

CONCEPTUALISATIONS OF CHILDHOOD IN NAMIBIA: NEW LEGISLATION VERSUS PUBLIC PERCEPTION

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Background

Namibia is in the process of developing new children's legislation. The aim of this research paper is to explore how the public conceptualisation of childhood in Namibia compares to provisions in the Child Care and Protection Bill (April 2010 draft).

Method

A qualitative methodological approach was used to explore participants' conceptualisations of childhood in Namibia. Detailed interviews were conducted with four community members aged 23-75 years. Interviewee one was a 23-year old Oshiwambo male; interviewee two was a 38-year old Damara/Nama female; interviewee three was a 42-year old white female age and interviewee four was a 75-year old white male. Using the data collected, thematic analysis was used to formulate themes within the data.

Results

The main themes identified were the role of the state versus the role of parents in childhood, the participation of children in decision-making and the protection of children. The results show that whilst public opinion and the proposals in the bill overlap in some areas such as the need to protect children, in many areas public opinion and the proposals in the bill differ to a great extent. Differences are particularly noticeable for issues such as parental authority versus parental responsibility and child participation.

Conclusion

At present the conceptualisation of childhood envisaged by the new legislation goes beyond public understanding of childhood. Government and stakeholders should do more to prepare the public for the bill to ensure that the Act is well-received in Namibia.

Keywords: childhood, conceptualisation, perception, legislation.

Introduction

The conceptualisation of childhood varies from person to person, family to family and country to country. James and James (2004) state 'childhood' is the structural site that is occupied by 'children', as a collectivity and it is within this collective and institutional space of 'childhood', as a member of the category 'children' that any individual 'child' comes to exercise his or her unique agency. However, despite the breadth of understanding of what childhood means to different people, researchers are increasingly using the term 'global childhood' to describe the phenomenon that conceptualisations of childhood across the world are becoming ever closer (Nieuwenhuys, 2010).

Many people attribute this change to the ever-strengthening international human rights framework and the impact of human rights agreements for children such as the United Nations Convention on the Rights of the Child (CRC, 1989) or the African Charter of the Rights and Welfare of the Child (ACRWC).

However, whilst there is a trend, and often legal obligation, for signatories of international conventions to align with the principles within the agreements, some of the provisions can be more progressive than public opinion allows for. For example, the concept of child participation, which is described as one of the 4 "P's" in the Convention on

the Rights of the Child (CRC, Mahery, 2009), is often not fully understood in many countries and there is a long way to go before the principles of child participation envisaged in the CRC are realised across the globe. Strong public opinion can also conflict with the provisions in international agreements. For example, a common construction of childhood is the idea that children are blank slates that should be moulded and developed (Aries, 1962; Montgomery, 2008). In the past, this concept has often been realised in legislation through concepts such as parental authority and marital power. Indeed, it is not all that long ago that a husband had power over both his wife and his children. However, current thinking about parental care has shifted from parental authority to parental responsibilities and duties (Skelton, 2009). The disparity between principle and practice across the world can lead to challenges in promoting the best interest of the child.

Countries, such as Namibia, are experiencing the challenges of aligning international obligations with public belief and understanding. Namibia is a country strongly affected by poverty and HIV/AIDs. With an unemployment rate of over 50% and approximately 18% of the population HIV positive, childhood is far from easy for many children (MHSS 2008a, Ministry of Labour and Social Welfare, 2009). Namibia has an estimated 250 000 orphans and vulnerable children and becoming independent at an early age is a necessity for many (MHSS 2008). Even when both parents are alive, luxuries in life may be few and far between as Namibia has been cited by at least one source as having the highest level of inequality in the world, with nearly 30% people being classified as poor, and 13% as severely poor, in Namibia (Central Bureau of Statistics, 2008, UNDP, 2009). However Namibia is also a country with strong religious and moral values (MHSS 2008). Children are part of a patriarchal system of man first, then woman, then children. The concept of parental authority is strong and it is not uncommon for parents to beat their children for the slightest misdemeanour (Menges, 2008). Thus whilst on the one hand children are expected to be the caretakers of their own lives, they are also expected to be obedient and to fit within a set social order.

The independence, and yet restriction of children at a young age in Namibia, is reflected in the law. For example whilst from the age of 16 children can

consent to sexual activity and at 18 can work in any type of job, drive, buy alcohol and gamble, it is not until 21 that a child gains majority. The definition of youth is from 16-35 (Government of Namibia, 2009; not yet in force) and the concept that children must adhere to parental decisions is strong. Indeed, despite data that shows that girls between the ages of 15 and 19 are becoming pregnant (MHSS, 2008), public opinion is still mixed over whether or not children should have independent access to contraceptives (MGECW, 2009). This, as well as other issues means that the often idealised construction of childhood in Namibia does not always fit with the reality of children's lives.

A further challenge for the conceptualisation of childhood in Namibia has been the fact that the country still uses an old South African law, the Children' Act of 1960, as its main source of legislation. As legislation is often used to define how we understand concepts (James & James, 2004), the Children's Act has influenced the construction of childhood in Namibia through its reflection of concepts such as parental authority and lack of recognition of issues such as HIV/AIDs and child trafficking. However in 2009 the Namibian government circulated the Child Care and Protection Bill, which is intended to replace the Children's Act, for public comment. This Bill brings Namibian legislation in line with internationally accepted principles of children's rights and will make a number of changes to the legislative framework in Namibia. It will also influence the construction of childhood in Namibia, where previously children are perceived to be 'in the background' – seen but not heard. How children are perceived, or the concept of childhood constructed, is important, since the protection, care and the acknowledgement of the voice of the child may be in conflict with people's understanding, acceptance and application of the law. This study explored the constructions of childhood in Namibia in comparison to provisions in the Child Care and Protection Bill (April 2010 draft). Furthermore, this study considered the possible areas of understanding that will need sensitisation prior to the enactment of the new law.

Methodology

This study used a qualitative methodological approach. Qualitative interview design was used to explore participants' constructions of childhood and

children in relation to the provisions in the Child Care and Protection Bill (April 2010 draft). The interviews were designed to be open and explorative. This allows the participants of the study to speak for themselves instead of predetermined hypothesis-based questions. The participants were purposefully selected to fit the age groups of 18 – 25, 25 – 40, 40 – 60 and over 60 years as one of the research criteria. Selection of the final four participants was based on their willingness to participate, availability for limited interview times and an attempt from the researcher to create gender diversity within the sample. The participants were asked a series of pre-formed questions that were written by the course directors for the Child and Family Studies Masters course. All participants live in Windhoek, the capital of Namibia. Interviewee one was a 23-year old Oshiwambo male; interviewee two was a 38-year old Damara>Nama female; interviewee three was a 42-year old white female age and interviewee four was a 75-year old white male. Whilst it cannot be argued that four interviews provide a representative understanding of the Namibian conceptualisation of childhood, they do provide an in-depth understanding of what childhood means to them.

Prior to the interviews the participants were informed of the nature and intension of the study and the benefits and limitations of completing the interview. Participants were informed about their rights not to participate in the study, that they could withdraw from the study at any point during the research process and that they could refuse to answer any of the interview questions they were uncomfortable with. Participants were also assured of their confidentiality and anonymity. Once the participants were willing to continue with the study, the informed consent forms were carefully explained and signed. The interviewees were given the opportunity to discuss the interview schedule or the issues discussed with the researcher and had the opportunity for debriefing afterwards if they wished. The participants understood that their participation was confidential and anonymous and that no harm was associated with the study. The four participants are referred to as interviewee one, two, three and four in this report to protect confidentiality.

Face-to-face interviews were conducted with four community members between the ages of 23 and 75 years. A convenient time and venue were arranged to conduct the interviews. Each interview lasted at least an hour. The interviews were recorded with a digital voice recorder and were transcribed for the purpose of data analysis. The data were analysed by means of thematic analysis. *Step 1* is the familiarisation and immersion (getting to know the data and engaging in it). In *Step 2* is the inducing [of] themes (working with themes that easily stand out) with themes arising from the data relating to the research question. *Step 3* entails coding (breaking up the data in understandable ways). *Step 4* is elaboration (exploring themes more closely) and *Step 5* is interpretation and checking the data (to give the researcher's understanding and inspection of the data) (Terre Blanche & Kelly, 2001:140-144).

Results and Discussion

The role of the state in the conceptualisation of childhood

Although Namibia has been independent for 20 years, the apartheid era and violent history of the country is not far from people's minds. Namibia has a strong Constitution, has signed many international human rights agreements and has implemented national legislation that protects the rights of all citizens. However this acceleration from discrimination to rights can be challenging for some people. As interviewee two says "*nowadays children have too many rights.*" Suddenly, children have rights, children cannot be beaten, some parents even feel that children cannot be disciplined. Interviewee two explains this problem; "*you can't beat a child without them complaining about their rights.*"

Part of the problem appears to be that whilst the government rhetoric on children's rights has been effective, less has been said on children's responsibilities. The four interviewees note this with concern because they feel that children no longer recognise their responsibilities – as interviewee two says, the problem is that "*nowadays parents come home and have to ask why the house is not clean.*" Interviewees one and four present similar concerns: "*Today the children are over-entertaining themselves. [They are] no longer under the control of their parent....There is no discipline nowadays*"

and “*there is also a breakdown of authority. Children don’t know what they are supposed to do.*” To put the problem into perspective, interviewees one, two and three described the responsibilities they had as children:

We had to do chores...if my parents were out of the house I had to make sure that it was cleaned, dishes washed, floor mopped. I had to feed the pets (like dogs and cats). I had to make sure the kids went to school. (Interviewee one)

As part of the older group, I was taking up more responsibility for the young ones and in charge of household tasks... We knew our responsibilities, such as needing to keep the house clean or do to our homework. (Interviewee two)

We all had our chores...as I got older, I had more responsibilities. I was given chores to do and my room to tidy. (Interviewee three)

In contrast, modern day children “*have many rights and less responsibility nowadays*” (Interviewee 2). The strength of their responses on this issue suggest that according to the understanding of the participants, one important construction of childhood in Namibia is to fulfil responsibilities designated to them by adults. Indeed, one of the most interesting aspects of the interviews was how interviewees two and three stated that “*children must be children*”, but explained this concept as the need to respect their elders and to fulfil family duties and chores; “*we were taught children should act like children and always listen to the elderly. If a grown up came into the room, we would stop what we were doing and go out. The respect was there*” and “*kids should be kids. They need to be guided by their parents. Nowadays if a parent tries to discipline them, the kid runs off to someone saying that I have rights. Some things are just not negotiable*”. As the global use of the phrase “*children should be children*” is more commonly associated with the concept of the idealised child, this alternative definition is striking.

In keeping with the public opinion that children should have responsibilities, the government has chosen to provide clarity on this issue through the provision of children’s responsibilities in the bill. Such a shift is supported by Himonga (2008), who

states that “the incorporation of the communal ethic into the children’s rights legislation ensures that the child sees the family and community of which he or she is a member as significant part of his or her life” (Himonga, 2008: 81-82.)

Therefore the inclusion of a provision for children’s responsibilities in the bill is likely to be well received by the public. The African concept that ‘*a child belongs to everyone*’ is strong in Namibia, and the inclusion of responsibilities in the Child Care and Protection Bill is likely to help promote this communal view of solidarity. However more than putting provisions of responsibility in the bill is needed. As interviewee one says “*[the government] do not go into detail about how to raise up a child...The government needs to do more to explain more.*”

The role of parents in the conceptualisation of childhood

All four interviewees had strong opinions about the parental control of children:

I think that it [childhood] was good. [You are] under your parents’ control, they had to take care of you. (Interviewee one)

We obeyed our parents and other elderly [people]. (Interviewee two)

We knew the boundaries. Not like kids today. Kids need boundaries. (Interviewee three)

Children can only be independent within a framework of dependency. Children can be individuals, but they are not independent. Children do not have rights. They are products of society, of their parents. (Interviewee four)

Their statements show that the interviewees see children as individuals who should be moulded and developed. This opinion is in keeping with the “blank slate” philosophy of childhood and the fact that childhood is a time of innocence and play, as suggested by Aries (1962). The interviewees suggest that the participants see parental control as allowing children to develop in a safe environment but in a strict framework that ensures the children develop according to the values of the family and society.

However although the Child Care and Protection Bill reflects the Namibian social value that children

have responsibilities, the bill differs from public opinion in the area of parental control as it moves away from the concept of parental authority and instead provides for parental responsibility. As explained by Freeman (1997: 318) in a discussion about the British Children's Act which provided for the transition from parental authority to parental responsibilities more than twenty years ago, the change is a move "away from the notion of children as consumer durables, completing the family after the CD player and video recorder". Whilst children in Namibia may not be perceived as goods akin to a CD player or video recorder, the concept of parental authority is extremely strong.

With the incorporation of the new Act, education will be needed to assist parents to understand the difference between control and responsibility. The opportunity for education on this area may be best achieved through education about roles and responsibilities in the family. Article 5 of the CRC requires State Parties to "*respect the responsibilities, rights and duties of parents or, where applicable, the members of the extended family or community as provided for by local custom, legal guardians or other persons legally responsible for the child...*" but in the context of "*evolving capacities of the child...*". This teaching point may assist the public to understand the role of parental authority in the context of the developing child. The challenge will, however, be to ensure that this message is correctly disseminated.

The role of children as participatory citizens

A short section of the Child Care and Protection Bill is devoted to the concept of child participation, as per the requirements of Article 12 of the CRC. As explained by Ehlers and Frank (2008), "*the observations of children not only breathe life into the tenets of international instruments such as the CRC, but also expose the real discrepancies between the good intentions articulated in these instruments and the realities of children's lives*" (111-112). However, based on the responses of the four interviewees, it may be some time before the concept of child participation is fully understood in Namibia. For example, when asked about participation as a child, interviewee one responded "*there might be sport at school, or a concert somewhere. The child had to be involved.*" His answer demonstrates positive community cohesion

but not active child participation, as he says "*the child had to be involved*". The ultimate goal of child participation is child-guided participation, not adult-driven participation (Steinitz, 2009). Interviewees three and four make similar comments about controlling child participation "*I am not convinced that children should have so much of a say in society*" (Interviewee three); "*Adults know better. Children need to be educated and disciplined... There is no way in which a child can be independent*" (Interviewee four). This is not to say that the concept of child participation will not be accepted in Namibia. For example, in interviewee two's response to a question about whether she participated in decision-making as a child, she says "*no not really, but I didn't mind as I didn't think then it was wrong.*" Her response indicates that she is aware that there is a global move towards increasing child involvement in decision making.

The concept of evolving capacities may be another challenge for Namibia. Whilst interviewees one and two recognise developmental stages in childhood; "*I think that starting from age 14, [a person] must go on like a grown up person, not like a child*" (Interviewee one) and "*For me, childhood stopped at around age 14. This was when I went to high school, so it was a change from being at primary school. We finished school at 17 so these were the final years. It was a change in environment, I became a teenager not a child, I stopped playing in the streets*" (Interviewee two). This concept was less clearly defined in the interviewees with participants three and four: "*I was a child until about 16/17. I still played with dolls until then, I sat on my father's lap.*" (Interviewee three) and "*Childhood ended when I left school at 17*" (Interviewee 4). The fact that interviewees one and two see that childhood ends at age 14 despite the age of majority being 21 shows that they see the intervening period as a stage before adulthood. In contrast, interviewees two and three see childhood continuing up to age 17 and linked to the end of school and entry into the working world. This suggests that opinion is mixed regarding whether children develop capacity as they mature or whether childhood and adulthood are two separate stages. This may prove challenging for the acceptance of demonstrable capacity provisions that have been included in the Child Care and Protection Bill. Indeed, even though interviewees

one and two see childhood as an evolving process of competence, in light of their strong opinions about parental authority:

The problem with children of today is that they are “no longer under the control of their parent.” (Interviewee one)

We obeyed our parents and other elderly [people].” (Interviewee two)

It is likely that many people in Namibia, even those who recognise childhood as consisting of development stages, will face some challenges in accepting some of the more progressive proposals in the bill.

As commented in the previous sections, more public education is needed. As with the understanding about parental authority versus parental responsibility, the entry point for education may be on roles in the family. As explained by Petré and Hammarberg, the Committee which monitors the CRC *“has consistently encouraged children’s participation in decision-making within the family.”* ‘The family becomes the ideal framework for the first stage of the democratic experience for each and all of its individual members, including children’ it [the committee] has stated (2000: 61). Therefore it may be helpful in Namibia to first focus on the role of children as participatory citizens in the family.

The protection and empowerment of children in Namibia

All four interviewees felt that children of today face greater challenges than they did:

[Children of today face] HIV/AIDs, alcohol and drug abuse, criminals, fighting, kill one another. Peer pressure is kind of high and they [children] expose themselves to sexual intercourse when they are drunk. (Interviewee one)

There was no rape. I can’t remember a violent incident.... If my children want to go to the shops I would rather take them in the car than let them walk on their own. (Interviewee two)

Children are more vulnerable. Divorce rates are higher, the high rate of HIV means that children lose their parents, there are work pressures on parents, economic pressures, safety issues.

Children are not quite so free as we were. (Interviewee three)

The breakdown of intimate relationships is a big problem. Adults do not have staying power anymore. The fragility of relationships is the problem. It gives children of today a very hard time. There is enormous confusion. There is also a breakdown of authority. Children don’t know what they are supposed to do. (Interviewee four)

These responses show that all four interviewees felt that children should be protected. For example interviewees three and four say *“children need a well-balanced environment, they need love, to be well-cared for, cherished. They need to feel secure”* and *“children need tactile love. They need to hear “I love you”.* *The maternal and paternal influence cannot be reproduced. Society cannot provide this- instead children feel lonely, unaccepted”.* Indeed, it is perhaps due to the problems of modern day society and the need to protect her children that interviewee two wants to extend the duration of childhood for her children. Even though she felt that her childhood ended around age 14, her children are aged 15 and 16 but she says that *“I see them as children – although they probably don’t see themselves as children.”* Furthermore, even though she thinks *“they are exposed to more violence and other bad things”,* she does not see a linkage between this and faster growing up. Instead she sees it as a reason to prolong the innocence of childhood:

I think they see it [society] as much safer than I do. They don’t see the problems. They think that it is fine to tell me they are going to visit a friend. As a mother I am freaking out – I need to know who this friend is, who the parents are. My father didn’t ask those types of questions. They trusted what we were doing because we were in a safe environment. They even sent my sister to school in Keetmanshoop [a town about 500km away] because it was safe. Now, even if my children go to Mareua Mall I am in contact with them through sms.

However, whilst children do need protection, the problem with this conceptualisation is that the image of the child can become one of a victim and the role of the child as an autonomous being is lost.

Smith (2007: 153) supports this statement, arguing that “*children’s opportunities for expressing their ideas and for active participation outside the home, school or community have diminished as children are protected and excluded. Rethinking childhood to include their voice is essential to redress the balance, and is likely to enhance children’s capability of contributing to society as active citizens.*”

The passing and enactment of the Child Care and Protection Bill will be a major step forward for children’s rights, because before children can reach the stage of asserting their view, they must first have interests that they can protect (Freeman, 1997). One area that will be particularly useful to the empowerment of children is the guiding principle that all decisions must be made “in the best interests of the child”. This principle helps to overcome stereotypical conceptualisations of childhood and instead requires all decisions to be taken from the perspective of what is best for that particular child in a specific situation (the principle also applies to more general decisions about the best interests of children as a group). However, whilst this principle is good in theory, James and James (2004) point out that when the best interests of a child differ from the opinions of the adult, it can be that the best interests of the child are deferred to the interests of the adult. As Hillary Rodham Clinton states “[n]o other group is so totally dependent for its well-being on choices made by others” (cited in Jenkins, 1998: 11). Furthermore, if the interpretation of best interests is dependent on adult views, and adult views are dependent on the socio-economic, cultural and political climate, the definition of a child becomes dependent on the prevailing construction of childhood. Yet again this area becomes another issue that will require more education to ensure that the principles and provisions as envisioned in the Act are understood as they are intended.

Conclusion

This study has briefly compared and contrasted constructions of childhood based on the opinions of four individuals in Namibia with the respective provisions in the Child Care and Protection Bill. In some areas, public opinion and the proposals in the bill overlap, such as the conceptualisation that children have responsibilities. However in other

areas public opinion and the proposals in the bill differ. For example, public opinion favours parental authority whereas the bill provides for parental responsibility. Furthermore, the concept of child participation is underdeveloped in Namibia as is an understanding about the promotion of child empowerment. In 2000 Petré and Hart stated that “no nation has yet seriously engaged parents in a dialogue about their views of children’s rights in relation to the Convention [of the Rights of the Child]” (2000: 43). Their comment is still relevant ten years later in Namibia. Much more dialogue is needed in Namibia to align the national and global conceptualisations of childhood. Although James and James (2004; 13) are correct in their statement that “‘childhood’ is, at one and the same time, common to all children but also fragmented by the diversity of children’s everyday lives”, legislation can have a significant impact on understanding and when legislation and public opinion strongly differ, this can present problems in achieving what the laws intend. Therefore, whilst the Child Care and Protection Bill has done much to further Namibia’s need international requirements of children’s rights, the Act will only be effective if there is more dialogue in Namibia about the conceptualisation of childhood. At present the legislation goes beyond public opinion. To ensure that the Act is well-received in Namibia the government and stakeholders should do more to prepare the public for the bill, including promoting a generalised debate about many of the fundamental concepts of childhood that seem currently to be in conflict with the Act.

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