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Confidentiality versus the duty to protect society

Confidentiality is a fundamental principle for all humanitarian workers. Confidentiality is generally defined as the extent to which information gathered from a client for a particular purpose can be disclosed to any other person. This principle is very important and needs to be observed. However there are instances where people debate on the difficulty of upholding this principle, especially where the good of the society is at stake.

In one of the areas that we work in, a young primary school girl was raped by an adult who lives in the same neighbourhood and in the process she was infected with the deadly HIV virus but she is not aware of her status. JCT was consulted for the purpose of legal representation. However, her mother and the school head both know about the situation as the results were revealed to them by the local doctor. The dilemma that the mother and school Head are now facing is on how to disclose the results to the minor in a way that will not violate her rights as well as ensuring that she will be able to live with the reality. Of particular concern now is the fact that she has already started dating and this calls for the need to protect the young boys from being infected with the deadly HIV virus.

The question that our programme officers kept asking themselves is "what is the best way of upholding the principle of confidentiality and protection of the girl, while at the same time ensuring that the young boys are also protected from the virus?". The complexity is presented by the fact that the young girl is not aware that she is HIV positive and at her age she is about to explore several things including sex.

The organisation felt that the situation cannot just be left as it is and there is need for action to be taken right away.

It was realized that there is need to engage experts who can provide professional counseling to the mother and the child and make sure that the girl knows her HIV status. Through professional counseling she would be informed that the situation she is in right now is not of her own making therefore it is not her fault or responsibility. Experts will also be in a position to inform the girl not to consciously spread the virus, and in that regard the balance between the protection of the girl and that of the good of the society will be struck. Through networking with the government and other civic society organizations, JCT hopes to devise the relevant protection mechanisms for instance access to Antiretroviral Therapy as well as ideal nutritional diet and other sundry materials. JCT sees this child as a child in need of particular care hence the idea of using a unified approach in addressing her situation. The organization will also intensify HIV education for the whole school as a way of protecting the boys.

As an organisation that is still growing JCT managed to realize from this case that there is need for humanitarian workers to have the basic skills in counseling, case work and other aspects of child protection. The importance of networking was also realized since it is the best way to tackle most social problems that we face in our endeavour to help people in difficult circumstances.

The issue of confidentiality in relation to the protection of society calls for the importance of striking a balance between protection of the individual and the needs of society. This case presented an opportunity for the organisation to debate on the best way of coming out with a practical intervention strategy.



The practitioner should keep information obtained from clients as confidential as possible.

Highlights from the story:

- Confidentiality is a fundamental principle for humanitarian workers and it should always be observed.
- It is important to balance protection of the individual and the overall interest of society.
- Networking is a critical tool for any organisation.

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Consultative Workshop on Inheritance

After realizing some weaknesses in the current inheritance law framework in Zimbabwe JCT joined hands with Legal Resources Foundation (LRF) and hosted a workshop aimed at discussing these weaknesses and come up with practical solutions for the benefit of children in Zimbabwe. The workshop brought together a number of stakeholders in the child rights sector and it was marked by vibrant presentations and debates. One of the presenters was the Deputy Master of the High Court and he highlighted the major problems that step children face.

Background to the Workshop

The current law stipulates that when one parent dies, the surviving spouse inherits the house and other household goods. Through providing free legal services to children in difficult circumstances in Zimbabwe, JCT has noted that problems arise when the surviving spouse remarries. When they die the new spouse will then inherit the house thereby alienating the children and disinheriting them of their right to inherit property from their parents. In most cases the step parent will chase the children away from the house that they would have known as home for their entire lives and as a result there would be nothing that organizations like JCT can do to help these children hence the idea of calling for the workshop. From the case studies highlighted by the participants it was noted that this is an area that needs a concerted approach for the attainment of the necessary reforms. Inheritance is one of the organization's advocacy issues and this was the first step towards a lot of work that still needs to be done.



Some of the participants who attended the workshop

Major findings and recommendations

From the workshop it was realized that there are many children who are becoming destitute yet their parents would have left a lot of property. Participants proposed a number of solutions and these include:

- Amending the law to provide for joint ownership between the surviving spouse and the children.
- Amending the law to the effect that the surviving spouse has no rights to transfer ownership of the property or donate it until the last child turns 21 or becomes self supporting whichever occurs first. Where there is a disabled child, he or she shall have life usufruct rights to the house.
- More strategies need to be adopted to raise awareness on inheritance rights and will writing.
- The Deputy Master of the High Court also recommended that organizations must engage in massive sensitization encouraging members of the public to set up trusts through the registration of trusts and deeds with the High Court. The trust deed sets out how the family property will evolve. The advantage is that upon one's death, there is certainty on how the estate will be dissolved and one avoids the process of estate administration through the courts.

As part of the process, JCT and LRF are planning to conduct more research and consultations and will soon come up with a position paper that will be submitted to the responsible authorities for the necessary processes to begin towards the possible reforms.

Advocacy is a process and the organisation will continue to do more work in this field particularly adopting strategies for raising awareness and organize various fora where members of the public would be involved in such discussions.

Children's right to participation

The 2008 Presidential election has come and gone. It is JCT's hope that normal programming will resume and all the civic society organizations will continue with their mandate of helping members of society who are in difficult circumstances. The Zimbabwe Youth Council held the national launch for the commemorations and JCT will be part of the Child Protection Coalition that will conduct the belated Provincial commemorations in Harare in July on a date that has not yet been set.

In our last issue we highlighted something on the purpose of the commemorations in the present day. In this issue we would like to give a brief background to the commemorations.

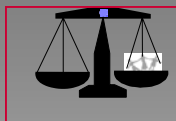
On June 16, 1976 a group of children in South Africa took to the streets in protest over the inferior quality of their education as well as to demand their right to learn their own languages. In response to the protests the security forces shot and killed hundreds of the children while several others were injured. This was followed by two weeks of protests where many more lost their lives. The then Organisation of African Unity (OAU) promulgated the 16th of June as the Day of the African Child to honour those who perished in that incident, those who were injured and to observe the courage of the marchers and protesters. This day has been observed since 1991 and as such several activities are usually lined up throughout Zimbabwe and the rest of the African continent to mark this day.

The rundown to this year's commemorations was marred by unfortunate incidents of violence that was unleashed on foreign nationals in South Africa in what has been described as a manifestation of xenophobia. UNICEF reported that at "...at least 17000 people have been displaced in Gauteng alone, among them a minimum of 6000 children and women".

We noted that as the various countries from the SADC region commemorated this day, reference was made to this unfortunate happening and everyone took the opportunity to condemn it. It is quite sad that children were caught in the crossfire of violence during the rundown to the commemorations of the Day of the African Child. Since the day is commemorated in memory of children who were victims of violence and aggression, most African countries used the commemorations to call for an end to the attacks.

The provincial commemorations will be held in Chitungwiza and JCT will also hold commemoration galas in schools and take the opportunity to educate the children and the community on the laws of child protection. In the galas the children will be encouraged to actively participate so that they make meaningful contribution.

Since children did not have an opportunity to actively participate, JCT plans to give children this opportunity in the galas earmarked for the commemorations. The Galas will comprise of children's activities such as dramas, speeches, poems, music, dance and competitions and children will be involved in the planning process.



Children's experiences with the law

Tsitsi's story

In this issue we have decided to share with you one of the cases we have dealt with in June.

Tsitsi*(15) and Chipo*(16) are two young girls who live in Mufakose, a high density suburb in Harare. After her father passed away when she was one year old, Tsitsi's mother sent her to live with her paternal aunt in Highfield, another suburb in Harare.

Tsitsi is not going to school and she is always at the house doing her chores. Tsitsi is a beautiful young lady with an attractive body and at 15, she is beginning to attract the attention of the opposite sex and Nhamo Chinembiri*, who lives three houses away began started to plot a strategy to draw her closer to him. Nhamo is actually old enough to be Chipo's father because his last born child is 24 years old. Tsitsi was always left at home alone and Nhamo took advantage of her vulnerability and he would come to the house and sexually abuse her. She told her aunt about it but surprisingly the aunt urged her not to report the matter to the police and eventually Tsitsi was driven into a culture of silence. After realizing that she had fallen pregnant, Tsitsi informed her aunt but the aunt unbelievably chased her from her home and tells her to go back to her mother. She divulged the news to Nhamo who vehemently denied responsibility for the pregnancy. and even threatened her with death if she stayed at his home.

Tsitsi's mother abandoned her at her aunt's house when she was one, such that they barely knows each other since they did not develop the mother to child attachment. When she realised that she had been left with no sympathiser, Tsitsi went back to Mufakose expecting to be embraced by her mother but to the shock of her life, her own mother refused to take her in.

Realizing that she was being driven into destitution, she then sought shelter at Chipo's residence where Chipo stays with her parents. When she joined Chipo at her parents' home, Chipo was also pregnant and they later both gave birth to strong baby boys.

Chipo was quick to understand Tsitsi's plight since she was facing similar problems and they became friends.

One day as they sat in Chipo's room discussing their fate, especially in relation to the rising cost of living and shortage of basic commodities, they came across some a JCT flyer on maintenance and as they read through they managed to understand very little of the information (since they are not very literate) and they decided to visit our offices.

After explaining their situations they were advised of the procedures and requirements for maintenance application. Chipo is being assisted to apply for maintenance but it never pours but rains for Tsitsi. For one to apply for maintenance, he or she needs to have a bank account. The Clerk of Court refused to accept her application unless she has a bank account. The world seems to be crumbling for Tsitsi as she cannot open a bank account because she does not have a birth certificate. To make matters worse her mother is uncooperative and has totally disowned her.

JCT is negotiating with the mother to ensure that Chipo obtains a birth certificate before pursuing the maintenance application. If the mother is uncooperative, legal action can be taken against her under the Births and Death Registration Act for failing to provide information required for a child to obtain a birth certificate. JCT has also advised Tsitsi to lay criminal charges against Nhamo for sexual abuse. A maintenance application is also going to be made whilst waiting for her to open a bank account.

*** Names changed to protect the people's identity.**