

Heroes in the context of vulnerability: The participation of children in the Children's Bill

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The child's right to participate is entrenched in the United Nations Convention on the Rights of the Child (CRC), which South Africa has ratified. According to the government's National Programme of Action for Children (NPA), this right to participate is seen as an instrument to meet all the other rights of children in South Africa. When children participate in processes and decisions that affect them, they are better able to express what their needs are and what the best solutions to those needs can be. In the context of poverty and HIV/AIDS, the participation of children is crucial, as it enables policy-makers and other practitioners to understand what children's realities are, and how they can be supported and protected in the context of vulnerability.

The Department of Social Development has proposed a Children's Bill to replace the Child Care Act as legislation to protect children against vulnerability. The Bill covers issues such as parental rights and responsibilities, children's rights, protection from neglect and abuse, and court systems. It is divided into two parts, the section 75 Bill deals with national government competencies, while the section 76 Bill deals with issues where the national and provincial governments share competency.

As the Bill was being considered by Parliament, it was important to involve both adults who work in the children's sector and children living in the context of vulnerability in the deliberations on it. Civil society organised themselves into an adult working group made up of organisations working in the children's sector. The Children's Institute set up a parallel process of establishing a children's working group to engage with the Bill. This section presents the story of these children, who called themselves *Dikwankwetla – Children in Action*.

This section focuses on the following questions:

- What were the aims, objectives and activities of *Dikwankwetla*?
- What challenges do children face in the context of poverty and HIV/AIDS?
- What were *Dikwankwetla*'s key messages for the Children's Bill?
- What was the impact of *Dikwankwetla*'s advocacy action?
- What lessons did we learn?

What were the aims, objectives and activities of *Dikwankwetla*?

The 'Child Participation in the Children's Bill Project' began with the aim of facilitating children's participation in the adoption of the Children's Bill. Twelve children between the ages of 12 and 17 years, who are growing up in the context of HIV/AIDS, were selected to be part of the project. The children were identified through partner organisations from four provinces in South Africa. Since the children were already working with the partner organisations, they were ensured continued support throughout the project. The partner organisations were also instrumental in facilitating buy-in and obtaining consent from the children and their families.

The project was designed to go through three implementation stages, i.e. entry and buy-in (described above), the developmental stage, and the advocacy stage. During the developmental stage, the children attended a series of participatory workshops focusing on two objectives: (a) developing legislative literacy, and (b) supporting the children to become advocates. The intention was to equip the children with the capacity to engage with the provisions in the proposed Children's Bill and to articulate their opinions about it.

Developing legislative literacy

The first workshop had three main objectives:

- to introduce the children to the project and to the facilitators;
- to gain consent and buy-in from the children; and
- to explore the challenges the children faced in their everyday lives.

In this workshop, we came to understand the context in which the children live, the main challenges they face, and the ways in which they deal with these challenges. Most of the issues they raised were relevant for the Children's Bill, and these became focal points of their advocacy strategy.

Four months later a second workshop was held to inform the children about the draft provisions of the Children's Bill. A team of legal experts converted the relevant parts of the Bill into a child-friendly resource pack. This included activities to help children learn about the Bill as well as develop their opinions about the clauses in the Bill. Only those parts of the Bill that addressed the challenges that the children faced were focused on, thus deepening their ownership of the advocacy

process. Through a facilitated process the children developed their opinions about the Bill, identifying gaps and formulating key messages.

The third workshop was held two days before the parliamentary hearings. The aim was to prepare the children for their presentation in Parliament and for their meetings with decision-makers. Their views, expressed in letters, drawings and other activities, were used to compile a presentation in the format of their choice.

What challenges do children face in the context of poverty and HIV/AIDS?

In the first workshop, children were facilitated to share their life stories, focusing on the challenges that they face. Below is the broad range of issues they raised.

Neglect by adults

Many of the children had experienced neglect and not being properly taken care of. A 16-year-old girl told us:

"I am taking care of my four siblings with my old grandmother and that doesn't mean that my mother is not alive. She is very alive but the problem is that she doesn't stay at home with us and take care of us; she is always away and when she comes home she comes drunk and abuse us emotionally. These affects me mentally; I cannot cope well with my school and don't have enough time to rest and that goes to my other two sisters who come after me; they don't have time to play like other children and I think that that's abuse."

Another girl, also 16 years, stated:

"My father doesn't take good care for us. My mother struggles alone ... I don't know what kind of a human being is my father. He is aggressive. He is always shouting at us. He pushes us aside. He is always drinking."

Abuse

Some of the children also experienced conflict in their homes, as well as physical and emotional abuse in their communities. Some knew children who had experienced sexual abuse.

Below is the story of one boy:

"I am a 16-year-old boy. I have one major problem. I am abused physically by my father since my mother passed away. I am asking that everyone should respect children's rights, even our parents themselves."

And a 15-year-old girl said:

"My younger sister aged eight years was raped by a person. My mother sent her to buy cooking oil late, at about 6.30 pm, and she met the rapist. The rapist asked her for directions to another shop, and then they went together and, instead of going to the shop, he took her to the river bank and raped her ... The person who raped my sister was unknown because he gave her a wrong name when he introduced himself to her."

Poverty

Many of the children had experienced a variety of challenges related to poverty, including a lack of shelter and clothing, a lack of access to education, health and social services, and severe forms of hunger and deprivation:

"At home we don't have some shelter. At home we don't have food. At home we don't have money to buy food." (Boy, 17 years old)

"I come from Limpopo. At home, I'm living with my grandparents. My mother is not working. She is HIV positive and she can't work because she is sick. So we have nothing. No money, no clothes and even a house of our own. We are forced to live with my grandparents inside a four-roomed. Our life is too hard – no privacy and no freedom. We are slaves inside it ..." (Boy, 16 years old)

Children's rights

The children were asked if they think that children have rights. They mostly said no, because:

"Children are not taught what their rights are."

"Children don't run the world. Adults run the world, so it's easy to forget about children."

HIV/AIDS

The challenges related to HIV/AIDS that the children raised were about caring for sick parents and siblings, as well as dealing with loss and grief.

"Home is the most difficult place in my life. At home my mother is HIV positive. My father is HIV positive." (Girl, 16 years old)

"I have one sister. And one brother. I have father only. I don't have mom. My mom died in 2000 in June 9. My sister died in 2002 May. I live at my primary school. I am in grade six. Next year I in grade 7. My hobbies are playing soccer. At home we don't have something to shelter. At home we don't have food. At home we don't have money to buying food. My brother does not learn because we don't have money ..." (Boy, 12 years old)

Peer pressure, pregnancy, drugs, eating disorders, depression

Some children raised other youth-related problems, mainly around drug use and pregnancy. Some of the children were also experiencing other problems such as depression and eating disorders.

"Waking up in the morning and not knowing what life is going to bring my way for that day is hard, but more exciting ... The toll of death is no longer an issue for me!" (Girl, 14 years old)

The Children's Bill is targeted at legislating preventative and protective measures to support vulnerable children. One of the criteria we used to choose children to participate in the project was that they had to be living in the context of vulnerability, particularly affected by HIV/AIDS. It is not surprising, then, that they raised such serious challenges. What is significant, though, is that the most dominant challenges raised were related to poverty. Even the issues related to parental neglect can be linked to the lack of employment, poverty and alcoholism rather than to intentional criminal neglect. This is an important message to heed in the South African context, especially as it relates to policy interventions. What is coming out strongly is that, even in the context of HIV/AIDS, poverty is still the key underlying cause of vulnerability. Other research by the Children's Institute supports this notion that children affected by poverty share many of the same experiences as children affected by HIV/AIDS.

However, these children are resilient despite the challenges they face. This comes through in their choice of a name for their group, *Dikwankwetla*, which means 'heroes'. And they all referred to themselves as 'heroes' because they said that they are brave; they help their parents when they are sick; they take care of their brothers and sisters; they go to school and do well; and they care about others. These children are

not helpless victims of their circumstances. They are active citizens who continuously draw on their creativity and the support structures in their communities to help them live and thrive. One girl, 16 years old, wrote:

"(I am a hero because) I respect others. I think before I act. I am responsible; I care for others; I know myself; I don't let problems take control of me; I help other children who wants to know more about HIV/AIDS. I am proud of myself."

What were *Dikwankwetla's* key messages for the Children's Bill?

We explored different advocacy strategies in the workshops, including how to engage with decision-makers and the media. The children were also facilitated to produce different advocacy outputs. In between the workshops they designed their own advocacy strategies, deciding on which activities they would engage in, and what they would advocate for. Their activities included speaking to their friends; speaking in school assemblies; presenting in council meetings and at youth rallies; holding meetings with decision-makers; and speaking on radio. However, the climax of the advocacy process was the children's presentation to Parliament. They told members of Parliament about the challenges they were facing, and the provisions to deal with those challenges that they wanted to see included in the Bill. Below are some of the key messages that they advocated for.

- **Children's rights was a key theme.** In one group discussion, the children analysed the right to information about health care. One girl, aged 14 years, asked: "What's the point of having information about health care if you don't have the health care?" They proceeded to amend this right to state that, "Children have a right to access to information and good health care." They also felt that the rights proposed in the Bill were inadequate and they in response developed a pamphlet stating all the rights that they wanted to see included in the Children's Bill.
- ***Dikwankwetla* also focused on abuse and neglect.** They discussed the appropriate punishment for perpetrators of abuse. While the Bill suggested that reported abusers should be jailed after investigation, the children strongly felt that perpetrators must be immediately taken to jail upon reporting. They added:

"The person who is abusive must be the one who is removed from home, not the child. Whatever is done must be done to the interest of the child. Children who don't live with their biological parents; the child should be removed because the caregiver can't be removed from their own homes even if they are the one who are wrong."

Later, two 16-year-old girls co-wrote a letter to the members of Parliament, stating:

"Please raise awareness about child abuse. Those who are already abused should get counselling. The government should see to it that abusers go to jail, 'cause mostly they are not arrested; they get bail and come back and they abuse children again."

- **The issue of corporal punishment was also passionately debated.** The proposed Bill suggested that children could be 'reasonably chastised' by their parents. However, the majority of children believed that corporal punishment in the home is wrong under any circumstance. Two of the children believed that only under very 'strict' circumstances should children be 'smacked', with smacking defined as "a hit on the hand not more than twice!" The rest of the children argued that when parents hit children "they create a scary environment" in the home.
- **The children also discussed parental rights and responsibilities.** They stated that all children should be taken care of by loving caregivers in a safe environment. They also highlighted the support they received from non-governmental and community-based organisations.

What was the impact of *Dikwankwetla's* advocacy action?

We have not yet conducted an impact assessment study for this project, partly because the advocacy process is not yet finished, and partly because it is difficult to measure the impact of the children's action in isolation from the broader civil society advocacy process that involved other organisations. So, we simply highlight evidence of the children's effectiveness so far.

Dikwankwetla's participation in the Children's Bill process received a considerable amount of media coverage in some newspapers, on radio and in popular journals. Most recently, Dr Maria Mabetoa, the Chief Director responsible for children

in the Department of Social Development, shared the story of *Dikwankwetla* in an interview with a popular magazine, detailing the problems the children raised. The children were frequently mentioned during the deliberations of the Portfolio Committee and their views were incorporated in the discussions of the adult working group. Most notable though, is that progressive changes were made to the section 75 Bill, which was passed by Parliament in July 2005.

This Bill has recognised and is based on children's rights as a fundamental principle. Chapter 2 of the Bill states that, "the objects of this Act are to give effect to the ... constitutional rights of children ..." and proceeds to name the relevant rights. Secondly, the Bill has progressively shifted from the concept of parental power over children to a concept of parental responsibility for children. The Bill strives to promote the best interests of the child, as well as to recognise child agency. For instance, it recognises that there is a need to make courts accessible to children, and also recognises that there is a need to regulate cultural practices that might be potentially harmful to the child.

The section 76 Bill, to be tabled in Parliament in 2006, focuses more specifically on the issues that *Dikwankwetla* raised and the children are preparing for the next phase of the project.

What lessons did we learn?

This process has given us great insight into the extent of children's daily challenges and potential solutions. We witnessed evidence of children's agency and their abilities to participate in law-making processes. The children's participation was in itself positive because they could stand up for themselves and articulate their needs. But more importantly, it helped inform some of the adult working group's debates on and proposed changes to the Bill, and it influenced the deliberations of the Portfolio Committee on Social Development. Preliminary findings of the evaluation of the Children's Bill working group suggest that members of Parliament appreciated the opportunity to interact with children so that they could make informed decisions on the final version of the Bill.

It is thus evident that children should participate in law-making processes that affect them. This not only yields positive results for the participating children as their right to participate is realised but also assists law and policy-makers in informing their decisions.

Sources

For a more detailed discussion of the *Dikwankwetla* case study, see:

Mniki N & Rosa S (2005) *Dikwankwetla Children In Action: A case study of child advocates in South Africa*. Paper presented at the international conference on Children and Youth in Emerging and Transforming Societies, University of Oslo, Norway, 29 June – 3 July 2005.

Other sources used in this section:

Black Sash (1986) *Memorandum on the suffering of children in South Africa*. Johannesburg: Black Sash.

Department of Social Development (2003) *Children's Bill: Reintroduced section 75*. Pretoria: Government Printers.

Dikwankwetla (2004) *Parliamentary presentation on section 75 of the Children's Bill*. Cape Town, 11 August 2004.

Giese S, Meintjes H, Croke R & Chamberlain, R (2003) *Health and social services to address the needs of orphans and other vulnerable children in the context of HIV/AIDS: Research report and recommendations*. Cape Town: Children's Institute and national Department of Health.

Mniki N (2004) *Dikwankwetla's submission on section 75 of the Children's Bill to the Portfolio Committee on Social Development*. Cape Town: Children's Institute, June 2004.

Mniki N (2004) *Dikwankwetla – Children in Action*. *Child and Youth Care*, 22(9): 16 – 19, September 2004.

National Children's Rights Committee (1999) *South African National Programme of Action for Children (NPA): Implementation and monitoring strategy*. Pretoria: Government Printers.