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ADVANCE TRAINING WORKSHOP ON CHILDREN'S RIGHTS

presented by

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**BEYOND A CONSTITUTION AND BILL OF RIGHTS:
The importance of multi-agency campaigns to challenge legislation and
empower communities**

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Introduction

Without continued support, training and empowerment, child activists and advocates cannot articulate the perspectives of children who desperately need their help and representation. As voices for the truly voiceless members of South African society, child advocates must develop programmes that ensure the rights of children are protected and that adequate financial support is available to support these programmes. This workshop seeks to reflect on the existing documents and legislation, to discuss the inclusion of child rights in a constitution and bill of rights, and to reflect upon and strengthen child advocacy organisations in their ongoing efforts. It also aims to show that as child advocates, we must continuously adjust our approaches as political cultures and conditions change. However, no one group can prescribe how any organisation should advocate for the rights of children. This workshop will merely provide some basic guidelines and ideas that are designed to spark further thought and initiatives amongst those advocating for the rights of youth.

WORKSHOP MISSIONS

1. To inform and educate child activists and advocates about existing international and South African child rights documents, as well as current legislation and policies.
2. To debate the inclusion of children's rights within a constitution and bill of rights.
3. To create an understanding of the need for a multi-disciplinary approach in the struggle for children's rights after the adoption of democratic constitution.
4. To emphasise the value and importance of community-based projects and their crucial role in influencing and impacting upon policy-making and legislative change.

The Need to Empower Child Advocates

Child advocacy groups have played a vital role in the struggle for human rights and against apartheid in South Africa. Indeed, children themselves have been involved in all aspects of the liberation movement. Unfortunately, despite these activities, today the suffering of children across the country - in the areas such as education, health, justice, welfare, housing - continues to increase. As South Africa moves toward an interim democratic government, child advocates must ensure that the children are not forgotten. There is a need to challenge existing laws and abusive policies. Yet, at the same time, child advocates must begin mobilising to campaign for the rights of children well beyond the emergence of a true democracy in South Africa. Within the changing political and economic policies, advocates will have to compete with a myriad of other interests for both public and legislative and budgetary attention.

It has long been recognised that governments, especially the South African government in regard to black children, often make policy and funding changes and direct revenue in areas affecting children without considering the short or long-term consequences on children themselves. Presently, primarily organised state-affiliated groups, such as Child Welfare and the National Association of Child Care Workers, are able to influence policy as it affects children. NGO's and other child activists, as well as communities, civics, unions and religious groupings must begin to work together to challenge the lawmakers and to formulate effective policy-making strategies. Child advocacy work requires an innovative and coherent philosophy to survive. While communities can understand basic human rights organisations and service agencies and their roles, child advocacy is still an elusive concept in South Africa. For the purposes of this workshop, we will define a child advocacy and child advocates:

* **CHILD ADVOCACY** is a multi-disciplinary endeavour, requiring a unique combination of law, economics, ethics, political science, welfare and well as an understanding of community interests.

* **CHILD ADVOCATES** are those who speak in favour of, then intervene or act on behalf of, a class or group of children to assure protection of their rights and to secure rights for them.

There is a strong link between the liberation movement in South Africa and the work of child advocates. Many child advocates have based past campaigns on human rights and democratic principles. The same has been true in other countries, such as the United States, where the child advocacy campaign found its roots in the civil rights movement. South Africa should examine these examples to ensure that the child advocacy process in this country does not make the same mistakes. Most importantly, adult advocates must recognise the value and input that can be gleaned from youth involvement. This was definitely proven at the International Children's Summit where the Children's Charter was adopted on June 1, 1992. Children in South Africa have often been denied the opportunity to develop self-esteem, yet they have been key players in the struggle for democracy. Child advocates must not neglect them in future campaigns for their rights. The energy of the youth must be re-directed from anger at the violence and devastation caused by apartheid forces towards programmes to better their own lives.

If one sees child advocacy as part of the first stage in the human rights campaign in South Africa, then one must also look at the barriers that advocates will encounter once the goals of the human rights campaign are reached. That is, once a democratic bill of rights and a constitution are adopted and elections are held for a democratic government, a basic floor of

rights will be implemented. However, once the tangible barriers built by apartheid are knocked down (eg. the right to vote), a second generation of barriers will remain. Child advocates will have to ensure that these rights are protected and that there is financial backing to support the rights of children adequately.

The link between families, communities and child advocates and political organisations and government

In the past, the apartheid government has succeeded in destroying the abilities of black families to effectively nurture and bring their children to their full potential. In light of these policies, child advocacy groups such as NCRC, have stepped in to try to correct the problems caused by the regime. Nevertheless, thousands of families have been split apart and forced to live in inhumane socio-economic conditions. Children have been denied education, a warm home, a safe place to play and forced onto the violence of the streets. These families must now be re-built and empowered to support themselves. It is child advocates responsibility to ensure that political leaders, law makers and lawyers, and judges are educated about the urgent needs of these children and their families. There has been much debate about the inclusion of second and third generation or social/economic/welfare rights in a future bill of rights. However, these are the very rights that will most benefit children and poor families. Child advocates must decide where they stand on these issues and influence law makers now. Parents may bear the primary responsibility for meeting the basic needs of their children. But no family should bear this burden alone, especially if they have been disadvantaged by the past injustices of apartheid. It is only through the enlightenment of future government leaders that children's interests will be pursued with vigour at the government level.

Characteristics of Effective Child Advocates

All child advocates are different, yet all share some or all of the same values and ideals. It is important to recognise characteristics that enable advocates to achieve their goals effectively and efficiently.

1. The Importance of Values and a Sense of Mission

Good child advocates have a love for their work, want to do well and work on tasks that embody their deepest values. They are motivated by inner values, not conventional motivations like money, status or publicity.

2. Guided by a Sense of Purpose and Outrage

The outrage that advocates feel when they know that a child has been abused fuels a sense of purpose and causes them to react to children in a personal way. However, effective advocates know how to positively utilise this outrage and are careful not to act in a manner that would hurt a child.

3. Willingness to Take Risks

Advocates are often willing to take risks due to their outrage. These risk-takers embrace change and are willing to expand against the norm by expanding their own horizons and sometimes breaking the rules. They are optimistic and know that failures can lead to future successes.

4. Integrity

Advocates who are motivated by a strong sense of outrage and dedication to children must be careful not to overstate the facts when describing the plight of children. The problems of children, especially in South Africa, are serious enough as it is.

5. Persistence and Long-Term Commitment

Advocates must pace themselves and must support and re-energise one another.

6. Sense of Humour and Perspective

Because the problems of children are often serious and life-threatening, advocates often develop a harsh and narrow focus. Effective advocates must learn to step back and add humour to bridge over difficult times.

7. Capacity for Vision

Child advocacy groups need informed members who read voraciously, think broadly, analyse quickly, and most importantly, dream dreams for the children of South Africa. A visionary has foresight and can anticipate the social and political climate. Vision implies the propensity toward imagination, idealism, and aspiration. They may think big, but start small.

8. Spontaneity, Flexibility and Adaptability

Each child advocacy group must follow its own ideas and policies. However, as times change, groups must be willing to adjust their strategies and react quickly to change.

9. Constant Re-evaluation of Projects and Strategies

Advocates should remember that pre-occupation with process stifles initiative and progress. To check themselves, groups must constantly ask, "Is what we are doing likely to bring about our long-term goals?" If the answer is no, it should be eliminated.

10. Optimism and Hope

Advocates must believe that they can accomplish great things for South Africa's children.

11. The Ability to Lead and Inspire

Advocates must perfect the art of "getting others to want to do something you are convinced should be done."

12. Critical Detachment

Good advocates must also be willing to question their own ideas and should adopt the belief that "the current way is not the only way".

13. The Ability to Think Critically

Advocates must be able to identify and challenge assumptions and explore and manage alternatives.

14. Perceptiveness and Intuition

Advocates can refine their perception and intuition by becoming fully informed on current players, issues, and strategies and contrasting them with past events.

The Crucial Importance of Multi-Agency Co-operation

Child advocates basic goal is to change some condition which inhibits the growth, sustenance, or education of children. Usually, the focus of this reform effort will be on a law, policy or practice. By the nature of their work, child advocates often face strong opposition to their work, especially from the South African government and its agencies. Thus, no advocate can create major changes without the help of others.

Basically, there are four ways that advocates can seek change:

1. Legislative monitoring and "Lobbying"

This is a unknown concept in the South African advocacy vocabulary. In the past, this activity has been undertaken by state-affiliated groups. However, in the changing political climate, NGO's now have ability to influence political groups who play key roles in the constitution-making process. Moreover, these same NGO's will have a much larger scope to make their opinions known in a democratic system. Therefore, groups such as the NCRC must begin developing some key principles that they wish to pursue and should assist issue-specific groups (i.e. homeless and street children organisations) in organising strong networks.

2. Litigation and other Legal Strategies

In the past, there has not been a history of lawyers who are exclusively devoted to the pursuit of children's interests under the law. However, with the advent of Family Advocates Court, Child Abuse courts and projects such as the Community Law Centre "Youth Advocates" Juvenile Court Programme, more and more lawyers are becoming involved in children's rights cases. Law schools and legal bodies such as NADEL, BLA and Lawyers for Human Rights must also push for the expansion of courses and training in the area of children's law. No child should have to appear before a court unrepresented in a criminal or civil case, thus there should be movement towards an organised public defender system or child advocates legal office for youth. Impact litigation should be utilised in cases that affect a large number of children. However, lawyers who advocate for children must also be willing to pursue other, non-legal strategies as well. There is a need to integrate the work of social workers and lawyers.

Child advocates who are not lawyers can also become involved in legal strategies such as court monitoring, victim assistance, family support and counseling and data collection. These advocates can also translate difficult legal concepts into simple "street" language or ask organisations such as Street Law to do this for them.

3. Public Education and Community Development

It is often difficult to engage the public in children's interests beyond initial compassion. Child advocates must overcome the cynicism of the ordinary person, especially in areas such as youth crime, in order to convince them to support their goals. Once informed, members of the public can influence policies at the local level in their child's school, at their workplace or in their own homes.

Key to the efforts of all child advocates is the effective mobilisation of communities. Children and parents must become part of the reform movement and should be consulted prior to making any major changes in the present system. Community-based workshops, meetings, debates, and media coverage are all ways to increase public awareness and community involvement in the issues of children.

It is vital that grassroots activists make their successes known to child advocates who can influence policy. Without pilot projects, community campaigns and other day-to-day projects, policy-making would not reflect the situation of children appropriately.

4. Monitoring, Research and Information Gathering

Child advocates may engage in in-depth monitoring, research and information gathering to challenge the existing system. This is still difficult due to the infrastructures developed by apartheid, but as evidenced by the campaign to free children from prison, can be an effective way to embarrass the government and achieve results.

Advocates must learn how to transform research and ideas into action. Once research has been compiled and analysed by experts and academics, advocates must take this information to communities and law-makers to formulate acceptable plans of action. Children must also be consulted at this point to ensure that the ideas correspond with their needs. Once a commonly-accepted strategy has been adopted, advocates can bring in media to inform the public of their goals. As well, advocates must learn to provide comprehensive analyses to law makers, judges and other political leaders to inform them of the basic needs and provide alternatives for consideration. Finally, researchers must not lose sight of long-term goals and should be willing to compromise and change their plans of action if conditions change.

Some Examples of Effective Child Advocacy Groups

1. THE NATIONAL CHILDREN'S AND YOUTH LAW CENTRE
Australia

A national group that works closely with existing child advocacy groups and young people to improve the conditions and opportunities of Australian children and young people, especially the disadvantaged, by using and improving the law, legal systems and legal services for the promotion, protection and enforcement of their rights. The Centre seeks to use research to advocate for legal change.

2. YOUTH LAW CENTRE
United States

Uses impact and test case litigation to pursue the interests of large groups or classes of children. Also publishes academic papers and reports on the status of children in the country.

3. CHILDREN'S DEFENSE FUND
United States

An independent nation-wide monitoring group that seeks to influence policy and law through comprehensive research and analysis of legislation and programmes, as well as funding sources.

None of the above groups are part of the government. In South Africa, it is important to create an independent nationwide body, as well as issue-specific networks, that will act as watchdog over any future government to protect the rights of children. It is important to ensure that children's rights are not ghettoized, but are given serious consideration by all law makers and the general public. This can only be accomplished from organised, well-planned multi-agency efforts.

Conclusion

The changing political climate is finally opening the door for child advocates to challenge law makers in a significant way. However, unless these advocates unite under some basic principles, their efforts will be fruitless. Activists must unite with academics to develop co-ordinated campaigns around the rights of children. The ideals that the children set forth in the Children's Charter have to become more than dreams. These ideals must form the realities of future generations of South African children. Child advocates must ensure that all South Africans believe that every child is worth saving.

Janet

Children's Rights

What documents there are:

International

Declarations

Conventions

Charters

- (1) UN Decl on Rights of the Child - very general, broad.
Not enforceable cos decl.
SA not signatory
- (2) Convention on Rights of the Child - took decl. further.
States can ratify it.
SA hasn't ratified it - our laws don't meet convention
- (3) African Charter - said convention OK but our children
had specific needs - adds to Conv.

1992 SA Childrens Charter

- (4)
- (5) 1985 - Beijing Rules - to deal with juvenile offenders.
juvenile justice process - how children
should be treated.
- (6) Ed Min Rules for Protection of Juveniles deprived of
their liberty - to complement Beijing Rules -
policing, imprisonment - juvenile justice process.

SA

Child Care Act - ~~for~~ parent-based.

Family Law.

Dealing with Juvenile Offenders - Criminal Procedure Act
falls very short. - in camera - ~~for~~ no-one has
what's going on - supposed to protect.