UN Committee on the Rights of Child

Day of Discussion on

THE PRIVATE SECTOR AS SERVICE PROVIDER AND ITS ROLE IN IMPLEMENTING CHILD RIGHTS

Friday, 20 September 2002
Office of the High Commissioner for Human Rights
Palais Wilson, Geneva

Submission by

**Centre for Health and Human Services,
Cardiff University, UK**

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1.0   <u>INTRODUCTION</u>

This paper examines debates on the role of the private sector in promoting child rights in sub-Saharan Africa. The discussion has five sections; section one looks at the gamut of a changing welfare market and the challenges that the continent faces as it attempts to ensure child rights and their welfare.

Section two discusses the craft of children's welfare policy agendas in sub-Saharan Africa and how these policies have been responded to. It also discusses problems that have led to the current state of welfare policy agendas in the region.

Section three discusses the way forward in relation to government-private sector partnership. It offers some suggestions and ways to maintain and sustain that relationship.

Section four concludes firmly the need to build on others achievements and resource utilisation.

2.0   <u>A CHANGING MARKET</u>

The role of the private sector in national economies has in recent times received attention from both academics and practitioners. Whereas these considerations focus on the role of private sector in the reconstruction effort it has become even more necessary to fix within its hub other dimensions vital to the well-being of children and national development in general. It on this basis that I see children's rights issues as an important hub in the wheels of that changing welfare environment in sub-Saharan Africa.

Since colonial authorities relinquished formal power in territories they occupied in sub-Saharan Africa, free-market systems have since developed among national and international economies. Gradually the world has become a single community with a common objective. In other words, globalisation, humanisation and welfare have become the common objective that nations are aspiring to. In trying to achieve this objective many global issues have been generated about human rights, human security, over population, the environment etc. These issues although not

only pertinent to sub-Saharan Africa but of great importance to fragile economies within the region.

In more recent times HIV/AIDS, the issue of child soldiers, abductions and various forms of child servitude have plagued the continent. The enormity of that impact needs substantial co-operation among world citizens other than formal government support. Cash strapped governments have been unable to defend and stamp out these vectors of our time resulting in government's inability to achieve welfare objectives. This is why it is morally wrong for governments to think that the child's right to safe drinking water or right to education is hampered by negligence of parents. Whereas in fact it is the direct result of government's own inability to provide needed infrastructure to alleviate poverty and to create conditions within which the child can conveniently benefit from his/her rights. How can the gaps created by government's inability to ensure children's rights be filled in sub-Saharan Africa?

A recent field study by Gokah (2002) suggests that there is a misunderstanding of what child rights are, amongst mainly adult populations in sub-Saharan Africa. As a result most children's right policies seem to stagger because they are perceived by adults as detached from the local context. To them child rights propagation creates cultural discomfort among adult populations (Brown's 2001:29). The rights enshrined in "post-modern" welfare legislative frameworks are centred on self-expression, right of association, freedom from "abuse" of any kind, to privacy, maturity and responsibility. The point of divide between what can be described, as "traditional" and "post-modern" approaches to children's rights are purely ideological based on traditional norms and cultural believes (Platteau 1994:772). Other writer's e.g. Lyon (2000:666) suggests that these norms can be seen as part of social structure or habit that shape intuitive actions. In a focus group discussion with parents of Africa-Caribbean descent, Brown found that parents have different views about when children were entitled to "rights". Different opinions were shared by informants in that study; the strongest expressed was "when out from under my roof". These thinking are contextualised in social, cultural and religious meanings. Thus for some, children's right begin when parental oversight responsibilities for the child ends (Brown 2001:29). In reality, however, parental oversight does not end in sub-Saharan Africa. Even when children are out of their parent's roof they are subject to summons by the parent or guardian when parents feel otherwise or are informed by members of the bigger society about their conduct in society or anything that has to do with negative values. This learning model is documented by Coleman (1994:300) as a set of resources that inhere in family relations and in

community social organisation which can constitute an important advantage for children as they develop.

The issue of children's rights and their welfare involves a complex mechanism in Sub-Saharan Africa. An understanding of children's right is therefore essential for any meaningful partnership to be forged between government and the private sector. I will not be surprised if a sizeable population in the private sector is caught in the web of mis-information about what child rights are. I am of the view that issues regarding children's rights and welfare should not be critical to only constructivists but also to all who are interested in promoting children's welfare, vis-a vis, the private sector.

The debate about the performance of the private sector with regards to children's right has come under scrutiny by many reports and studies. By the nature of its activities those thinking to a large extent are true. Justifiably, we need to look critically at how that sector can be turned around for the benefit of children. This "meaning-making" according to Lincoln and Guba (2000) shapes action. Should this happen children in the region will benefit enormously from an accumulated social capital generated from networks, norms and trust (Putnam 1996:66) for the betterment of children's social life and national development goals.

The post-twentieth century has enormous challenges for development agendas in sub-Saharan Africa not only in terms of risk capital but also human and social capital. This is so in view of rising numbers of death tolls as a result of HIV/AIDS, child prostitution and various forms of child servitude in parts of the continent. What does it mean to have rights in relation to the above issues? A child has the right not to be sexually molested. This piece of legislative framework entails analysing what the causes of this molestation's are and the appropriate solutions found to them. If molestation has arisen out of poverty, then countries need to work out poverty reduction policies based on founded research. Similarly it is not sufficient to pass a piece of legislation which says all children should be in school when government does not know the number of children out of school or the number of infrastructure needed to keep children in school and even teacher requirements in a particular district or village. Obviously any meaningful participation will require technical information as a basis for open dialogue. For this reason, I hypothesise that any future investment by the private sector in areas like child welfare will depend on the level of information available for planning and execution.

There is no doubt that the importance of social capital and its implications for theory, practice and policy is important but the mechanisms for enhancing their efficiency to enable children develop into mature citizens is still a puzzle for many countries in sub-Saharan Africa. The reasons for that gap are pre-fixed in economy but if traditional opportunities will provide facilities for children, most of them, for example, will go through formal education, get a job and send some money back home. Paradoxically, no country in sub-Saharan Africa can be referred to as a welfare state.

In addition to existing obstacles in the region child rights and welfare policies have roots in colonial welfare polices. Without looking too much into the negative sides of colonial welfare policies in sub-Saharan Africa, both post-colonial governments and the private sector are not known to have shifted away from colonial welfare patterns. Some studies (Yimam 1990) suggest that this association might have introduced previously unknown welfare systems into the region. Traditional African welfare systems were previously the main source of communal protection and survival. In most communities today, that spirit of communalism is gradually fading. Towards the later part of the 1950's and the mid-1960 most nations became independent which meant the withdrawal of colonial administrations. In some cases there was total withdrawal whilst others withdrew gradually. The vacuum, which was created especially in countries where the changeover was sudden, experienced lots of gaps in new regimes. Most of these gaps were filled by Non-Government Organisations because the private sector at the time was not available to occupy the vacuum created. They were either too busy looking for new wealth or turning their attention to the political wind that was blowing at the time.

By the late 1990's most OECD countries were disbursing a quarter of its emergency assistance fund through NGOs. In 1986 the United Nations special session on Africa also created a programme for Africa's economic recovery and development which demonstrates commitment to help the continent in its struggle against under development. Despite this effort Reindorp's study on *trends in global humanitarian assistance* shows that humanitarian aid has slumped over the past decade. For example, whereas in the 1990s, average per-capita income in OECD countries rose from $21,000 (£19,000) to $28,000 (£26,000) per year, only $5 (£3) a year was given to humanitarian assistance (Reindorp 2001:31). In 1988 about 45% of humanitarian assistance aid was given to the United Nations. Bilateral donors controlled half of all humanitarian assistance and the European Union five- percent. In the mid -1990s 45% of European Commission's Humanitarian Aid Office (ECHO) budget was spent on NGOs. By

1998 the figure had risen to 62%. There are, however, some exceptions. For example, British spending through NGOs for emergency work declined by almost the same margin (60%) from £59m in 1995/6 to £24m in 1998/99.

Aid flow began to stagnate since the mid-1990 soon after an encouraging performance at the beginning of that year. So far aid flow seems to be below the United Nations target of 0.7%. Overseas Development Aid to sub-Saharan Africa has fallen from 31% in the mid-1980 to 29% in 1997. Aid experts believe the trend is likely to remain. Several reasons may account for this, some of which could be laid at the doorstep of donor nations. (Malmqvist 2000:3).

Some experts have tried to distinguish between the private sector as a profit-oriented institution, private voluntary organisation and the voluntary sector. NGO's have hitherto been classified in the last category although in some countries such as South Africa everything outside Government is considered "private sector". I do not intend to argue on whether NGOs are voluntary or private voluntary organisations except to say that to some extent their operations have come under scrutiny in recent times. What is of interest, however, is the theory that the private sector is not known to have championed the cause of children's rights in sub-Saharan Africa and that the sector is only perceived in terms of financial investment and gain. This has enormous implications for poor families that can not afford their services. Hence an indirect disincentive to children.

Although the debate over the role of the private sector is a long one it may vary from one country to another. Having said that it is also interesting to point out government's own acknowledgement of the lack of knowledge about the role of private sector involvement in promoting children's right.
I do not know what role the private sector plays in promoting children's rights in South Africa and could not think of any examples of such involvement (Government official, South Africa).

What this means is that there is no direct relationship between private sector activities and children's welfare simply because their services is based on means testing and therefore not a right. At best it is a privilege. To say therefore that the private sector is involved in promoting children's right or welfare is fluid.
Contrary to this understanding there is some relationship between the private business sector and NGOs in some countries in the continent. As one NGO representative puts it:

In South Africa, some private business organisations support and fund social development /welfare programmes and projects. This may take the form of a donation or simply funding in the form of a cash payment, based on the merits of a funding proposal submitted by the organisation looking for funds to implement a certain project. Others may partner a NGO in the implementation of the project by becoming a full fledged participant in the process, funding it and also making other assistance available to ensure the success of the project. There may be isolated examples in other countries but for the purpose of illustration I wish to cite SANLAM, one of the largest insurance companies in South Africa which not only funds the implementation of HIV/AIDS and the Care of Children Programme but also attends all training workshops. It also assists in the development of training material and facilitated media exposure.

Some businesses may choose a social development issue which they feel they can identify with and they only fund that kind of issue. SANLAM[1] focus has shifted to investment in Early Childhood Development (ECD) and will only fund projects within that sphere of work. Similarly others may choose child abuse or education and stick with it in deciding on funding. They may also run promotions in partnership with NGOs and the funds generated from these promotions is then given to the NGO. For instance, a large retail company may sell their Easter buns to the public with a sticker on it that says "for every sale, a certain amount will be donated to Child Welfare". These promotions can generate funding for NGOs. Through this the private sector will be ensuring children's rights by donating funds, facilitating promotions, investing in projects and making other kinds of assistance available to those organisations involved in the promotion of children's rights. This implies "not hands on" work but indirect support for and promotion of children's rights.

The argument is not about individual organisation contribution to promoting children's rights but the global involvement of the private sector because of the enormous benefit that such cohesion can bring about to exert pressure on bureaucratic systems which hitherto have slowed down the process of achieving child rights on the continent. The knowledge gap between what some members of the private sector does and governments own knowledge about what exists which can not be said of NGOs. In spite of the gap it should be acknowledged that

The private sector contribution should be more than financial to also include the launch of awareness raising projects, adaptation of internal procedures for example, disciplinary measures should be brought against employees who visit child porn cites (Key Government Official, South Africa).

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[1] Originally it was an Afrikaans organisation whose name, translated, means South African National Life Assurance Company. This name has however officially become SANLAM.

In many African forums on the private sector, issues that has to do with economy and prosperity of the region dominates the agenda. These forums are more about the region's failure to attract foreign direct investment (FDI) culminating into major losses of cash. I acknowledge that FDI brings into a country not only risk capital, but also technology, management expertise, and access to export marketing channels but the concern is, how these earnings are directly channelled to affect children and family welfare? The reasons being that there is a direct relationship between child poverty, family and economy. Whether this is true or false for advanced economies is not my pre-occupation. My concern is that the private sector in sub-Saharan Africa has to do more than chasing after financial prosperity. For this reason I postulate that the private sector can use its skills and resources to champion and promote children's causes in the region. Furthermore, I contend that continues chanting of inadequate or lack of funding will severely hamper the implementation of children's rights policies in sub-Saharan Africa.

3.0   POLICY AGENDA

In sub-Saharan Africa children's rights and welfare programmes are based on knee-jerk polices. Policy makers and politicians make adhoc policies in response to situations which otherwise might not be pressing. Some of these policies are in response to political promises and international pressure. As a result there is no well-defined welfare policies based of research. Politicians think from the top of their heads, what is good for children. This follows the traditional paradigm of adults knowing best what is good for children. A good example is the Universal Primary Education (UPE) policy in Uganda, a typical knee-jerk policy resulting in implementation problems. This is because it did not address fundamental problems that plague the educational sector in Uganda before building on it. Unfortunately, the success of that programme is looked at in quantitative terms and not in qualitative terms. The result being that many children drop out of school because they can not meet basic requirements that is needed to keep them in school. This kind of pattern can be seen in many sectors in sub-Saharan African countries. If the child has a right to medical treatment, what policies are there to ensure that the child benefits from that piece of legislation?

It is absurd to think that policy does occur in the vacuum. There must be a cause for policy to be triggered. But the vital question is what policy agenda exists for children in sub-Sahara? How are these agendas initiated and what place do these agendas occupy in political discourses

in the respective countries? These are not very easy questions but we can try to inform the issue by understanding theoretical underpinnings of policy agendas and the agenda setting process. Children's Right issues are just one of the many factors competing for attention in sub-Saharan Africa. In fact, some Western Aid organisation's arguments partly explain the reasons contributing to the state of children today. The contend that

- Half of sub-Saharan Africa's 600 million people live on just 65 cents a day.
- Sub-Saharan Africa's massive external debt of over US$300 billion is the biggest single obstacle to the region's development.
- Persistent drop in official aid to sub-Saharan Africa.
- Falling life expectancy rates. The average sub-Saharan African can expect to live 30 years less than someone in the industrialised world does.
- Burden imposed by HIV and AIDS.
- Conflicts in sub-Saharan African, some of which are fuelled by western economic interests.

These problems are corroborated in words of a sub-Saharan African President:

Ghana was the first sub-Saharan nation to win its independence from a colonial power, in 1957. Yet the average per capita income of my people is lower now than in the 1960s, a decade after independence. Many of our families subsist on less than one dollar a day. Our galloping rate of population growth overwhelms our schools and hospitals. Endemic diseases threaten us all, but, especially, our children (President John Kufuor[2], 2002)

A recent field study (Gokah 2002) suggests that it is difficult to separate children's welfare from family welfare. This is true because it is not possible for the child to be sent to school when the rest of the household can barely feed itself. Even if primary education is free that child will need food to strengthen it to be able to concentrate in class. Similarly if the parent is sick and can not afford malaria treatment it is impossible for the parent to send that child to the immunisation centre. It implies that, that child will be denied the right to immunisation and will bear the consequences that go with it. Vulnerable as they are, there is no doubt that children will have to struggle within the macro situation to receive the needed attention and to say the least enjoy their right.

Unfortunately, problems receive attention depending on how much attention it receives from officialdom. It can therefore be hypothesised that out of the numerous problems that the region faces only a hand full will receive priority attention. Sector Ministries and departments are likely to argue that their sector is a priority to government but whether a sector's "priority" is

central governments priority is a matter of debate. Cobb and Elder (1983) puts this thinking in context by arguing that policy agendas can either be systemic and institutional or governmental. Most issues on the systemic agenda are general other than specific or detail whereas government agenda involves so-called issues considered by politicians and policymakers as needing immediate attention. What then will constitute policy agenda for children? To paraphrase Anderson (1994:89) it is what policymakers choose or feel compelled to act on or appear to be acting on at a given time. This definition appears to narrow the importance and urgency of children's rights as a continues process. The fact that children's situation has been acted upon culminating into the promulgation of a children's Act should not end the agenda. Rather, I propose that discourses on children's agenda should be that which sets into motion mechanisms that would always place the child on the social, economic, political and administrative map of the country. In line with Truman (1951) I argue that it is interests groups that will maintain the equilibrium. These interest groups can mean those in the private sector as well.

4.0   PRIVATE SECTOR – GOVERNMENT RELATIONSHIP: the way forward.

How does the private sector fit into the broader picture? In many sub-Saharan African countries there is suspicion between government and the private sector. This relationship has left a gap resulting in an uncooperative attitude between the two institutions. In modern governance, however, some countries are forging some kind of relationship but unfortunately not in direct response to children's rights and welfare. At the moment there is hardly any state social security for children who otherwise can not access state institutions to enable them do so in private sector markets in sub-Saharan Africa.

Recent studies by Gokah (2002) in South Africa and Uganda shows that it is possible for government, the private sector and NGOs to uphold children's rights if all institutions involved in promoting child rights co-ordinate their efforts. At the moment these efforts are scattered resulting in each one institution doing what it thinks is appropriate. To enhance this relationship we need to employ business principles in defining roles in the promotion of children's rights. If governments' have described the private sector as the engine of growth then it follows that the private sector should be perceived as having majority shares in child rights activities/ programmes.

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[2] As at the time of writing John Kufuor is the President of Ghana.
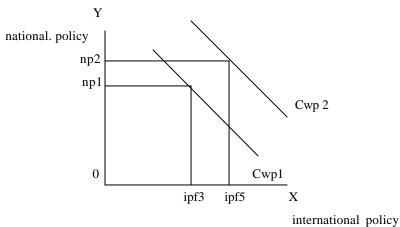
- Government must provide the environment, infrastructure and monitor operations of the sector and let the private sector do the planning and execution. Managing the infrastructure includes feeding the private sector with available data and information which government already has.

- The private sector must be strengthened to be a watchdog over child rights programmes. This can only happen if they take their rightful places in the child rights crusade.

- Flexibility grants for organisations and institutions to develop innovative child rights programmes that are best suited to local needs must be considered. Mechanisms in disbursement of grants could be worked out between government and the private sector.

- Private sectors that are financially dependent on government can be a hindrance to their watchdog role. Very vocal institutions within the sector may have their grants suspended if they are perceived to be out of line with government ideas. This is a difficult situation especially in countries where individual political thinking digresses from national policy and interest, typical of sub-Saharan Africa.

- In trying to find answers to how the private sector can participate in ensuring child rights it is important for it to know the issues at stake and how they fit into the scheme of global fight against child right abuses.

- Governments must first and foremost recognise the role of the private sector in making this realisation happen and to create the environment for a sustained dialogue.

- Welfare policies must be coherent and the role of the private sector clearly spelt out.

- Policy dissemination and understanding of all stakeholders is critical in promoting children's right.

This stakeholder model rests on the idea that all stakeholders should take part in decisions that affect their interest. Participatory approach on the other hand, assumes that participation will enable stakeholders to flag out conflicts and resolve them. Despite its flaws, it has the potential to bring more information and broader experiences to bear on decision – making, thus, making it easier to produce more realistic and effective policies, laws and regulations.

- It can help to ground new initiatives in existing and legitimate institutions and in natural values.

- It can help build political support for and reduce opposition to policy proposals, and other decisions by building in stakeholder concerns and taking account of their interests.
- Help build local capacity to plan and implement development activities.

These suggestions, I believe, are capable of making in-roads into children's right implementation agenda in sub-Saharan Africa. If that happens we will see an outward growth as represented by the T-Model (figure 1) The model is based on principles of economics and is this author's own derivation. It demonstrates graphically what will happen if implementation is making success. From the diagram, *np* represents national policy. *Ip* represents international policy. *Cwp* represents child welfare policy curve. The y-axis represents international children's welfare legislation framework and the x-axis, national children's welfare legislation framework. It is assumed that an inter-play of both national and international children's welfare policies will work together to enhance children's rights in sub-Saharan Africa. Given that all factors work perfectly the implementation curve is expected to shift outwards, implying success. Thus, if progress is made from n1 to n2 there will be a corresponding success for international Children's Right Policy framework shifting from ip3 to ip5. The opposite will be true if for reasons mentioned earlier implementation fails.

FIG. A1:   CHILDREN'S WELFARE POLICY CURVE : **T-MODEL**

5.0   <u>CONCLUSION</u>

In conclusion I wish to emphasise the need to make children's rights policies work. There are many benefits to this. A well developed child - physically, mentally and socially- benefits an entire society. For this to happen requires both government, the private sector, non-profit sector and community organisations to make it their collective goal and to work together to achieve results. Governments in sub-Saharan Africa are already burdened with resource issues and cannot alone make child rights and welfare reforms work, this has been demonstrated over the centuries, neither can the private sector nor non-profit organisations. Having said that

government must create the right environment to enable all players to co-ordinate their resources together so that its development agenda can. The less countries put aside their holly dances the better. Less successful countries can draw on the strengths of other successful countries by forming regional think tanks on child rights implementation. At the moment it is not known what the new African Union has under its sleeves about the promulgation, monitoring and evaluation of child rights in the continent but it is hoped that careful consideration is given to all factors needed to make this a reality.

As discussed earlier, NGOs are making and have made strides in promoting child rights. The extent of their success, however, is not without difficulties. Care needs to be taken not to replicate these difficulties in the new partnership. If anything, it should build on the strengths of NGOs and the private sector's own strength as "engine of growth".

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