

The Role of Civil Society in Child Law Reform Process

Presented by

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Background

- **Absence of comprehensive laws and policies poses a challenge for civil society in the promotion and protection of children's rights**
- **Civil society watchdog role is challenged**
- **Generally, relationship between civil society and government is good in Swaziland – an advantage that compensates for the existing legal and programmatic gaps**
- **Civil society tends to complement gaps in government especially in child protection and the implementation of child related programmes**



Role of civil society

- **Partnership between government and civil society can be traced back in the following activities:**
 - **Joint compilation of the first state report to the UN CRC**
 - **Civil society supports capacity of government - civil society trained police, intermediaries, child friendly courts etc**
 - **Civil society spearheaded the convening of the Child Protection Network**
 - **Civil society supports government on issues related to health, child counselling etc**
 - **Government often seek advice from NGOs**



Role in the Harmonization of Laws

- **Civil Society constantly made appeals to government on the situation of laws affecting children in the Kingdom**
- **A stock of laws affecting children was taken and documented in the late 90s by Save the Children-Swaziland**
- **Followed by a consultative process, desk top review of laws and literature pertaining children in Swaziland commissioned by Save the Children Sweden in 2004. (Gallinetti Report)**
- **The final report on the legal Review of Child law in Swaziland aimed to outline concrete and specific proposals for law reform that need to be debated within Swaziland in order to reach consensus**



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Civil society and the proposed child law

- The lead agency is Save the Children supported by Save the Children Sweden and UNICEF
- Technical working group responsible for the drafting the child law consist of 8 NGOs who are directly working on children's issues
- Methodology adopted in developing the Law:
 - Consultative process identifying the legal gaps in child protection laws (2004)
 - Issue paper was developed with a list of questions
 - Views were collected from all parties i.e. Children, government, civil society, prosecutors, Parliamentarians, Magistrates and judges, Social Welfare, Media, traditional leaders, Principal Secretaries, NGOs, Law Society, Youth, Uniformed forces, Trade Unions
 - Feedback from consultation was used to develop a discussion paper
 - TWG discussed and finalized the discussion paper in preparation for drafting
 - Relevant ministry in government will be responsible for drafting



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Other activities by civil society

- Sexual Offences and Domestic Violence which is at a Draft Bill stage.
 - NGOs (SWAGAA) in particular initiated the Sexual Offenses Drafting
- Advocacy around issues of abuse of women and children carried NGOs



Lessons learnt

- Civil society not only plays a watchdog role, Civil Society is a government partner
- Important to secure buy in from government - involve them from beginning to end
- Actual drafting should be headed by the responsible ministry
- Involvement of MPs should be at initial stages
- Involve traditional structures – chiefs etc



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Challenges

- Difficulty in meeting deadlines and sticking to schedule
- Dual system of government (Swazi Law and Customs and Roman Dutch Law) – not easy to legislate on sensitive issues affecting traditional authorities
- Constitution has contradictory or claw back clauses e.g. allows corporal punishment yet civil society is advocating for abolishment



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