

**THE PARTICIPATION OF CIVIL SOCIETY ORGANISATIONS IN THE
DEVELOPMENT OF THE CHILDREN'S BILL.**

by

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Submitted in partial fulfilment of the requirements for the degree of

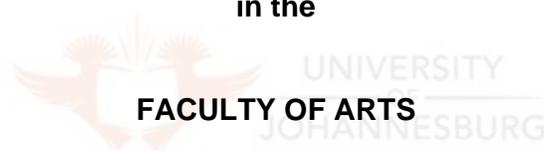
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DECLARATION

I hereby declare that this mini-dissertation is my own work and that I have recognised the sources used and assistance provided.

Karen Allan

Date



“Democracy is not something that you believe in, or something that you hang your hat on. It’s something that you do, you participate. Without participation, democracy crumbles and fails. If you participate, you win, and the future is yours”.

**Abbie Hoffman, US Radical Activist
(1936-1989).**



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ABSTRACT

The transition of South African society from apartheid to democracy involved the adoption of a new political approach which is people centred and provides more scope for participation by South African citizens in political processes, including the development of appropriate policies and laws. This affected all policies developed after 1994, including the Children's Bill, which was of particular interest to people in the children's sector. Before 1994, participation in the development of children's legislation was limited to a selected few in the welfare field. This resulted in inequitable social welfare policy. In the democratic context social welfare legislation was being developed based on consultations with the affected groups and the participation of all stakeholders. This raises questions about the nature, form and impact of civil society participation on social welfare policy / law reform. Research into public participation in social welfare policy has not been done previously. The researcher was therefore motivated to investigate the process with specific reference to the development of the Children's Bill based on her personal involvement and experience with the process.

The aim of this research is to document and analyse civil society participation in the development of the Children's Bill with a view to developing practice guidelines for civil society advocates and other roleplayers for effective participation in legislative reform. This study is qualitative in design. Data was collected by means of 10 in-depth semi-structured interviews. Participants were purposively selected based on their membership of the Children's Bill Working group.

Findings indicate that participants from civil society organisations found the process of participation to be worthwhile and valuable. However, informants were also critical of the outcome of the process as key recommendations made by civil society were not taken up by government. The research indicates that the roles of the parties were not clearly defined and the possibilities and constraints on such participatory processes were not fully appreciated by the roleplayers in the process including, representatives from civil society organisations, Parliamentarians and government departments.

OPSOMMING

Die nuwe Suid-Afrikaanse politieke benadering wat tot stand gekom het tydens die oorgang vanaf apartheid tot demokrasie, voorsien in die deelname van landsburgers in politieke prosesse. Hierdie deelname sluit die ontwikkeling van beleid en wetgewing in. Die uitwerking van hierdie benadering het betrekking op alle beleidsrigtings wat na 1994 ontwerp is en sluit die voorgestelde Wetsontwerp op Kindersorg in. Hierdie wetgewing is van besondere belang vir diegene wat betrokke is in die veld van Kindersorg, veral aangesien deelname aan wetgewing voor 1994 hoofsaaklik bemiddel is deur 'n klein en geselekteerde groep individue in die welsynsveld. Die gevolg van hierdie benadering was 'n ongelyke maatskaplike welsynsbeleid. Binne die konteks van demokrasie word maatskaplike welsynswetgewing ontwikkel deur middel van konsultasie met belangegroepe en die deelname van diesulke groepe. Hierdie benadering kweek noodwendig vrae rondom die aard, vorm en impak van siviele gemeenskapsdeelname in terme van maatskaplike welsynsbeleid en wet-hervorming. Navorsing wat gerig is op publieke deelname in die ontwerp van wetgewing is nog nie voorheen onderneem nie. Hierdie stand van sake het die navorser gemotiveer om die deelnemingproses te ondersoek, veral gesien in die lig van die navorser se persoonlike deelname in, en ondervinding met betrekking tot die ontwikkeling van die voorgestelde Wetsontwerp op Kindersorg.

Die doel van die navorsing is om die deelname van die siviele gemeenskap in die ontwikkeling van die voorgestelde Wetsontwerp op Kindersorg te dokumenteer en te analiseer ten einde riglyne te ontwikkel wat deur hierdie sektor aangewend kan word om effektiewe deelname in die ontwerp van wetgewing te verhoog. In hierdie kwalitatiewe studie het die navorser data versamel deur middel van 10 in-diepte, semi-gestruktureerde onderhoude. Die onderhoude is gevoer met persone wat doelgerig geselekteer is op grond van hulle deelname in die voorgestelde Wetsontwerp op Kindersorg se amptelike werkgroep.

Die bevindings van die studie dui op 'n beleving van siviele belangegroepe dat die proses van deelname in 'n waardevolle lig beskou word. Deelnemers het egter ook krities gestaan teenoor die uitkomst van hierdie proses, veral omdat sekere aanbevelings van hierdie werkgroep nie erken was in die finale produk nie. Die studie dui aan dat die rolle van deelnemers nie duidelik uitgespel was nie, en dat die moontlikhede en uitdagings van so 'n deelnemende proses nie ten volle deur al die rolspelers in die proses, insluitend siviele gemeenskapsorganisasies, Parlementslede en staatsdepartemente, erken word nie.

TABLE OF CONTENTS

	PAGE
ACKNOWLEDGEMENTS	iii
ABSTRACT	iv
OPSOMMING	v
LIST OF ACRONYMS	ix
LIST OF TEXT BOXES	ix
LIST OF TABLES	ix
LIST OF ANNEXURES	ix

CHAPTER 1

ORIENTATION TOWARD THE STUDY

1.1	Introduction	1
1.1.1	Background: social treatment approach versus a developmental model of service delivery	1
1.1.2	The Children's Bill	2
1.2	Motivation for the Study	3
1.3	Problem Statement	3
1.4	Aims of the Research	4
1.5	Objectives	4
1.6	Theoretical Perspective	5
1.6.1	Summary of approach	5
1.6.2	Key Concepts	5
	1.6.2.1 Rights based approach	6
	1.6.2.2 Legislation	6
	1.6.2.3 Participation	7
	1.6.2.4 Civil Society Organisations	7
1.7	Overview of Research Methodology	8
1.7.1	Research Design	8
1.8	Limitations	8

1.9	Division of Chapters	8
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CHAPTER 2

LITERATURE STUDY

2.1	Introduction	9
2.2	Children's Rights in South African Context	9
2.3	Overview of the Process of Legislative Reform	10
	2.3.1 Background: The Policy Paradigm Shift since 1990	10
	2.3.2 Legislative Reform with reference to the Welfare System	12
	2.3.3 The Policy Process	13
	2.3.4 Phases of the Policy Process	14
2.4	The Children's Bill Process	16
	2.4.1 Process to date	16
	2.4.2 Substantive Issues	17
2.5	Theories relevant to policy and legislative reform	20
	2.5.1 Social Justice and Advocacy Perspective	21
	2.5.2 Social development, participation and welfare pluralism	22
2.6	Conceptual framework	30
2.7	Conclusion	31

CHAPTER 3

RESEARCH METHODOLOGY

3.1	Introduction	32
3.2	Qualitative Research	33
	3.2.1 Qualitative Design	33
	3.2.2 Case study method	34
3.4	Sampling	34
	3.4.1 Sampling criteria	35

3.5	Data collection method	36
	3.5.1 The research interview	36
	3.5.2 The research schedule	37
	3.5.3 Pilot Study	38
	3.5.4 Data Recording	38
	3.5.5 Interview process undertaken / problems experienced	38
	3.5.6 Limitations	38
3.6	Data Analysis	39
	3.6.1 Validity and reliability	41
3.7	Conclusion	42

CHAPTER FOUR

FINDINGS OF THE STUDY

4.1	Introduction	43
4.2	Process of civil society participation	43
4.3	Nature and form of participation	47
4.4	Critical Appraisal	57
4.5	Lessons learned	62
4.6	Conclusion	67

CHAPTER FIVE

CONCLUSIONS AND RECOMMENDATIONS

5.1	Introduction	68
5.2	Summary of key findings	68
5.3	Conclusions	71
5.4	Recommendations	75

BIBLIOGRAPHY	77
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ANNEXURES	83
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LIST OF ACRONYMS

CBO	Community Based Organisation
CBWG	Children’s Bill Working Group
CSG	Child Support Grant
CSO	Civil Society Organisations
FBO	Faith Based Organisations
MP	Member of Parliament
NCOP	National Council of Provinces
NGO	Non Governmental Organisation
SALC	South African Law Commission
SALRC	South African Law Reform Commission

LIST OF TEXT BOXES

Text Box 4.1: Sectoral Interests or Organisations Represented	44
Text Box 4.2: Nature of the activities engaged in by the CBWG	51

LIST OF TABLES

Table 4.1: Activities undertaken by the participants	50
Table 4.2: Positive aspects of participatory process	58
Table 4.3: Negative aspects of participatory process	61

LIST OF ANNEXURES

Annexure 1: Interview Schedule	83
Annexure 2: Questions for the Portfolio Committee Members	85
Annexure 3: List of Interviewees	86
Annexure 4: List of Children’s Bill Working Group Members	87

CHAPTER ONE

ORIENTATION TOWARDS THE STUDY

1.1 INTRODUCTION

The transition of South African society from apartheid to democracy involved a shift from a social treatment perspective of social welfare to a rights based developmental perspective. The process of transformation was directed by the Constitution of South Africa (1996) and the Bill of Rights and required the adoption of enabling policies such as the Reconstruction and Development Programme and the White Paper for Social Welfare (1997) which form the foundation for welfare policy in South Africa. This paradigm shift impacted on the development of all policies and legislation after 1994 including the development of the Children's Bill which is the focus of this research. The development of the Children's Bill must be viewed in terms of the broader historical context of South African Society. With the political shift to democracy and the adoption of a new approach to social welfare which is people centred there is more scope for participation by South African citizens in political processes beyond the right to vote. This study seeks to investigate the process of participation in policy making with specific reference to the development of the Children's Bill.

1.1.1 Background: social treatment approach versus a developmental model of service delivery

The previous welfare system, which was informed by apartheid policy, was exclusive and expensive, providing services for a minority white population with very few services available to the broader disadvantaged black population. The social treatment model focused on treating problems in society through specialised interventions on the part of social workers or social service professionals. The system was characterised by heavily subsidised institutional care for those considered to be in need of welfare services such as children, older persons, people with disabilities and substance abusers from the white population (Patel, 2005).

The provision of social services along racial lines produced an unequal welfare system. Once South Africa became a democracy it became necessary to overhaul the welfare system in order to meet the needs of all South Africans.

A new welfare system was needed that would be able to address the apartheid legacy which resulted in large inequality and mass poverty amongst South Africa's black population. A developmental model of welfare services was adopted to ensure a shift in focus away from the needs of a minority group to the needs of all vulnerable South Africans especially the poor and the previously disadvantaged. Patel (2005, p.156) situates the developmental model of welfare services within a broader social development framework and provides an overview of the key concepts:

“The themes of the new paradigm are: a rights-based approach, economic and social development, participation, welfare pluralism (also referred to as social development partnerships) and bridging the micro macro divide in the conceptualisation of social problems and social service practice. Human rights are the foundation of social development and meeting needs is not sufficient: the promotion, protection and defence of the rights of those who are vulnerable and at risk are an integral part of sustainable human development”.

The key concepts of the study such as a rights based approach and participation will be discussed in further detail in section 1.6.2 and 2.5.2.

1.1.2 The Children's Bill

After South Africa became a democracy a decision was made by Parliament to review the 1983 Child Care Act in order to reflect democratic values, constitutional obligations and international commitments to caring for children.

It was felt that the 1983 Child Care Act needed to shift its focus from not only caring for abused and neglected children but needed to put in place measures to protect and assist children and their families. The existing legislation deals primarily with the reporting of abuse, the removal of children through the courts and the placement of children in institutions.

The new rights based approach to child and family welfare calls for poverty alleviation through social security and for various government departments to work together to ensure children's survival and prevent potential abuse and neglect from taking place (Children First, 2003).

The process of reviewing the legislation was undertaken by the South African Law Reform Commission (SALRC) in 1997 and culminated in the drafting of a Children's Bill, which was submitted to the Department of Social Development in January 2003. This six-year period in which the SALRC drafted the Bill involved numerous research on the various issues and broad public consultation with the relevant groups such as civil society organisations and other child welfare groups directly involved with caring for children (South African Law Commission, 2002).

1.2 MOTIVATION FOR STUDY

The consultative approach raises questions about the nature and form of civil society participation in legislative reform and the impact of such participation on the appropriateness and feasibility of new legislation. Furthermore, civil society groups were critical of the final outcome as key recommendations made by them were not adopted by government. From the perspective of civil society groups, the process was valuable but failed to achieve the expected outcome. A preliminary assessment indicates that the roles of the parties were not clearly defined and that the possibilities and constraints on such participatory processes were not fully appreciated by the roleplayers in the process including, representatives from civil society organisations, Parliamentarians and government departments.

The proposed study would be useful in light of the fact that the Children's Bill is new and therefore knowledge on the subject is limited. This presents an opportunity for research into this area. Any research around the Children's Bill can contribute to our existing knowledge base by filling in the gaps around participatory policy making.

A study and analysis of public participation in legislative reform in the social welfare field has not previously been conducted. This study could make a valuable contribution to the development of appropriate participatory strategies and guidelines in the reform of social welfare legislation.

1.3 PROBLEM STATEMENT

Prior to 1994, participation in the development of children's legislation was limited to selected stakeholders in the welfare field. The result was social welfare legislation which was inappropriate to the local context, discriminatory and not viable in terms of implementation.

In the new democratic context, social welfare legislation is being developed with the participation of civil society organisations and all parties who have an interest in furthering the needs of specific target groups. The new Children's Bill, of which Section 75 was passed by parliament in June 2005, was created through a process of public participation.

The researcher intends to document and analyse the process of developing the Children's Bill in terms of various phases of policy development including "agenda setting, analysis of problems, the development of proposals and the development and implementation of political processes to have the legislation adopted" (Jansson, 1999, p. 71). The researcher intends to identify some of the critical issues in public participatory processes and to generate guidelines for future participatory processes.

1.4 AIMS OF THE RESEARCH

To document and analyse civil society participation in the development of the Children's Bill with the view to developing practice guidelines for civil society advocates and other roleplayers for effective participation in legislative reform.

1.5 OBJECTIVES:

- 1.5.1 To document the process of civil society participation in legislative reform.
- 1.5.2 To analyse the nature and form of the participatory process with reference to a selected policy or legislative practice framework from a social justice and advocacy perspective.
- 1.5.3 To critically appraise and evaluate the above process.
- 1.5.4 To generate recommendations and guidelines for more effective civil society participation in the reform of social legislation.

1.6 THEORETICAL PERSPECTIVE

1.6.1 Summary of Approach

The legislative framework developed by Jansson (1999) was used as a guide to study the process of civil society participation in the Children's Bill. This included an examination of the various phases of the policy / law reform process including: preparation; policy advocacy and political process and to a lesser extent adoption. The roles of the parties in the process were also examined. A social justice and advocacy perspective was central to the study in that the researcher viewed the participation of civil society representatives in this process as more than attempts to change or influence laws affecting children, but to advocate for the realisation of children's socio-economic rights to significantly improve their lives and well-being. Civil society advocacy on the Children's Bill sought to redefine previous policies and laws which were considered discriminatory and ineffective in terms of a rights based perspective. Jansson (1999, p.10) refers to this process as "policy advocacy" as opposed to policy practice. The concept of social justice is what distinguishes policy practice (attempts to change policy) from policy advocacy (which actively seeks to promote and realise the rights of minority groups), in this case children. The important concept of participation was situated within the broader theoretical framework of social development which informed this study. The social development perspective provided the foundation for transforming South Africa's welfare system from apartheid to a new developmental approach to social welfare as discussed above in section 1.1.1 The central concepts highlighted in this study such as a rights based approach and participation were largely derived from the social development paradigm and then applied to children and the process of participation of civil society organisations in developing the Children's Bill. The theoretical perspective is discussed in more detail in chapter two, section 2.5.

1.6.2 Key Concepts

Brief definitions will be provided of the following key concepts as these will be explained further in chapter two of this study which contains a review of the relevant literature.

1.6.2.1 Rights based approach

According to Patel (2005, p.98) the aims of a rights based approach are “achieving social justice, a minimum standard of living, equitable access and equal opportunity to services and benefits, and a commitment to meeting the needs of all South Africans with a special emphasis on the needs of the most disadvantaged of society”. The basic socio-economic rights of South Africans such as the right to housing, food, health care, water, education and social security are guaranteed by the Constitution and the Bill of Rights. This was of particular relevance for children who were the focus of this research and are considered to be a particularly vulnerable group. Civil society advocates in this study approached the reform of the Child Care Act of 1983 and participated in the development of the Children’s Bill from a rights based perspective. That is to say that civil society organisations wanted the Children’s Bill to provide children with a minimum standard of living and equal access to services and benefits by realising their socio-economic rights, like their right to social security, education, nutrition and health care, amongst other things in line with our Constitutional obligations towards children. The issue of children’s rights in the South African context is discussed further in section 2.2.

1.6.2.2 Legislation

Grant and Padayachee (2005, p.6) define the law as “a set of rules which regulate the behaviour of people in society, and the behaviour of the state towards society”. The law provides guidance on our rights and our responsibilities. According to the authors, South African law is made up of different parts including statutory law, common law, customary law, case law and the supreme law of the country, the Constitution. Parliament and provincial legislatures are responsible for writing laws, also known as statutes or Acts. An Act only becomes law once it has been debated and passed by Parliament, signed by the president and published in the Government Gazette. Potential policies or laws that have not yet been passed by Parliament are known as Bills. A new Act / statute / law can simply make changes or improvements or it can replace existing laws. Acts must also include practical steps for how the law should be practiced known as regulations. Regulations are referred to as sub-ordinate laws. Once the Children’s Bill is passed into law it will become the Children’s Act and it is intended to take the place of the *Child Care Act No 74 of 1983*. Acts or laws and regulations are collectively referred to as legislation.

It was important for the purpose of this study to understand what legislation is and how it works in order to better understand the participation of civil society in the law reform process. An overview of the process and the phases of legislative reform is provided in section 2.3.

1.6.2.3 Participation

Roodt cited in Gathiram (2003, p.42) defines participation as a process whereby “people involve themselves, to a greater or lesser degree, in organisations indirectly or directly concerned with the decision making about, and the implementation of development”. Participation in terms of a development perspective in a democracy is the tool through which we hold government responsible for addressing the developmental concerns and needs of the most disadvantaged members of our society. The concept of participation was crucial to this study which looked specifically at the participation of civil society organisations in the development of the Children’s Bill. Civil society organisations from the children’s sector participated in the law reform process to represent the interests of children and their care-givers to ensure policy and law that could affect the necessary changes to bring about improvements for children and realise their rights.

1.6.2.4 Civil Society

Achieving the desired level of development requires different role players within society such as the state, corporate sector and civic sector (associations separate to the state and corporate sector) to work together. It is important to differentiate between the different sectors in society for the purpose of this study as they have different roles and responsibilities especially in relation to the law reform process. The state or government departments and Parliament are responsible for developing laws that affect people but civil society and business must be consulted and participate in developing the content of those laws. The advocacy role of civil society is of utmost importance in ensuring that the rights and needs of all citizens are met especially the most disadvantaged groups such as poor people and children. In this case civil society played a key role by participating in the development of the Children’s Bill in order to advocate for the rights of children to ensure that their needs are met.

1.7 OVERVIEW OF RESEARCH METHODOLOGY

1.7.1 RESEARCH DESIGN

This study is qualitative in design. Data was collected by means of in-depth semi-structured interviews. Ten participants were selected purposively based on their membership of the Children's Bill Working group. An interview schedule was compiled and piloted. Most of the respondents (6) were interviewed in person. The remaining informants (4) were interviewed over the phone. The data collected was analysed from an interpretivist perspective that attempts to understand the daily experiences of people in a particular context.

1.8 LIMITATIONS

One of the limitations of the study was the researcher's personal involvement in the Children's Bill process through membership of the Children's Bill Working Group. This potential bias to influence the direction of the interviews was overcome by the conscious decision on the part of the researcher not to ask leading questions but rather to let the participants take the lead in the interviews.

Another potential obstacle to gathering data was the distances between the potential participants. Where it became impossible to conduct one-to-one interviews in person the researcher had to consider telephone interviews as an alternative.

1.9 DIVISION OF CHAPTERS

- Chapter 1: Orientation towards the study
- Chapter 2: Literature study
- Chapter 3: Research methodology
- Chapter 4: Findings of the study
- Chapter 5: Guidelines and recommendations

CHAPTER TWO

LITERATURE STUDY

2.1 INTRODUCTION

This chapter serves to provide an overview of the literature relevant to this study which seeks to investigate the process of participation of civil society organisations in the development of the Children's Bill. This will include children's rights in the South African context and a general overview of the process of legislative reform as well as a more specific discussion of the process and issues pertaining to the Children's Bill. The final section of this chapter will provide more details of the conceptual framework informing this study that was introduced in chapter one.

2.2 CHILDREN'S RIGHTS IN THE SOUTH AFRICAN CONTEXT

In terms of the Constitution of South Africa (1996) a child is classified as any person from birth up to the age of 18. According to Kubayi (2005, p.26) under the law children are afforded "special legal status, protections and rights". These protections and rights are entrenched in the South African Constitution and a number of international conventions, most notably the United Nations Convention on the Rights of the Child. For Sloth-Nielson (2005, p. 45) the prominent "socio-economic rights" of children amongst others include "the right to basic food, shelter, health, education and social services". According to section 27 and 28 of the South African Constitution the state is obliged to meet the socio-economic needs of the child if the child's parents or caregivers are unable to do so because they are absent, destitute, sick, or have passed away.

Poverty prevents children from realising their socio-economic rights. To date attempts have been made by the state to begin to address the needs of poor children through various policies and programmes like social security measures in the form of a Child Support Grant (CSG), free primary health care, the National School Nutrition Programme and the School Fee Exemption Policy (Jacobs, 2005). The government's main solution to childhood poverty has largely focussed on the provision of social assistance to children in the form of the Child Support Grant to the caregivers of children under 14. According to the Children's Institute (2006, p.1) "nearly seven million children (6,9 million) younger than 14 years receive the Child Support Grant every month in South Africa".

This is a notable achievement on the part of the state towards realising children's socio-economic rights. However, this progress must be weighed against the extent of childhood poverty and the number of poor children that must still be reached. The social security system in South Africa is not an equitable system because all children's grants are means tested and the CSG only extends to children up to the age of 14. A further two million children who are eligible for the CSG in terms of their age do not receive it due to the barriers in the current system such as a lack of documentation in the form of birth certificates and identification documents. When considering that an estimated 12 million children live in income poverty based on a monthly income of less than R1200, it is clear that many poor children in need do not receive the grant (Children's Institute, 2006, p.1). Apart from social security, poor children also have limited access to education, nutrition, health care and other basic services (Jacobs, 2005). For example with reference to education, the Education Atlas (cited in Berry and Guthrie, 2003) estimates that approximately 1.2 million children of school-going age are not attending school, and approximately 40 000 children attend on a part-time basis. There is irregular attendance at school by children working on farms, children who work or have adverse family circumstances, street children, children with disabilities who cannot access schools that accommodate their needs and children whose parents are ill or HIV-infected. Factors affecting attendance are chronic poverty, lack of support from families and inability to access transport to and from school.

It is evident from the above discussion of what children are Constitutionally entitled to in terms of their rights that there are gaps in the current policies and laws affecting children as evidenced by the statistics indicating large numbers of children in poverty and not accessing basic rights and services. According to Jacobs (2005, p. 10) it was in light of the challenges facing poor children that civil society "made a call for a comprehensive piece of legislation in the form of the Children's Bill". The Children's Bill process was seen as a way of ensuring that children's issues were prioritised and children's poverty addressed in line with their socio-economic rights.

2.3 OVERVIEW OF THE PROCESS OF LEGISLATIVE REFORM

2.3.1 Background: The policy paradigm shift since 1990

As policies and laws reflect particular political institutions or regimes it is important to understand the history and political context of South Africa which shaped the policy reform process. Various authors document the history of policy development in South Africa from colonial times, through apartheid to democracy.

Cloete (2000, p. 89) argues that prior to 1990 the South African state “followed a largely traditional, Western, industrial world, colonial policy approach” this involved the development of policy by “Western political and bureaucratic elites” and was designed to maintain the “status quo”.

De Villiers (2001, p.15) elaborates on how the discriminatory policies and practices of the time became entrenched in law under the system of apartheid.

“For over three hundred years, from the time when the first European voyagers landed at the Cape, Black (African, Indian, Asian and Coloured) South Africans were subjected to discrimination, harsh treatment and oppression. With the election of a National Party government in 1948, this oppression was formalised under the apartheid system, resulting in the legalised suppression of human rights in South Africa. Under apartheid, most South Africans were deprived of their basic human rights and denied the right to authentic forms of representation. The opinions of Black South Africans were considered irrelevant and immaterial”.

De Villiers (2001, p. 16) further argues that the transformation process was brought about by the “struggle” to overcome the “oppression” described above. The struggle was fuelled by “popular organisation and resistance” informed by “alternative traditions and democratic norms” which facilitated a transition from apartheid to democracy. After 1990 the policy process was dramatically changed in line with this political transformation reflecting a shift in power from minority to majority rule as summarised below by Cloete (2000, p. 90):

“From 1994, a totally different, representative and more legitimate Government of National Unity took over political power in South Africa under the leadership of Nelson Mandela. Immediately, government policies were dramatically altered to focus more on the poor, indigenous and underdeveloped communities of the country – the majority - and less on the traditional *civilised* Western norms and standards of the past”.

De Villiers (2001, p. 16) contends that the policy shift can be seen in the central policies of the time namely the Reconstruction and Development Programme (RDP) which helped the African National Congress secure victory in the 1994 elections and later became a White Paper and leading policy of the first democratically elected government of South Africa.

Other key policy documents included an interim or temporary constitution which supported the 1994 election process. After the democratic elections, the Constitutional Assembly, which is made up of the National Assembly and Senate formulated the Constitution of South Africa as a means of establishing the new rule. The Constitution was passed or became law in 1996.

2.3.2 Legislative reform with reference to the Welfare System

The shift from a social treatment approach to a developmental model of service delivery was discussed in chapter one, section 1.1.1

According to Patel (2005, p.113) “legislation” can be understood as the “Acts of Parliament and Provincial Legislatures” including the “Regulations issued to guide the implementation of legislation”. In the past “the former Department of Social Welfare and Population Development” as well as the “tri-cameral welfare departments” and the “the former Independent Homelands” were responsible for administering welfare laws. Various laws were put in place relating to certain sectors including “children, the elderly, criminal justice, substance abuse, social assistance and legislation regulating the profession of social work and welfare services”. The welfare department was also tasked with working with “other government departments such as health, justice and correctional services” to ensure the delivery of social programmes. Under the previous system of apartheid, which by its nature was discriminatory and unequal, welfare law was disjointed, services were replicated unnecessarily and there was no co-ordination.

For Patel (2005, p. 113) the idea behind the new legislation formalised in the Social Welfare White Paper, 1997 “was to amend legislation in the short term to align it with the Constitution and the new policy directions of the democratically elected government after 1994. In the medium to longer term a review of legislation was required to develop comprehensive legislation”. To indicate the scale of the reform process Patel (2005, p.113-114) estimates that “between 1994 and 2001, approximately 27 laws administered by the Departments of Social Development were amended or repealed, and new laws were adopted by the National Assembly and Provincial Legislatures”.

2.3.3 The Policy Process

It is important for the purpose of this research, which seeks to investigate the participation of civil society in the development of the Children's Bill, to understand the policy process. De Villiers (2001, p. 17) provides an overview of the process and identifies and explains the key political role players below:

"The national Parliament is responsible for making national legislation, while the provincial legislatures are responsible for areas of legislation ascribed to them by the Constitution. The national Parliament is made up of the National Assembly, consisting of representatives of political parties elected according to a system of proportional representation, and National Council of Provinces (NCOP), which consists of representatives from the provincial legislatures. All national legislation passes through the NCOP, which has varying powers depending on whether the proposed legislation does not (section 75 bills) or does (section 76 bills) affect the provinces. This ensures that the provinces are represented and have a say at the national level. The provincial executives consist of an Executive Council (provincial cabinet) headed by a Premier. Members of the Executive Council (MECs) head up provincial departments responsible for areas where the provinces have powers. This applies primarily to areas involving service provision, such as housing and education".

According to Proudlock (2002) there are certain basic steps which are followed in the policy and legislative process. Firstly the government decides it needs a new policy. This investigation is undertaken jointly by various government departments, Cabinet Committees, Ministers and Advisors to Ministers and culminates in the drafting of an issue paper which outlines the problem also known as a Green Paper. The Green Paper is circulated for general comment by the public and government departments. From the issue paper, a discussion document is drafted. This is subject to further comment and consultation before being handed over to legal drafters who transform the Green Paper into a Draft Bill. Usually Green Papers lead to final policy documents known as White Papers. Legislation is then developed based on the policy (a Bill before it is passed by parliament) and then it becomes a law. Not all policy aspects are captured in legislation. Once the Draft Bill is circulated and subjected to further changes and comments it must be approved by Cabinet and published for further comment so that it can be certified as a Bill. The Bill must then be approved by the National Assembly and the National Council of Provinces (NCOP).

Once a Bill has been passed by Parliament the President signs and approves this document making it an Act and publishes it in the Government Gazette. Before new legislation can take effect, Regulations have to be drawn up which offer a practical guide as to how the law will be implemented. Regulations (also known as subordinate legislation) are published and circulated for comment. The President then announces a commencement date, and on this date the Act becomes law and implementation can begin.

Watson and Rhoda (2002, p. 183) summarise the process as follows: “one of Parliament’s major functions is to pass new laws, to amend existing laws, and to repeal old laws. Most Bills (draft laws) are drafted by ministers and approved by the Cabinet before going to the National Assembly”.

2.3.4 Phases of the Policy Process

The participation of civil society organisations in the Development of the Children’s Bill will be studied in relation to the policy practice framework developed by Jansson (1999). This includes three distinguishable phases namely, the preparation process, the policy advocacy and political process and the adoption phase. Each phase will be discussed according to the activities undertaken by policy advocates or what Jansson (1999, p. 62) refers to as the “key recurring tasks”.

The Preparation Process

This initial phase of the policy / law reform process includes the building of agendas, the analysis of problems and the drafting of legislation.

During this initial phase, policy advocates determine whether the context is conducive to introducing new policies or amendments to existing policies. Policy advocates then develop strategies to place their concerns and priorities regarding existing legislation or recommendations for new policy on the agenda of the policy makers and decision makers. After the issue is placed on the agenda of policy makers, the nature, causes and extent of the problem are looked at or analysed in greater depth. Based on the analysis of the problems which are often informed by rigorous research and consultation with those affected by the problem, policy advocates develop recommendations or solutions to address the problem. Proposals can inform the actual drafting of new policies and legislation or make suggestions or improvements on existing or draft policy.

The Policy, Advocacy and Political Process

This phase of the process involves developing strategies to have proposals or recommendations incorporated into the proposed policy or strategies to remove sections from the draft policy. This is an important part of the process where policy advocates engage with policy and decision makers to convince them to adopt their proposals. This can be done formally, by arranging meetings, through written submissions and making oral presentations at public hearings or informally through personal interactions like phone calls or visits. Policy advocates are generally involved in two broad types of activities in this phase, namely: advocacy where they raise awareness about a particular issue either with the general public, the media or the policy and decision makers and lobbying where a particular decision maker is targeted to endorse the proposal of the policy advocate.

The goal of the policy advocate in this phase is to gain support for their proposals and recommendations so that these can be incorporated into the policy and to ensure that the policy is adopted or passed into law.

The Adoption Process

This phase involves securing the implementation of policies / laws. Even after the legislation is passed policy advocates can be actively involved in designing the ways in which the law should be implemented i.e. the Regulations or directly involved in implementing or practically applying policy / law. Policy advocates play an important role in terms of monitoring and evaluating whether or not policies / laws are being implemented appropriately by determining if the policy has made progress in terms of dealing with the problem.



2.4 THE CHILDREN'S BILL PROCESS

2.4.1 Process to date

Proudlock (2004, p. 5) provides us with an overview of the history of the law making process in relation to the Children's Bill:

- The South African Law Reform Commission (SALRC) was authorised by the Minister of Social Development to “review the 1983 Child Care Act and draft a new comprehensive Children's Law” in 1996.
- From 1997-2002 the SALRC undertook a process involving research, consultation and drafting of the Children's Bill.
- In January 2003 the SALRC completed the Draft Bill and submitted it to the Department of Social Development.
- Subsequently the Department of Social Development began to review the Draft Bill and consulted with other Government Departments resulting in the first major changes.
- The significantly altered Draft Bill was submitted to Cabinet, who requested further changes.
- In August 2003 the Cabinet endorsed the altered Draft which was published for comment and sent off to be certified.
- In October 2003, the August 2003 version of the Draft Children's Bill was certified.
- At the end of 2004 the Bill was declared a “mixed bill” and split into two bills (s.75 and s.76 Bills).
- Early in 2004 the Minister of Social Development called for the Bill to be passed by Parliament before the April 2004 elections.
- Due to time constraints Parliament was unable to study the Draft Bill adequately before the 2004 election campaign.
- Civil Society organisations opposed rushing the passing of the Bill through Parliament before the April 2004 elections and campaigned for vital sections of the original SALRC draft to be re-inserted before the passing of the Bill.
- Public hearings on the section 75 Bill were heard by Parliament in August 2004.
- The Section 75 Bill was passed by the National Assembly on the 22nd of June 2005.

The Children's Bill after 2004 refers to two documents: the Section 75 Children's Bill which relates to National competencies and the Section 76 Children's Bill which relates to Provincial competencies. After the Section 75 Bill was passed the Section 76 Bill will be passed as an amendment to that policy or legislation. This research focussed on the life of the Bill up to and including the end of 2005 when the interviews were conducted. References to earlier forms of the Children's Bill are referred to as the original South African Law Reform Commission's (SALRC) version of the Bill which was informed by in-depth civil society consultation in the form of a discussion document and then a concluding report before any alterations and excisions were made.

According to Martin (2005, p.3) "the Bill will not be implemented until both the Section 75 and 76 Bills are passed and the entire Act is published in the Gazette. It is anticipated that the Section 75 bill will be passed by the NCOP by the end of 2005, and it is expected that the Section 76 Bill will take at least the whole of 2006 to be passed". The implication of this is that it is likely that the Bill will only be implemented in 2007 or later, after the regulations are drawn up.

2.4.2 Substantive Issues

According to Proudlock (2004, p.3), the original South African Law Reform Commission Draft Children's Bill was meant to reform children's legislation, especially the Child Care Act of 1983, through the use of a multi-layered approach to child protection. This "reform vision" consisted of "a three layered approach" entailing:

1. A range of primary preventative measures to promote the care of children in their own families and communities.
2. A range of early intervention mechanisms and services to offer support to children and families at risk.
3. A system to protect children who have been abused, neglected or exploited from further harm and provide for their healing to break the cycle of abuse.

Sloth-Nielsen (2003, p.1) contends that after 1994, in line with section 28 of the Constitution and the United Nations (UN) Convention on the Rights of the Child (which was ratified by South Africa in 1994) it became necessary to revise the laws that affected children specifically the Child Care Act. The 1983 Child Care Act was seen as "inadequate" and unconstitutional in that mechanisms were needed to protect children from abuse and neglect (discussed below).

There was also a need to focus on children's socio-economic conditions required to ensure the survival and development of children in line with the Constitution. The author argues that the original SALRC draft Children's Bill sought to bring the new legislation in line with constitutional obligations in a number of ways.

Firstly, there was a link between child protection and children's socio-economic rights informed by the situation on the ground – where children suffer deliberate neglect as a consequence of poverty.

Secondly, at the core of the Children's Bill a National Policy Framework was envisaged as the means to implement a comprehensive and co-ordinated policy. Such a national policy would serve to connect national, provincial and local government with non governmental organisations (NGOs) involved in government projects to protect children.

Thirdly, other key features included programmes for early childhood development as well as prevention and early intervention strategies. Vulnerable children were defined as "children in especially difficult circumstances" such as children affected by malnutrition and HIV/AIDS, children with disabilities, chronically ill children, child-headed households and children living and working on the streets including those subject to both exploitative labour practices and children involved in commercial sexual exploitation. The SALRC draft proposed that specific strategies be drawn up to assist these children as outlined in a national policy framework.

The SALRC draft endorsed a comprehensive approach to social security emphasising the need for children to have access to a variety of social grants as a means of realising their socio-economic rights.

Civil society organisations in the form of the Children's Bill Working Group¹ argued that the vital sections of the original SALRC draft Children's Bill (that were removed either by the Department of Social Development or Cabinet) rendered the Children's Bill incapable of achieving the vision discussed above. They argued that without a national policy framework, social programmes for children in especially difficult circumstances and the much needed social security provisions for children, the new Children's Act would not provide the multi-layered approach to child protection or progressively realise children's socio-economic rights in line with the Constitution and other international obligations to children.

On the other hand government argued that civil society should be more realistic in terms of what the Bill could achieve in light of the available resources. The Minister for Social Development Dr. Zola Skweyiya was quoted in the media as follows: "we intend to create a South Africa fit for our children. In doing so we must consider what is within our realistic capacity and capability as a government" (Wolmarans, Mail and Guardian, 13 July 2005). The Minister went on to argue that not only were there insufficient resources available to realise some of the original proposals put forth in the SALRC draft Bill, but that owing to the lack of capacity in government, any attempt on the part of the state to implement the suggested proposals would probably result in legal action against the government if they were unsuccessful, which would sap the existing limited resources.

¹ The Children's Bill Working Group was made up of: The Alliance for Children's Entitlement to Social Security (ACCESS); South African Society for the Protection of Child Abuse and Neglect (SASPCAN); Johannesburg Child Welfare Society; Pietermaritzburg Child Welfare Society; Childline SA; Children First ; Resources Aimed at the Prevention of Child Abuse and Neglect (RAPCAN); National Association of Child Care Workers (NACCW); Children's Institute at the University of Cape Town; The Network Against Child Labour (NACL); Lawyers for Human Rights (LHR); Children's Rights Project, Community Law Centre (CLC) at the University of the Western Cape; The South African Catholic Bishops Conference (SACBC), Parliamentary Office; Street Children – National Alliance for Street Children (NASC) and the Western Cape Street Children's Forum; Early Learning Resources Unit (ELRU); Disabled Children's Action Group (DICAG) and Disability Action Research Team (DART); Children's HIV/AIDS Network; National Council for Child and Family Welfare (NCCFW); South African Council of Churches (SACC); Molo Songolo; and Legal Experts.

2.5 THEORIES RELEVANT TO POLICY AND LEGISLATIVE REFORM

Cloete and Wissnik (2000, p. 26) claim that “theories of policy and policy-making” are aligned with “political paradigms (ideologies)”. According to the authors political philosophies, which influence “policy approaches” and “theories of public-policy making”, may involve a number of different approaches:

1. “A liberal laissez-faire (or classical) approach”: this approach argues that “the state should concern itself with the maintenance of law and order, the protection of society from attacks from outside, the protection of private property and the establishment of conditions conducive to the promotion of free enterprise, and should only interfere with the lives and activities of individuals on a limited basis.
2. “Socialism, especially the collectivistic approach”: contends that “the state has to control the economy, through economic institutions which function as government institutions and by abolishing capitalism.
3. “Welfare statism”: puts forward that “the promotion of the highest degree of material and spiritual public well-being is the task of the state, which has to provide opportunities for competition so that citizens can obtain the good things in life”.

Cloete and Wissnik (2000, p. 26) provide a summary of the different theories that can be used “to explain policy-making processes”:

- Classical theory (also known as institutional theory) emphasises that the different concerns and interests of government should be given preference. This area of focus encompasses the classical doctrine of the separation of powers as defined originally by Montesquieu (trias politica) and includes the legislative, executive and judicial functions.
- In liberal democratic theory, the political party assumes the position of primary force in policy-making. The argument is that as the party represents the individual voter, it is thus superior to interest groups.
- In elite theory usually small elite groups lead a large group of followers.
- Systems theory focuses on the contributions of interrelated forces to policy making.

The theory that is of most relevance to policy and legislative reform in South Africa after apartheid is what authors refer to as “participatory democracy” which is defined by Giddens (cited in Patel, 2005, p.106) as “a more direct form of decision-making involving those affected by decisions taken; it also includes direct consultation”. Patel (2005, p.106) argues that promoters of participatory democracy are “critical of liberal representative democracy” or liberal democratic theory discussed above because it is regarded as a “passive form of democracy” in which “elected representatives take decisions affecting the society”.

2.5.1 Social Justice and Advocacy Perspective

Jansson (1999, p.10) firmly situates the process of policy reform and advocating for social change within the realm of social work or social service provision because it seeks amongst other things to uphold principles central to the profession such as social justice. An important distinction is made between policy practice and policy advocacy:

“Policy practice is defined as efforts to change policies in legislative, agency, and community settings, whether by establishing new policies, improving existing ones, or defeating the policy initiatives of other people. By *policy advocacy* we mean policy practice that aims to help relatively powerless groups, such as women, children, poor people, *people of colour*², gay men and lesbians, and people with disabilities, improve their resources and opportunities. Thus, policy practice refers to efforts generally to change policies, and policy advocacy refers to efforts to help powerless groups improve their lot”.

The concept of social justice is key to elevating the work of policy reform from merely attempting to change policy to policy advocacy which actively seeks to promote and realise the rights of minority groups. Children are highlighted by Jansson (1999, p.35) as a particularly vulnerable group: “as a group, children experience high rates of poverty, abusive behaviour, the absence of quality child care, and poor educational services”.

Gathiram (2003, p. 42) further emphasises the link between social work and advocacy in what is referred to as a radical approach to social work which seeks to transform society by “transforming unequal power relations in society” emphasising the “need for social workers to become involved in issues that promote equity and social justice”.

² Amendment to original quote: “African Americans, Asian Americans, Latinos”

Noyoo (2000, p. 454) highlights the importance of the concept of social justice in line with the social development framework: “social development draws its essence from the three themes of social justice, namely fairness, empowerment and democratisation”. The author further contends that “through advocacy social workers could lobby on behalf of the poor and inarticulate”. Advocacy is a method which can be employed to “bring about positive change in the lives of the poor by influencing the formulation of more responsive social and economic policies”.

As discussed in chapter one this research favours an approach to social policy and legislative reform which is in line with the policy advocacy and social justice perspective.

2.5.2 Social development, participation and welfare pluralism

The theory of Social Development with its' emphasis on social and economic integration as well as participation and partnership between various groups in the development process provides the most relevant theoretical framework for a study of this nature. As previously described, social development theory directed the development of welfare policy in South Africa after liberation and the end of Apartheid. Social development theory with reference to policy making can be contrasted to the classical theories relevant to policy reform listed above in that neither social nor economic policy development in isolation is seen as bringing about the necessary change or development. Rather, in welfare policy as directed by social development theory, both are seen as equally important so changes need to be made to both the economic policies and social policies. The participation of the people in policy development (those directly affected by social and economic policy often represented by policy advocates) is also seen as important as contrasted to the dominant role given to the state in determining policy as put forward in more classical theory. Finally, welfare pluralism promotes the involvement of different role players including government, civil society and business in the implementation of welfare policy through a process of open dialogue and partnerships as opposed to either the state or public dictating policy, although government is responsible for taking the principal role. In line with the social development framework and the developmental approach to social welfare favoured in this research, policy making processes must be highly participatory and endeavour to meet the needs of all citizens.

As this study focuses on the participation of civil society organisations in the development of legislation and policy in post apartheid South Africa, it is pertinent to elaborate on some of the key features of developmental social welfare and the broader theory of social development in more detail in terms of the key concepts.

Patel (2005, p.119) associates five key concepts to South Africa's Developmental Social Welfare Model. For the purpose of this study only four of the five central themes will be elaborated on namely:

1. A rights based approach.
2. The link between social and economic development.
3. Democracy and participation.
4. Social development partnerships.

Rights based approach

The United Nations Children's Fund (1999, p.1) sees human rights as providing "the foundation for sustainable human development". The importance of a rights based approach to development and welfare is that the focus is on vulnerable groups or populations at risk which includes amongst others children. As Patel (2005, p.157) points out "whilst the needs and rights of all people in society are of concern to developmental welfare, its focus is on those who are most disadvantaged".

Lombard (1996, p.169) also emphasises the notion of social development focusing on vulnerable groups or target groups. "The target groups for social development include all South Africans, including communities, families, groups and individuals. History has, however shown that social development should be especially targeted at those living in poverty, those who are vulnerable and those who have special needs. Categorised more specifically, target groups include:

- The most disadvantaged sectors of the population.
- Children in pre-school; who come from disadvantaged families; who need out-of-home care; those with disabilities and chronic diseases who suffer abuse/neglect; who are on the street; those affected by substance abuse; and those who are nutritionally vulnerable.
- Youth
- Women
- The disabled
- The elderly
- Families (especially the poor)

- Those without support systems (refugees)
- The homeless / destitute
- People living in underserved areas
- Africans
- Those living in rural areas
- Those living in informal settlements and on farms.

Social Development – the link between social and economic development

Lombard (1996) describes the connection between social and economic development and ties it to a comprehensive notion of development as defined by the Draft White Paper for Social Development. According to the author “social welfare services” or “programmes” constitute one of a number of ways to realise “social development” through for example access to rights and services such as health, nutrition, education, housing, employment, recreation, rural and urban development and land reform.

“The Draft White Paper states that social and economic development are two interdependent and mutually reinforcing processes. Equitable social development is the foundation for economic prosperity, and economic growth is necessary for social development. The most distinctive feature of social development is “its attempt to harmonise social policies with measures designed to promote economic development” Shifting these approaches towards a developmental perspective for social welfare implies a re-orientation to social development. The social development approach transcends the residualist-institutionalist debate by linking social welfare directly to economic development policies and programmes” (p. 165).

The link between social and economic development is an important one because the original SALRC draft of the Children’s Bill was intended to channel more resources into social welfare spending through the social security provisions. Extending the grants was seen as a vital element to realising children’s socio-economic rights in light of the poverty and high unemployment rate in South Africa where many are not only unemployed but chronically unemployable due to a lack of access to education and skills development. A social security safety net was seen as essential to a developmental rights based approach to welfare.

Civil society advocates are critical of the South African government's neo liberal macro-economic policy which maintains that economic growth is sufficient to ensure development and where improvements in the economy result in increased profit and wealth which will automatically trickle down and benefit the poor. As seen here and in other parts of the capitalist world the poor are not guaranteed a share in the wealth leading to an increase in the gap between the rich and the poor. Such an approach does not sufficiently acknowledge the inequality that is present in a country such as South Africa and downplays the responsibility of the state to ensure that the necessary development takes place resulting in a more passive role for the government. According to South Africa's developmental approach to social welfare as espoused in the 1997 White Paper for Social Welfare the state must take the lead role in development.

Contrary to this view the South African government would argue that they are addressing the needs of the poor and realising their rights progressively, within their available resources, as evidenced by what is considered to be very high social spending in terms of education and social assistance especially grants and public works programmes. Yet despite these efforts poverty remains a major challenge for South Africa, especially efforts to address children's poverty. According to Jacobs (2005, p.10) the current macro-economic policy for Growth, Employment and Redistribution (GEAR) "has given greater prominence to strategies towards long-term economic growth, with much less attention to the immediate challenges of addressing the dire situation of children, especially those living in poverty". Poverty in South Africa can be addressed more effectively and with immediate effect if the government were to invest more money in comprehensive social security by way of an extended Child Support Grant to 18 and a Basic Income Grant for all poor people. More resources could be made available by government by prioritising the needs of the poor, especially children, in the national budget.

Participation

In a democratic system certain structures exist to ensure that people have a say in what kind of development takes place. The nature and importance of participation is elaborated on by a number of authors. For Reuben (2002) the participation of non governmental organisations or civil society in public policy debate is a means of ensuring that policies are targeted and responsive to meeting the needs of people especially the poor.

The notion of participation to ensure that development is targeted at the poor is echoed by the International Labour Organisation's definition of participation. However the concept is taken a step further in that participation is also viewed as a means of involving and empowering previously disadvantaged groups to become actively involved in the development and implementation of policy to provide better access to resources and opportunities for the poor (Lund, 1998). De Villiers (2001) also contends that the idea of public participation in legislative and policy-making activities is to provide poor people with the chance to make their voices heard about what they need. The author asserts that "not only must citizens be given the opportunity to speak on issues that affect them; there is also an onus on the legislatures and the executive to take their view seriously" (2001, p.15). In the South African context people have the right to participate in policy and law reform according to the Constitution and in line with the "participative policy-making" practices of a democracy (Cloete and Wissnik 2000, p. 27). Patel (2005) also makes the important link between participation and democracy where participation in social and economic development by those that are affected is seen as central to South Africa's developmental approach of to social welfare.

The social development perspective discussed above, views participation as an essential element of the new developmental approach to social welfare. This includes participation in policy making and advocacy for appropriate social policy development and implementation especially from minority groups such as the poor, children, women, the disabled and people of colour.

Partnerships between Government, Civil Society and Business

In terms of a developmental approach, government, civil society and business all have a role to play in development. To clarify, society can be seen as made up of different spheres namely: government, civil society and business. Government refers to the public sector, business is regarded as the private sector and civil society is seen as made up of non-governmental organisations, not for profit organisations, community based organisations and faith based organisations. A distinction is made between public, private and civil activities. Although the spheres operate independently of each other there is an interaction between the different spheres and government policy has an impact on members of civil society and business who are expected to operate within the parameters of the laws of that society.

Gouws and Hassim cited in Watson and Rhoda (2002, p. 30) define civil society as “an intermediate associational realm between the state and family populated by organisations which are separate from the state, enjoy autonomy in relation to the state and are formed voluntarily by members of society to protect or extend their interest or values”.

Lombard (1996, p. 170) elaborates on the concept of partnership and situates it within the context of social development. “The Draft White Paper is very clear about the fact that the government cannot take sole responsibility for redressing past imbalance and meeting basic physical, economic and psycho-social needs. Collective responsibility and the co-operation of civil society will be promoted. Partnerships between Government (within welfare departments and in collaboration with other government departments), the community and organisations in civil society and in the private sector who are involved in the delivery of social services, should be promoted and strengthened”.

Patel (2005) further explains the concepts of social development partnerships and welfare pluralism. In terms of the national social welfare policy government is seen as having the leading part to play in social development and welfare pluralism is foreseen. The author defines welfare pluralism as “the way in which social welfare provision is structured, organised and delivered” this includes the part played by the four different groups in delivering services. The four groups or “sectors” are identified as “government, voluntary (NGOs) informal (support by family and social networks) and commercial sectors” (2005, p. 107). The author contends that the process of addressing people’s basic needs is a countrywide joint duty to be shared amongst the various roleplayers including the public sector, civil society and business through their corporate social responsibility programmes as well as the affected individuals themselves. The policy also dictates that where people can afford private psycho-social support services they should pay for them.

It is clear from the discussion above that the social development paradigm emphasises a rights based approach for previously disenfranchised groups, highlights the importance of their participation, and tasks various groups working in partnership to meet their needs. As such, children are identified as a specific category or population at risk to be targeted. A social development perspective was selected as it was the most relevant and could be directly applied to children’s issues and an investigation of the process of civil society organisations in the development of the Children’s Bill. What follows is an application of the social development model to children.

The rights based approach: children's rights

Applying a rights based approach to social welfare means that there is a specific focus on meeting the needs of the most vulnerable groups in society such as children. According to Patel (2005, p. 102) “the rights of children are established in Section 28 of the Constitution and are in line with the United Nations Convention on the Rights of the Child adopted in 1989. The Constitution provides special safeguards for children in view of their vulnerability and due to particular social conditions that may not be in the best interests of the child – such as situations of armed conflict, exploitation, hunger and disability”. This was of particular relevance for children who were the focus of this research and are considered to be a particularly vulnerable group. Civil society advocates participated in the development of the Children's Bill from a child rights perspective. This means that civil society organisations wanted the Children's Bill to provide children with a minimum standard of living and equal access to services and benefits by realising their socio-economic rights. This includes the right to social security, education, nutrition and health care amongst other things in line with our Constitutional obligations towards children.

Participation of children, children's care-givers and child right's organisations

The fact that the rights of citizens have been entrenched in Universal, regional and national laws allows for broader scope for the involvement and participation of vulnerable groups such as women and children. The United Nations Children's Fund (1999, p.4) reiterates the importance of participation: “rights cannot be realised if needs are not met, but simply meeting needs is not enough. Children and women are subjects of rights. In other words they have rights and are not objects of charity. This change in attitude initiates a process whereby children, within the context of their evolving capacities, participate in the process and decisions that concern them and affect their lives”. The concept of participation was essential to this study which looked specifically at the participation of civil society organisations in the development of the Children's Bill. Civil society organisations from the children's sector participated in the law reform process as representatives of the interests of children and their care-givers to ensure policy and law that could affect the necessary changes to bring about improvements for children and realise their rights. Many of the civil society organisations worked directly with children and their care-givers and their involvement in the Children's Bill process was informed by direct consultation with poor children, their communities and caregivers.

Welfare Pluralism or partnerships to meet the needs of children

Welfare pluralism means that various sectors in society including civil society and business, should partner with government to ensure that the necessary level of social development occurs to improve the lives of the poor and the most vulnerable in society. Civil society organisations including NGOs and CBOs, have long played a role in the delivery of services to children. In fact, in many provinces children younger than 12 are provided with the necessary social services by non state child welfare agencies with statutory powers receiving state funds and subsidies. More recently business, through its corporate social investment (CSI) programmes has also contributed to the welfare of children. However, there are concerns around the decreasing state subsidies and funding to civil society organisations that undertake to provide welfare services to children and the impact of CSI programmes. It is important to re-iterate that the state should take the lead in social development. As Patel (2005, p. 109) points out: “the state has a primary responsibility for meeting needs and voluntary sector partnerships should not lead to the abrogation of state responsibility for meeting human needs”. The development of policy and programmes to assist children is an important forum to bring together the different role players. The state or government departments and Parliament are responsible for developing policy / laws that affect people but, civil society and business must be consulted and have a say in terms of the content of those laws. The advocacy role of civil society is of utmost importance in ensuring that the rights and needs of all citizens are met, especially the most disadvantaged groups such as poor people and children. In this case, civil society played a key role by participating in the development of the Children’s Bill in order to advocate for the rights of children to ensure that their needs are met.

2.6 CONCEPTUAL FRAMEWORK

The conceptual framework that informed this study is based on a synthesis of the key ideas extracted from the theories discussed above namely: Jansson's policy practice framework; the advocacy and social justice perspective; and the social development paradigm.

The policy practice framework developed by Jansson (1999) was relevant in terms of understanding the various phases and activities associated with the policy / law reform process. Jansson's phases of the process and activities that policy advocates engage in were used as a base to compare with the phases of the Children's Bill process and the activities engaged in by the civil society organisations from the children's sector who participated in this study.

The advocacy and social justice perspective with its emphasis on the redistribution of resources to previously disadvantaged groups to address inequality and advocate for the rights of minority groups was relevant to this study. The investigation of the participation of civil society organisations in the development of the Children's Bill was informed by the perspective that CSOs became involved in or participated in the law reform process in order to advocate for the rights of all children and to ensure that poor children, receive adequate and equal access to resources to meet their basic needs.

The social development paradigm was applied to children which emphasises the importance of developing children's legislation from a rights based perspective, the participation of those affected namely children, their caregivers and civil society organisations including NGOs, CBOs and FBOs who represent the rights and interests of children, and the involvement of different roleplayers working in partnership to address the needs of children.

2.7 CONCLUSION

This chapter sought to provide a theoretical basis for the study and to contextualise the study through a discussion of the relevant literature. This followed on from the overview of the transition of welfare policy from a social treatment to a developmental model of welfare service delivery described in chapter one. An overview of children's rights in the South African context and the legislative reform process (from pre to post apartheid) was provided with special reference to welfare policy reforms. The Children's Bill process to date and substantive issues relating to the development of the Bill were discussed. Various theories relating to policy and legislative reform were considered and the theories of participatory democracy, social development, welfare pluralism and participation were put forward as the theories most relevant to the reform of welfare legislation in South Africa. The conceptual framework for the study was discussed in detail, which was based on a synthesis of the most relevant theories including the legislative practice framework, a social justice and advocacy perspective and the social development paradigm as it applied to children and the Children's Bill process.



CHAPTER THREE

RESEARCH METHODOLOGY

3.1 INTRODUCTION

An overview of the research methodology was provided in chapter one. The purpose of this chapter will be to focus in more depth on the research design, sampling method, data collection and data analysis methods that were employed for the purpose of this study.

The overall aim of the research was to document and analyse civil society participation in the development of the Children's Bill. Concepts such as participation and advocacy were viewed from the perspective of civil society advocates. The objectives of the research were to document the nature and form of the process of participation, evaluate the process and compile recommendations for future processes of participation, in law reform. In order to illicit how the participants experienced the process they were asked to provide personal accounts and descriptions of how they were involved in the Children's Bill process. Since the subject matter of the study focused on the views and perspectives of civil society advocates regarding the process of participation a qualitative approach was selected. The study was approached from an interpretivist perspective using the case study method. The sample was purposively chosen and the data was gathered by means of interviews and analysed manually. The research method employed can be summarised as follows:

1. An appropriate data collection instrument (interview guide) was designed in line with the aims and objectives and informed by the literature review and conceptual framework outlined in chapter two;
2. Data was generated based on the interviews;
3. Data was analysed guided again by the aims and objectives and informed by literature.

3.2 QUALITATIVE RESEARCH

3.2.1 Qualitative Design

The main focus of this research involved documenting and developing a better understanding of the process of participation from the perspective of the civil society advocates. A qualitative method was selected from the onset over a quantitative method because of the qualitative focus on understanding the phenomena as opposed to measuring it like in the quantitative method. Fouche and Delport (2002) explain the difference between the two approaches. Qualitative research is more interested in “understanding rather than explanation; naturalistic observation rather than controlled measurement; and the subjective exploration of reality from the perspective of an insider as opposed to the outsider perspective that is predominant in the quantitative paradigm” (p. 79). On the other hand, quantitative research can be seen as focused on applying a scientific method to studying the social world in the same way as the natural world: “its’ main aims are to measure the social world objectively, to test hypothesis and to predict and control human behaviour”. It is a research method that involves numbers and statistical analysis to prove or disprove hypothesis. Various other authors elaborate on the central features of the qualitative method which include: an emphasis on gaining a deeper understanding especially of new phenomenon, using flexible methods and the personal accounts of those involved (Rubin and Babbie 2001, Henning 2004).

The research methodology employed was grounded in interpretivism in that it sought to understand how the participants experienced the process of participation, in law reform, what they understood by the concept of participation and whether there was a common or shared meaning of the concept and if those shared meanings, experiences and understanding of the process of participation were something which developed within the context of the development of the Children’s Bill. The data was analysed with the view to explaining and interpreting the process of participation from the perspective of the civil society organisations who were involved in the Children’s Bill (Mason, 2002).

The distinguishing features of qualitative research and interpretivism can be seen in this research as it made use of flexible methods to create data and information gathered was based on participant’s personal accounts of their involvement in the Children’s Bill process.

3.2.2 Case study method

As the research involved a study of the process of participation of civil society organisations in a specific case of social policy development, namely the Children's Bill, it is regarded as a case study.

Creswell (in Leedy, 1997, p. 157) describes a case study as a type of method within the qualitative approach that explores a single entity or phenomenon (the case) bounded by time and activity which may be a programme, event, process, institution, or social group. For Uys and Puttergill (2003, p. 108) the "case" will be "the unit from which information is acquired". This research sought to document the development of the Children's Bill as a case study of civil society participation in law reform. Yin (2003, p. xi) proposes that the case study method is useful for conducting research into "public policy, business and public administration".

3.4 SAMPLING

For the purpose of this study participants were purposively selected based on their involvement in the Children's Bill Working Group. As it was not possible for the researcher to interview all the various organisations that made up the Children's Bill Working Group, 10 individuals representing various organisations or issues were purposively selected. The sample was representative as it represented 10 out of the 21 organisations from the Children's Bill Working Group listed in Annexure 4. The sample was chosen from the Children's Bill Working Group because it was a population that the researcher had existing knowledge of and participants had proven expertise and experience in the focus of the study which is law reform as well as extensive knowledge concerning children's issues. Uys and Puttergill (2003, p. 113) define purposive sampling as a sample which is "selected on the grounds of the existing knowledge of the population".

The researcher was a member of the Children's Bill Working group and the sample was selected based on prior knowledge of the population group and in line with the purpose of the study.

The Children's Bill Working Group was established at a workshop in March 2003 involving stakeholders from key national children's sector organisations.

The working group was established to co-ordinate and direct civil society's response to the Children's Bill. In line with the aim of the research, which is to document and analyse civil society participation in the development of the Children's Bill with the view to developing practice guidelines for effective participation in legislative reform, it became a pre-requisite to interview representatives that had been involved in the process to date. Therefore the Children's Bill Working group presented the researcher with a ready pool of informants into the process as it was formed as a representative or umbrella body championing the input and concerns of civil society organisations in the Children's Bill. Initially, the original Children's Bill Working group set up in January 2003 included a range of representatives from civil society such as faith based groups, human rights groups, community based groups and academic institutions. The membership of the Children's Bill Working Group increased in July 2003 and February 2004 as a result of representatives from key sectors such as Disability and HIV/AIDS being co-opted to join the group.

3.4.1 Sampling Criteria

The researcher used certain criteria for the selection of the 10 participants purposively selected from the Children's Bill working group namely:

1. Respondents had to have prior knowledge of the process.
2. Respondents had to be actively involved in the process.
3. Respondents had to represent a range of sectoral interests.

All the participants selected were involved with the Children's Bill Working Group. Four of the participants were selected because they constituted the secretariat of the Children's Bill Working Group. This meant that they all had extensive experience with co-ordinating the inputs of civil society organisations through the Children's Bill Working Group and feeding into the broader Children's Bill process. Two participants were targeted because they sat on the Law Reform Committee and had particular insights into the process. The other interviewees were selected to provide a mix of the Children's Bill Working Group members who represented a particular sector or issue. For example, the Alliance for Children's Entitlement to Social Security (which is a broad based children's sector alliance of over 1000 members) had a specific interest in Social Security. Child Welfare SA represented a lot of other organisations across the country concerned about child protection and child welfare issues, in this case child welfare societies.

Lawyers for Human Rights who were part of a broader umbrella body called the Unaccompanied Minors Network represented a specific issue of concern, namely foreign children. The Community Law Centre at the University of the Western Cape was concerned with the issue of corporal punishment and children's courts. DICAG focussed on the issue of children with Disabilities.

3.5 DATA COLLECTION METHOD

Data collection methods included interviews with 10 key participants in the process including the pilot. Information for this proposed project was collected by means of semi-structured one-to-one interviews. This method was employed in order "to gain a detailed picture of a participant's beliefs about, or perceptions or accounts of, a particular topic" (Greef, 2002, p. 302). Greef further contends that this type of approach can be used for "understanding complex issues or process". It is particularly relevant in this case where the research was attempting to understand the process of participation. The respondents were interviewed according to an 'interview schedule' or set of open-ended questions prepared beforehand to facilitate the interview (Greef, 2002, p. 302). As a supplementary source of information and as a means to verify what the civil society participants' experience of the Children's Bill process was, the researcher sent a similar set of open-ended questions via e-mail to all the members of the Portfolio Committee on Social Development. The researcher employed 3 different methods to collect data namely:

1. Six one to one interviews were conducted in person.
2. Four one to one interviews were conducted telephonically.
3. Open ended questions (see Annexure 2) were e-mailed to all members of the Portfolio Committee to gain supplementary data. Two responses were received.

3.5.1 The research interview

A semi-structured interview was selected for the purpose of this research in order to allow participants to talk freely about their experience of the law reform process in relation to the Children's Bill and to determine their specific views on the process of participation in line with the aims and objectives of the study.

As Poggenpoel (2003, p. 143) describes it, the "research interview" is "a conversation between the researcher and a participant or participants with the specific objective of gathering information about a topic that is being researched".

The way in which the problem is formulated determines the objectives of the research hence “the research aims provide the starting point for the question or questions that the interviewer will ask in the interview” (Poggenpoel, 2003, p. 143).

In this study, the researcher formulated the interview guide or schedule according to the aim and objectives of the study as follows:

Types of questions	Objectives
1. Personal accounts of experience of process i.e. personal details of individuals interviewed, understanding of concepts, level of involvement.	To document nature of process.
2. Critical questions.	Evaluation of process.
3. Lessons learned.	Derive recommendations.

The interviews were semi-structured in the sense that the researcher was guided by the interview schedule (made up of open-ended questions) but not limited to it. In line with the interpretivist approach guiding the research, where the researcher had difficulties in determining or understanding the meanings that the participants associated with the process, further questions were asked or prompts were given. For example, the researcher would ask the participants to elaborate on the response to a question or to clarify their response if the information was not clear. Rousow (2003, p. 148) describes the semi-structured interview as asking open ended questions and following up “on the clues about a specific topic that the participant provides”.

3.5.2 The research schedule

The information gathered in the Literature Review (documented in chapter two) helped the researcher to formulate the guidelines for the interviews and develop a research tool by way of an interview schedule (see Annexure 1 for the interview schedule).

As guided by the literature, participants were asked a number of questions that were grouped into sub-headings. This included the general details of the participants; questions about participation and the phases of the process they were involved in. A number of evaluative questions were also asked concerning the law reform process; the Children’s Bill process as undertaken by the state and questions concerning the value of civil society participation.

Participants were also asked to describe their experience of the process i.e. the lessons learned and recommendations to government to improve the law reform system and to civil society organisations interested in becoming involved in the process of law reform. The same questions were asked of all the respondents in order to provide uniformity and standardisation. The questions asked were open ended in order to give the participants the opportunity to describe their experiences and determine their opinions.

3.5.3 Pilot Study

Once the data collection instrument (the interview schedule) was developed it was tested to determine whether it was appropriate and yielded the information required for the study. The interview schedule was tested on one of the interviewees who was purposively selected from the Children's Bill Working Group. Based on the pilot interview two further questions were added concerning the Children's Bill Working Group. The interview schedule was modified before the rest of the interviews were conducted.

3.5.4 Data Recording

All the interviews were recorded on a voice activated recording system with the permission of the participants and transcribed by the researcher word for word. Data from the interviews was refined (removal of unnecessary data such as um and ahhs) and compiled into a Word document to preserve what was said.

3.5.5 Interview process undertaken and problems experienced

The researcher tried to conduct as many of the interviews as possible in person. Unfortunately due to the distances this was not always possible. In total 6 interviews were conducted in person (one in Johannesburg, 5 in Cape Town) and four were conducted telephonically (two from Johannesburg and 2 from Durban).

3.5.6 Limitations

The telephonic interviews did not yield as much information as the one to one interviews conducted in person because the researcher was not able to observe non verbal communication or maintain eye contact to determine where further questions or prompts were necessary.

The researcher had to rely on the tone of voice of the participants during the telephone interviews to gauge if further questions or prompts were necessary. The supplementary input on the part of the Portfolio Committee Members was received via e-mail, due to the time constraints placed on Parliamentarians and their unavailability to be interviewed in person. This was a limitation in terms of the depth of the information to be retrieved, although the purpose of questioning the Portfolio Committee Members was only to supplement and verify the primary data gained from the interviews. One of the interviews conducted telephonically was supposed to be recorded by Telkom in Windows Media Player. Due to an error on their part all the vital information gathered in the interview with a representative from the Disability Sector was lost. This presented the researcher with a problem. The researcher was faced with two options: to either try to piece the interview together from memory or interview someone else. Out of concern for how a recollected interview may affect the accuracy of the information the researcher chose instead to interview another representative of the Disability sector.

3.6 DATA ANALYSIS

According De Vos (2002, p. 339) data analysis is the “process of bringing order, structure and meaning to the mass of collected data”. The type of method that was used to analyse the data collected was interpretational in that the data was probed for “constructs, themes, and patterns that can be used to describe and explain the phenomenon studied” (Leedy, 1997, p. 158). The bulk of the data was analysed manually as discussed below although a leading computer software package QSR N6 was used to assist with categorising the data. Once themes were established the researcher ran them through the QSR N6 programme to ascertain whether or not all the relevant information and ideas under a certain topic had been captured.

The process the researcher undertook used some of Tesch’s eight steps in Creswell (1994, p. 155) as a guide to the data analysis. Firstly, the researcher undertook a thorough reading of the transcribed interviews with each of the 10 participants and documented key words and ideas. This was in accordance with Tesch’s first step to data analysis which is to “get a sense of the whole” by reading all the transcriptions closely and writing down ideas in the margins as they emerge. Secondly, the researcher grouped the information in a similar way to Tesch’s suggested 5th step of data analysis which involves finding “the most descriptive wording for your topics and turn them into categories”. Categories were then reduced by “grouping topics that relate to each other”.

In this case the categories were largely pre-determined by the interview schedule which had identified headings and sub headings (groups of questions) in line with the aim and objectives of the study to assist with the analysis, illustrated below. All the information relating to a specific category (group of questions asked of the participant under each sub-heading) was grouped together by means of cutting and pasting the information into a new word document and printed out:

1. The nature and form of the process of civil society participation in the development of the Children's Bill:
 - general - questions concerning the participants' personal details and level of experience;
 - participation - questions around participants' understanding of the concept of participation; the stages of their involvement and activities undertaken;
 - Children's Bill Working Group - experience and involvement in the working group.

2. Evaluation and critical appraisal of the process:
 - Evaluative questions concerning the Children's Bill Working Group representivity;
 - Evaluation - of the state process and the value of the civil society participation; lessons learned – what would participants have done the same or differently.

3. Recommendations / Guidelines:
 - For changes to the current policy reform process;
 - Advice for civil society organisations wanting to participate in law reform.

Then the researcher applied Tesch's 7th step which is to "assemble the data material belonging to each category in one place and perform a preliminary analysis". The data in each category was manually colour coded and then refined and analysed for patterns i.e. ideas held by more than one of the participants or interesting comments which emerged. In a parallel process to the manual data analysis, the researcher used QSR N6 which is a recent form of software used for qualitative data analysis. The programme was used to assist with the categorising of information and to ensure that the researcher did not leave out crucial information in the manual analysis process.

Key words relating to the sub-categories were entered into the “text search” tool, which enabled the researcher to locate all the texts related to that key word.

As Creswell (1998, p. 156) noted, computer programmes can assist in the analysis process, but they can by no means replace the necessary and thorough study of the data by the qualitative researcher, so they should be viewed as “an adjunctive procedure in the analysis process”.

Ideas were noted in the margins of the printed text. After a third reading of the data, the researcher wrote down these views and ideas. Similar and repeated views and ideas were linked together, thereby refining and reducing the data again. The findings are discussed in chapter four. The findings were then subjected to existing literature. In other words, literature was used to support or contrast the findings identified. The literature control forms part of the presentation of the findings and themes as documented in chapter four. Finally, conclusions and recommendations were formulated based on the themes and sub-themes, these are discussed in chapter 5.

3.6.1 Validity and reliability

Validity refers to the process of a researcher developing measuring instruments which will indicate whether the research undertook and achieved what it set out to do and reliability refers to the process of the researcher substantiating how reliable research methods were followed to produce the findings or results.

De Vos (2002, p. 324) stresses the need to validate data collected in terms of comparing it to other documents: “it is of cardinal importance that the researcher evaluates the authenticity, or validity and reliability of the document”. The author suggests various ways of doing this, including to “compare the relevant document with other written documents or data collected in other ways”.

According to Creswell (1994, p. 158-159) questions of validity and reliability in qualitative research involve a process of “establishing quality criteria such as trustworthiness and authenticity”.

The author differentiates between “internal validity” and “external validity”. One of the ways of creating “internal validity” involves finding “convergence among sources of information”. This study attempted to achieve this by interviewing two different groups of participants in the Children’s Bill namely representatives from civil society organisations and members of the Portfolio Committee on Social Development, responsible for engaging with the public on the Children’s Bill.

Mouton (1996, p. 156) also refers to a similar concept namely “triangulation” which is essentially a process of “multiple sources of data collection”.

A questionnaire was sent to 10 members of the Portfolio Committee on Social Development that deliberated on the Children’s Bill but only two responses were received. These were used to verify the input of the civil society participants. The findings of the research are also verified by literature in chapter four, which contributes to the validity and reliability of the study by supporting or refuting the findings or establishing the findings as new information not found in literature.

3.7 CONCLUSION

This chapter provided a detailed account of how the research was undertaken. In summary, this study began with the researcher’s interest in the Children’s Bill process and the value of civil society participation in law reform. This interest was refined into a research question or focus for study, namely the process of civil society participation in the development of the Children’s Bill. The most appropriate design in the form of a qualitative method was selected and investigated and a research plan was developed. This was followed by a literature review, which in turn informed the development of an interview schedule. Participants were identified and interviews were conducted. Information gathered in the interviews was transcribed and analysed in order to generate the findings and a literature control was undertaken to verify the results. Guidelines, recommendations and conclusions were drawn up based on the findings and information derived from literature.

CHAPTER FOUR

FINDINGS OF THE STUDY

4.1. INTRODUCTION

The research method including the data analysis procedure that was employed was fully discussed in the previous chapter. This chapter serves to report on the findings of the study. The findings will be structured into four main headings namely: the process of participation; the nature and form of participation; critical appraisal and lessons learned. The framework for the presentation of the findings was informed by the objectives of the study. This chapter will not only report on the findings but where possible will validate the findings with reference to literature and previous research, thereby incorporating the literature control.

4.2 PROCESS OF CIVIL SOCIETY PARTICIPATION IN THE DEVELOPMENT OF THE CHILDREN'S BILL.

Profile of Civil Society Organisations

Selected participants were representatives from civil society organisations active in the development of the Children's Bill. A list of the organisations represented can be found in Annexure 3. The following was established from the background details which covered personal information, the level of experience and qualifications of participants and information on the organisation.

Most of the participants (80%) had been involved in different law reform processes, only 20% had not had experience in law reform prior to their involvement in the Children's Bill. Other policies and law reform processes that participants had participated in included: the Criminal Justice Bill; Sexual Offences Bill; Termination of Pregnancy Bill; Domestic Violence Act; Fire-arms Control Act; Immigration Bill and Act; Extension of Security of Tenure Act; Land Restitution Act; Social Assistance Bill; Health Bill and Child Justice Bill.

A variety of children's rights organisations were represented. Half were provincially based and the other half were national organisations. Participants all held fairly senior positions within these organisations. Nearly all of the participants possessed formal qualifications to tertiary level including two doctorates. One participant was in the process of completing a tertiary qualification. Participants also had a large amount of experience in the children's sector.

One participant had been working in the children's sector for 33 years and another for 22 years. The remaining eight participants had been working in the field for between two to eight years.

The make up of civil society as represented by the sample of participants indicate a high level of experience, skills and expertise on the part of civil society which would potentially add value to the law reform process. One of the Parliamentarians, when asked if the input from Civil Society had influenced the decisions taken, responded:

"Yes they did. I for one place great value on what civil society says, particularly when they have all the expertise and experience in the field of children's rights".

Organisations also represented much broader networks and represented diverse groups or sectors as illustrated in Text Box 4.1.

Text Box 4.1: Sectoral Interests of Organisations Represented

The Alliance for Children's Entitlement to Social Security (ACCESS) is an umbrella body dealing with a range of children's issues but most importantly children's socio-economic rights especially the right to social security. The South African Society for the Protection of Child Abuse and Neglect (SASPCAN), Resources Aimed at the Prevention of Child Abuse and Neglect (RAPCAN), Child Welfare SA and Childline represented child protection issues, including protection from child abuse and neglect and the promotion of children's well being and welfare. Disabled Children's Action Group (DICAG) represented the interests of children with disabilities. The legal institutions or organisations such as Lawyers for Human Rights (LHR) and academic institutions such as the Children's Institute at the University of Cape Town and the Children's Rights Project at the Community Law Centre (CLC) at the University of the Western Cape (UWC) as well as the UWC Law Faculty represented the full range of children's socio-economic rights in the law and were well versed in legal issues pertaining to children. LHR represented the issue of the rights of foreign children. The Children's Rights Project at CLC represented issues concerning the Courts and Corporal Punishment shared with RAPCAN.

Hollands (1998: 184) provides a useful definition of civil society which highlights its sectoral or issue based nature: “civil society will be regarded as those forms of society which constitute themselves between the private sphere (family, clan, individual) and the state in order to represent special interests or opinions which are served inadequately or not at all by the public sphere (political parties and parliamentarians)”.

The profile of civil society organisations in this study as indicated by text box 4.1 was in line with Holland’s definition of what constitutes civil society because it clearly showed that a wide range of interests and sectors were represented. The value of broad based sectoral representation is that it could ensure that a wide range of issues relevant to the lives of children would be adequately addressed by the legislation, making sure “special interests” were not sidelined. The process also benefited from the specialised and expert knowledge of the sectoral representatives.

The participants’ understanding of the concept of participation

Participants had varying notions of the concept of participation. The majority (70%) viewed participation as positive. The following benefits of participation were emphasised by the respondents: 10% saw the process of participation as valuable in terms of allowing them to exercise the mandate given to them by their organisations in the sense that they represented particular interest groups and were expected to advance or advocate for those interests. This was in line with a fairly widely accepted notion of the value of participation in terms of carrying out democratic practices as outlined by the Constitution. Civil society organisations receive mandates from their members and communities to ensure public involvement in law making (Hollands 1998; Watson and Rhoda, 2002,). A further 30% of the participants felt that participation was about drawing on the local experience of those affected by the issue, to ensure that policies are effective and respond to their needs. The importance of the participation of the public as a means of ensuring appropriate and targeted policy was echoed by various authors (Lund, 1998; De Villiers, 2001; Murray and Nijzink, 2002) and is illustrated by the following response from the disability sector representative:

“The concept of participation we learnt from the Disabled Children’s Action Group that as the parents of disabled children we need to participate in the development of policy, to ensure that policies do cover the needs and issues of children with disabilities and it has been part of our advocacy work”.

More than one participant (20%) understood participation as giving people a voice especially disadvantaged groups and at the same time having legislators listen to their views. De Villiers (2001, p. 32) also talks about the issue of participation in terms providing a voice to the voiceless. As one participant noted:

“I think there are two levels, one is participation in the sense of calling on the public to make their voices heard. I think the second part of it is actually where the people are being listened to and heard”.

One of the participants (10%) viewed partnerships as central to their understanding of participation whereby civil society influences the law making process by feeding information to the government and sharing expertise and visa versa. In literature shared responsibility is one of the key elements of public participation where government and civil society “share the burdens and benefits of development” (De Villiers, 2001, p. 32). Partnerships is also one of the central features of developmental social welfare and the theory of social development which form part of the conceptual framework for this study which was discussed in chapter two.

Some of the key informants of the study (30%) expressed problems with the conceptualisation of participation. One participant spoke of the constitutional and legal obligations for participation by the people, but felt that the actual process of public participation was hindered because parliamentarians did not view civil society organisations as part of the people. Another participant agreed with the importance of involving civil society in policy reform but raised concerns about educating people about the potential and risks of changing policies which may also have major budget implications. This finding speaks to the need for civil society to have a clear understanding of law reform processes and to have realistic expectations. In essence participation in a law reform process does not guarantee that the policy will be amended in favour of civil society demands. One informant felt that civil society and government conceptions of what constitutes participation are totally different. The participant was of the opinion that currently the process of participation dictated by government is highly problematic because civil society is consulted only to “rubber stamp” certain changes, whilst the valuable recommendations put forward by civil society are ignored and not integrated into policy and legislation. According to this view the power of civil society to effect real change at a policy or legislation level through their participation is limited.

As the participants understanding of participation was based on their experience of the policy/law reform process, it can be assumed that most had had a fairly positive experience and that they considered the process to be worthwhile. Although there was a clear and shared understanding of the concept of participation, the problems revealed that the ideal of participation is not always practiced. This is discussed further in section 4.3

4.3 NATURE AND FORM OF PARTICIPATION

Public participation was studied in relation to the policy framework developed by Jansson (1999). This included an examination of the following phases of law reform and the associated activities.

- i. The Preparation Process (including the building of agendas, the analysis of problems and legislative drafting).
- ii. The Policy, Advocacy and Political Process (including strategy development and the translation of the process into action).
- iii. The Adoption Process (securing the implementation of policies).

The roles of the different stakeholders namely, government departments, Parliamentarians and civil society organisations in the policy/law reform process are discussed in the second part of section 4.3

Preparation Process: agenda setting, analysis of problems and legislative drafting

Many of the participants (60%) were not involved in the preparation phase. The participants (40%) who were involved, did so in a number of ways like:

- taking part in the initial conference arranged by the South African Law Reform Commission in Gordon's Bay in 1996;
- putting their issues on the agenda through participation in meetings with government;
- being part of the consultations between government and civil society through the Children's Bill project committee³ which informed the drafting of the Children's Bill;
- undertaking relevant research around the analysis of problems and highlighting areas to be addressed.

³ The project committee allowed input or submissions from civil society organisations on specific issues (based on consultation with the sectors they represented).

Two of the participants were actually part of the writing and drafting of the original SALRC draft Children's Bill and sat on the Law Commission Committee. This involved:

- legal research;
- consultation with the public and various organisations working with children who represented various sectors for example disability; social security and HIV/AIDS;
- experts were also consulted on specific issues like residential care;
- the committee also facilitated provincial workshops and specialist workshops; and
- assisted the legal drafters with writing up the 1200 page discussion document and the final report.

The preparation process took place between 1997 and 2003. The majority of the participants were not involved in this phase of the law / reform process. It is clear that those who were part of the preparation phase were heavily involved and undertook a number of activities similar to those outlined by Jansson (1999) including agenda setting, analysis of problems and legislative drafting. What emerged from the description of the various activities was the importance placed on consultation throughout this phase.

Sometimes the political context provides opportunities for policy advocates to have their issues prioritised. For example in the case of the Children's Bill, children's issues were formally placed on the law making agenda after it was announced in 1996 that the Child Care Act of 1983 would be investigated by the South African Law Reform Commission. This was largely due to the pressure exerted by children's sector civil society advocates to reform the Child Care Act which culminated in a conference in Gordons Bay in 1996 with the Portfolio Committee on Welfare and Population Development. The conference was attended by high ranking officials and civil society representatives and acknowledged the need to reform the Act, and develop a more comprehensive piece of children's legislation that would create a legal framework for the delivery of services to children.

Policy, Advocacy and Political process

The majority of the participants (90%) were involved in this phase of the process and undertook a number of activities summarised in Table 4.1 below. The findings show that the majority of informants (90%) were involved in advocacy and social mobilisation, raising awareness about the Bill through writing position papers and discussion documents and writing formal submissions. Most of the respondents (90%) also made oral submissions and attended the public hearings and participated in discussions and debates on issues in the Bill. A large number of informants (70%) were involved in direct lobbying and interactions with Parliamentarians. Just over half (60%) undertook media advocacy around the Bill by either writing articles or working with the media to release articles or by participating in press conferences. Four participants (40%) interviewed had served on the Children's Bill Working Group (CBWG) secretariat and were responsible for co-ordinating the civil society network by drawing in organisations to represent sectors or issues in the Bill and setting up task teams, as well as the overall communication role with members and facilitating CBWG meetings. Two participants (20%) took part in training and information sharing to prepare for the hearings. A number of other activities were also listed individually and included: research (10%); litigation (10%); writing fact sheets and executive summaries (10%) and making presentations, writing a mini paper and publishing articles concerning the Bill (10%).

Table 4.1: Activities undertaken by the participants in the policy, advocacy and political process	
Activity	% of informants
Advocacy and Social mobilisation	90%
Raising awareness, writing position papers and discussion documents	90%
Writing formal submissions	90%
Making oral submissions and attending public hearings in Parliament	90%
Participated in discussions and debates	90%
Lobbying and interacting with Parliamentarians ⁴	70%
Writing media releases / working with the media	60%
Co-ordinating the civil society network ⁵ (CBWG secretariat)	40%
Information sharing and training in preparation of the public hearings	20%
Attending and informing meetings to consolidate positions	10%
Developing strategies not have the legislation adopted or to have parts of the Bill blocked.	10%
Research	10%
Litigation ⁶	10%
Wrote fact sheets and executive summaries	10%
Made presentations and wrote mini papers, articles and publications	10%

⁴ Arranging one to one meetings with parliamentarians; arranging site visits; writing reports and fact sheets for them.

⁵ Finding organisations to attend meetings to determine what positions to take on an issue in the Bill, setting up task teams within the Children's Bill Working Group according to sectors like for example Disability and informing networks and drawing them into the Lobby.

⁶ Lawyers for Human Rights successfully litigated against the government to acknowledge the rights of undocumented foreign minors.

Informants were all members of the Children's Bill Working Group (CBWG) and so were involved in a similar process detailed in Text box 4.2.

Text box 4.2: Nature of the activities engaged in by Children's Bill Working Group

After the formation of the Children's Bill Working Group at a workshop in March 2003 members were asked to consult with the broader sectors that they represented and compile and circulate discussion documents and position papers outlining the nature and extent of the specific problems facing children and solutions sought through the Children's Bill. Members of the CBWG incorporated comments and developed draft written submissions which outlined the context and extent of the problems; outlined the specific provisions in the Bill; put forward suggested amendments to the Bill; discussed the implications and basic principles for combating the problems; listed the revised demands from the Bill and provided motivation for their demands. The draft submissions were again circulated to the sector for comment and to the whole CBWG network. Comments were incorporated and endorsements from other civil society organisations were listed on the documents which were formally submitted to the Department of Social Development at the end of September 2003 and the Parliamentary Portfolio Committee at the end of July 2004. Written submissions were formally presented before the Parliamentary Portfolio Committee on Social Development in mid August 2004. Between the initial workshop and the formal hearings in Parliament the CBWG met at regular intervals to report back on the progress made and to develop advocacy strategies. Sectors within the working group were tasked with developing and implementing advocacy strategies as part of the CBWG and independently. This included not only circulating submissions and consulting with the sector but lobbying individual members of the Portfolio Committee and the Department of Social Development, writing media articles and raising awareness about the Bill.

The participants' description of their involvement in this phase of the process indicates a similar policy, advocacy and political process as the one described by Jansson (1999) which is intense and action oriented and involves developing and implementing advocacy strategies to have policies retained or rejected. The majority of the participants were most vigorously involved in this phase of the process which may indicate that this phase provides the most opportunities for broader civil society participation. It should be noted that the adoption phase had not yet been concluded at the time of interviewing the participants so it was difficult to measure the nature of the civil society organisations' participation in this phase.

Adoption

In light of the fact that the whole Children's Bill has not yet been passed i.e. Section 76 must still be passed before the Bill can become law and regulations must still be drawn up, most participants would not have been so intensively involved in strategies to secure the implementation of the policy apart from activities around the costing of the Bill. However 60% of the respondents referred to their peripheral role in the adoption phase in terms of the costing of the Bill, which involved consultation and attending meetings and workshops between government and the Children's Bill Working Group. One participant indicated how the organisation had produced a submission around the costing process.

It is clear from the above descriptions that the policy, advocacy and political process was a lengthy one, spanning nearly 7 years, and that the adoption phase will not be expected to commence before 2007 because it is dependent on the drafting of the regulations

Roles of the parties in the parliamentary process (law reform)

Apart from how participants described their involvement in the different phases of the process the findings also provided an overview of the roles engaged in by the different parties involved in the process including the Parliamentarians, government departments and civil society organisations.

According to the Parliamentary website (2006, p.3) following the 1994 appointment of a democratic Parliament a "participative lawmaking process" was introduced that promotes "public involvement" and permits parliamentarians to "draw on research and information provided by civil society". The participatory lawmaking process is outlined as follows:

"Most bills are drawn up by a government department under the direction of the relevant minister or deputy minister and approved by cabinet before being submitted to Parliament. Often bills are preceded by green or white papers that set out the policy to be translated into law. Once a bill has been introduced it is referred to the relevant committee and usually published in the Government Gazette for public comment. Public hearings may be held on a bill and the committee deliberations on draft legislation are open to the public. This allows interest groups to follow the lawmaking process and even lobby members of Parliament. Press coverage also ensures that policy debates about new laws take place in the public arena".

This is relevant for the above phases of the law making process as outlined by Jansson (1999) and described by the participants as it provides a good indication of where civil society participation is most likely to influence policy and have a greater impact, which is in the second phase of the policy/law reform process namely: policy, advocacy and political process. This phase includes public hearings and committee deliberations which provides civil society with the opportunity to present their positions and lobby decision makers and members of Parliament.

Roles of Parliamentarians

Parliament is the government institution where potential laws are considered and debated, and where they are finally either passed or rejected. This task falls on the Parliamentary Committees made up of members of parliament (MPs) who are democratically elected by their constituents and represent various parties and provinces. De Villers (2001) provides a useful discussion of the various roles of parliamentary committees. The National Parliamentary committee system, determined by the Constitution, is divided into committees in the National Assembly and committees from the National Council of Provinces (NCOP). The twenty-five National Assembly Government Committees correspond to the 25 Government Departments and centre on the activities undertaken by each of the Government Departments. The eleven NCOP select committees are matched up largely with the Government Department clusters. There are also what is known as joint committees, ad hoc committees and housekeeping committees. Political parties are represented on committees according to the number of Parliamentary seats that the party has to ensure that the perspectives of minority parties are considered. There is also a constitutional obligation on Parliamentary committees to put in place instruments of accountability for government representatives so that they can monitor and oversee the work of government departments both at a National and Provincial level. In terms of public participation, parliamentary committees provide an essential forum for civil society involvement for example through public hearings which are designed to incorporate public opinion on draft legislation and policy through written or oral submissions. Participants in this study made full use of the forum created by the public hearings in August 2004 to present their submissions to members of the Portfolio Committee on Social Development and to lobby individual members of the Committee. For example the disabled Member of Parliament on the Portfolio Committee was successfully lobbied or targeted by the Disability sector to champion children's disability issues in the Children's Bill.

Role of the Government Departments

According to Wissink (2000) government officials in South Africa have a policy-making role, as determined by the adopted Westminster British Cabinet system where Cabinet Ministers are in charge of or are designated to a Ministry, for example the Minister of Social Development is largely responsible for the activities undertaken by the national, provincial and local departments of social development. In this case policy relating to the welfare of children falls within the Minister of Social Development's portfolio. The Department under the direction of the Minister is then responsible for drafting appropriate policy and implementing legislation. Often this must be preceded by in-depth research into the issues in order to develop appropriate policy or make recommendations for amendments to existing laws.

At least 20% of the participants were of the opinion that the legal drafters in this process did not know enough about the issues. It was felt that the decision makers and government departments responsible for the law needed to be more engaged with the process from start to finish. A further 20% of respondents reported that the Parliamentarians did not read the discussion documents and submissions. This finding indicated that CSOs were critical of the role played by government departments and Parliamentarians in the process. This is discussed further in section 4.4 and Table 4.3.

Role of Civil Society Organisations

The participants gave various reasons as to why it was important for their organisations to participate in the Children's Bill process as representatives of organisations within civil society and the children's sector. Many of the responses were linked to the individual functions or roles that the civil society organisation or children's sector organisation played in the law reform process. For example many participants (90%) referred to the organisation's advocacy role in terms of raising awareness about the Children's Bill, undertaking research and training around policy issues and providing input into policy. Respondents indicated that it was important to participate in the law reform process to ensure that the government was aware of issues facing children on the ground. All of the organisations represented had an interest in policies affecting children and aimed to change existing laws and influence new policy so that children's laws would be child friendly and appropriate to ensure the protection of children.

At least half of the participants (50%) identified themselves as direct service providers representing organisations that deal directly with children or provide services to children, so they indicated that it was critical for people who will implement the laws to be involved in its development. Many of the informants (70%) expressed the need to promote, protect and realise children's rights through the design and implementation of appropriate policy and legislation. It was noted that such individuals or organisations (especially direct service providers) also have a great deal of experience of what works and does not work.

Advocacy and lobbying role:

The terms advocacy and lobbying are acknowledged to be socially constructed and therefore context dependent so different people may have different understandings. For example the terms advocacy and lobbying are sometimes used to convey the same thing and both are seen as vital to influencing policy. For the purpose of this study it is important to reach some kind of common understanding of the terms. Watson and Rhoda (2002, p. 31-32) use the Gender Advocacy Project's definitions of advocacy and lobbying. Lobbying is seen as "any tactic within the ambit of the law to influence the vote of politicians or legislators within any state institution". As such lobbying is directed at decision makers including Members of Parliament, committee members and chairpersons, committee staff including specialists and consultants to committees, Ministers, advisors and staff of the relevant government departments. The types of actions taken to lobby decision makers include: "inter alia, letters, phone calls, position papers, formal dialogue sessions and presentations". Advocacy in contrast to lobbying is seen as a "type of consciousness-raising, with the intention of gaining broader support for an issue or alternative perspective". The capacity building of communities to become actively involved in politics by building their knowledge base is emphasised. The target group is also different as advocacy may be directed at the general public or community and faith based organisations (as opposed to the government decision makers) with the aim of securing mass based support for a particular issue. A good example is the Treatment Action Campaign advocacy around securing anti-retroviral treatment for people infected with HIV/AIDS. The majority of the key informants (90%) reported being involved in some kind of advocacy and lobbying activities around the Children's Bill.

Co-ordination role:

Participants were asked how their organisations became involved in the Children's Bill Working Group (CBWG) and whether or not they thought the CBWG was representative of civil society. More than one person (20%) reported that they became involved in the CBWG in order to represent special interests (for example social security) in the Bill or as representatives of sectors or broader networks of people. Three of the respondents (30%) saw the need to have a group to champion the Bill based on the precedent set by other law reform initiatives so as to ensure an organised and co-ordinated activity around the Bill from the children's sector. One participant (10%) reported that they had become involved in the CBWG to improve their knowledge about the range of issues affecting children and to share information.

The value and importance of having a co-ordinated response from civil society to policy/law reform was reinforced by the literature. A study undertaken by the Centre for Applied Legal Studies (CALs, 2005, p. 5) into the law reform processes around customary law in South Africa supports the need for co-ordinating civil society: "advocacy for law reform is more effective when an organisation works in partnership / an alliance with others. An effective partnership / alliance means that one must create legitimacy, establish a mandate, and include political and technical strengths".

The response to the question around the representivity of the Children's Bill Working Group (CBWG) of the children's sector organisations within civil society was mixed: A small number of participants (30%) indicated that it was highly representative, 10% thought it was not representative because of a strong Western Cape bias, but 40% agreed that a lot of effort was put into progressively ensuring that the CBWG was representative of the interests, sectors and geographical spread of South Africa's children's sector civil society organisations.

Based on the analysis of the nature of the civil society participation discussed earlier according to the different phases of policy/law reform and the importance associated with participating in the process discussed above it was evident that participants were more involved in the policy, advocacy and political process than any other stage in the policy / law reform process and regarded their participation in the process as an essential component to the work of the organisation as a whole.

In summary civil society's main role in the law reform process concerning the Children's Bill was identified by the participants as advocacy, lobbying and having a co-ordinated, representative and organised response to the Children's Bill from the children's sector to facilitate civil society participation.

4.4 CRITICAL APPRAISAL OF THE PROCESS

The responses showed that all the participants viewed the process as both positive (where according to their experience there were definite opportunities for direct participation) and negative (where they felt that there were obstacles to their participation or constraints on the level and impact of their participation).

Positive aspects of Participatory Process

The positive aspects of the participatory process are summarised Table 4.2 below.

Half (50%) of the respondents reported that civil society participation had a positive or significant impact on the process because of the vast skills and knowledge of civil society organisations which played an important role in improving the government's understanding of the issues. This was achieved by sharing knowledge and expertise on specific issues and alerting government to the gaps relating to children's issues and conscientising decision makers about problems. Watson and Rhoda (2002, p. 153) contend that CSOs effectively engage with parliamentarians when they "contribute to the Member of Parliaments' understanding of the issues".

The importance of the co-ordination role of the Children's Bill Working Group to ensure participation from civil society was highlighted by 40% of the participants.

A smaller number of the informants (30%) indicated that the parliamentarians were open to them as evidenced by the one on one meetings arranged, the site visits and the additional workshop organised and funded by the Portfolio Committee on Social Development. The openness of Parliamentarians as a means of facilitating public participation was highlighted in previous research such as the Centre for Applied Legal Studies (2005) research on law reform process around customary law in South Africa.

A few participants (20%) spoke about the high levels of civil society participation and involvement in the Children's Bill and how in comparison to other law reform processes this process could be considered more participatory than usual.

One of the informants (10%) was of the opinion that civil society exerted significant pressure on government through their advocacy and lobbying efforts on certain issues which had forced government to adopt some of their recommendations.

Central idea	Percentage of participants
Expertise of civil society improved Government understanding of issues	50%
Co-ordination role of the CBWG	40%
Openness of Parliamentarians	30%
Comparatively high levels of civil society participation	20%
Exerting pressure on government	10%

The researcher agrees that civil society organisations as evidenced by this study had a great deal of knowledge, skills and expertise which was effectively utilised by government in the Children’s Bill process.

The researcher also strongly supports the idea of identifying a lead organisation(s) to undertake the co-ordination, fundraising and administrative activities associated with broad based civil society participation in policy and law reform processes as this ensures a stronger better formulated input from civil society and improves the chances of that input being taken seriously by the decision makers.

In terms of the researchers’ own experience with the process, parliamentarians were open to civil society but did not necessarily take the leading role in the engagements, rather it was the persistence of the civil society organisations that was responsible for the dialogue.

The finding that the Children’s Bill process was more participatory than other policy/law reform processes is an encouraging sign indicating that law reform processes are evolving and allowing for more participation because before democracy there was not much space for civil society participation.

The researcher agrees that the value of the participation of civil society organisations in policy reform will depend on their ability to lobby decision makers and exert sufficient pressure on them to influence policy which will depend on their political power.

In this case the more support that civil society organisations can gather for a particular issue by way of mass based support or buy in from a strategically placed or powerful decision maker(s), the more likely they will be to have political influence over policy reform. For example the Treatment Action Campaign (TAC) has been able to exert significant pressure on government to introduce a health policy supporting the roll out of anti-retroviral treatment for people infected with HIV/AIDS. This is largely attributed to the mass-based support and social mobilisation undertaken by TAC.

Negative aspects of Participatory Process

The negative aspects of participatory processes are summarised in Table 4.3 below.

Many of the interviewees (60%) referred to the need for improving the relationship between government and civil society or for CSOs to partner with government: 40% highlighted the need to *develop, improve or strengthen relationships between civil society organisations and government*. Participants felt that relationships between civil society and government must be fostered at the onset, participants felt that government needed to be more open or transparent to ensure adequate communication and consultation and relations should be less adversarial. More than one of the participants (20%) also spoke of the need to acknowledge that government representatives and parliamentarians are people too who share the same goals and therefore *partnerships* should be undertaken between government and civil society, and attitudes towards each other need to be more one of teamwork. The researcher agrees with the need to strengthen relationships between civil society and government and to form partnerships but the onus for delivering or financing services to meet the needs of South African children must rest with government. Government must also ensure that where they embark on partnerships with civil society organisations to deliver services as is the case with child protection, then those organisations must receive adequate financial support (because they are in essence delivering a service that government is Constitutionally responsible for).

A significant number of the participants (50%) indicated that civil society organisations had to *fight to be acknowledged* as a role player in the law reform process and ensure that they were given an opportunity to participate. Although it was also indicated that there was unprecedented participation on the part of civil society organisations in this process, not so much because government invited it but because civil society organised itself in the form of the Children's Bill Working Group and ensured that they were invited to meetings (or arranged meetings themselves and invited government); attended parliamentary hearings, made written and oral submissions.

A general *lack of awareness* of the policy/law reform process was cited as a barrier by 50% of the informants.

Insufficient consultation with those affected and direct service providers was noted by 40% of the participants as a barrier to participation.

Many of the parliamentary proceedings take place in Cape Town and a Western Cape bias was indicated by 10% of the informants. A number of participants (30%) pointed out that people from outside of the province run the risk of being excluded to an extent by the *large distance to Parliament* especially those that do not have funds to cover travel.

Participating in policy/law reform can be *costly* in terms of travelling to parliament and the development and printing of submissions and fact sheets as well as the communication costs of sending out information. The financial costs and having sufficient funding or resources to meaningfully participate was identified by 30% of the respondents as a cross cutting issue that creates an obstacle to participation.

A *lack of capacity* within civil society was noted by 30% of the participants as being a barrier, especially community and grassroots organisations in terms of developing submissions and becoming involved in the process. The process was seen as intimidating to some precluding participation.

More than one of the civil society representatives interviewed (20%) indicated that there was *insufficient notice* given for written and oral submissions and inadequate time allocated for oral presentations.

A few of the representatives (20%) interviewed expressed their frustration with government where there had been a general call for participation and *written and oral submissions* were made but *not taken into account* or heard when decisions were made.

One of the respondents (10%) indicated that *where issues were in conflict with the parliamentarians' personal views or the consensus of the ruling party or had major budget implications, CSO participation was less successful*, this was a view shared by one of the portfolio committee members who felt that we basically have a one-party state making it impossible to effect change to policies already determined by the ANC or the Minister.

Table 4.3: Negative aspects of participatory process	
Central idea	Percentage of participants
Relationships between government and civil society needed to be strengthened and improved partnerships should be fostered	60%
Civil society had to fight for acknowledgement	50%
Lack of awareness of policy/law reform process	50%
Insufficient consultation	40%
Distance to Parliament	40%
Cost involved	30%
Lack of capacity	30%
Insufficient notice given	20%
Concern about the value of civil society participation	20%
Ignoring civil society input with budget implications or that conflicted with the personal views of parliamentarians	10%

Some of these concerns were noted by other authors. For example Shubane (2004, p. 20) refers to the “dominant party”. According the author the ANC has become so dominant that it is unlikely that it will lose power to any opposition party even if they joined forces and as a result the political system has become a dominant party democracy. Murray and Nijzink (2002, p. 21) talk about the “concerns” regarding “the control political parties have over South African parliamentary politics”. The authors contend that such a system runs the risk of “legislatures being characterised by one-dimensional political debates and party leaders who are reluctant to engage in rigorous self-examination or to listen to ideas from their

backbenchers”.

A number of the obstacles to participation were highlighted in previous research. Watson and Rhoda (2002) identified far distances, high costs, a lack of capacity within civil society and a general lack of awareness/understanding of policy/law reform processes as major barriers to participation. Fakir (2005) identifies similar barriers which prevent previously disadvantaged groups from participating namely: time constraints, communication barriers such as a lack of access to the media and relevant information, unavailability of transport and inferior education. Shabalala (2001, p. 98) also refers to a number of related “factors” that “weaken” civil society participation including a lack of information, organisational capacity and limited resources. Bratton (2006, p. 21) contends that poverty is a major obstacle to active citizenship or participation in democracy.

4.5 LESSONS LEARNED, RECOMMENDATIONS AND GUIDELINES MADE BY THE PARTICIPANTS

Lessons learnt as reported by the respondents

Participants indicated the importance of having a co-ordinating body and discussed improvements based on the co-ordinating role played by the Children’s Bill Working Group: Half (50%) of the respondents were of the view that a broad based alliance structure with a co-ordinating body is important to ensure the success of any civil society participation. Sectors or organisations working alone will not be as successful or powerful. According to some participants (20%) the Children’s Bill Working group should have consulted more broadly and had more meetings more regularly. Others felt that there were too many meetings which began to interfere with getting the work done. One participant (10%) was of the opinion that there should have been cross sector co-ordination and integration of submissions, so that shared issues could be integrated into all submissions. This was a contested point as some participants (30%) were in favour of the repetition of the issues in every submission. Others (20%) indicated that the issue should be stated in one submission and then endorsed by the other organisations but not repeated in their submissions.

One (10%) informant noted that broader alliances such as the Children's Bill Working Group should acknowledge that they are made up of a number of different organisations who share a common goal i.e. infusing law with a children's rights perspective, but they must realise that they will not always reach consensus on every issue.

A number of participants (30%) found that Parliamentarians were most impressed with inputs from community based organisations and those directly affected by the policy/law. One of the three informants noted that there is a need for more genuine representation and recommended more involvement by the people affected by issues or direct service providers to ensure more community level participation.

More than one participant (20%) was of the view that parliamentarians do not read long submissions because they did not have the time, were too busy, or they had not been engaged closely or long enough with the process or issues. It was noted that alternatives must be found such as short fact sheets or e-mails summarising the current law, proposed reform and the pros and cons, or phoning parliamentarians to explain issues and positions or telephonic text messaging (SMS).



Recommendations made by the respondents for Government and the law reform process generally.

Many participants (70%) indicated that *Government should do more to overcome the barriers to participation* such as the distance and cost. One of the recommendations made by 40% of the interviewees was to have a *decentralised parliament and public hearings* process taking parliament to the different provinces. This would also ensure better representation from grass roots organisations and people on the ground. The concept of decentralisation is supported by Fakir (2004: 7) who talks about the “need for decentralisation of structures of governance and for the mainstreaming of new forms of participation” so as to ensure the “involvement of a wider range of people in the affairs of government”.

A significant number of the respondents (60%) noted that the submissions tended to be too long and complicated and therefore recommended that *submissions should be shorter and simpler*. A further 20% identified the *need for more user friendly information*: fact sheets, summaries and information in different formats and languages.

Half (50%) of the participants recommended that we constantly improve the reach of any alliance (in this case Children's Bill Working Group) by involving as many people as possible from different sectors. One participant (10%) was of the opinion that broad alliances will not reach consensus on every issue so they must agree to disagree.

Half the interviewees (50%) recommended that *more should be done to overcome the problem of the lack of awareness about the law reform processes*. Participants suggested that more effort be put into creating public awareness by government and the media. One participant recommended that in order to raise public awareness groups of affected people should be targeted or selected for training.

For example in this case it was suggested that social workers should have been selected for targeted consultation and awareness raising possibly through workshops and one on one dialogue with affected communities. Some participants (30%) reported that strategies were needed to improve communication and facilitate ongoing dialogue between the government and the public to inform them of processes, opportunities for participation and deadlines. The need for information sharing and training recommended above to facilitate participation is highlighted by Nakedi (2004: 5) who argues that "productive citizen participation can be realised only if information is shared through community education and training".

A number of informants (40%) indicated that *government should be more open and transparent about issues* in terms of the law reform process. It was suggested that Government should disclose what direction they were moving in. For example if a decision was made not to support a programme due to the budget implications that should be stated upfront to avoid the situation where civil society organisations may be wasting their time pushing for something that government has no intention of implementing.

A number of participants (30%) referred to the constitutional obligation to ensure adequate participation, one recommendation was to *develop a clear framework for the implementation of policy reform*, including measures to realise the participation of grassroots organisations and communities. Fakir (2004: 6) affirms the constitutional obligation for participation and contends that "in the South African Constitutional sense democracy means active participation or, at least, the creation of political space within which participation can occur".

More than one informant (20%) put forward that *issues concerning children and policy/law reform need to be more vigorously debated* by government, civil society and the media.

One participant (10%) recommended that the *government agree on a policy statement* after the South African Law Reform Commission publishes a report but before the Bill is debated in Parliament in order to avoid disagreement and conflict between government departments. For example with the issue of virginity testing according to the participant, if the government had agreed and developed a policy to have an outright ban, this would have resolved conflict around the issue and prevented time being spent on debating the issue in Parliament.

Recommendations as reported by the respondents for Civil Society Organisations in policy/law reform processes.

A number of the participants (40%) recommended that *civil society organisations be realistic* in submissions and put forward a solution to the problem not just a description of the problem. Civil society specifically children's sector organisations should push for / fight for things that can be implemented on the ground, are practical and can be enforced bearing in mind the available financial and human resources. Camay and Gordon (1998, p. 16) refer to the "realistic/winnable issues" and suggest that civil society organisations should evaluate "potential advocacy issues" according to their "capacity to bring about the desired change and to mobilise the support of others to reinforce that capacity".

Several respondents (40%) suggested that *relationships between civil society and government should be fostered* to encourage ongoing dialogue and debate. Set up one on one meetings with parliamentarians, arrange site visits. Establish common goals and shared interests in terms of the issues and build partnerships, in order to achieve common goals through teamwork.

A significant number of participants (40%) recommended that civil society organisations should *form an alliance around the particular law reform process* which affects them, identify a lead organisation/s to co-ordinate their input and fundraise. The value of forming coalitions as an effective advocacy strategy and as a means of engaging with parliament was highlighted by Watson and Rhoda (2002, p.153) who view forming coalitions and partnerships as essential to any strategy or framework for "engaging with parliament".

Camay and Gordon (1998) also strongly support the notion of building alliances, coalitions or networks as a means of strengthening advocacy campaigns or efforts.

A number of informants (30%) put forward that civil society organisations participating in the process should ideally *appoint a dedicated staff member* to undertake the various roles such as advocacy, research and fundraising.

A further 30% of participants recommended that civil society organisations *familiarise themselves with the current and proposed legislation* by continually reading and re-reading the Bill in question. They must *be clear about their views* on the issues and *be able to communicate these views to different audiences*. For example presenting their standpoints in different formats, including discussion papers and formal submissions, but also summaries and fact sheets that are “snappy and user-friendly”.

More than one respondent (20%) proposed that civil society organisations should be prepared and *willing to negotiate with government* and to learn to *compromise* on certain issues. The Centre for Applied Legal Studies (2005: 4) research on law reform processes around customary law in South Africa also found that “strategic choices and compromises” had to be made.

For 20% of the respondents, civil society organisations *must be prepared to work hard* and put in *long hours* and brace themselves for a long ongoing process.

Informants (20%) suggested that civil society organisations must *keep abreast of the issues and the parliamentary debates* preferably through *creating a presence in Parliament*, and where possible attend meetings and deliberations.

Some of the respondents (20%) recommended that *direct service providers and those affected must make every effort to become involved and participate* in the law reform process to ensure that they give their input based on their experience in the field.

According to 20% of the respondents *civil society organisations should be proactive* and ensure that they *get to know the parliamentarians* by phoning them, arranging one on one meetings to discuss their issues and arrange site visits to give Parliamentarians a close up view of issues on the ground. CSOs should not be intimidated by parliamentarians and should “present themselves as a resource”.

Moodley (1998, p. 178) contends that “advocacy organisations” should “drive the process as lobbyists and be proactive”.

One of the participants (10%) suggested that the only way in which civil society organisations can influence policy reform is either through *mass mobilisation* (getting large numbers of people around a common cause like the Treatment Action Campaign) or by *developing significant legal expertise or skills* that would contribute to legal debate and persuade decision makers. The CALS (2005: 5) study refers to “engaging attitudes in civil society amongst allies in the NGO sector” and from the broader public.

4.6 CONCLUSION

This chapter reported on the findings of this study in terms of the process of participation; the nature and form of participation; critical appraisal and lessons learned. The following chapter will report on the main conclusions and recommendations of the study.



CHAPTER FIVE

CONCLUSIONS AND RECOMMENDATIONS

5.1 INTRODUCTION

This chapter will report on the conclusions and recommendations derived from the findings of the previous chapter. The conclusions and recommendations are based on an integration of the respondent's comments, the views of the researcher and literature (where applicable).

5.2 SUMMARY OF KEY FINDINGS

Process of Participation

- The profile of civil society organisations demonstrated a high level of skills, expertise and knowledge within civil society.
- Civil society organisations represented broader networks and groups that were sector specific covering a wide range of issues.

Nature and form of participation

- Preparation phase: fewer participants were actively involved in this process. Participants did play a role in ensuring that children's issues were placed on the policy / law reform agenda. Very few participants were actually involved in drafting the policy / legislation. Two participants sat on the Law Commission's Committee. The other respondents involved in this phase contributed in terms of providing information, research and recommendations by participating in the consultation process.
- Policy, Advocacy and Political process: the majority of participants were intensively and actively involved in this phase. A small number of the participants were critical of the role played by government departments and Parliamentarians in the process in terms of not knowing enough about the issues, not reading the discussion documents and submissions and not being sufficiently engaged in the process. The most important roles which emerged for civil society organisations in terms of the policy / law reform process were identified as advocacy, lobbying and co-ordination to ensure a co-ordinated, representative and organised response to the Children's Bill from children's sector civil society organisations.

- Adoption: the whole Bill has not yet been passed and regulations still have to be drawn up so participants were only peripherally involved in this phase in terms of having the Bill costed.

Critical appraisal

The responses showed that all the participants viewed the process as both positive in terms of opportunities for direct participation and negative where there were constraints or obstacles to participation.

Positive aspects associated with the process included:

- the expertise of civil society as a means of improving governments understanding of children's issues;
- the importance of the co-ordination role of the Children's Bill Working Group to ensure participation from civil society;
- the openness of Parliamentarians to participation and involvement from CSOs;
- the high levels of civil society participation in the Children's Bill as compared to other policy / law reform processes;
- exerting significant pressure on government which forced them to adopt some CSO recommendations.

Negative aspects associated with the process included:

- the need to strengthen and foster relationships between government and civil society in order to develop partnerships;
- civil society had to fight for acknowledgement;
- lack of awareness of policy / law reform process;
- insufficient consultation;
- distance to Parliament;
- cost involved;
- lack of capacity;
- insufficient notice given;
- concern about the value of civil society participation;
- ignoring civil society input with budget implications or that conflicted with the personal views of parliamentarians.

Lessons learned

There are a number of things that improve the impact and success of CSO participation in policy / law reform including:

- Having a broad based alliance structure with a co-ordinating body.
- Forming alliances around particular law reform processes and identifying a lead organisation to co-ordinate inputs and fundraise.
- Endeavouring to reach out and involve as many organisations as possible from different sectors, the community and those directly affected.
- Being prepared to work hard and understand that policy/law reform is an ongoing lengthy process.
- Where possible appointing a dedicated staff member to take on advocacy.
- Willingness to compromise on issues and negotiate with government.
- Keeping abreast of Parliamentary deliberations and having a presence in Parliament.
- Being proactive and lobbying government departments and Parliamentarians to adopt proposals and recommendations.
- Mobilising the masses or getting a large number of people to support a cause.
- Developing legal skills and expertise in order to contribute meaningfully to the legal debate and persuade decision makers to adopt recommendations.
- Being realistic in terms of expectations bearing in mind government capacity and financial resources to implement the proposed policy / law.
- Writing formal submissions to Parliament that are short and user friendly.

The participation of civil society organisations costs money in terms of transport and other logistics, and these need to be negotiated prior to the start of the process.

There is a general lack of awareness about the policy / law process which needs to be addressed through public awareness campaigns, training and improving communication between government and the public.

The relationship between government and civil society organisations can be adversarial which may preclude civil society participation in policy / law reform processes. Government should be open to the participation of CSOs and be transparent about the direction they are moving in, in relation to the policy / law, develop clear frameworks for public participation, familiarise themselves with the issues and develop policy statements. The relationship between government and CSOs can be improved through open dialogue, meetings and interactions.

5.3 CONCLUSIONS

In terms of the process of participation it was clear that the expert knowledge and skills of civil society organisations added a great deal of value to the law reform process in terms of improving government's understanding of the issues facing children. The broad based sectoral representation within civil society organisations also ensured that a wide range of children's issues were represented, for example social security, child protection, disability, children's socio-economic rights, the rights of foreign children, corporal punishment and many other issues. The process also benefited from the specialised and expert knowledge within these sectors. It was evident from the nature and form of the civil society participation in the Children's Bill, that the phases of policy / law reform present civil society advocates with a number of opportunities to participate. A variety of activities can be undertaken by policy advocates to develop and influence policy / law. Stakeholders in the process, including civil society organisations, government departments and Parliamentarians, have clearly defined roles to play in the process. The advocacy, lobbying and co-ordination role of civil society organisations can be seen as the most important role for civil society advocates in any policy / law reform process. This ensures a co-ordinated, representative and organised response from civil society. A critical appraisal of the process indicated that it was both positive in terms of opportunities for direct participation and negative where there were constraints or obstacles to participation.

The overall process was seen as positive because, in line with South Africa's democracy, civil society organisations were given the opportunity to participate in law reform processes which under the previous dispensation they would not have been allowed to do. Any improvement on the old 1983 Child Care Act was also welcomed as this legislation was considered outdated, ineffective, discriminatory and incapable of meeting the needs of children. The urgent need to reform the legislation to ensure a more rights based approach to the care and protection of children was something that civil society organisations within the children's sector had been highlighting for many years. Many participants indicated that they had made an impact in terms of seeing some changes and improvements made to the existing legislation as a direct result of their participation in the Children's Bill process.

Yet at the same time civil society organisations were not altogether satisfied with the new Children's Bill as key recommendations were not adopted by government.

Government parties are bound to uphold the rights of citizens to participate in law reform. According to De Villiers (2001, p. 15-16) this creates a “requirement that government engage with citizens when making the decisions that affect their lives”. Based on the findings of this research and in terms of the researchers experience there is a definite gap between the ideal of participation and how it is practiced within the reality of the current policy and law reform system.

The obstacles to participation such as the cost involved, the lack of awareness of policy / law reform processes, insufficient notice and consultation as well as the lack of capacity for involvement, must be addressed. In the absence of this, participation in policy / law reform will be restricted to those with better access to financial and human resources and will continue to exclude the most disadvantaged members of society which is very often the group at which the policy is aimed. Therefore practical obstacles must be overcome in order to involve more people who are directly affected by the policy.

There are also broader limitations to the process which must be tackled. This concerns the participants’ perception that despite the expert knowledge on the part of civil society and the active advocacy and lobbying role undertaken by CSOs in the Children’s Bill process, their input was not always incorporated. It is clear that the expectations of CSOs were not in line with the expectations of government. This could also be related to the fact that the different parties themselves did not always understand or take full responsibility for the type of role they should play or were expected to play in the process.

There is a very real danger of participation becoming window dressing or participation for the sake of participation. This may be the case where government wants to be seen to be adhering to the legal and Constitutional obligations for participation, but where the experience and expertise of civil society that informs written and oral submissions and is gathered through lengthy and costly consultation and participation processes like the Children’s Bill process, are not actually taken into account, or worse, are blatantly disregarded. This is a waste of the limited resources of both government and civil society. This does not mean that the government must adopt all the recommendations made by civil society, but there must be evidence to show that their input has been taken seriously and considered. Adequate reasons must be provided by government for rejecting what is considered to be feasible proposals or recommendations from civil society.

If CSO input is not adequately considered, this will impact negatively on future participation, as people will not want to participate if they feel that their opinions and contributions are ignored.

For the researcher, this alludes to a much bigger concern which was highlighted in the findings regarding civil society having noticeably less success with influencing decisions that had major budget implications. This has to do with the dominant macro economic policy – the Growth, Employment and Redistribution (GEAR) policy which places more emphasis on the long-term economic growth of the country and less on addressing the immediate needs of those caught up in poverty, especially children (Jacobs, 2005). This shows a lack of a long term sustainable vision on the part of government and decision makers. It, for example, became impossible to convince government, especially Treasury, to invest in extending social security provisions in the Bill for children as a way of realising children's socio-economic rights. Government considered it too costly in the short term to invest in a developmental and rights based approach to child welfare (as envisioned by the original SALRC draft of the Bill). Government would argue that they are addressing the needs of poor children and realising their rights progressively, within their available resources, as evidenced by what is considered to be very high social spending in terms of education and social assistance, especially Child Support Grants. Yet, despite these efforts, children's poverty remains widespread and a major challenge for South Africa. This shows a failure on the part of government to consider the long term benefits of investing in prevention and early intervention strategies, especially social security, as a way of meeting the immediate needs of poor children and containing and avoiding the increased costs associated with child protection. The researcher is of the view that insufficient budget allocation to address the immediate needs of poor and vulnerable children compromises and denies children's socio-economic rights.

Effectively, if the government does not allocate sufficient resources, it will be difficult to make the shift from a social treatment approach towards the developmental model of service delivery as discussed in chapter one. To realise a social development paradigm certain essential elements must be addressed, including a rights based approach, forging a link between social and economic development, support for democratic structures with special emphasis on participatory processes, and advancing social development partnerships without removing the overall responsibility of the state for development and service delivery as discussed in chapter two. This will not be achieved without the necessary allocation of resources, both financial and human, by government.

Without a shift in economic policy accompanied by increased social welfare spending, progressive policies such as the Children's Bill was intended to be, will continue to be reduced and altered. This will limit their impact and scope. Inequality will continue to grow, increasing the gap between the rich and the poor and the most vulnerable will continue to suffer, especially children. In essence, social justice cannot be achieved through the participation, advocacy and lobbying attempts of civil society alone. Government will have to consider civil society's plea to make a much more serious commitment to eradicating poverty. This can only be achieved by implementing a social development paradigm supported by progressive policy and progressive budgets to address the short term and long term needs of the poor. Poverty in South Africa can be addressed more effectively and with immediate effect if the government were to invest more money in a comprehensive social security package, for example an extended Child Support Grant to 18 years of age, and a Basic Income Grant for all poor people (as recommended by the 2002 Taylor Committee of Inquiry into a Comprehensive Social Security System and the original SALRC draft Children's Bill), access to education, nutrition, health and basic services. The researcher is of the view that South Africa can afford to institute these measures and is not convinced by government's argument that there are insufficient resources. More resources could be made available by government by prioritising the needs of the poor, especially children, in the national budget. For example, at the beginning of 2006 the Minister of Finance announced that South Africa had a tax overrun in excess of R40 billion. In the 2006 budget, given the choices as to how to allocate these excess funds, the Minister of Finance chose to ignore the prior Constitutional obligation to meet the social security needs of poor children over financial relief and tax cuts for those already enjoying the benefit of jobs, sufficient income to buy fixed property, and with substantial private retirement funds.

5.4 RECOMMENDATIONS

In order to enhance the process of participation, parameters, roles and expectations, on both sides of the participating bodies (civil society organisations and government) need to be very clear and understood by all participants in the same manner.

Recommendations for government and the law reform process generally.

1. Create an enabling public policy environment that is conducive to public participation by overcoming the practical obstacles to participation and ensuring adequate representation through:
 - Overcoming the costs associated with distances travelled and ensuring adequate representation from all groups, especially affected people living in rural areas, by providing financial assistance or decentralising parliament (bringing parliament to the people in different provinces and districts).
 - Simplifying policy documents so that people can understand what the issues are and make comments on them without necessarily needing someone with a legal background to translate the legal terminology.
 - Capacitating affected individuals and organisations to participate by forming partnerships with local NGOs, CBOs and FBOs to educate the general public about their right to participation and how to exercise it.
 - Improving communication strategies between government and the public.
2. Addressing the limitations of the process by putting mechanisms in place to ensure that the information gathered during public participation processes is given due consideration by decision makers. For example, by providing written feedback to organisations who submit comments and recommendations or publish reasons why proposals have been rejected.
3. Commit the necessary budgets to ensure that progressive policy / law is implemented on the ground.

Recommendations for civil society organisations wanting to become involved in law reform processes.

1. CSOs should make the most of the opportunities afforded them in the current law reform process and continue to advocate and lobby for the realisation of the rights of minority groups through the development of appropriate policy / law. This role is central to the process and has the potential to bring about changes at a policy level which in turn bring about real improvements to the lives of disadvantaged groups.
2. Ensure a thorough understanding of the policy and law reform system, look out for opportunities for public comment in the newspapers and on the radio, attend public forums, make oral and written submissions and make voices heard on issues about which civil society organisations have knowledge and expertise or feel passionate about. Join existing alliances and campaigns with similar objectives.
3. Nominate an organisation or, if the organisation has the capacity, take on the role of co-ordinating civil society participation in a particular policy and law reform process. A co-ordinated response to policies and laws will be more effective and will avoid unnecessary and costly duplication and there is definitely strength in numbers. The organisation's recommendation or proposal is more likely to be taken seriously and affect change when there are many individuals or organisations supporting it or saying the same thing. Organisations should not be discouraged by policy and law reform processes that are very lengthy (the Children's Bill has been under development since 1996 and realistically implementation is not expected before 2010). Individuals and organisations should exert sufficient and continuous pressure on Government Departments and decision makers until change or progress can be observed.
4. People with a great deal of experience in policy reform and sufficient resources and capacity should endeavour to assist other NGOs, CBOs and FBOs who may not have the same capacity or resources, but still share similar concerns. Drawing other organisations into advocacy activities or campaigns will only serve to strengthen your own cause.
5. CSOs should take cognisance of the lessons learned in the Children's Bill process to guide future participation in policy / law reform.

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ANNEXURE 1

INTERVIEW SCHEDULE

General

Name:

Which organisation do you represent?

What position do you hold in the organisation?

Do you have prior experience in participating in law reform processes?

What are your qualifications and level of experience?

Participation

What is your understanding of the concept of “participation” of civil society in policy reform?

- How would you define the concept?
- Why was it important for your organisation to participate in this process?

How were you or your organisation involved in the development of the Children’s Bill?

- How long were you involved in the process?
- Which phase of the process were you involved in?

Preparation

For example were you involved in building agendas, analysing problems and drafting the legislation?

Policy, Advocacy and Political process

Were you involved in developing strategies to have the legislation adopted?

Adoption

Have you been involved in activities designed to secure the implementation of policy?

- What were you required to do?
For example did you attend meetings, write position papers, comment on proposals, make submissions, attend hearings, make oral presentations?

Do you think the Children's Bill process allowed for sufficient participation from Civil Society?

- For example did you / your organisation receive timely notice regarding the legislative reform process i.e. were you invited to make comments after the various drafts of the Bill were published? Were you invited to attend meetings, provide comments and make submissions?

Children's Bill Working Group

- How did you become involved with the Children's Bill Working Group?
- Do you think the Children's Bill Working Group was representative of Civil Society?

Evaluation of the process

What do you think was the value of the participation of Civil Society organisations in the development of the Children's Bill?

- Do you think Civil Society Organisations were successful / unsuccessful in having their "demands" met?

In terms of your experience with the policy process what were the lessons learned?

- If you could what would you / your organisation have done differently?
- What would you / your organisation have done the same?

Recommendations / Guidelines

Do you have any guidelines or recommendations in terms of the current policy reform process?

- How would you rate the policy reform process: i.e. do you think it is adequate or would make any changes to the current system?
- What advice would you offer a Civil Organisation who is interested in becoming involved or participating in the law reform process?

ANNEXURE 2

QUESTIONS FOR THE PORTFOLIO COMMITTEE MEMBERS

- Name
- What role did you play in the Children's Bill Process?
- Do you have prior experience in participating in law reform processes?
- What are your qualifications and level of experience?
- Do you think the Children's Bill process allowed for sufficient participation from Civil Society?
 - For example do you think organisations received timely notice regarding the legislative reform process i.e. were they invited to make comments after the various drafts of the Bill were published? Was Civil Society invited to attend meetings, provide comments and make submissions?
- What do you think was the value of the participation of Civil Society organisations in the development of the Children's Bill?
 - Did the input or comments from Civil Society (either through attending meetings, or providing written / oral submissions) influence the decisions taken?
 - Do you think Civil Society Organisations were successful / unsuccessful in having their "demands" met?
 - Based on your experience what can civil society organisations do to influence decision makers in the policy reform process?

ANNEXURE 3

LIST OF INTERVIEWEES

Pilot – Albert Dlwengu Alliance for Children’s Entitlement to Social Security (ACCESS).

1. Paula Proudlock – Children’s Institute.
2. Jackie Loffell – Johannesburg Child Welfare.
3. Joan Van Niekerk – Childline South Africa.
4. Carol Bower – Resources Aimed at the Prevention of Child Abuse and Neglect (RAPCAN).
5. Shani Winterstein – Lawyers for Human Rights.
6. Daksha Kassan – Community Law Centre University of the Western Cape (UWC).
7. Sue Phillipot and July Nkutha – Disabled Children’s Action Group (DICAG).
8. Megan Briede – Child Welfare South Africa.
9. Julia Sloth-Nielson – Faculty of Law UWC.

Names of the members of the Portfolio Committee on Social Development that responded to E-mailed questions

1. Mike Waters – Democratic Alliance.
2. Cheryllyn Dudley – African Christian Democratic Party.



ANNEXURE 4

LIST OF CHILDREN'S BILL WORKING GROUP MEMBERS

- The Alliance for Children's Entitlement to Social Security (ACCESS)
- South African Society for the Protection of Child Abuse and Neglect (SASPCAN)
- Johannesburg Child Welfare Society
- Pietermaritzburg Child Welfare Society
- Childline SA
- Children First
- Resources Aimed at the Prevention of Child Abuse and Neglect (RAPCAN)
- National Association of Child Care Workers (NACCW)
- Children's Institute at the University of Cape Town
- The Network Against Child Labour (NACL)
- Lawyers for Human Rights (LHR)
- Children's Rights Project, Community Law Centre (CLC) at the University of the Western Cape
- The South African Catholic Bishops Conference (SACBC), Parliamentary Office
- National Alliance for Street Children (NASC) and the Western Cape Street Children's Forum
- Early Learning Resources Unit (ELRU)
- Disabled Children's Action Group (DICAG) and Disability Action Research Team (DART)
- Children's HIV/AIDS Network
- National Council for Child and Family Welfare (NCCFW)
- South African Council of Churches (SACC)
- Legal Experts
- Molo Songololo
- Child care workers