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"JUSTICE FOR THE CHILDREN"
Community Workshop

hosted by

Community Law Centre at the University of the Western Cape
Children's Rights Research and Advocacy Project

Wednesday, 2 December 1992

The Community Law Centre at the University of the Western Cape is dedicated towards the entrenchment of human rights in a future democratic constitution. To this end, the Centre engages in legal and socio-legal research in areas of need and concern. As a branch of the Centre, the Children's Rights Project has focused its attention upon investigating the law as it affects children in South Africa. The Project seeks to influence policy by linking the vital hands-on work of advocacy groups with those groups and parties which are actively involved in decision-making and negotiating for a better future for the country. The research produced by the Centre is not a prescription for all the problems facing South Africans, but will ideally serve as a guide to direct practical programmes and campaigns.

Since January 1992, the Children's Rights Project has focused significant attention to the situation of children who are within the criminal justice system in South Africa. Ongoing research, monitoring of courts, workshops and visits to prisons and police cells, as well as places of safety and children's homes have exposed the glaring realities of the brutality of a so-called justice system for children. The inhumane and de-humanising manner in which thousands of children are treated each day has no relationship to the practice of human rights and respect for children. This was summed up best by a homeless child at a workshop last week - a young boy who has experienced the horrors first-hand - who pleaded that "We be treated as HUMAN children".

In recent months, the situation of the children who are awaiting-trial in prisons and police cells has finally been brought to the public eye. Due to many years of work by organisations dedicated to the futures of these children, the government and the general public are finally responding, albeit in a slow and tedious fashion, to the pressures to change the system so that it benefits the child. This workshop seeks to up-date you and other interested organisations on recent happenings since the release of the report, "JUSTICE FOR THE CHILD: No Child Should Be Caged", of 22 October 1992. Since this report, the current players in the criminal justice system, from magistrates to lawyers to social workers to government ministers and city officials have finally begun to address the multiplicity of problems that plague those children who are forced to become part of the criminal justice system. Additionally, the business community and private sector have finally become aware of the plight of these youth and are actually seeking ways to help. However, there is now a desperate need for those organisations and communities with an interest in these children to come together to strategize around long-term solutions for these children. Thus, the goal of this workshop is two-fold:

- (1) To discuss and agree upon short-term solutions to ensuring the release of children awaiting-trial before Christmas and the new year.
- (2) To raise long-term plans for the conceptualisation of a new method of juvenile justice

There is a vital and urgent need to bring those with communities and rural areas where children are from in touch with those who can shape the future of juvenile justice in South Africa. Moreover, answers to the greater socio-economic and psychological problems of the children must be sought. In the next year, children's rights should no longer be an afterthought. Children should be placed firmly on the agenda in a future society.

The following highlights advances that have been made since 22 October 1992, the release of the document on the situation of children. However, this list is not conclusive. We are certain that many of you here today have been involved in similar changes and have seen the fruits of your labours. Please feel free to share your successes and frustrations in this forum today.

PROGRESS SINCE 22 OCTOBER 1992

POLICE

In Cape Town, a proposal for the appointment of a Police Liaison Officer has been suggested. Copies of the proposal are available from the Centre upon request. However, in the last few weeks, police harassment of children in the Cape Town region has still been occurring. Reports from Johannesburg indicate similar assaults taking place in this region. There is little to no information about the treatment of children in rural areas by the police.

Progress has been made in limited areas. After Councilperson Edelstein presented the problems of children living on the street to the Cape Town City Council, two Legal Advisors were assigned to investigate the city bylaws as they affect the arrest of children and to make a complete report by the first of December. The Attorney General's Office in Cape Town has placed the onus upon arresting officers to set forth reasons why they are unable to locate parents. The AG has also received a verbal agreement from the Cape Town police to take any homeless child that is picked up to children's court instead of juvenile court immediately upon arrest. On Monday, 30 November, children marched through Cape Town to deliver a demand to police to stop the harassment.

PRE-TRIAL DETENTION

Minister Adriaan Vlok of the Department of Correctional Services has issued numerous statements regarding children detained in prison in the last few weeks. However, no statement has agreed upon the number of children in prison, and most have failed to address the actual situation of the children. The most recent statement announced the formation of a Correctional Services Committee to look into the problem. However, organisations are still being denied access into the prisons and no large scale efforts have been made by the government to remove the children awaiting-trial from prison.

Lawyers for Human Rights/Pietermaritzburg has initiated a "Free the Children by Christmas Campaign" this month. Correctional Services has agreed to provide the names and charges of children awaiting trial in prison to LHR. Lawyers from LHR, as well as from NADEL and BLA have all agreed to volunteer to represent these children in court and efforts to locate parents have been strengthened. From this initiative, it was learned that 350 children are being held in Durban Prison alone. In Cape Town, legal representation was obtained for 26 children in Pollsmoor Prison. The lawyers were instructed to follow a three-part strategy: (1) Withdraw charges and return child to family. Organise follow-up social services if necessary (2) If not possible to withdraw or to locate family, convert case to children's court inquiry. (3) As a last resort, in serious matters, ensure that child is moved from prison to a place of safety whilst awaiting trial.

Organisations have also received numerous requests from children and parents to obtain legal representation.

In the Wynberg courts, NICRO-Cape Town conducted a workshop with prosecutors to inform them of diversionary programmes and other available alternatives for sentencing. In the Cape Town courts, magistrates met to discuss the issue and to investigate possibilities for reform and improvement of the juvenile courts. As well, the AG asked that children who appear in court not be returned to prison or police cells.

Places of safety in the Cape region are not supposed to become racially integrated.

JUVENILE AND CHILDREN'S COURTS

The AG in Cape Town has agreed to better the manner in which children are treated in juvenile courts in Cape Town. Independent court monitors will be able to view the juvenile courts at any time. Other improvements, such as an office for NGO's at the courthouse are presently being discussed.

The government working committee, led by DP MP Glen Carelse, has released its report on legislative changes recommended for the juvenile justice system. Copies are available upon request.

OTHER HAPPENINGS

At the recent National Executive Committee meeting of the ANC, it was agreed to place Children's Rights upon the constitutional agenda for next year.

A group of child representatives from the International Children's Summit held in May 92, accompanied by Molo Songololo, travelled to Senegal to present the Children's Charter to the OAU and to speak with children in that region.

UWC Street Law Programme conducted a Human Rights Arts Competition in prisons and places of safety in late November. Some of the work is displayed on the walls today. From the 2-5 December, the popular musical group, "Prophets of the City" will be performing in seven venues around the Western Cape. The theme of the concert series is centred around the release of children from prison.

Media attention continues to highlight the situation of children. We urge all of you to send press statements and letters to the press urging them to address the issue with urgency.

Despite these tremendous advances, children are still languishing in prison. We hope that this workshop will result in the development and launching of more strategies designed to ensure the release of children from prison. However, in your discussions, please remember to address long-term questions to some degree so that we can begin thinking of ways to ensure that in a future South Africa, "NO CHILD IS CAGED".

WE THANK YOU FOR JOINING US TODAY AND LOOK FORWARD TO A REWARDING WORKSHOP.

Michelle Morris
Senior Research Fellow