008) Reviving child survival in South Africa, International Journal of Child Rights and Research, 1 (1), p3-8

Frank, C., Waterhouse, S., Griggs, R. and Ronstch, R. (2008) Raising the bar, A review of the restructuring of the SAPS Family Violence, Child Protection and Sexual Offences Units, Resources Aimed at the

Prevention of Child Abuse and Neglect (RAPCAN): Cape Town.

Fukuda-Parr, S. (2004) 'Millennium Development Goals: Why They Matter' 10,

Global Governance, 395-402.

Hall, K. (2010) Income and Social Grants - Child Support Grants. Children's Institute, University of Cape Town.

Hall, K. (2009) Statistics on Children in South Africa, The number of Children in South Africa, Fact Sheet. Statistics South Africa (2003-2008) General Household Survey (2002-2007). Pretoria, Cape Town: Statistics South Africa. Analysis by Double-Hugh Marera and Katherine Hall, Children's Institute, University of Cape Town.

Human Rights Committee General Comment 6, Article 6 (Sixteenth session, 1982), Compilation of General Comments and General Recommendations Adopted by Human Rights Treaty Bodies, U.n. Doc.

HRI\GEN\1\Rev.1 at 6

(1994).

International Defence and Aid Fund (1988) Apartheid's Violence Against Children: Fact Paper on Southern Africa No. 15. Canon Collins House. London.

Knutsson, K. E. and O'Dea, P. (1998) Supporting the Movement for Children's Rights and Development in South Africa: A Reflective Essay on the Contributions and Experiences of UNICEF 1974-1997. UNICEF. South Africa.

Lund, F. (2008) Changing social policy, the child support grant in South Africa. HSRC Press: Cape Town.

Mabusela, S. (2000). Written comments on draft copy of this paper by Ms. Shirley Mabusela, former Executive Director of the NCRC and currently Deputy Chair of the South African Human Rights Commission and Commissioner responsible for children's rights.

Matthews S, Abrahams N, Martin LJ, Vetten L, van der Merwe L and Jewkes R (2004) "Every six hours a woman is killed by her intimate partner": A National Study of Female Homicide in South Africa, MRC Policy Brief No. 5

Meintjies, H. and Hall, K. (2011) Demography of South Africa's children. In the Child Gauge 2010/2011. Children's Institute: University of Cape Town.

Minister of Finance, Mr T Manuel (2007) Forum: The need for a human rights culture. Law, Democracy and Development, (11): 85-90

National Institute for Economic Policy (NIEP), a report commissioned by the Reconstruction and Development Office. (1996). Children, Poverty and Disparity Reduction: Towards Fulfilling the Rights of South Africa's Children. Pretoria. South Africa.

National Plan of Action for Children in South Africa (NPA), Monitoring Task Group (1996). Minutes of the Monitoring Task Group Meeting. 15 October 1996. Pretoria. South Africa.

National Programme of Action Steering Committee (1997). Initial Country Report South Africa: Convention on the Rights of the Child. Government of National Unity. Pretoria.

National Programme of Action Steering Committee (2000) National Programme of Action: 2000 and Beyond. Pretoria. South Africa.

Office of the High Commissioner for Human Rights (1989) Convention on the Rights of the Child, General Assembly Resolution 44/25. Geneva: United Nations.

Omar, Advocate D. (1992a) International Conference on the Rights of the Child, "Putting Children First" Papers and reports of a conference by the Community Law Centre, Cape Town: University of the Western Cape Province.

Omar, Advocate D. (1992b) The current constitutional debate in South Africa- Whither children's rights? Keynote address, International Conference on the Rights of the Child, "Putting Children First" Papers and reports of a conference by the Community Law Centre, Cape Town: University of the Western Cape Province, p11.

Rama, S. and Bah, S. (2000) Monitoring Child Rights in a Society in Transition: The Opportunities Afforded by a Transformed Statistical Agency and the Culture of Child Rights Activism, (Discussion document). Accessed: [Internet: <http://www.statssa.gov.za>] (16 November 2007)

Rama, S. (2000) Monitoring the Implementation of the Convention on the Rights of the Child and the African Charter on the Rights and Welfare of the Child, Paper prepared for presentation at the Department of Welfare's training workshop on the "Convention on

the Rights of the Child/ African Charter on the Rights and Welfare of the Child and the World Summit Goals”, Pretoria Hof Hotel, 16th and 17th August 2000, Pretoria. Accessed: [Internet: <http://www.statssa.gov.za/publications/DiscussImpChildRights/DiscussImpChildRights.pdf>].

Roman, T and Hall, K. (2011) Child Health. In the Child Gauge 2010/2011. Children’s Institute: University of Cape Town.

Skelton, A. (1999) Juvenile Justice Reform: Children’s Rights and Responsibilities versus Crime Control in Davel, C. J. (eds) (1999). Children’s Rights in a Transitional Society. Pretoria Book House. Pretoria.

Sloth-Nielsen, J. and Mezmur, B.D. (2007) Surveying the research landscape to promote children’s legal rights in an African context. African Human Rights Law Journal, 7: 330-353.

Statistics South Africa (2011) Mid-year population estimates (2011). Pretoria: Statistics South Africa

Statistics South Africa (2010) Recorded live births. Pretoria: Statistics South Africa.

Tambo Papers (1987) Speech Presented at the International Conference on Children Repression and the Law in Apartheid South Africa, Harare September 24, 1987. African National Congress (ANC) Website (www.anc.org.za).

United Nations General Secretary, Mr Kofi Annan, Children’s Rights Quotes, Accessed: [<http://www.betterworld.net/quotes/children-quotes-3.htm>].

UNICEF (United Nations Children’s Fund)/ NCRC (National Children’s Rights Committee. (1993). Children and Women in South Africa: A Situational Analysis. UNICEF/ NCRC. South Africa.

UNFPA (United Nations Population Fund). (1997). Programme Review and Strategy Development Report. United Nations Population Fund. Pretoria.

Internet sites

Child Rights Information Network, Convention on the Rights of the Child. Accessed: Internet: [<http://www.crin.org/docs/resources/treaties/unccr.asp>]

NEPAD Accessed: Internet: [http://www.uneca.org/eca_resources/Conference_Reports_and_Other_Documents/nepad/NEPAD.htm]

United Nations Human Rights, Office of the High Commissioner for Human Rights. Accessed: Internet: [<http://www.ohchr.org/EN/ProfessionalInterest/Pages/InternationalLaw.aspx>].

United Nations Human Rights Website, A Summary of United Nations Agreements on Human Rights. Accessed: Internet: [<http://www.hrweb.org/legal/undocs.html>].

UN Millennium Development Goals Accessed: Internet: [<http://www.un.org/millenniumgoals/>].

United Nations Department of Public Information – October 2002, MDG fact sheet

Accessed: Internet: [<http://www.un.org/millenniumgoals/MDGs-FACTSHEET1.pdf>].

Table 2 – Children per Province***Number of children in SA, per Province**

	Eastern Cape	Free State	Gauteng	Kwazulu- Natal	Limpopo	Mpu- malanga	North West	Northern Cape	Western Cape	South Africa
% distribution by province	2,763,000 15	1,067,000 6	3,238,000 17	4,277,000 23	2,313,000 12	1,474,000 8	1,277,000 7	435,000 2	1,764,000 9	18,607,000 100

*All data sourced from:
 Statistics South Africa (201) General Household Survey 2009. Pretoria: Stats SA Analysis by Katherine Hall and Andile Mayekiso,
 Children’s Institute, UCT.

Table 3: Vital statistics**

Province

	Eastern Cape	Free State	Gauteng	Kwazulu-Natal	Limpopo	Mpumalanga	North West	Northern Cape	Western Cape	South Africa
Mortality rates										
*IMR	71	62	44	68	52	59	55	46	32	59
*U5MR	105	99	75	116	81	100	89	68	46	95
Total birth registration for 2010	106 431	50 678	179 210	184 471	109 128	70 011	69 706	22 538	96 883	889 691
Orphan status										
Maternal orphans	106,000	40,000	64,000	209,000	52,000	57,000	56,000	13,000	26,000	622,000
% distribution by province	3,8	3,7	2,0	4,9	2,2	3,9	4,4	2,9	1,5	3,3
Paternal orphans	529,000	167,000	312,000	647,000	399,000	218,000	178,000	60,000	158,000	2,665,000
% distribution by province	19,1	15,6	9,6	15,1	17,2	14,8	13,9	13,7	8,9	14,3
Double orphans	200,000	84,000	104,000	303,000	77,000	85,000	71,000	16,000	25,000	96,000
% distribution by province	7,3	7,9	3,2	7,1	3,3	5,8	5,6	3,7	1,4	5,2

**All table data are sourced from:

Medical Research Council of South Africa, Burden of Disease Unit (2004) South African National Burden of Disease Study 2000 - Estimates of Provincial Mortality

Statistics South Africa (2011) Recorded live births. Pretoria: Statistics South Africa

Statistics South Africa (2010) General Household Survey 2009. Pretoria: Stats SA. Analysis by Katharine Hall, Children's Institute, UCT.

*IMR- Number of children under the age of 1 year who have died for every 1 000 live births.

*U5MR-Number of children under the age of 5 years who have died for every 1 000 live births

Table 4: Education, Poverty, Basic Services***

	Eastern Cape	Free State	Gauteng	Kwazulu-Natal	Limpopo	Mpumalanga	North West	Northern Cape	Western Cape	South Africa
Access to education										
Number & proportion of school-aged children attending an educational institution (2009)	1,667,000	630,000	1,840,000	2,578,000	1,446,000	912,000	729,000	253,000	1,002,000	6,867,804
% distribution by province	95,6	97,4	98,0	96,0	98,4	97,2	95,3	96,1	96,1	100
Level of income poverty										
Number & proportion of children living in income poverty (2009)	2,135,000	649,000	1,173,000	2,914,000	1,821,000	962,000	805,000	293,000	500,000	11,252,000
% distribution by province	77,3	60,9	36,2	68,1	78,7	65,2	63,0	67,2	28,4	60,5
Basic services										
Number of children living in formal housing (2009)	1,235,000	850,000	2,486,000	2,388,000	2,079,000	1,252,000	1,090,000	366,000	1,422,000	12,351,907
% distribution by province	44,7	79,7	76,8	55,8	89,9	84,9	85,4	84,1	80,7	100
Number of children living in traditional dwellings (2009)	1,402,000	43,000	1,000	1,632,000	171,000	117,000	12,000	31,000	1,000	3,415,000
% distribution by province	50,7	4,0	0,0	38,2	7,4	7,9	0,9	7,1	0,1	18,4
Number of children living in informal dwellings (2009)	126,000	174,000	752,000	257,000	64,000	105,000	175,000	38,000	340,000	2,027,000
% distribution by province	4,6	16,3	23,2	6,0	2,8	7,1	13,7	8,8	19,3	10,9
Number & proportion of children living in households with access to adequate water (2009)	889,000	980,000	2,960,000	1,971,000	1,017,000	989,000	770,000	311,000	1,618,000	11,515,000
% distribution by province	32,2	91,9	91,4	46,1	44,0	67,1	60,3	71,4	91,7	61,9
Number and proportion of children living in households with access to basic sanitation (2009)	1,387,000	814,000	2,844,000	2,469,000	853,000	635,000	792,000	344,000	1,606,000	11,751,000
% distribution by province	50,2	76,3	87,8	57,7	36,8	43,1	62,1	79,1	91,0	63,2

***All table data are sourced from:

Medical Research Council of South Africa, Burden of Disease Unit (2004) South African National Burden of Disease Study 2000 - Estimates of Provincial Mortality Statistics South Africa (2011) Recorded live births. Pretoria: Statistics South Africa

Statistics South Africa (2010) General Household Survey 2009. Pretoria: Stats SA. Analysis by Katharine Hall, Children's Institute, UCT.

*IMR- Number of children under the age of 1 year who have died for every 1 000 live births.

**U5MR- Number of children under the age of 5 years who have died for every 1 000 live births

Appendix 2

Table 5: Ratification of International Human Rights Treaties - South Africa

International Bill of Human Rights	Signature	Ratification	Accession	Succession	Entry into Force
International Covenant on Economic, Social and Cultural Rights	03-Oct -94				
International Covenant on Civil and Political Rights	03-Oct-94	10-Dec-98			
Optional Protocol to the International Covenant on Civil and Political Rights			28-Aug-02		
Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty			28-Aug-02		
Prevention of Discrimination on the Basis of Race, Religion, or Belief, and Protection of Minorities	Signature	Ratification	Accession	Succession	Entry into Force
International Convention on the Elimination of All Forms of Racial Discrimination	03-Oct-94	10-Dec-98			
Women's Human Rights	Signature	Ratification	Accession	Succession	Entry into Force
Convention on the Elimination of All Forms of Discrimination against Women	29-Jan-93	15-Dec-95			
Optional Protocol to the Convention on the Elimination of Discrimination against Women	Not signed				
United Nations Convention against Transnational Organized Crime	14-Dec-00	20-Feb-04			
Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime Preamble, supplementing the United Nations Convention against Transnational Organized Crime					
	14-Dec-00	20-Feb-04			

Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime	14-Dec-00	20 Feb 2004			
Slavery and Slavery-Like Practices	Signature	Ratification	Accession	Succession	Entry into Force
Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others	16-Oct-50	10-Oct-51			
Protection from Torture, Ill-Treatment and Disappearance	Signature	Ratification	Accession	Succession	Entry into Force
Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment	29-Jan-93	10-Dec-98			
Rights of the Child	Signature	Ratification	Accession	Succession	Entry into Force
Convention on the Rights of the Child	29-Jan-93	16-Jun-95			
Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflicts	08-Feb-02				
Convention concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour		07-Jun-00			
Employment and Forced Labour	Signature	Ratification	Accession	Succession	Entry into Force
Convention concerning Forced or Compulsory Labour		05-Mar-97			
Equal Remuneration Convention		30-Mar-00			
Abolition of Forced Labour Convention		05-Mar-97			
Discrimination (Employment and Occupation) Convention		05-Mar-97			
Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families	Not signed				
Education	Signature	Ratification	Accession	Succession	Entry into Force
Convention against Discrimination in Education		Ratified			
Refugees and Asylum	Signature	Ratification	Accession	Succession	Entry into Force
Convention relating to the Status of Refugees			12-Jan-96		
Protocol Relating to the Status of Refugees			12-Jan-96		

Nationality, Statelessness, and the Rights of Aliens	Signature	Ratification	Accession	Succession	Entry into Force
Convention on the Reduction of Statelessness	Not signed				
Convention relating to the Status of Stateless Persons	Not signed				
War Crimes and Crimes Against Humanity, Genocide, and Terrorism	Signature	Ratification	Accession	Succession	Entry into Force
Convention on the Non-Applicability of Statutory Limitations to War Crimes and Crimes Against Humanity	Not signed				
Convention on the Prevention and Punishment of the Crime of genocide			10-Dec-98		
Rome Statute of the International Criminal Court	17-Jul-98	27-Nov-00			
Law of Armed Conflict	Signature	Ratification	Accession	Succession	Entry into Force
Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field		31-Mar-52 (rat/acced)			
Geneva Convention for the Amelioration of the Condition of Wounded, Sick and Shipwrecked Members of Armed Forces at Sea		31-Mar-52 (rat/acced)			
Geneva Convention relative to the Treatment of Prisoners of War		31-Mar-52 (rat/acced)			
Geneva Convention relative to the Protection of Civilian Persons in Time of War		21-Nov-95 (rat/acced)			
Protocol Additional to the Geneva Conventions of 12 August 1949, and Relating to the Protection of Victims of International Armed Conflicts (Protocol I)		21-Nov-95 (rat/acced)			
Protocol Additional to the Geneva Conventions of 12 August 1949, and Relating to the Protection of Victims on Non-International Armed Conflicts (Protocol II)		21-Nov-95 (rat/acced)			
Terrorism and Human Rights	Signature	Ratification	Accession	Succession	Entry into Force
International Convention Against the Taking of Hostages			23-Sep-03		
International Convention for the Suppression of Terrorist Bombing	21-Dec-99	01-May-03			
International Convention for the Suppression of the Financing of Terrorism	10-Nov-01	01-May-03			
International Convention for the Suppression of Unlawful Seizure of Aircraft	16-Dec-70	30-May-72			

	Signature	Ratification	Accession	Succession	Entry into Force
International Convention on the Prevention and Punishment of Crimes Against International Protected Persons			23-Sep-03		
U.N. Activities and Employees					
Convention on the Privileges and Immunities of the United Nations	Not signed		30-Aug-02		
Convention on the Safety of United Nations and Associated Personnel					
African Regional Conventions					
African [Banjul] Charter on Human and Peoples' Rights *	09-Jun-86	9 Jun 1996			
Convention Governing the Specific Aspects of Refugee Problems in Africa *		15 Dec 1995			
Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa *	Not signed				
Protocol to the African Charter on Human and Peoples' Rights on the Establishment of an African Court on Human and Peoples' Rights *	09-Jul-98	3 Jun 2002			
African Charter on the Rights and Welfare of the Child *	10-Oct-97	7 Jan 2000			

* No ratification information available.

Appendix 3

Table 6: Summary of CRC Provisions

ARTICLE	DESCRIPTION
PART I: Substantive Provisions	
1	Definition of a child A child is recognized as a person under 18, unless national laws recognize the age of majority earlier.
2	Non-discrimination All rights apply to all children without exception. It is the State's obligation to protect children from any form of discrimination and to take positive action to promote their rights.
3	Best interests of the child All actions concerning the child shall take full account of his or her best interests. The State shall provide the child with adequate care when parents, or others charged with that responsibility, fail to do so.
4	Implementation of rights The State must do all it can to implement the rights contained in the Convention.
5	Parental guidance and the child's evolving capacities The State must respect the rights and responsibilities of parents and the extended family to provide guidance for the child which is appropriate to her or his evolving capacities.
6	Survival and development Every child has the inherent right to life, and the State has an obligation to ensure the child's survival and development.
7	Name and nationality The child has the right to a name at birth. The child also has the right to acquire a nationality and, as far as possible, to know his or her parents and be cared for by them.
8	Preservation of identity The State has an obligation to protect, and if necessary, re-establish basic aspects of the child's identity. This includes name, nationality and family ties.
9	Separation from parents The child has a right to live with his or her parents unless this is deemed to be incompatible with the child's best interests. The child also has the right to maintain contact with both parents if separated from one or both.
10	Family reunification Children and their parents have the right to leave any country and to enter their own for purposes of reunion or the maintenance of the child-parent relationship.
11	Illicit transfer and non-return The State has an obligation to prevent and remedy the kidnapping or retention of children abroad by a parent or third party.
12	The child's opinion The child has the right to express his or her opinion freely and to have that opinion taken into account in any matter or procedure affecting the child.
13-15	Freedom of : • expression • thought, conscience and religion • association The child has the right to express his or her views, obtain information, make ideas or information known, regardless of frontiers. The State shall respect the child's right to freedom of thought, conscience and religion, subject to appropriate parental guidance. Children have a right to meet with others, and to join or form associations.
16	Protection of privacy Children have the right to protection from interference with privacy, family, home and correspondence, and from libel or slander.
17	Access to appropriate information The State shall ensure the accessibility to children of information and material from a diversity of sources, and it shall encourage the mass media to disseminate information which is of social and cultural benefit to the child, and take steps to protect him or her from harmful materials.

ARTICLE	DESCRIPTION
18 Parental responsibilities	Parents have joint primary responsibility for raising the child, and the State shall support them in this. The State shall provide appropriate assistance to parents in child-raising.
19 Protection from abuse and neglect	The State shall protect the child from all forms of maltreatment by parents or others responsible for the care of the child and establish appropriate social programmes for the prevention of abuse and the treatment of victims.
20 Protection of a child without family	The State is obliged to provide special protection for a child deprived of the family environment and to ensure that appropriate alternative family care or institutional placement is available in such cases. Efforts to meet this obligation shall pay due regard to the child's cultural background.
21 Adoption	In countries where adoption is recognized and/or allowed, it shall only be carried out in the best interests of the child, and then only with the authorization of competent authorities, and safeguards for the child.
22 Refugee children	Special protection shall be granted to a refugee child or to a child seeking refugee status. It is the State's obligation to co-operate with competent organizations which provide such protection and assistance.
23 Disabled children	A disabled child has the right to special care, education and training to help him or her enjoy a full and decent life in dignity and achieve the greatest degree of self-reliance and social integration possible.
24 Health and health services	The child has a right to the highest standard of health and medical care attainable. States shall place special emphasis on the provision of primary and preventive health care, public health education and the reduction of infant mortality. They shall encourage international cooperation in this regard and strive to see that no child is deprived of access to effective health services.
25 Periodic review of placement	A child who is placed by the State for reasons of care, protection or treatment is entitled to have that placement evaluated regularly.
26 Social security	The child has the right to benefit from social security including social insurance.
27 Standard of living	Every child has the right to a standard of living adequate for his or her physical, mental, spiritual, moral and social development. Parents have the primary responsibility to ensure that the child has an adequate standard of living. The State's duty is to ensure that this responsibility can be fulfilled, and is. State responsibility can include material assistance to parents and their children.
28 Education	The child has a right to education, and the State's duty is to ensure that primary education is free and compulsory, to encourage different forms of secondary education accessible to every child and to make higher education available to all on the basis of capacity. School discipline shall be consistent with the child's rights and dignity. The State shall engage in international co-operation to implement this right.
29 Aims of education	Education shall aim at developing the child's personality, talents and mental and physical abilities to the fullest extent. Education shall prepare the child for an active adult life in a free society and foster respect for the child's parents, his or her own cultural identity, language and values, and for the cultural background and values of others.
30 Children of minorities or indigenous populations	Children of minority communities and indigenous populations have the right to enjoy their own culture and to practise their own religion and language.
31 Leisure, recreation and cultural activities	The child has the right to leisure, play and participation in cultural and artistic activities.

ARTICLE	DESCRIPTION
32 Child labour	The child has the right to be protected from work that threatens his or her health, education or development. The State shall set minimum ages for employment and regulate working conditions.
33 Drug abuse	Children have the right to protection from the use of narcotic and psychotropic drugs, and from being involved in their production or distribution.
34 Sexual exploitation	The State shall protect children from sexual exploitation and abuse, including prostitution and involvement in pornography.
35 Sale, trafficking and abduction	It is the State's obligation to make every effort to prevent the sale, trafficking and abduction of children.
36 Other forms of exploitation of liberty	The child has the right to protection from all forms of exploitation prejudicial to any aspects of the child's welfare not covered in articles 32, 33, 34 and 35.
37 Torture and deprivation	No child shall be subjected to torture, cruel treatment or punishment, unlawful arrest or deprivation of liberty. Both capital punishment and life imprisonment without the possibility of release are prohibited for offences committed by persons below 18 years. Any child deprived of liberty shall be separated from adults unless it is considered in the child's best interests not to do so. A child who is detained shall have legal and other assistance as well as contact with the family.
38 Armed conflicts	States Parties shall take all feasible measures to ensure that children under 15 years of age have no direct part in hostilities. No child below 15 shall be recruited into the armed forces. States shall also ensure the protection and care of children who are affected by armed conflict as described in relevant international law.
39 Rehabilitative care	The State has an obligation to ensure that child victims of armed conflicts, torture, neglect, maltreatment or exploitation receive appropriate treatment for their recovery and social reintegration.
40 Administration of juvenile justice	A child in conflict with the law has the right to treatment which promotes the child's sense of dignity and worth, takes the child's age into account and aims at his or her reintegration into society. The child is entitled to basic guarantees as well as legal or other assistance for his or her defence. Judicial proceedings and institutional placements shall be avoided wherever possible.
41 Respect for higher standards	Wherever standards set in applicable national and international law relevant to the rights of the child that are higher than those in this Convention, the higher standard shall always apply.

42-45 PART II: Implementation and Monitoring

Implementation and entry into force

The provisions of articles 42-54 notably foresee:

- (i) the State's obligation to make the rights contained in this Convention widely known to both adults and children.
- (ii) the setting up of a Committee on the Rights of the Child composed of 10 experts, which will consider reports that States Parties to the Convention are to submit two years after ratification and every five years thereafter. The Convention enters into force - and the Committee would therefore be set up - once 20 countries have ratified it.
- (iii) States Parties are to make their reports widely available to the general public.
- (iv) The Committee may propose that special studies be undertaken on specific issues relating to the rights of the child, and may make its evaluations known to each State Party concerned as well as to the UN General Assembly.
- (v) In order to "foster the effective implementation of the Convention and to encourage international co-operation," the specialized agencies of the UN - such as the International Labour Organisation (ILO), World Health Organization (WHO) and United Nations Educational, Scientific and Cultural Organization (UNESCO) - and UNICEF would be able to attend the meetings of the Committee. Together with any other body recognized as 'competent', including non-governmental organizations (NGOs) in consultative status with the UN and UN organs such as the United Nations High Commissioner for Refugees (UNHCR), they can submit pertinent information to the Committee and be asked to advise on the optimal implementation of the Convention.

46-54 PART III: Final Clauses

Articles 46-54 deals with structure, systems and procedures regarding the ratification and accession to the CRC.

Parliament of the Republic of South Africa
PO Box 15, Cape Town, 8000
Telephone: 021 403 3341
Facsimile: 021 403 3535
www.parliament.gov.za



PARLIAMENT
OF THE REPUBLIC OF SOUTH AFRICA