

THE CHILD LAW BULLETIN

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THE NEW 2010 SCHOOL TERM: IS THERE ANY HOPE FOR AN END TO THE EDUCATION CRISIS?

The year 2009 presented children with multiple challenges in accessing their right to education. Hopes were high as schools opened for the first term of 2010 that the inclusive government would prioritise the revival of the education sector. A survey of both print and electronic media revealed that children are still facing difficulties in accessing their fundamental right to education. Revelations were that parents were still finding it difficult to afford exorbitant fees and school uniforms for their children. Continuous threats by teachers to take strike action over low salaries worsen the plight of children as there is always uncertainty over their access to education.

A review of last year indicates that children are in the middle of the education crisis due to the failure by the Ministry of Education, Sports, Art and Culture and the Zimbabwe Schools Examination Council (ZIMSEC) to provide a lasting solution to the challenges facing the sector. Various surveys carried out in 2009 indicated that education was compromised by, among other factors, the introduction of unaffordable levies and examination fees, the delay by ZIMSEC in announcing both examination fees and examination dates, strike by ZIMSEC, and the failure of the Basic Education Assistance Module (BEAM) to pay school fees on time for orphans and vulnerable children (OVC).

The above challenges contributed to the poor pass rate recorded at Grade Seven level for the final examinations. The Sunday Mail of 17-23 January 2010 reported that, "rural schools recorded zero percent pass rate following the release of 2009 grade 7 examination results". Progressive Teachers' Union of Zimbabwe (PTUZ) Secretary-General, Mr. Raymond Majongwe was quoted as saying that, "the academic pass rates for all levels tumbled to below 11 percent." What is also saddening is that there were unconfirmed reports in the same paper that some children did not receive their results as their scripts were lost.

The challenges faced by children during the opening of the first term for this year are also a cause for concern as the situation further compromises their right to education. The right to education is clearly spelt out in the United Nations Convention on the Rights of the Child (UNCRC) which points out that *every child has a right to education and that all member states shall put in place the necessary measures to ensure that all children access basic education*. The African Charter on the Rights and Welfare of the Child (African Charter) article 3 (d) provides that *state parties should take measures to encourage regular attendance at schools and the reduction of drop-out rates*. The Education Act (Chapter 5:25), section 4 also stipulates that *education is a right for every child and that primary education is compulsory and free of charge in Zimbabwe*. The situation on the ground however, does not reveal the commitment of the government to ensure that the right to education is accessible to all children.

The Financial Gazette edition of the 8th of January 2010 reported that the major pre-occupation for most parents was the issue of exorbitant fees, the soaring cost of uniforms and the threats of a strike by teachers over poor salaries. The paper further revealed that most private and trust schools are charging fees of between US\$1 200 and US\$2 000 for secondary school boarders per term while government schools are demanding US\$850 for boarders at former Group A public schools. It also reported that at most high density public secondary schools authorities are charging US\$105 per term per child.

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THE NEW 2010 SCHOOL TERM: IS THERE ANY HOPE FOR AN END TO THE EDUCATION CRISIS? CONT:

JCT carried out a research on the status of Harare schools in March 2009. The research revealed that education is continuing to be affordable to a few at the expense of the majority of the children, considering that most families are surviving on an average monthly income of US\$150.

The situation is further complicated by the continued threats of strike by teachers. This follows disagreements on the salaries. This is very disturbing considering the sacrifices being made by most parents who work hard so that their children receive quality and consistent education. Such disturbances are contributing to poor results and high dropout rates as some parents have lost confidence in the education system.

The consequences seriously affect children because most of them end up attending bogus schools and “colleges” in the high density suburbs where standards are very low, with no proper sanitary facilities and where they are exposed to abuse. Some frustrated children end up being involved in illicit activities such as vending and foreign exchange dealings. It is saddening that some girls are reportedly engaging in prostitution while others turn to being housemaids thereby increasing their vulnerability to abuse.

JCT reiterates that it is the duty of the government to ensure that all children have access to education as provided for by both international and regional treaties it signed and ratified. The government is further urged to remove from parents the burden of paying for teachers’ incentives as this is a clear abdication of its duty as the government. The recently revived Basic Education Assistance Module (BEAM) could go a long way in alleviating the plight of orphans if it is effectively administered and monitored.

JCT continues to call for the inclusion of the right to education in the constitution as a way of ensuring a lasting solution to the problems confronting the education sector. The government’s responsibility in ensuring that all children this right should also be clearly spelt out in the constitution if any efforts to revert to the standard of the education sector of the 80’s and 90’s are to be successful.

CONSTITUTION MAKING PROCESS: LET THE CHILDREN SPEAK FOR THEMSELVES

The CONSTITUTION MAKING PROCESS, is going ahead albeit at a very slow pace with Constitution Parliamentary Select Committee (Copac) holding a training workshop for Members of Parliament, thematic sub-committee members and other civic society organizations from the 11th of January to the 13th of January 2010. The training was an important part of the process because it equipped the trained participants with the requisite skills for the long-awaited outreach programme.

It is however, noteworthy that no children participated in the training workshop and this is a disturbing phenomenon. Children have already been left out of the crucial processes of coming up with a new constitution and yet they are an integral part of the country’s democratic processes. Child participation is supposed to be promoted at every level on issues that affect children and by virtue of being rights holders, they must participate in the current process. Article 7 of the African Charter on the Rights and Welfare of the Child (ACRWC) provides that, *“every child who is capable of communicating his or her own views shall be assured the rights to express his opinions freely in all matters and to disseminate his opinions subject to such restrictions as are prescribed by laws.”*

In the spirit of child participation, it is also imperative that when the community outreaches are finally rolled out, children’s commitments, particularly school attendance should be considered so that children actively participate during the public consultations. It could also be more effective if the outreach teams could make time to meet children in their schools so that they are given a platform to discuss their rights vis a vis the constitution.

The training programme was meant to equip the outreach team on how to gather and collate people’s views on what they want for consideration in the constitution. The training workshop is an important phase towards the drafting of the new constitution which presents an opportunity for organizations in the child rights sector to sensitize and educate members of the community on the need to ensure that they present views on children’s rights they want for consideration.

Zimbabwe, being a party to both the Convention on the Rights of the Child (CRC) and ACRWC, is obliged to incorporate the provisions of the two treaties in the constitution so that the State and parents/guardians can be held accountable for failure to uphold children's human rights.

THE RIGHT TO LIFE, SURVIVAL AND DEVELOPMENT COMPROMISED! TIME TO CALL FOR CHILDREN'S RIGHT TO PRIMARY HEALTH CARE.

The outbreak of measles in most parts of the country has threatened children's human rights. The disease is most prevalent in some members of the apostolic sect. According to the Herald of 22 January 2010 the major underlying cause for the outbreak of measles is attributed to the failure of the apostolic sect members to immunize their children due to religious beliefs." This calls for the organizations in the child rights sector to lobby the government to put restrictive measures which ensures that all children are immunized against child killer diseases.

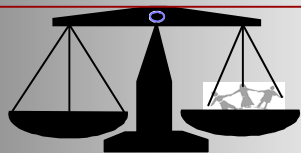
The government has an obligation to ensure that every child has a right to health. Article 14 S 2 (b) of the African Charter on the Welfare and the Rights of the Child (African Charter) state that the government should ensure the provision of necessary medical assistance and health care to all children with emphasis on the development of primary health care. Article 21 S(1) of the latter further states that the government should take appropriate measures to eliminate harmful social and cultural practices affecting the welfare, dignity, normal growth and development of the child and in particular customs and practices prejudicial to the health or life of the child.

The situation on the ground however, does not reveal the commitment of the government to ensure that the provisions of the right to health become accessible, particularly to children who are vulnerable. This is despite the fact that children are a group which requires special protection. The consequences for failing to fully promote and protect children's rights to primary health by the state and some members of the apostolic sect has implications in violating children's fundamental rights. The Herald of the 22nd of January 2009 reported that 51 children have died of measles since November 2009 when the disease was detected. According to the Herald of the 21st of January 2010 the World Health Organization (WHO), reported that there are now 1 052 suspected measles cases across Zimbabwe of which 161 have been laboratory confirmed.

Children, by their very nature are a special group that needs protection and it is important that the constitution that is going to be formulated by the current constitution making process will adequately provide for children's rights.

The other underlying cause of deaths among children can be attributed to neglect and ignorance on the part of some members of the apostolic sect. It is important to note that the failure to immunize children due to neglect is a criminal offence under Children's Act section 7 (1).

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THE RIGHT TO LIFE, SURVIVAL AND DEVELOPMENT COMPROMISED! TIME TO CALL FOR CHILDREN'S RIGHT TO PRIMARY HEALTH CARE CONT;

The section provides that, "if any parent or guardian of a child or young person assaults, ill-treats, neglects, abandons or expose him or allows, causes or procures him to be assaulted, ill-treated, neglected, abandoned or exposed in a manner likely to cause him unnecessary suffering or to injure or detrimentally to affect his health or morals or any part or function of his mind, he shall be guilty of an offence." The implementation of such provisions by the courts and police can be used as deterrence to who would be offenders.

The call by the Health and Child Welfare Deputy Minister Dr Douglas Mombeshora in the Herald of the 22nd of January 2010 that, "government could soon invoke provisions of the Public Health Act to empower the Minister of Health and Child Welfare to enforce immunization against child killer diseases among some members of the apostolic sect who refuse to immunize children is a welcome development towards ensuring that children's rights to primary health care is safeguarded." The provision will also assist in ensuring that children's rights to primary health care is fully respected and promoted to the benefit of the child.

It is also important to note that organizations in the child rights sector can contribute to ensure that children's rights to primary health is fully respected and promoted by some members of the apostolic sect by capacity building and sensitizing them on laws of child protection vis-à-vis children's rights. This will contribute in ensuring a change in religious, cultural and attitudinal beliefs that affects children's rights.

JCT therefore calls upon the government to put strict measures which ensures that all children are immunized against child killer diseases and the constitution making process should also be used to lobby for the need of children's rights to primary health among other rights like education, food, shelter, care and protection.