

WHAT IS THE CHURCH SOCIAL TEACHING SAYING ABOUT CHILDREN'S RIGHTS?

Jesuit Centre for Theological Reflection
“Promoting Faith and Justice”

What is the Church's Social Teaching saying about Children's Rights?

“Special attention must be devoted to the children by developing a profound esteem for their personal dignity, and a great respect and generous concern for their rights. This is true for every child, but it becomes all the more urgent the smaller the child is and the more it is in need of everything, when it is sick, suffering or handicapped.” John Paul II, Apostolic Exhortation *Familiaris Consortio*, 26: AAS 74 (1982: 111-112).

This booklet has been prepared to assist Christian groups (e.g., Youth groups, Justice and Peace groups, Bible Study groups, Small Christian Communities, Fellowship groups, etc.) to learn more about what the Church Social Teaching (CST) and Scriptures say about the rights of children.

It is designed as a study guide consisting of four sessions, which can be taken slowly without rushing through the process. The process follows the “Pastoral Circle” encouraging us to:

- Begin with our own experience – “What is happening?”
- Move to a social analysis of why the situation exists – “Why is it happening?”
- Subsequently to do some theological reflection – “What does it mean to me?”
- Finally move to an appropriate response of action – “What can we do as a Christian community in such a situation?”

We would very much appreciate to receive feedback from you about how you have used this pamphlet to help promote children’s rights. We also welcome your comments on any issue raised in this pamphlet as this will help us promote children’s rights in a more effective way.

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Introduction

In most societies, there is great importance and value attached to children, although this varies between and within societies or cultures. In many parts of Africa, children represent both lineage continuity and material survival of communities. Children are viewed as a source of support for those in need, particularly the elderly in society. Among the Dinka and Nuer people of Southern Sudan, for example, children are the main reason for everything a family does. For these people, a man who dies without surviving children, dies a complete death and is accorded no permanent place in the male ancestry. In the Zambian context, the value of children is expressed in the wisdom of our ancestors as the following examples show:

- Bemba: “*Umwana kasembe kuti kakukoma, watoola, wakobeka*” - One does not do away with a troublesome child.
- Chewa: “*Mwana wa mzako ngwako yemwe*” - Your neighbour’s child is your child.

According to the United Nations definition, a child is any person aged below 18 years. Many countries however tend to operate multiple age thresholds because other factors such as whether the person has undergone an initiation rite, is married or has children, matter more than chronological age. Zambia is an example of a country with multiple age thresholds.

Although children are valued highly in many societies with most people holding devotion to one’s child as an ideal, many children face a significant number of challenges. Children, particularly those in developing countries, live in very difficult circumstances, although their experiences tend to be diverse. Many, experience poverty because their households have no source of income and therefore are unable to meet their basic needs. Due to high poverty levels, children usually lack access to essential services such as healthcare and education which are necessary for their integral human development and their dignity. They also lack sufficient food which acts as an impediment to their growth and in most cases results in malnutrition or even death. In addition, high poverty levels also expose children to child labour practices, exploitation and abuse. Girls in particular may also be married off at an early age.

Such experiences often leave children scarred and with a great sense of insecurity and vulnerability to many other societal ills. Many children begin to feel powerless and excluded. The majority lose all hope for the future and only focus on overcoming the various daily challenges that their circumstances present.

One of the key ways in which the international community and individual governments have sought to alleviate the suffering of children is through recourse to a discourse of human rights expressed in many international, regional and national instruments. In Zambia, there are many legislative sources from which children’s rights come. These include the United Nations Convention on the Rights of the Child (CRC) and its Optional Protocols, the UN Convention on Minimum Standards of Employment, the UN Convention on the Worst Forms of Child Labour (global level), the African Charter on the Rights and Welfare of the Child (regional level) and the Bill of Rights in the Zambian Constitution and the National Child Policy (national level). Rights to protection, provision and participation are comprehensively expressed in these instruments. The CRC, for example, gives children everywhere a set of civil, political, cultural, social, and economic rights such as the right to education, the right of children with disabilities to special care, the right to health and basic health services and the right to a standard of living adequate for the child’s physical, mental, spiritual, moral and social development.

A similar set of rights is provided for in the African Charter on the Rights and Welfare of the Child. The Charter adds certain rights particularly relevant to children living in

Africa. For example, it specifies children's responsibility to respect their parents, superiors and elders at all times and to assist them when in need of care (African Union, Article 31). Children's rights in the Zambian Constitution include the right of young persons to protection from physical or mental ill-treatment, all forms of neglect, cruelty or exploitation or trafficking in any form, right to protection from torture, inhuman and degrading punishment and the right to protection from slavery and forced labour. These are all examples of political and civil rights which are justiciable - which means that people can seek legal action should these be infringed upon. Although the Constitution also refers to a number of economic, social and cultural rights for everyone including children, these rights only take the form of Directive Principles of State Policies meant to inform State policy. *For the majority of Zambian children unfortunately, these are the very rights they need because the services associated with these rights such as education and health, have greater impact on their integral human development and on poverty reduction.*

Session One: Experience

The following experiences illustrate some of the challenges many children face especially those orphaned and those from poor households. They are vulnerable to torture, sexual abuse, child labour, human trafficking, and other forms of abuse. For some children, childhood itself is non-existent as they take on adult roles very early in their lives. These experiences bring out the failure of society to uphold its ideals such as devotion to children and responsibilities and duties towards them.

It is such experiences that should call us to deeply reflect on what it means to be a child in Zambia today and what it means to help children to live a life of dignity.

Story One

Shahana, a ten year old girl and the ninth child in the Musukuma's family has been living with Aunt Namposya for 4 years now. Aunt Namposya brought her from the village promising to take her to school. Shahana and her family had been very excited that day as one of them would live in town and will have huge opportunities for a better life with education. Ever since Shahana came to town, however, there has been no attempt made by her aunt to put her in school. Instead, she is responsible for all the household chores that are assigned to girls in a home, i.e., cooking, cleaning dishes, washing clothes and cleaning the house. Her three cousins, Alinani (14), Mwaka (12), and Nkumbu (who is the same age as Shahana); all go to the International School of Lusaka. When they come back home, they watch TV or play video games whilst Shahana is preparing supper for everyone. Back in the village, Shahana's parents are aware that she is not in school but they are only happy that she is in town and that is one problem sorted out since the family is too poor to afford to feed everyone properly. Shahana's mother believes Aunt Namposya is being good to Shahana because she is teaching her the chores a girl needs to know for her future role as a wife.

Story Two

Mrs Imasiku still remembers how elated she was when she heard from a friend that Government had announced that education at primary level was free. She was equally happy to hear that uniforms were not a necessity if a child could not afford. Such announcements gave her hope that her four children will be able to go to school and she now could use the little money she earns from her small business for other household demands like food and health fees. It was not long before the children began bringing letters from their head teacher asking for money for tools, reams of paper, etc, and she soon discovered she was spending more than she did when she had to pay school fees. She also discovered that sometimes, her children's books were not marked because the teacher could not manage to mark all the books for the 85 children in the class. With time, the academic performance of Mrs Imasiku's children deteriorated as did their morale for school. While the children realised the importance of school, it was evident that they were not getting much out of the education system due to the lack of proper school facilities.

Story Three

From the age of three, Zoe had always been invited by her uncle to play a special game. She did not like the game because she experienced a lot of discomfort but her uncle had insisted Zoe's friends also did this game and should she start school, they would laugh at her if she did not know it. She was also warned never

to mention anything about the game to anyone. Zoe is now seven years old and in Grade 3. She has just discovered that she has had four years of sexual abuse by her uncle (her mum's brother) after the teacher had a lesson with them on child sexual abuse. It is now she recalls that her uncle had performed the game when her mum was out for work and her brothers were in school and it was always in his bedroom. She is devastated as she has been subjected to four years of torture. When she told her mum that she has had four years of sexual abuse, her mum, though devastated, cautioned her never to tell anyone as this could bring great shame to the family. She now fears any man she meets and her school life is disturbed because she is afraid of male teachers.

Suggested Questions for Reflection

1. Do any of the stories above reflect what you see happen in your community with regard to children?
2. What are your own experiences and stories on the violation of children's rights?
3. Do you think children should have separate rights from those of adults? Why?
4. Do some rights of children conflict with our Zambian culture?
5. Do you think children should be protected more? How and by whom?

Concluding Prayer

One member of the group should give a concluding prayer to close the discussion.

Session Two: Social Analysis

After looking at our experiences and those of others, we now move on to social analysis. The major questions here are: "Why are these experiences happening?"; "Why are children's rights not protected?"

Everyone recognises the fact that the future of society depends totally on children. In order for the children to contribute meaningfully to the common good of their society, at present and in the future, there is need for adequate intervention in terms of their welfare.

This can only be achieved where children enjoy their rights such as the right to education, access to health care, the right to participate in social, economic and political processes which affect their lives.

The 2000 Census of population indicated that 5.5 million of the estimated 11.7 million Zambian population were children (those under the age of 18). This means that children make up almost half of the Zambian population. Children in Zambia face extreme vulnerability. Over a million children are said to be in the category of orphans, vulnerable and disadvantaged children; 90,000 of them are infected with HIV, approximately 75,000 are on the street mainly due to their socio-economic situations and about 20,000 are heads of households (1 to 2 % of all Zambian households). These situations retard both their personal growth and national development and obviously present a major challenge for all entrusted with the care of children especially policymakers and parents. Perhaps a question that needs to be asked is why many children have limited access to the enjoyment of their own rights in Zambia despite the well expressed rights in the different legal instruments and international treaties?

Now that we have looked at a brief description of children's vulnerability, let us look at sources of children's inability to enjoy their rights. These sources include:

Inadequate National Laws and (Limited Implementation of Existing Laws)

In many ways, existing Zambian Laws affect children's lives. One such Law is the Juvenile's Act. The Act forms the basis for how government should treat protection and custody cases of juveniles in need of care and how juvenile delinquents should be corrected. The Act also requires that when in detention or prison, children should be separated from adult offenders. It therefore calls for the establishment of reformatories and approved schools so that children in conflict of the Law are placed in them. It also stipulates that children should have access to legal and other forms of assistance and that education and health services are provided to them when in care or custody. However, the enforcement of these provisions is almost nil because of the inadequate spending on the child justice system and overcrowding in prisons.

The situation of children is not reflected in most National Laws and often these Laws do not mirror the provisions of the CRC. In the Constitution which is the "Supreme Law of the Land", there are no specific clauses for the protection of children's rights to education and health as many Economic, Social and Cultural Rights are not legally enforceable rights but only "Directives" to inform state policy.

Furthermore, despite the provisions in the Constitution of children's rights to protection from exploitation and trafficking, existing legislation that relates to child labour does not cover all the situations in which children's exploitation takes places. With no particular clauses in the Constitution to provide for special care, education and training for children with disabilities, protection for many children with disabilities is a nightmare.

Culture

Childhood is often understood in its cultural contexts. In Zambian culture, a child is expected to conform to societal norms whether she or he believes in them or not. One of the societal expectations of a Zambian child is to be silent especially when in the company of people who are older than him or her. In fact, the famous saying “a child is seen not heard” is truly reflective of Zambian culture. This culture of silence; disadvantages children in many ways. It is this culture that exposes them to sexual abuse as they are often not empowered to articulate what their experiences are, even within their own households. Traditional practices have a tendency to limit children’s participation in decisions that affect their lives in some areas such as early marriages for girls. In other words, children’s views are often not taken into consideration even though these decisions are about their lives. The lives of children are literally in the hands of their parents, guardians or other older people in community.

Income Poverty

Although poverty takes different forms such as vulnerability and social exclusion, for many people, being poor has a lot to do with not having enough income to meet one’s basic needs. This is because a lack of income leads to so many other forms of deprivation: poor nutrition, hunger, lack of access to social services such as education and healthcare and recreational activities.

For many children, lack of enjoyment of their rights is associated with the lack of income at household level. When a household is unable to afford school requirements, children who are kept out of school are compelled to seek alternatives. These alternatives are often detrimental to their integral human development. We have seen children who are supposed to be in school, crushing stones with their parents or guardians. Others are on the street fending for themselves. But life on the street comes with its own form of danger as it exposes them to all sorts of abuse, for example, sexual abuse, which in turn puts them at risk of sexually transmitted infections (STIs). We have seen children from poor homes being internally trafficked and abused by their extended family as they are often engaged in child labour. Although not all children from income poor households engage in child labour and take to the streets, the majority of children who engage in these activities come from poor households.

Suggested Questions for Reflection

1. What are the other causes of abuse of children’s rights?
2. In your opinion, do you think your community misses out when children are prevented from expressing their ideas?
3. Is poverty a critical contributing factor to children’s suffering?
4. What forms of work would be suitable for children in a household?
5. Do you think the situation of children is getting better now than it was before?

Concluding Prayer

One member of the group should give a concluding prayer to close the discussion.

Session Three: Theological Reflection

The Church's concern for human rights in general and children's rights in particular stems from its social teaching principles, especially its principles of human dignity and the common good. Human dignity is the result of human existence and therefore there is a unique and sacred worth that is present in each person simply because she or he exists. For the Church, at the core of human rights is human dignity which stresses the centrality of a human person, created in the image and likeness of God. These rights apply to every stage of life which includes childhood. Closely connected to the issue of rights is the idea of duties. The Church acknowledges the irreplaceable role parents have in ensuring that children receive an integral education - that which is "directed towards the formation of the human person in view of his or her final end and the good of that society to which he or she belongs and in the duties of which he or she will, as an adult, have a share" (Second Vatican Council). Respect for children's rights is strongly expressed in Scripture, Papal teaching, as well as the teaching of Zambian Bishops.

Scripture

Children's rights have their foundation in Scripture. Christ himself sets an example by placing the child at the heart of the Kingdom of God. In Matthew 18:5-6, Jesus asserts that "Anyone who welcomes a little child like this in my name welcomes me. But anyone who is an obstacle to bring down one of these little ones who have faith in me would be better drowned in the depths of the sea with a great millstone round his neck."

In Matthew 19:13-15, people brought the children to Jesus, for him to lay his hands on them and say a prayer. The disciples turned them away, but Jesus said, "Let the little children alone, and do not stop them coming to me; for it is to such as these that the Kingdom of Heaven belongs."

And Christ spoke on behalf of destitute humans, "I was hungry and you gave me food..: I was naked and you clothed me. I was sick and you visited me" (Matthew 25: 35-36). These words also apply particularly to children who are often helpless: hungry for food, hungry for protection from all sorts of abuse and exploitation, hungry for education, quality medical care, shelter, clean water and a clean environment and affection.

Through St. Paul's writing (Ephesians 5), scripture instructs parents never to drive their children to resentment but correct them and guide them as the Lord does. These instructions do extend to everyone since society has a duty to work for the common good. The many orphaned children, especially those on the street, lack this kind of guidance. Thus it is difficult for them to realise integral human development which is the end that human rights seek.

Papal Teaching

The Church has always considered material, affective, educational and spiritual assistance for children an important part of its mission. It has always considered the child not an individual to be utilised, not as an object, but a person with inalienable rights, a newborn personality to be developed, who has value and an extraordinary destiny.

The Church Social Teaching stresses the need to uphold children's dignity. It recognises the need for judicial systems to legally protect the rights of children. "No country on earth, no political system can think of its own future otherwise than through the image of these generations that will receive from their parents the manifold heritage of values, duties and aspirations of the nation to which they belong and of the human family." (Pope John Paul II's Address to the U.N General Assembly, 1979).

Addressing a Committee of European Journalists for the Rights of the Child in 1979, Pope John Paul II stressed that the Church desires to help to form the conscience of people, to make public opinion aware of the child's essential rights. The Church also speaks of the rights of the child from the moment of conception, and particularly, of the right to life, for experience shows more and more that the child needs special protection even before their birth. It stresses the right of a child to be born in a real family, for it is

essential that they should benefit from beginning from the joint contribution of the father and the mother, united in an indissoluble marriage. The child must be reared, educated, in their family, with the parents taking up the key responsibility for their education and all other requirements. That is made necessary by the atmosphere of affection and of moral and material security that the psychology of the child requires. Even the existence of wider family ties, with brothers and sisters, with grandparents and other close relatives, is an important element for the child's harmonious balance.

To speak of the rights of the child is to speak of the duties of parents, educators and the state that remain in the service of the child and his or her higher interests. But the growing child must also take part in their own development, with responsibilities that correspond to their capacities; and care must be taken not to neglect to speak to them also of their own duties towards themselves, others and society.

The Teaching of the Zambian Catholic Bishops

In a number of Pastoral Letters, Zambian Bishops have emphasised the centrality of human rights to the realisation of human dignity. And to promote human rights for all, the Bishops have pledged to monitor very closely, Government's activities in order to ensure that both civil and political rights and economic, social and cultural rights are respected.

Although there is no particular Pastoral Letter that has exclusively focused on children's rights, these rights have been highlighted in the general statements on human rights for all. The Bishops insist that a good community is one where "the weak and poor members are cherished and cared for, where ...youth and children have their rightful place" (The Church as a caring family, 1997, #17).

For children, having a rightful place could mean their voice being heard in matters that affect them, access to education in its various forms, but especially to formal education and quality healthcare, food security and a life that excludes exploitation of any kind. Given that many children in Zambia are far from enjoying some of the rights cited above even when it is possible for them, the Bishops have often raised a voice against, for instance, the poor quality of education children are receiving in Government schools and the absence of basic essentials in Government hospitals and clinics which leave the most vulnerable, mainly children, more at risk. Recognising the significance especially of these two social rights for children, they have argued that much attention needs to be paid to these rights as there is "no future development without healthy and educated citizens" (Solidarity in the Face of Country's Social Crisis, 2000, #4). Pastoral statements from Bishops have also stressed that while all children are vulnerable, girls find themselves in more vulnerable situations due to their gender. For instance, there is a high rate of school dropouts among girls. Therefore, all interventions related to children's rights must take gender discrimination into consideration. (The Church as a caring family; 1997, #29d).

The Church's conception of childhood and the rights that flow from it forms the basis for the promotion of children's rights which are at the core of their human dignity. It is

therefore important that those who have been entrusted with this important duty to help children grow into good human beings for the common good, appreciate this role and work towards making childhood a happy time for children at every level.

Suggested Questions for Reflection

1. Do you know any other Scripture Passages about children?
2. Do you ever discuss children's rights at your Church?
3. What lessons do we learn from Jesus about the treatment of children?
4. As Christians, what can we do to promote the rights of children?

Concluding Prayer

One member of the group should give a concluding prayer to close the discussion.

Session Four: Christian Response

Having looked at the different ways in which children's rights receive little or no attention, it becomes necessary to reflect on ways their suffering could be lessened. Promoting and fulfilling children's rights becomes the responsibility of everyone: government, parents, the Church and wider civil society, including children themselves. It demands that we examine the barriers to the realisation of their rights and shape policy by aligning it with what the Church Social Teaching says about children's rights. Remedies to children's situation include:

Law and Policy

It is true that Government is trying to take steps to improve children's lives. This commitment has been shown in the adoption of the National Child Policy (2006) and the revising some national laws. The National Child Policy whose goals and objectives are intended to be realised in the Fifth National Development Plan 2006-2010 and the

Millennium Development Goals context, places children at the centre of development so that children live their full potential. This Policy is informed by the provisions of the CRC.

However, commitment at the level of sensitisation of the public in general and children on these rights and implementation is minimal. Very few Zambian children know about their rights. The few that do know are the already advantaged children whose rights are less likely to be violated. Levels of ignorance about children's rights are also evident among the general public, especially the poor who are the majority in Zambia. It is therefore important that all stakeholders commit themselves to massive sensitisation of everyone as basic awareness of rights is a starting point for respecting them.

Where public discussions are encouraged, it is likely that children's rights will begin to be understood and appreciated in the Zambian context. This is important because many people who have the knowledge of children's rights see them as a Western concept with the potential to spoil African or indeed Zambian children. Public education on these important rights needs to be done at all levels; for example, at household, school and Church levels. In addition, where few resources are made available (even when it is possible to provide the resources which are required to achieve what is outlined in policy and legislation); children's desperate situation will not change. Therefore, it is our duty as Christians to demand that important measures outlined in policy documents are implemented.

The inclusion of economic, social and cultural rights, rights such as education and health, in the Bill of Rights of the Zambian Constitution is an important step because these are at the heart of realising many other rights. When these are made justiciable (which means legally enforceable), children themselves and other stakeholders will have a legal mechanism to seek redress where these rights are denied.

Culture and Tradition

It is true that the child in many Zambian cultures conforms to what is prescribed for him or her by the family or community. For example, a girl child may be serious about school and would want to get an education in order to prepare for a better future but parents or guardians may decide to marry her off. To show respect, she might decide to go against her aspirations and allow herself to be married off, thus foregoing her right to education. Discussions on the education of children's rights may provide a platform for comparing culture to what is provided in law and see what measures fit our Zambian situation. This demands that law is simplified and made available in local languages so that it becomes accessible even to those who have not attained higher education.

Suggested Questions for Reflection

1. Is our government doing enough in promoting children's rights?
2. At individual and community levels, what practical steps can we take to improve children's lives?
3. In what ways can children take part in promoting their rights?
4. What cultural practices disadvantage children and how should we approach them?

Concluding Prayer

One member of the group should give a concluding prayer to close the discussion.

ANNEX: SOME QUOTATIONS ON CHILDREN'S RIGHTS**1991 Constitution of Zambia*****Part III Article #24***

(1) No young person shall be employed and shall in no case be caused or permitted to engage in any occupation or employment which would prejudice his or her health or education or interfere with his or her physical, mental and moral development: Provided that an Act of Parliament may provide for the employment of a young person for a wage under certain conditions.

(2) All young persons shall be protected against physical or mental ill-treatment, all forms of neglect, cruelty or exploitation.

(3) No young person shall be the subject of traffic in any form.

National Child Policy 2006

3.3 Guiding Principles on the Policy

The following are the principles upon which the National Child Policy is founded:

- a) The need for rights-based approach to programming: The policy is premised on the Human Rights approach that seeks to improve the rights of children and focuses on fundamental issues such as the child's right to life, its survival and development, protection and non-discrimination and best interest of the child.
- b) The need for community participation and empowerment: There is need to strengthen the coping capacities of duty bearers and the communities as well as enhancing participation of children in programmes design, implementation, monitoring and evaluation. The policy recognises the participation of children in national development as a fundamental right and therefore imperative.
- c) Non-discrimination: Application of all rights to all children equally so as to prevent all forms of stigma and discrimination. All children have to enjoy equal rights regardless of their status, physical or mental state, sex, race, creed, etc.
- d) Gender Equity: Promotion of gender equity and focus as an integral part of Child Welfare and Development interventions.
- e) Integrated and holistic service delivery: Linking child welfare and development interventions in all sectors with special focus on HIV and AIDS prevention, poverty reduction, child abuse prevention, care and support activities, psychological support to orphans and vulnerable children and duty bearer.
- f) Core Cultural Values: Approaches to programming and development of interventions for children will take into account supporting core cultural values of communities and the Zambian society.

Fifth National Development Plan 2006 - 2010

23.3 Policies and Key Reforms

As a signatory to the many international human rights instruments affecting the child and youth, Zambia shall take the necessary legislative and administrative measures during the FNDP towards the fulfilment of the ideals that are enshrined in the international instruments.

23.4 Vision and Goal

- The vision is: Enhanced youth and child survival, development and protection through a well coordinated and multi-sectoral approach by 2030;
- The goal is: To achieve increased empowerment and participation of children and youth in all areas affecting their well-being and livelihood and enhance observation and protection of their rights in order to build a sound human resource base, contribute to wealth creation and ensure socially optimal investments and sustainable national development

Laws of Zambia

Section 137 of the Penal Code

137. (1) Any person who unlawfully and indecently assaults any child or other person commits a felony and is liable, upon conviction, to imprisonment for a term of not less than fifteen years and not exceeding twenty years.

(2) It shall not be a defence to a charge of an indecent assault on a child to prove that the child consented to the act of indecency.

Section 138 of the Penal Code

138. (1) Any person who unlawfully and carnally knows any child commits a felony and is liable, upon conviction, to a term of imprisonment of not less than fifteen years and maybe liable to imprisonment of life.

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