# The political, economic and social climate for child rights organisations in Southern Africa

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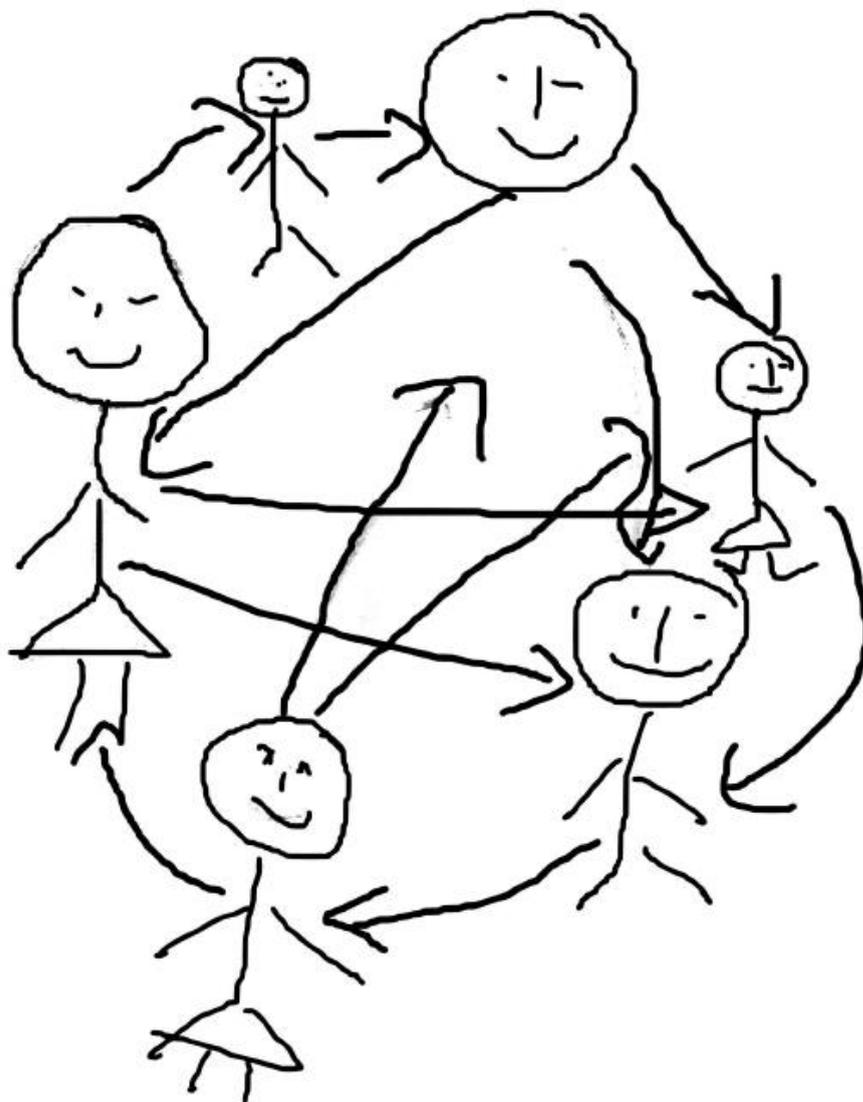
# Executive summary

## Aim of the study

Save the Children Sweden commissioned this desk study to gain a comprehensive understanding of the political, economic and social climate in which child rights organisations operate and the external opportunities and challenges facing them, including in their relationship with government structures, the donor community and other child rights organisations. The study focused on five countries in Southern Africa, including Botswana, Lesotho, South Africa, Swaziland and Zambia.

## Methodology

The desk study consists of two data collection components: a literature review pertaining to the state of civil society in the region; and interviews with a selection of civil society organisations, international donors and government institutions in the five focal countries.

Limited documentation exists with a specific focus on civil society or the child rights sector in the region. However, certain key studies and global indices were drawn on as well as files, documents and material available from UN agencies, bilateral donors, civil society, government structures, authorities, parliament and other actors in the field.

Information from civil society organisations and international donors was gathered through individual telephonic interviews guided by a questionnaire. The questionnaire covered information on the organisational profile, staffing, budget, sources of funding, child and human rights programme activities and perceptions of state-civil society relationships, the policy environment, support for civil society, the child and human rights sectors, and their coordination.

A total of 73 organisations and institutions were interviewed as part of this study. Of these, 17 were government institutions; 14 were international donors and 42 were civil society organisations (CSOs) (13 from South Africa, 9 Zambia, 7 Botswana, 7 Lesotho and 6 Swaziland). Three of the CSOs interviewed were children's groups.

## Profiles of the child rights sectors

International studies, such as the Civicus Global Survey of the State of Civil Society, reinforce the findings of this study. One of the key findings to be confirmed is that environmental factors, such as the political context, legislation, culture and socio-economic situation, have the greatest impact on the state of civil society. Thus, civil society faces two critical challenges: to proactively engage the state to improve the external environment in which CSOs operate, especially deepening democracy and, secondly, for individual CSOs to manage internal challenges. Both these aspects need to be addressed by a range of actors if civil society, and the child rights sector in particular, is to become a social force for change.

In terms of a nature of the child rights sector, the study found a range of conditions across the five countries surveyed. In some countries, such as South Africa, the child rights sector is relatively large, well established and organised, while in others, such as in Lesotho and Swaziland, it tends to be nascent and fragmented.

Child focused CSOs tended to be relatively small, ranging in size from an average of 6 staff (Lesotho) to 25 staff (Botswana) and commanding relatively modest budgets, ranging from an average of US$ 48,000pa (Lesotho) to US$ 490,000pa (South Africa).

## Enabling environment for civil society

Civil society operates in a partially disenabling environment in the five surveyed countries, with the most critical inhibiting factors being significant socio economic problems, such as child poverty, illiteracy, lack of basic services and corruption; as well as weak, unaccountable states. For example, respondents in South Africa and Zambia felt that the state was generally functional and able to meet its obligations, but was perceived to be unresponsive to child rights issues. In Botswana, Lesotho and Swaziland, the state was perceived to lack capacity.

According to a study by the Open Society Foundation (2007), the gap between policy formulation at national level and implementation at local level was found to be the interplay of the following factors:

- Insufficient harmonisation of strategic plans and general coordination between national, provincial and local levels.
- Policy reform overload, leading to difficulties in prioritisation.
- Insufficient quality and quantity of government officials for implementation.
- Insufficient popularisation and participation of communities and other stakeholders in the designing and implementation process of policies and plans.
- Insufficient monitoring and evaluation.

In countries with dual legal systems, such as Swaziland and to a lesser extent Zambia, the problem is exacerbated as there are many 'grey areas' between civil and customary laws, especially those aspects affecting children.

According to Transparency International's Corruption Perception Index (2006), Swaziland and Zambia are perceived to be most corrupt of the five surveyed countries and South Africa and Botswana perceived to be relatively less corrupt. The role of the independent media in publicizing and investigating cases of corruption was also highlighted.

All countries surveyed had some form of legislation requiring civil society organisations to register. The complexity of this legislation ranges from very informal, vague guidelines that exist in Lesotho to the comprehensive NPO Act that exists in South Africa. All organisations interviewed were legally registered as some form of civil society organisation. But many CSOs felt there was no real benefit to registration apart from being able to access government and donor funds more easily. In most cases organisations were not obliged to submit regular reports to the registrar to maintain their legal status. Follow up on reporting did not appear to happen anywhere.

Significantly, in Zambia, the proposed NGO Bill has met with a great deal of opposition from civil society and as a result was withdrawn for revision. The two main points objected to involve the power of the Minister of Home Affairs to register or deregister CSOs and the fact that all CSOs must submit themselves to an external financial audit.

In terms of funding and other forms of government assistance, only CSOs in South Africa noted that they received significant funding from government. CSOs in the remaining four countries tended to received little or no funding from government.

## State-civil society relationships

Although civil society enjoys a certain level of autonomy from the state and freedom of expression, there are occasional threats from the state which undermine this autonomy and several respondents feel that the state sometimes interferes with CSOs.

Civil society organisations tend to work with government institutions and structures which focus on child rights issues, such as education, health, social development and justice. There appears to be a growing recognition in the region of the importance of the work carried out by the CSOs in the child rights sector. This recognition is reflected in the varying degrees of positive cooperation that exist between CSOs and government, the level of involvement of CSOs in service delivery and input into child focused legislation, policies and programmes. Levels of collaboration with government appear to be weakest in Swaziland and Lesotho. There is also variation within countries, with some ministries/ departments being more cooperative than others. However all respondents in all countries mentioned examples of successful state-civil society relationships which addressed child rights issues.

The key challenges faced by child rights organisations working with government include:

- Slow and limited domestication of international human rights treaties and implementation of legislation, policies and programmes.
- Difficulties in dealing with slow and unresponsive government systems, structures and bureaucratic processes.
- Limited funding and support from government.
- Limited space for a representative body of CSOs to openly engage government formally, authentically and regularly.

Government perceptions of civil society in general and the child rights sector in particular included:

- Civil society is not as robust as needed.
- There is limited synergy and coordination within civil society and the child rights sector.
- A more organised and formal, representative voice is needed for the child rights sector
- Child rights sector is often constrained by the lack of/ implementation of legislation to deal with children's rights.
- The child rights sector could be more effective at holding government accountable for fulfilling children's rights.
- CSOs are regarded as having long established relationships with communities and insights into local development needs.
- However, most CSO interventions and activities are too small in scale and ad hoc to address the current level of demand.
- At times the perceptions of government exhibit a narrow view of the role of civil society, seeing it mainly in terms of direct service delivery on the part of the state.

Generally CSO respondents felt reasonably autonomous from the state, with occasional instances of interference. But when it came to the ability to criticize government, interviewees were more guarded in their responses. Conditions in Botswana and South Africa appeared to be most free in this regard, while conditions in Lesotho and Swaziland were more restricted. The existence of a free and independent media as well as the extent to which CSOs depend on government funding, were identified as the two key determining factors in this area.

In terms of dialogue with government, most CSOs felt that only a few, unrepresentative organisations were involved in an ad hoc, poorly organised, and tokenistic manner when convenient for government. However in Botswana, South Africa and to a lesser extent in Zambia, formal mechanisms have been established for ongoing meaningful dialogue between state and civil society. More needs to be done to prioritize space for and the quality of dialogue between state and civil society.

## Capacity of the child rights sector

Civil society in the surveyed countries is characterised by high levels of individual citizen participation, especially at community level. But its primary weaknesses lie at the organisation and sector level, such as limited financial resources, strong dependence on donors, weak support infrastructure, e.g. resource and capacity building centres, and ad hoc levels of communication and formal coordination within the child rights sector.

The study revealed that CSOs are making a significant contribution towards raising awareness about child rights and service delivery. The main activities CSOs are successfully involved in include providing children with basic services, legal support, child rights education, health care and child protection. However, their role in influencing public policy and law reform through advocacy, parliamentary lobbying or using human rights bodies and mechanisms or as a watchdog for the state is still limited.

When asked how effective child rights organisations were at holding government accountable for the fulfilment of child rights, respondents in Botswana, Lesotho and Swaziland perceived that they had 'little or no impact'. This was echoed by perceptions of government officials and donor representatives. Only in South Africa and Zambia did some respondents feel that child rights organisations were 'involve in some activities, but with limited impact.' However, some notable successes have been experienced, such as influencing public policy around child grants and national budget processes.

When asked how effective CSOs perceived the child rights sector to be similar results were found. Most CSO respondents in the five countries said that there has been 'limited activity to some activity with limited impact'. Only in South Africa and Zambia did CSOs feel that the child rights sector had 'a significant role and impact'. Several reasons were given for the perceived limited impact achieved by child rights organisations, including both external factors and internal:

- A shallow child rights culture.
- Limited domestication of the UNCRC and law reform processes.
- Nascent nature of the child rights sector and organisations.
- Small scale of child rights interventions.
- Urban rural divide.
- Lack of monitoring and evaluation systems to determine impact and change.
- Limited sectoral coordination and networking.
- Lack of resources.

Donors' views regarding the effectiveness of the children's rights sector were mixed. Donors who felt that the sector was not very effective claimed few organisations adopted a rights based approach to children's issues. There was a perception that very few CSOs recognised "that children have rights and they tend rather to have a 'handout' approach and not a rights based approach". Thus, CSOs tended to focus on immediate needs rather than on the realisation of child rights. In relation to children's rights some donors felt that the children's sector was fragmented and generally urban based. Also very few organisations appear to have a good understanding about how to work at regional levels and often organisations start working at a regional level to access funding thus diverting from their core mandate.

In summary, the overall impact of the CSOs on child rights issues is significant in the area of service provision, education and awareness raising; whereas engaging and influencing decision makers regarding child rights legislation is still to be addressed.

## Organisation of the child rights sector

While the level organisation within the child rights sectors across the study countries is generally still being developed, a few issue based networks have been established and are addressing certain child rights issues.

South Africa tends to have the most well established child focused networks, some of which are permanent while others are ad hoc, only arising to address a specific need and then disbanding when the goal has been satisfied. The child rights sectors in Botswana and Zambia are smaller, although fairly well established. Thus their networks are small, but focussed and are doing good work. In the two countries with the smallest child rights sectors, Lesotho and Swaziland, many of the networks are newly formed, fragile and still trying to find their place and purpose. A worrying aspect of this situation is reflected in the recent closure of the only national child rights network in Lesotho.

However, having large and vibrant networks does not necessarily mean that these networks are perfect or harmonious. All respondents mentioned challenges faced by the networks. The larger the networks, the more problems were experienced with ensuring coordination, cooperation, sourcing funding and maintaining commitment of members. There are also many networks, and organisations have to ensure that they are involved in those that are most useful to them and their programmes. Personality clashes are common and turf is jealously guarded. In those countries where the networks are still emerging – defining the vision and focus of the network, building capacity, coordinating activities, sourcing funding and sustaining the momentum and commitment of a diverse membership are key challenges.

## Recommendations

The Global Civicus Study on the State of Civil Society identifies two key challenges for civil society:

- How to meaningfully engage in continentally inspired policy processes at the national level e.g. regarding NEPAD's peer review mechanism; UNCRC domestication and reporting and AU/ ACRWC reporting and use of relevant complaints/communication mechanisms.
- How to create horizontal linkages within civil society across national boundaries in Africa to be able to engage in continental political fora.

More specifically, CSO, donor and government respondents noted the following challenges that need to be addressed in order for the child rights sector to become a social force:

- Strengthen the internal capacity of child rights organisations.
- Consolidate national and regional child rights networks.
- Engage and influence government and the public policy environment.
- Diversify levels of funding and other types of support for child rights organisations.

In the light of the findings of this study, specific recommendations concerning SCS's programme in the region include:

- Disseminate and discuss the results of this study with partner CSOs, networks other stakeholders within the child rights sector.
- Use the findings of the report to prioritise a set of strategies which SCS could support to further strengthen the child rights sector in the region.
- Continue to provide platforms and opportunities for CSOs in the child rights sector to build and integrate a stronger child rights practice and set of practical tools into their interventions.

- Further explore the concept of children's participation with CSOs, especially the role of child-adult partnerships and the implications of these for fostering child movements or child focused groups.
- Initiate discussions around the content and aims of the Paris Declaration to increase awareness of it among CSOs and support CSOs to determine how they can more effectively engage with its principles, include these principles in child budget initiatives and make international aid more effective.
- Continue to support national and regional networks, especially for these organisations to evaluate their structure and performance and to document case studies and successful models for wider replication within the sector.
- Continue to support national or regional child rights networks to use alternative reports, formal communication and compliant mechanisms and observer status relating to various human rights instruments in order to exercise and claim children's rights and hold governments accountable for the fulfilment of child rights.
- Further research could explore examples of good practice where a strong and democratic state has emerge alongside a robust civil society, particularly in the South, as the political environment has such a significant influence on the state of civil society.
- Review SCS's funding mechanisms as current short term, project based nature of donor funding is not conducive to building sustainable child rights organisations or realising rights.

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## Abbreviations

| | |
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| ACRWC | Africa Charter on the Rights and Welfare of the Child |
| ARV | antiretroviral (drugs) |
| ART | antiretroviral therapy |
| AU | African Union |
| BBC | British Broadcasting Corporation |
| BTV | Botswana Television |
| CSI | Civil Society Index |
| CSO | civil society organisation |
| CRO | child rights organisation |
| CRC | Convention on the Rights of the Child |
| dept | department |
| DG | Director General |
| GDP | Gross Domestic Product |
| govt | government |
| HR | human rights |
| LEGABIBO | NGO Lesbians, Gays, & Bisexuals of Botswana Organization |
| ILO | International Labour Organisation |
| MDGs | Millennium Development Goals |
| Min | Minister |
| MoU | memorandum of understanding |
| NAC | National AIDS Commission |
| NEPAD | New Partnership for Africa's Development |
| NGO | non government organisation |
| PMTCT | prevention of mother-to-child HIV transmission |
| SA | South Africa |
| SABC | South African Broadcasting Corporation |
| SANAC | South African National AIDS Council |
| SC | Save the Children |
| SCS | Save the Children Sweden |
| SSA | sub Saharan Africa |
| UK | United Kingdom |
| UN | United Nations |
| UNCRC | United Nations Convention on the Rights of the Child |

## Acknowledgements

# 1.0 Introduction

Save the Children Sweden (SCS) is committed to advancing the rights of children around the world. SCS's work outside Sweden is primarily aimed at supporting local actors in civil society to advocate for the fulfilment of children's rights.

Save the Children Sweden believes that supporting civil society to promote and monitor children's rights contributes not only to improvements for children but also to building more sustainable democratic societies. SCS sees a strong child rights based civil society as a prerequisite for successful implementation of the UN Convention on the Rights of the Child, the African Charter on the Rights and Welfare of the Child and other international human rights instruments.

A beneficial policy and operating climate for human rights and child rights organisations is essential for these organisations to become a social force for children's rights. However, the basic conditions for organisations, including the existence of civil society friendly legal frameworks and an open, transparent relationship between civil society and government structures, tend to vary depending on the political, economic and social situation within countries in the region.

A tighter political, economic and social climate makes the need for stronger collaboration and networking among child rights organisation even more important. But, for various reasons cooperation and coordination between Southern African child rights organisations on local, provincial and national levels remains poorly developed.

As part of its strategy for the period 2009 to 2012, SCS aims to influence governments to promote civil society friendly policies which permit partner organisations to become a social force for the rights of the child; to promote closer collaboration among child rights/ human rights organisations; to encourage the creation of national networks for children's rights and to support child led organisations to take active part in these collaborative efforts. To accomplish these objectives, there is a need to increase the knowledge and understanding of the context in which civil society organisations work, as well as the political, economic and social opportunities and constraints facing child rights organisations in particular.

Thus, Save the Children Sweden commissioned a desk study to gain a more in-depth understanding of the external challenges and constraints facing child rights organisations and their relationship to the state and other actors in Southern Africa. The study focused on five countries, including, Botswana, Lesotho, South Africa, Swaziland and Zambia.

## 1.1 Purpose of the desk study

The desk study was aimed at gaining a comprehensive understanding, based on available data, of the political, economic and social climate in which child rights organisations operate and the external opportunities and challenges facing them, including in their relationship with government structures, the donor community and other child rights organisations and civil society at large in Southern Africa.

In particular, the desk study considered the following issues:

- How governments in Southern Africa view the role of civil society with a specific focus on human rights and child rights organisations as well as how civil society view their role and how they perceive the relationship between government structures and child rights organisations based on available documentation and opinions, including existing or draft legislation governing the NGO sector;
- How the child rights sector in Southern Africa, particularly child rights organisations, networks and coalitions, is organised and interacts as well as the strengths and weaknesses of this sector in becoming a social force for children's rights in Southern Africa;
- How general human rights organisations are working with children's rights and how work related to children's rights could be further developed within these organisations and vice versa;
- The role child led organisations are playing in civil society in Southern Africa;
- How priorities of the international donor community, including the Paris Declaration, affect human rights and child rights organisations in Southern Africa;
- Gaps in available information as well as additional need for research;
- Recommendations on what actions should be undertaken to ensure that civil society in Southern Africa, with a focus on human rights and child rights organisations and networks, can become a social force for children's rights;
- Recommendations on what role Save the Children Sweden could play in promoting a more NGO friendly climate in Southern Africa and in supporting and stimulating further cooperation between child rights organisations, including child led organisations.

## 2.0 Methodology

### 2.1 Data collection

The desk study consists of two data collection components: a literature review pertaining to the state of civil society in the region; and interviews with a selection of civil society organisations, international donors and government institutions in the five focal countries.

Limited documentation exists with a specific focus on civil society or the child rights sector in the region. However, certain key studies and global indices were drawn on as well as files, documents and material available from UN agencies, bilateral donors, civil society, government structures, authorities, parliament and other actors in the field.

Information from civil society organisations and international donors was gathered through individual telephonic interviews guided by a questionnaire. The questionnaire covered information on the organisational profile, staffing, budget, sources of funding, child and human rights programme activities and perceptions of state-civil society relationships, the policy environment, support for civil society, the child and human rights sectors, and their coordination.

Information from government institutions was gathered through a similar questionnaire administered telephonically. The questionnaire covered information on institutional profile, child and human rights activities, operating and policy environment, compliance with

international human rights instruments and perceptions of state-civil society relationships, support for civil society, the child and human rights sectors and their coordination.

In each country a list of child and human rights organisations was complied on the basis of information gathered from SCS, their partners and national civil society networks. As many of these organisations as possible were contacted to arrange interviews. Those organisations that responded positively were included in the study. Government institutions targeted, such as Welfare, Social Services, Education, Health or Justice, were specifically selected for their pertinence and direct responsibility for the situation of children within the country concerned. Each organisation or institution selected was contacted a minimum of three times to get a response. If an organisation or institution could not be contacted or declined to be interviewed, it was removed from the list.

In total 73 organisations and institutions were interviewed during the study between April and July 2008:

| Country | # CSOs interviewed | # international donors interviewed | # government institutions interviewed | Total |
|---|---|---|---|---|
| Botswana | 7 | - | 2 | 9 |
| Lesotho | 7 | - | 7 | 14 |
| South Africa | 13 | 3 | 2 | 18 |
| Swaziland | 6 | - | 4 | 10 |
| Zambia | 9 | 8 | 2 | 19 |
| Regional offices | - | 3 | | 3 |
| **TOTAL** | **42** | **14** | **17** | **73** |

However, not all CSOs, donors or government institutions availed themselves of the opportunity to be interviewed. Due to the potentially sensitive nature of some of the questions, the identity of respondents was kept anonymous and only the name of the organisation or institution was recorded. A list of the organisations and institutions contacted is included in Appendix 1.

## 2.2 Limitations of the study
A number of inherent limitations related to the study methodology need to be noted:

- The research was essentially a desk study supplemented with a range of interviews with as many children's civil society organisations, donors and state actors as could be contacted within the timeframe of the study. However, the research does not constitute a representative or exhaustive study of the child rights sector or the countries it focuses on;
- Complete or up to date lists of all CSOs engaged in the human and child rights sectors were not available in any of the countries surveyed. These lists had to be constructed from a range of contacts available to the research team. Thus, the sample tends to be biased towards those actors which are funded by, connected to or known by SCS and its partners in Southern Africa;
- Although community based organisations make a significant contribution to child rights issues within their communities, these organisations have not been included in the study due to logistical constraints of contacting a significant sample. Instead, national

networks, to which many of these organisations belong, were interviewed and their perceptions are reflected in the results of the study;

- Data collected during telephonic interviews included personal views and perceptions of interviewees, thus it may contain gaps, inaccuracies or contradictions. However, attempts were made to cross check and verify facts where possible;
- The research process took much longer to complete than anticipated. Initial response rates from civil society and government institutions were low and required extensive and time consuming follow up;
- Great difficultly was experienced in accessing certain government institutions for interviews and appropriate officials were frequently unavailable or failed to respond despite repeated attempts to set up telephonic interviews.

# 3.0 Civil society overview

## 3.1 Definition of civil society

Fowler in CARE South Africa (2001) offers a broad definition of civil society as the "terrain for civil association and action" which is essentially the space between state and individuals, in which groups of citizens gather together, organise and act in order to meet necessities. Thus, Fowler claims that civil society is essentially a political and not social or economic, concept, as it is concerned with the attainment and exercise of power and the achievement of social change.

According to Mathekga (2006) the most critical aspect of civil society concerns how it relates to government. Thus, civil society is an expression of cooperation and voluntarism outside the state. This cooperation may at points overlap with the state and other stakeholders, such as private sector and media, in society in pursuit of certain goals. However, the defining characteristic of civil society is that it is independent from the state.

In discussing "civil society," it is important to note that civil society organisations are not equal to or interchangeable with civil society. Civil society organisations (CSOs) are a component of civil society, not its whole (much as child rights organisations are a component of child rights). They represent forms of organisation or groupings that help people to organise, to access power and to exercise their rights. Thus, the local context and culture is highly influential in relation to the nature of civil societies and its organisations. As can be seen in many countries, these forms of organisation vary over time and from place to place (CARE South Africa 2001).

## 3.2 What is a civil society organisation?

The definition of a "civil society organisation" has also been the subject of much debate. Internationally several authors (Fowler 2001 & van Rooy 1998) argue for as inclusive a definition of civil society organisation as possible – this enables a more flexible approach to civil societies and their constituents and accommodates as many forms and functions as possible. This is because different civil society structures make contributions to people's lives at many levels, contributions that development practitioners may not be aware of, and to exclude any of these forms could result in unintended negative consequences.

For these reasons the following definition is proposed, as it is more easily generalised to a variety of contexts and expresses the inherent change orientation of civil society organisations: Civil society organisations "are private, self governing, voluntary, non profit distributing organisations operating, not for commercial purposes, but in the public interest, for the promotion of social welfare and development, religion, charity, education and research". (Honey & Bonbright 1993).

This definition helps to identify five basic characteristics of CSOs (Salamon 2001):

- Be they formal or informal, all CSOs have some structure, some pattern and some common activities over time.
- They operate in the private domain – they are not part of the state or the market.
- Although they may earn profits – they are not profit distributing.
- They are self governing and have their own internal governance mechanisms.
- They are voluntary – membership is not a birth right or a condition of citizenship, rather it is a matter of choice.

However, it is also acknowledged that many organisations and structures straddle the boundaries of civil society with other spheres, such as the state, public sector or market. For example professional association, business associations, trade unions, survivalist groups, political parties and activists groups are neither purely CSOs nor public or private sector organisations. Although these structures do not primarily exist to promote "the public interest", many still maintain a significant social movement function in SA – and thus need to be considered part of civil society. For example at community level local political branches play an important role in conflict resolution, agitation around collective consumer demands and coordinating access to welfare and information, as opposed to only canvassing for party membership. Another example is that of stokvels and survivalist groups. Typically these groups consist of small numbers of people who work together at community level to generate and share the limited resources of members (e.g. savings, labour, food stocks etc). However, this financial function is only one part of their role. Other functions include, developing bonds of trust, livelihood support networks and conflict resolution. Therefore, they form an important social capital component in many communities.

Within this broad definition, it must be noted that there are many different kinds of organisation. For example, Habib (2003) identifies three distinct types of civil society organisation. The first type includes informal, survivalist community based organisations, networks and associations, which enable poor and marginalised communities to simply survive. Anecdotal evidence suggests that these informal, community based networks are on the rise in Africa, particularly in the struggle to deal with the increasing repercussions of the government's failure to address HIV/AIDS and the unemployment crisis (Habib 2002).

The second type of organisation that has emerged within civil society in response to the effects of neo-liberalisation, are the formal social movements. Some are internationally/ nationally based associations, such as the Treatment Action Campaign (TAC) while others are locally based. These organisations are not survivalist agencies, but have been established with the explicit aim of organising and mobilising the poor and marginalised and contest or engage the state around neo-liberal policies, such as the provision of anti-retroviral drugs to AIDS sufferers, violence against children, or national budgets as well as challenging the prevailing status quo.

The third type includes the formally established NGOs. Many states officially recognise this section of civil society and have passed legislation regarding the voluntary registration of these organisations. The state has also been willing to partner with these NGOs in the areas of policy development and service delivery. This has opened up a whole new avenue of operations for NGOs and fundamentally transformed their relationships with the state.

Thus, during the last decade, a variety of relationships have developed between civil society and the public sector. The first two types of organisations within civil society have very different relationships with the state in comparison to the third type. The informal CBOs have virtually no relationship with government, do not receive funding and are not formally recognised by it. The second type, which includes the social movements, has an explicit relationship with government which tends to vary between adversarialism and engagement, including lobbying, court action and resistance. While the third type, formal, service-related NGOs, have a relationship with government that tends to be largely sub-contractual or collaborative.

However, in reality the distinctions within civil society are not clear cut – many organisations straddle the boundaries between the three categories of organisation. Some organisations display adversarial relations with the state on one issue and more collegiate relations on another. While others challenge and oppose some government institutions, but have established partnerships with others.

## 3.3 What should civil society organisations do?

A key phrase in the above definition is "in the public interest". Ultimately CSOs exist to broaden and strengthen dialogue around effecting social change and to further democratic participation and rights realisation. This requires a diversity of organisations, and for maximum impact, should be done through several strategies, such as advocacy; social organisation and the delivery of services. In Africa, this is usually undertaken in tandem with government (although the tension between enabling government to function vs enabling it to abdicate its responsibilities is a contentions issue).

It is critical to consider how CSOs and the state work together and relate to each other as well as how they relate to local communities. Both civil society and the state are required to contribute to the development and promotion of approaches that encourage the inclusive participation of community groups in analysing and acting upon their situations. More strategic engagement with the state, especially regarding attempts to move beyond a limited delivery agent role on behalf of government, would enable CSOs to contribute more substantially to rights realisation and redressing social and economic imbalances in the environment. Thus, the ability to see and act on opportunities, to build alliances and to engage in influence others are all core competencies that assist CSOs to achieve their objectives and impact social change.

In addition the above, Miller (1999) and Putman (2000) allude to the indirect (non-programmatic) benefits of CSOs. For example, it is through organisation, that people learn how to work with trust, cooperation and collaboration. This results in the enhancement of social capital, cohesive communities, meeting economic needs, lower crime and more responsive government. It is contended that the process of voluntarily joining and participating in an association builds the skills, effective citizenship and a fair and democratic society (Levin 1997). Thus, a sports club is just as much part of civil society as

a women's advocacy group.  In their own way, both play an important role in strengthening civil society.

## 3.4 Child rights organisations

A further differentiation that is made, is based on the areas of focus of civil society organisations, Thus, civil society is often divided up into various sectors, such as health, education, environment or rights etc. Thus, the 'child rights sector' is a term frequently referred by civil society organisations, especially to denote that group of organisations which concentrate specifically on children and children's issues.

While there does not appear to be a formal definition of a 'child rights organisation', the following statement can be used as a starting point (www.crin.org): child rights organisations "promote rights not charity for children and seek to put children's rights at the top of the development agenda by addressing root causes and supporting systemic change. Their guiding framework is the United Nations Convention of the Rights of the Child (UNCRC)".

However, the lack of a common definition of what constitutes a 'child rights organisation' or the 'child rights sector' is a recurring theme in this study and is dealt with further in this report.

## 3.5 Civil society history

According to Opoku-Mensah (2008) civil society emerged as one of the leading concepts in African development and is expected to help in both reconstituting the state and contributing to development and democratisation. This expectation is based on civil society providing the "missing key," at both theoretical and policy levels, to sustain political reform, legitimate states and governments, and viable state-society and state-economy relationships, and to prevent the political decay that has undermined African development in the past.

From the early 1980s civil society started to be included in official development thinking and practice and CSOs became recognised actors in the development landscape. By the mid-1990s civil society was firmly connected to and increasingly financially dependent on the official aid system (Fowler 2008).

During this time donor expectations evolved from seeing civil society organisations as just helping governments to provide services, to starting to include the establishment of effective poverty-responsive public institutions. Together with the "right" policy environment this shift in emphasis was aimed at making development aid more effective. Such strategies led CSOs to start challenging and questioning the legitimacy of many governments, which often prompted a backlash and resulted in a more hostile environment for civil society.

In summarising these shifts, Fowler notes that the 1980s was a period of NGO discovery and acceptance. The following decade, the 1990s, was seen as a CSO boom era with generally benevolent terms of engagement and rapid growth in official support where "strengthening" civil society was an uncontested and mainly technical challenge. In

contrast, the 2000s were significantly more circumspect about CSOs as agents of change (Fowler 2008). This trend continues today.

## 3.6 Civil society organisations around the world

The Global Civicus Study on the State of Civil Society produced a table which graphically illustrates the current relative positions of regional groupings of CSOs (Bailer et al 2008). The table below represents a composite index of civil society's strength calculated from data collected during the survey. Each region has a ventral box with two protruding lines on either side. The box indicates where 50% of the scores are located; the vertical line shows the position of the median.

The findings demonstrate that the overall scores are highest in Western and Southern Europe, followed by post-communist Europe, Asia, Latin America, sub-Saharan Africa and Mediterranean/ Middle-East. The intraregional variations are quite high, pointing to the conclusion that other forces, apart from regional characteristics, must be at work in shaping civil society.

Sub-Saharan Africa is ranked near the middle of the table and the length of its central box indicates the wide variance for the middle 50% of its score. Not all CSOs and not all the countries in Sub-Saharan Africa are as homogenous as in Latin America, Post-Communist Europe and Asia-Pacific.
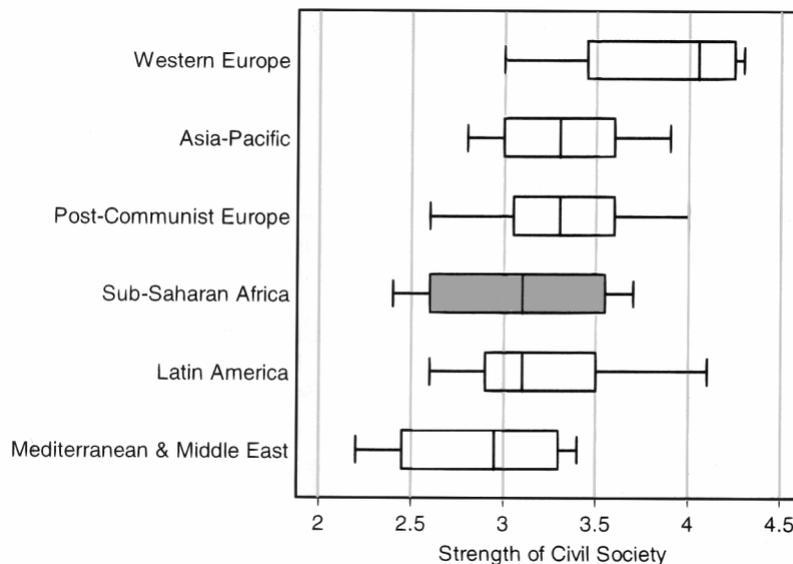


The Global Civicus study also found that the strength of civil society does not seem to be dependent on historical cultural legacies (the so-called "long arms of history"). Neither does the length of democratic experience nor experience with communist rule make much difference.

There was, however, a strong and positive effect of the performance of political institutions on civil society. Thus the better governed states with reliable institutions and credible civil servants and politicians are conducive to the creation of a vibrant civil society.

Socio-economic factors also have a significant effect. These factors are highly correlated (especially the Human Development Index) with the quality of government which indicates that positive developments in politics, economy and civil society are closely interrelated. However, the causal linkage which determines which factor influences is hard to establish. It is likely that the stronger influence runs from the powerful and encompassing political and economic systems to civil society, rather than vice versa. This lends support to a top down approach in current debates regarding how to strengthen civil society. However, there should be a caution against developing the aid system in a direction which disregards a political dimension, particularly human rights, or which sidelines civil society and its important democratising and development roles.

The challenge is to foster strong governing elites, reliable administrations and democratic institutions, and at the same time strong civil society. Unfortunately, such attempts are often eroded by current trends, such as the growth of façade democracies, the frequent regression into authoritarianism and the general reluctance of democratic governments to genuinely acknowledge the importance of civil society and take concrete steps toward supporting its development.

### 3.7 Characteristics of civil society organisations in Sub-Saharan Africa

As part of a worldwide survey on the state of civil society, Civicus carried out studies of CSOs in Ghana, Sierra Leone, Togo and Uganda in an attempt to understand the characteristics of CSOs in Sub-Saharan Africa (Opoku-Mensah 2008). Despite the fact that the study focused only on West and Central Africa, many of the findings resonate with those of this study. The Civicus findings are divided into four categories, i.e. structure, environment, values and impact and the results are summarised below.

**a. Structure**
Structure deals with issues internal to civil society and the specific actors are assessed along with their main characteristics and relationships.

- The findings from the Civicus survey indicate a CSO structure characterised by inadequate financial and human resources, while being dominated by foreign donor support in all four countries often with high dependency rates on single donors.
- The level of organisation is another primary weakness of civil society's structure in Sub-Saharan Africa. Civil society tends to emerge in the capital city and there is very little active support from their membership. This weakness often manifests itself as an inability to establish a self-regulatory code for CSOs.
- The general structural weaknesses and lack of participation in networks also translates into low levels of interaction among CSOs.
- In spite of the growth of CSOs on the continent, the communications and networking between and among them remains low. CSOs tend to isolate themselves from each other and have no common platform for sharing information and building networks due to resource competition and limited access to donor agencies.
- Overall, the civil society arena remains fragile due to weak organisation and poor resources, fragmentation along a rural-urban divide, and internal weaknesses as a result of the unhealthy competition caused in part by excessive dependence on foreign donors.

### b. Environment

This category relates to external issues and includes variables such as the political, legal, institutional, social cultural and economic factors. Also included are the attitudes and behaviour of state and private sectors towards civil society. In Africa, the political context is particularly important to understanding the state of civil society given that the parameters within which civil society and CSOs operate are defined by the regime in power.

According to the Civicus study, this is the weakest of the four dimensions and can, at best, be regarded as disabling, and at worst hostile.

- The environment is characterised by weak socio-economic developments, fragile democracies and is reflective of the general state of Sub-Saharan Africa which is exacerbated by endemic corruption and by the economic and political histories of the countries.
- With active support and pressure from donors there is an improvement in state-civil society relations from one of state dominance to a pluralistic form that gives considerable space to the participation of civil society.
- In general, private sector support for CSOs is minimal. It could be due to the fragility of the corporate sector, which itself is underdeveloped in many countries, as well as the dependence of CSOs on external donors which makes the local corporations reluctant to finance CSO activities.
- The emerging environment is often not openly hostile, but is still disabling for civil society. Given the crucial role of the environment for civil society's health, the importance of action at this level is essential to any attempt at building civil society.

### c. Values

This section addresses the principles and values adhered to, practiced by and promoted by civil society. If the relevance of civil society is limited to the extent to which it responds to pressing societal problems, civil society may be regarded as an important actor as it does respond satisfactorily to what is arguably the major challenge for Africa, namely that of poverty alleviation.

- Poverty alleviation has been the traditional focus of CSOs in Sub-Saharan Africa as well as possibly being the internalisation of the dominant values espoused by foreign donors. Other progressive values such as democracy, gender equity and tolerance are also seen as important, but significantly less so than poverty alleviation.
- While civil society is good at promoting progressive values, their internal practice of these values is often deficient. The survey findings indicate that civil society does have negative and destructive values that undermine development such as a lack of internal democracy and transparency, instances of corruption and a gap between the rhetoric and practice of values of tolerance, non-violence and gender equity.
- For an institutional sector whose legitimacy rests on public perceptions and attitudes, civil society must ensure that it practices what it preaches.

### 3.8 Impact

The common expectation of civil society is that it is a key player in addressing the myriad of problems confronting the continent. Their contributions relate the extent to which CSOs are able to meet societal needs, influence government policy and hold the state and private sector accountable.

- Civil society is effective in providing the much-needed services to the poor, but tends to play a limited role in policy making.
- Donors exert strong influence on the evolution of civil society and its roles, particularly in policymaking. Where there is policy advocacy when no donor is involved, civil society actors have hardly played a meaningful role.
- Results from Uganda and Ghana indicate a gradual widening of civil society's sphere of influence to include policy engagement. However, participation in policy processes and discussions does not indicate impact. Effective civil society participation in policy is based on CSOs having the required financial and human resources, as well as significant expertise and competence in the policies they are involved with.
- The weakest area of civil society's impact is at the level of holding the state and private sector to account which indicates that the liberal concept of civil society being a bulwark against the state is not strongly supported in the surveyed countries.

## 3.9 Enabling environment

An important finding of the Civicus survey is the centrality of the political context to the viability of civil society. The overall political context and the state-civil society relations have improved over the last two decades. However, this trend has been reversed in countries where there is no donor pressure and a lack of civil society resistance, such as the non-implementation of the draft NGO policy in Ghana and the expected introduction of a new restrictive CSO policy in Uganda (and potentially in Zambia).

There is a paradox in that the environment to a large extent operates beyond the control of civil society, but environmental factors tend to have the highest impact on civil society. Civil society will have to proactively engage the state to shape this environment and to protect it from shrinking (i.e. in advocating legislation that will facilitate growth and enhance its accountability). It will also mean contributing to the institutionalisation of democratic governance which is essential for improved state-society relations.

## 3.10 Legitimacy & accountability

In all the countries around the world, the Civicus study revealed that CSOs enjoy more legitimacy than do state and business institutions. Thus, it is important for civil society to ensure accountability and there is often a need for CSOs to put their house in order as criticism of weak legitimacy and accountability may serve as a rationale for government intervention.

The development of self-regulatory mechanisms is an important step in the process of developing their relations with the state and establishing legitimacy and accountability. One problem that CSOs often face is that their sole reliance on foreign funds often leads to the perception of them being foreign organisations or face the risk of abuse of their CSO status.

## 3.11 Relevance

Civil society in Africa has responded significantly to poverty alleviation, even if this role can and ought to be improved. What remains is a widening of CSO activity spheres to address the other central challenge of Africa, that of democratic governance.

Given the centrality of issues of governance to the resolution of Africa's problems, until civil society is able to develop the capacity to influence the public policy environment, the long-term relevance of civil society for the continent will remain in doubt.

There should also be a scaling up of civil society activity beyond the nation-state to issues of continental governance. There is a growing indication that regional integration may potentially present the most important opportunity for improving political accountability across the continent. This rationale is further strengthened by the increasing importance of regional institutions as instruments to establish a culture of democratic governance on the continent and the important watchdog role of civil society in this regard.

Thus, there are two challenges relating to civil society:

- How to meaningfully engage in continentally inspired policy processes at the national level (e.g. through the use of international human rights mechanisms and structures).
- How to create horizontal linkages within civil society nationally and across international boundaries in Africa to be able to engage in continental or regional political fora.


### 3.12 Overall challenges for civil society

The Civicus study in Sub-Saharan Africa indicates that civil society has re-emerged as a significant autonomous space and institutional actor, engaged in a web of cross-cutting relations and contributing in varying ways to the continent's development (Opoku-Mensah 2008). But civil society still remains fragile, and its sustained development must be constantly nurtured and facilitated.

The future of civil society in Sub-Saharan Africa will depend on two distinct, but interconnected processes:

- Improvements in the external environment in which it operates, in particular the political context.
- The extent to which civil society itself manages the internal challenges facing it which can be summarised by the concluding question posed by the Uganda Civicus study: "Will civil society confine itself to a somewhat docile role, focussing on service delivery and sub-contracting from the government? Or will it further develop its capacity to question the socio-political make-up, striving to augment its autonomy, its cohesion and its local ownership".

Given the importance of civil society to the future of the continent, these questions should be addressed not just by civil society, but should be of interest to all stakeholders with an interest in the development of civil society.

# 4.0 Regional context

This section starts the investigation of the child rights sector of civil society in Southern Africa with an overview of the five countries which were focused of this study.

## 4.1 Country characteristics

There are some huge disparities between the five countries included in this report. For instance they vary in size from South Africa, which covers over 1,2 million km$^2$ to the tiny land-locked countries of Lesotho and Swaziland, which cover 30 000 and 17 000 km$^2$ respectively. Population size also varies. South Africa is the most populous. Most of Botswana is inhospitable desert and so it joins Lesotho and Swaziland as the least populous countries. The following table provides an initial profile of the countries included in the study.



| | Botswana | Lesotho | South Africa | Swaziland | Zambia |
|---|---|---|---|---|---|
| **Size** | 600,370 km$^2$ | 30,355 km$^2$ | 1,219,912 km$^2$ | 17,363 km$^2$ | 752,614 km$^2$ |
| **Population** | 1,842,323 | 2,128,180 | 43,786,115 | 1,128,814 | 11,669,534 |
| **Under 5 Years** | 11.6% | 13.6% | 10.9% | 13.0% | 17.2% |
| **Pop under 18 Years** | 42.2% | 47.72% | 38.0% | 47.3% | 52.7% |
| **Average Age** | 21.2 years | 21.2 years | 24.5 years | 18.7 years | 16.9 years |
| **Infant Mortality** | 44.01 deaths / 1,000 live births | 78.59 deaths / 1,000 live births | 58.26 deaths / 1,000 live births | 69.59 deaths / 1,000 live births | 100.96 deaths / 1,000 live births |
| **Life Expectancy** | 50.16 years | 40.17 years | 42.37 years | 31.99 years | 38.59 years |
| **HIV/AIDS: adult prevalence rate** | 37,3% | 28.9% | 24.50% | 38.8% | 16.5% |
| **Government Type** | Parliamentary Republic | Parliamentary Constitutional Monarchy | Republic | Monarchy | Republic |
| **2007 Budget (US$)** | *revenue:* $4.9 billion | *revenue:* $951.4 million | *revenue:* $68.2 billion | *revenue:* $1.2 billion | *revenue:* $2.5 billion |

|  | **Botswana** | **Lesotho** | **South Africa** | **Swaziland** | **Zambia** |
|---|---|---|---|---|---|
|  | *expenditure:* $3.8 billion | *expenditure:* $855.4 million | *expenditure:* $66.7 billion | *expenditure:* $1.2 billion | *expenditure:* $2.8 billion |
| **Unemployment Rate** | 23.8% | 45% | 24.2% | 40% | 50% |
| **Population Below Poverty Line** | 30.3% | 49% | 50% | 69% | 86% |
| **Human Development Index** | 126(med) | 155(low) | 125(med) | 141(med) | 163(low) |
| Source: CIA (2008), except for "Under 5 and 18 Years" categories (UNICEF 2008) & hdr.undp.org |||||||

## 4.2 Regional policy & legal frameworks related to child rights

There are a number of regional legal instruments that deal directly and indirectly with child rights. The following section summarises some of these instruments.

**Status of ratification of and reporting to the UN CRC & ACRWC (Source: Save the Children UK 2006)**

| Country | Convention on the Rights of the Child (CRC) Adopted 1989, entered into force 1990 | | African Charter on the Rights and Welfare of the Child (ACRWC) Adopted 1990, entered into force 1999 | | Reporting status to the CRC | | | Reporting status to the African Charter | | |
|---|---|---|---|---|---|---|---|---|---|---|
| | Signed | Ratified | Signed | Ratified | Initial report submitted | Concluding Observations issued (UNCRC) | Next report due (UNCRC) | Initial report | 2nd report | 3rd report |
| **Botswana** | - | 1995 | 2001 | 2001 | 2003 | 3 Nov 2004 | 2nd & 3rd reports: due 15 April 2007 (process ongoing) | - | - | - |
| **Lesotho** | 1990 | 1992 | - | 1999 | 1998 | 21 Feb 2001 | In preparation - to be submitted 2008/9 | - | - | - |
| **South Africa** | 1993 | 1995 | 1997 | 2000 | 1997 | 22 Feb 2000 | 2nd & 3rd reports: due 2005 -to be submitted early 2008 (process ongoing) | - | - | - |
| **Swaziland** | 1990 | 1995 | 1992 | - | 2001 | 16 Oct 2006 | 2nd, 3rd & 4th reports: due 5 April 2011 | - | - | - |
| **Zambia** | 1990 | 1991 | 1992 | - | 2003 | 2 July 2003 | 2nd, 3rd & 4th reports: due 4 Jan 2009 | - | - | - |

**Status of ratification of other human rights instruments (source: Save the Children UK 2006)**

| Country | Optional Protocol to the CRC Sale of Children, Child Prostitution and Child Pornography Adopted 2000, entered into force 2002 | Optional Protocol to the CRC Involvement of Children in Armed Conflicts Adopted 2000, entered into force 2002 | ILO Convention 182 Worst Forms of Child Labour Adopted 1999, entered into force 2000 |
|---|---|---|---|
| Botswana | Acceded 2003 | Ratified 2004 | Ratified 2000 |
| Lesotho | Ratified 2003 | Ratified 2003 | Ratified 2001 |
| South Africa | Acceded 2003 | Signed 2002 | Ratified 2000 |
| Swaziland | - | - | Ratified 2002 |
| Zambia | - | - | Ratified 2001 |

The UN Convention of the Rights of the Child (UNCRC) came into force 18 years ago. It remains the most 'complete' human rights treaty in that it covers a comprehensive range of civil, political, social and economic child rights. The UNCRC is also the most widely

accepted treaty, having been ratified by all except two countries in the world. Eight years ago, most countries in Africa signed the African Charter on the Rights and Welfare of the Child (ACRWC). Due to the introduction of these two instruments the notion that children have rights is now largely accepted in Africa. However, other issues and debates regarding children still remain unresolved.

There is increasing evidence globally of the strong link between law reform and the realisation of children's rights. Although law reform is a complex, long term process, it is widely recognised as the catalyst for changes in the status of children in society. The countries included in this study all have some form of legislation that relates to the rights, protection care and support of children. However the process of reviewing and revising this legislation, so that it adequately reflects the UNCRC, ACRWC and other international standards, varies from country to country.

All countries have ratified the UNCRC and all countries, with the exclusion of Swaziland and Zambia, have ratified the ACRWC. All countries have ratified the International Labour Organisation (ILO) Convention 182.

As can be seen for the tables above, although all countries in the region have submitted an Initial Report to the UNCRC Committee, none have submitted second or subsequent reports which should address issues raised by the Committee in their Concluding Observations. And none of the countries have so far submitted an Initial Report to the African Committee, which began meeting in 2001.

As the UNCRC lacks direct means of enforcement it relies on the principle of *pacta sunt servanda*[1]*,* and is heavily dependent on states' own political will in meeting reporting obligations. However, both the UNCRC and the African Charter have established committees of independent experts, which have a monitoring function. And through Articles 42 (2) and 44 of the ACRWC, a complaints mechanism for addressing and protecting the provisions of the Charter has been established (African Child Policy Forum 2007). However, the mechanism is yet to be tested in practice, and no submissions have been made to it to date.

While most countries have legislation in place that deals with the rights of the child, a number have elevated these rights to the constitutional level. All countries in the study include a Bill of Rights in their Constitutions. With the exception of Botswana, all the constitutions include specific guarantees for children's rights. However, these provisions do not consistently cover everyone under the age of 18. The 1991 Zambian Constitution protects "young persons" under the age of 15; although the current draft Zambian Constitution defines a child as under the age of 18. The Constitution of Swaziland also does not include definitions of "children" and "young people" (Save the Children UK 2006).

Without these fundamental definitions and limits in place, children can not be adequately protected under the law. For example (African Child Policy Forum 2007):

- In Lesotho, South Africa and Swaziland, children as young as seven can be held legal accountable for their acts under penal law – however, all these countries have legislation pending that will change this situation;

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[1] Meaning 'promises must be kept'.

- In many countries the age of sexual consent is either too low of clashes with other legislation, such as age of marriage. There are gender differences between age limits.

A recent report from the African Child Policy Forum (2007) outlines the following challenges relating to legislation, regarding the realisation of children's rights:

- Children are not a top priority in Southern Africa, despite the number of countries which have ratified the CRC and the ACRWC.
- Child focused legislation, such as Children's Bills and/ or Child Justice Bills, have been pending for many years in Lesotho and Swaziland.
- Several countries are late in their obligations regarding the domestication of the UNCRC and the ACRWC. In Africa, only Madagascar, Namibia and Rwanda submitted their initial reports to the UNCRC Committee on time and only Rwanda, Egypt, Nigeria and Mauritius has submitted an Initial Report to the ACRWC Committee of Experts. On average countries submitted their Initial Reports to the UNCRC four years late.
- A complex range of fragmented, unharmonised laws exists relating to child rights across the region. This situation is further complicated by the co-existence of common/ civil law with customary and religious law. Often customary law not support the provisions and principles of the UNCRC.
- However, several countries in the region, including Botswana, Lesotho, South Africa and Zambia, have undertaken comprehensive reviews of their legal systems in order to draft child focused legislation, such as Children's Acts;.
- There is also no region-wide agreement on the definition of a child, despite stipulations in the UNCRC and ACRWC. As a result, there are significant inconsistencies in the minimum ages for criminal responsibility, sexual consent and marriage.
- Discrimination still occurs in many countries which have different minimum ages of marriage, sexual consent and corporal punishment for boys vs girls. Inadequate formal birth registration systems further aggravates the situation as children have no formal proof of age and thus can not be provided with adequate legal protection if required.
- Corporal punishment is still legally sanctioned within the penal system and alternative care institutions in many countries, with the exception of South Africa and Zambia, where it has been banned. However, corporal punishment in the home is still legally sanctioned in all 5 countries and is still widely practiced throughout the region.
- Although children's courts have been established in Botswana, Lesotho, South Africa and Zambia, these services tend to be limited to capital cities and major urban areas. Children outside these areas have to use the conventional judicial system.

Despite provisions in the UNCRC for the child's right to participate and to be heard at all levels and to have their views considered, the cultural and social attitudes about children in Southern Africa ensure that children's voices are seldom heard. Although there are a few examples of formalised mechanisms for children's participation in some countries in the region, they tend to limit participation on the grounds of age or context and do not really encourage participation in accordance with children's evolving capacities.

# 5.0 Profile of organisations in the child rights sector

## 5.1 Characteristics of the civil society organisations surveyed

A total of 73 organisations and institutions were interviewed as part of this study. Of these, 17 were government institutions; 14 were international donors and 42 were civil society organisations (CSOs) (13 from South Africa, 9 Zambia, 7 Botswana, 7 Lesotho and 6 Swaziland). Three of the CSOs interviewed were children's groups.

This section profiles the range of CSOs which were included in the study. CSOs interviewed ranged from large organisations with budgets in the millions of US dollars and many staff members to small rural organisations operating on a shoestring budget. Some have been working on child rights issues for many years, while others have only recently moved into the child rights sphere. Some are accepted by their respective governments, and some are well supported by donors, while others are vilified for their radical position.
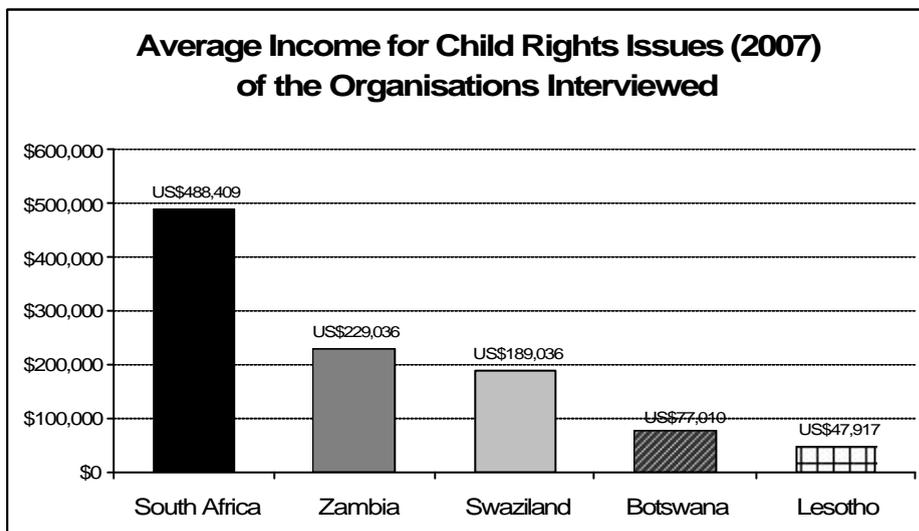


The above graph shows the average income in US$ for child rights work of the organisations interviewed (the organisations with extremely large budgets were excluded from this graph. Exclusions were Swaziland: US$ 1.575 million; Botswana: US$ 3.4 million; South Africa: US$ 8.25 million). South Africa receives the most funding with an average of just over US$488,000. It is notable that Botswana is the second lowest, possibly the result of it being declared a middle-income country by the World Bank, which has resulted in the donors withdrawing much of their funding.

The graph below shows the average number of people working for child rights organisations who were interviewed (again with the data removed from the larger organisations – i.e. those with over 100 people working for them). Despite Botswana having the lowest average funding levels, they have the highest average number of staff.

**Average Number of Staff per Interviewed Child Rights Organisation**

| Country | Average Number of Staff |
|---|---|
| Botswana | 25 |
| South Africa | 24 |
| Swaziland | 20 |
| Zambia | 10 |
| Lesotho | 6 |
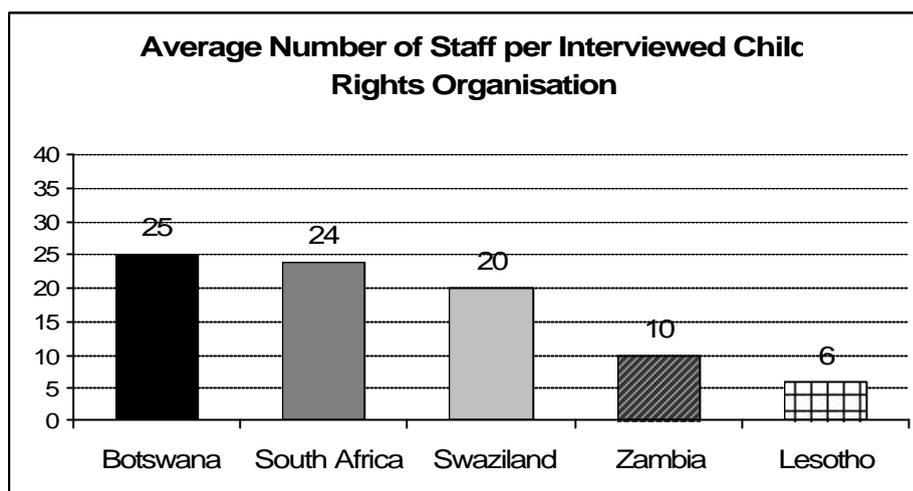
## 5.2 Type of work done by child rights organisations

|  | Botswana | Lesotho | South Africa | Swaziland | Zambia |
|---|---|---|---|---|---|
| **Legal Issues** | ✔ | ✔ | ✔ | ✔ | ✔ |
| **CR Education** | ✔ | ✔ | ✔ | ✔ | ✔ |
| **Counselling** | ✔ | ✔ | ✔ | ✔ | ✔ |
| **Abuse / Helpline** | ✔ | ✔ | ✔ | ✔ | ✔ |
| **Advocacy** | ✔ | ✔ | ✔ |  | ✔ |
| **Medical / Health** | ✔ | ✔ |  | ✔ |  |
| **Resource Material** | ✔ |  | ✔ |  | ✔ |
| **Girl Child Focus** |  | ✔ | ✔ | ✔ |  |
| **HIV/AIDS** |  |  | ✔ | ✔ | ✔ |
| **Service Delivery** |  |  | ✔ | ✔ | ✔ |
| **Capacity Building** |  |  | ✔ | ✔ | ✔ |

The table above shows the broad range of activities that the child rights organisations were involved in. Activities that were found in all the countries were legal issues, child rights education, counselling and dealing with issues of child abuse (including Help Lines). lobbying and advocacy were being covered in at least four countries.

# 6.0 Working with the state

## 6.1 Current examples of state-civil society collaboration

During interviews the extent of state-civil society collaboration was explored. Responses revealed that child rights organisations tend to work with the government bodies which focus on children's issues, such as health, education, social development and justice. What is also apparent is the large number of government departments and ministries in all the countries which are involved with children. Thus, it is important for CSOs to understand the layers, functions, boundaries, linkages and interconnections regarding government bodies. (See appendix 2a).

**6.2 What are the successes of civil society's work with the government?**

Interview responses revealed that there is a varying degree of positive cooperation between the child rights organisations and various government bodies in their respective countries.

There appears to be a growing recognition in the region as to the importance of the work being carried out by child rights organisations. This can be seen in the levels of involvement, especially regarding service delivery and inputs on the various children's bills, laws and policies. In some countries cooperation between the child rights sector and government is very weak, e.g. Lesotho and Swaziland. Within countries, some government institutions are more cooperative and willing to work with CSOs than others. But the overall trend is positive, with increasing involvement of child rights organisations in formulating and implementing national policies and programmes. (See appendix 2b).

## 6.3 Gaps & challenges for civil society working with the government

| | Botswana | Lesotho | South Africa | Swaziland | Zambia |
|---|---|---|---|---|---|
| **Slow and limited service delivery** | - Processes are so slow. Sometimes the govt makes promises, but doesn't deliver. | - Takes a long time to do things.<br>- Govt adopted a CSO community-based rehabilitation programme, but they were slow & had too many bureaucratic processes. To date it is still only implemented in 1 district & is not that effective.<br>- Lack of services (e.g. no govt hospital in the rural area where the CSO is located. Also police can't get to crime scene because of lack of transport & personnel). | - Work that govt contracts out is often not sustainable.<br>- Lack of delivery of services & implementation at grassroots level.<br>- Need to implement the clauses etc of the new Children's Act. | - Access to information & structures is always a struggle<br>- Limited political will to support what civil society are doing.<br>- Assistance from govt needs to be better coordinated, especially in emergencies.<br>- Lack of coordination on certain issues (e.g. children's issues are fragmented among various depts).<br>- There is a Children's Co-ordination Unit – but it is still a "baby". | - When an organisation tries to make an enquiry or investigate an issue regarding the failure of the govt, they are very slow to respond & never in writing. |
| **Difficult government relationships** | - Need to educate govt on human rights programming (i.e. HIV/AIDS is not only about supplying ARVs).<br>- How to work with govt so we not just used to justify their decisions. We are invited to meetings or to make comments, but then there is no feedback.<br>- High level of mistrust especially at a junior level which could be due to some NGOs being closed down for misusing resources & not sticking to their mandate.<br>- No act of parliament supports Cr organisations doing advocacy & lobbying. Govt can use this to exert greater control over us.<br>- Cr organisations work on adhoc issues.<br>- Need for better coordination within govt - We don't know who is doing what regarding developing national strategies. | - Govt is so broad that they also have a lot of frustrations. | - Need more committed people in key areas (e.g. rights of the child).<br>- Need better communications to get the message out about the govt's work. Information is not filtering down to the front line or implementing person.<br>- Need for more ongoing dialogue between different sectors.<br>- Need for joint planning – govt often plans, develops projects & just expects civil society to agree.<br>- Turnover of govt staff leads to a continual disruption of relationships & progress on projects.<br>- Litigation puts civil society in an adversarial position regarding govt. Need to develop a quasi-cooperative approach (vs a 'cosy' relationship).<br>- There has been too much mollycoddling after 1994. Now it is time to start holding the govt accountable.<br>- HIV is a difficult sector to work in because of the Dept of Health's attitude & policies. | - Civil society tends to be perceived as 'radical' and as 'trouble makers'.<br>- Civil society doesn't feel that its findings are taken seriously & there don't appear to be are any serious follow-ups. | - It is difficult to get information from the govt or even to find somebody who is interested in CR issues.<br>- Govt only make themselves available to civil society when it matters to them. If you bring up other matters at meetings them put you off: "Call me later" and they never answer their phone until they need you again.<br>- Lots of red tape: "civil society wants govt to move yesterday, but they only move tomorrow."<br>- Sometimes govt staff appear to have little motivation, especially when in working in new areas.<br>- Children's issues are spread through several ministries. It is difficult to untangle responsibilities. |

| | Botswana | Lesotho | South Africa | Swaziland | Zambia |
|---|---|---|---|---|---|
| **Limited funding** | - Need to lobby for more allocation of resources. | - Lack of funding. Govt initially helped us, but not anymore. | - Dept of Social Development is constrained by treasury regarding what they are allowed to deliver.<br>- Dept of Social Development has no funding at the lower levels, they also act as gate keepers & restrict funding. | - Lack of clear govt support especially re finances. | - Slow disbursement of funds. |

The comments in the table above reveal that there are many issues that still need to be resolved when working, or trying to work, with the many government bodies involved with children. These issues are wide ranging, but there are similarities across the five countries, such as not recognising the role and expertise of child rights organisations, limited funding devoted to child rights issues and bureaucratic slowness.

## 6.4 Government's view of working with civil society

| | Botswana | Lesotho | South Africa | Swaziland | Zambia |
|---|---|---|---|---|---|
| **Perceptions of civil society** | - Govt sees civil society as a critical stakeholder & partner in development.<br>- But civil society is not as robust as govt would like it to be.<br>- Civil society is not very successful in holding govt accountable.<br>- As Botswana is a democratic country, civil society can speak out at any time (i.e. radio call-in shows where govt depts were expected to field all sorts of questions & thus are held accountable. | - Civil society are essential implementers & key to facilitating service delivery.<br>- Civil society seen as the watchdog of govt & plays an important advocacy role.<br>- Govt's vision was "great on paper" e.g. the Law Reform Committee did a lot of work on civil society & its role, but found that implementing it was difficult. | - Civil society has had limited success in empowering children to realise their rights.<br>- There are not enough child rights organisations or lobbying of children's issues. | - Govt recognises the important role played by civil society.<br>- Civil society has been successful in holding govt accountable & many legislative changes resulted from civil society pressure.<br>- Child rights sector has until recently not been very effective due to the lack of policy & legislation dealing with children's rights. | - Most CSOs are viewed as partners in development & work closely with government.<br>- CSOs have a political agenda.<br>- Struggling/weak CSOs often change their programmes to match the needs of govt rather than their communities in order to secure funding.<br>- In many ways the relationship between civil society & government is mutually beneficial & complementary. |
| **Relationships with civil society** | - There are cooperative relationship where govt provides funding & works closely with some NGOs.<br>- Govt's support for registered NGOs is often limited to providing financial support in order to enable govt service delivery. | - Relationships were described as generally good by all govt depts.<br>- All depts acknowledged the important role played by CSOs in service delivery. Without the help of civil society, govt's capacity to provide services would be limited.<br>- Civil society is better able to hold | - Govt shared a good relationship with some civil society organisations, especially with those that "were able to understand that govt has a particular role".<br>- Some CSOs view govt as a funder. There should always be a | - Relationship with civil society is close collaboration.<br>- Hope that formation of Children's Coordination Unit & progress with new legislation will increase the role of child rights organisations. | - Civil society does not always hold govt accountable.<br>- Civil society played a good advocacy role especially re increasing the GDP allocation to basic services. |

|  | **Botswana** | **Lesotho** | **South Africa** | **Swaziland** | **Zambia** |
|---|---|---|---|---|---|
|  |  | govt accountable. But there is still a long way to go ensure that this happens consistently.<br>- International NGOs are good at advocacy & awareness raising. | healthy tension between the state & civil society and if the state is the primary funder this tension could weaken. |  |  |
| **Advantages of working with civil society** | - NGOs helped govt departments reach more people & by working closely with them more children can be reached. | - Civil society has long established relationships with, & access to, communities<br>- CSOs are less bureaucratic & able to work faster than govt.<br>- Avoid duplication, share resources & reach more children.<br>- There tends to be more positive outcomes. | - Some CSOs were good at keeping govt accountable & are able to engage government in a constructive way.<br>- State has to play an important role to ensure that there is an environment conducive for a vibrant civil society but at the same time civil society should take the lead in continually pushing the boundaries. | - Assisting govt to reach larger numbers of children. | - Civil society is able to reach different communities & 'has a presence'.<br>- Civil society often has a better perspective on the needs of various communities & are able to respond more speedily than govt. |
| **Disadvantages of working with civil society** | - Lack of accountability makes it difficult to continue funding CSOs.<br>- CSOs were not always sympathetic to the bureaucratic nature of govt & this leads to frustration.<br>- Child rights sector is not effective as there is not much happening on the ground. | - Lack of synergy & un-coordinated manner in which work is done.<br>- CSOs often "have their own agendas & we can't control them in terms of where they implement services. As a result rural areas often suffer as no one wants to go there."<br>- Lack of synergy between the various child rights organisations makes it difficult to provide a co-ordinated approach to children's rights. | - No formal structures for dialogue between govt & civil society.<br>- Some organisations are too critical or too radical & do not want to partner with govt because they want to set the agenda. | - Difficult to get civil society to work together with the same vision. Too many meetings with different people attending the meetings which make continuity difficult. | - Inadequate funding for the sector.<br>- Lack of a framework for the operation of children's rights is an obstacle for meaningful intervention.<br>- Limited effectiveness in the advocating for policy change - there still remains a lot to do re changing 'top down' budgeting processes. |
| **Positive examples of working with civil society** | - Min of Education has a gender policy that promotes equality between girls & boys.<br>- Govt depts are working together to address ways to keep children in school.<br>- Recent change in legislation e.g. Inheritance Law now provides for girls; Domestic Violence Law also protects children. | - Increased awareness about children's rights.<br>- Changes in policy i.e. formation of Child & Gender Protection Unit, the Restorative Justice Programme, Children's Protection & Welfare Bill, the Sexual Offences Act, legislation related to OVCs and the inclusion of children's rights in mainstream curricula<br>- Provision of free primary education. | - Extension of child support grant to children up to 14 years.<br>- Extension of national school feeding scheme.<br>- Adults more aware that children have rights.<br>- New Children's Act now comprehensive & fully aligned with the constitution & other international agreements.<br>- Dept of Social Development is lead dept for the Children's Act & is responsible for ensuring all govt depts include programmes that are in line with the | - Establishment of National Plan of Action for OVCs.<br>- Establishment of the Children's Co-ordination Unit - deals with children's rights, the establishment of the special portfolio committee on children & establishment of the Regional Development Children's Committee.<br>- Regional Development Children's Committee responsible for community activities & driving key initiatives such as the Child | - Child rights are integrated within the various ministries as a result bilateral agreements.<br>- Several ministries are involved in very specific programmes that deal with children's rights (e.g. Min of Education is restructuring early childhood education to eventually include all children up to the age of 6 years.<br>- Min of Education wants to increase free primary education from grade 7 to 12.<br>- Govt is reviewing the national constitution, looking at human |

|  | Botswana | Lesotho | South Africa | Swaziland | Zambia |
|---|---|---|---|---|---|
|  |  |  | constitution.<br>- Key achievements made by impact of litigation, human rights awareness & education, advocacy & networking, & support to public institutions.<br>- Inclusion of human rights into the curriculum in some provinces, ban on corporal punishment & inclusion of children's rights at strategic management team level. | Protection Networks & Neighbourhood Care Points.<br>- The establishment of the Child Protection networks which provides all civil society stakeholders an opportunity to communicate with each other & govt to report on their individual programmes.<br>- Some government depts claimed that they ensured that all the country laws are in line with international obligations. | rights & children's rights.<br>- Review of child related laws in Zambia.<br>- The review of all legislation related to children will have a positive impact on children's rights across all sectors. |
| **Key challenges of working with civil society** | - Definition of a child differs in various govt depts making cohesive efforts difficult.<br>- As human & child rights are not prioritised as they are subsumed under different govt departments.<br>- A more 'formal voice' for children's rights is needed.<br>- Child rights would advance if govt had more focused & specialised child-centred policy & a dedicated children's unit<br>- Implementation of policies & programmes is slow & limited. | - Focussing on the child is very new & there was a long way to go in changing the mindsets of people working in the field as well as well as the target groups.<br>- Dealing with the promotion of child & human rights in Basotho culture is very hard & there is resistance.<br>- Lack of capacity re staff who were able to deal with children.<br>- Cultural context is a formidable obstacle & makes child rights sector work difficult (especially in rural areas). | - Inconsistent inclusion & lack of understanding of children's rights.<br>- Children not making the connection between rights & responsibilities which results in disruptive behaviour & infringes on the rights of others.<br>- Shortage of skilled staff (e.g. social workers) makes it difficult to implement the progressive child rights laws.<br>- Mechanisms need to be in place to deal with the issues/problems that children identify.<br>- Different depts have own focus areas related to their main functions, but children's rights are usually integrated across a variety of programmes (e.g. in Dept of Education, children's rights are incorporated in school management & governance, curriculum, etc. Dept of Social Development regards the provision of grants for children as fulfilling children's rights). | - Enactment of policies relating to children.<br>- Dealing with culture in relation to children's rights.<br>- Shortage of skills & knowledge of children's rights, especially in rural areas.<br>- Shortage of skills felt after adoption of the new constitution – now placed additional pressure on govt to redraft laws so that they reflect the principles of the new constitution.<br>- Coping with the HIV/AIDS pandemic, especially dealing with the increase in OVCs.<br>- The slow process in getting the new Child Bills into Acts & the implementation of policy is difficult where there is community resistance. | - Dept of Youth & Sports are responsible for children's rights, but they lack the capacity to deal with child rights issues.<br>- Legislation is fragmented, unharmonised and complicated by the dual legal system.<br>- Zambia needs a Children's Act which would consolidate all legislation regarding children & their rights. It is thus difficult to protect/support or adequately meet their needs of children.<br>- Even though primary education is now free respondents expressed concern about the rights of children to education due to the lack of capacity & resources for children to access quality education. |

As can be seen in the table above, the governments of the countries interviewed during this study view civil society as an important partner, or at least a potential partner, regarding the state's development work and service provision. They see civil society as providing an important link with communities and perceive civil society as being better able to roll out service delivery type of projects. However, government would prefer civil society to be stronger, better coordinated and better able to carrying out the work that emerges from their collaboration, including holding the state accountable for the fulfilment of children's rights.

Civil society – government relationships are often not harmonious and involve several challenges. For example, Government departments do not like being challenged on issues and are slow to respond to changes and the need to adapt when problems occur. At times government exhibits a narrow view of civil society, especially regarding the service delivery role and struggles with the complexities of child rights programming. Often bureaucratic systems are not flexible enough to cope with differing ideas and methodologies.

However, the table above also alludes to several good examples in ALL the countries of constructive government-civil society interaction.

## 7.0 Dialogue with the state

### 7.1 Autonomy and dialogue

The graph below shows the scores of the five countries obtained from the questionnaire survey in this study and the CSI average for Sub-Saharan Africa (SSA) obtained from Dorner and Suarez (2008). A score above 2.5 shows positivity and scores around 1 show negativity.
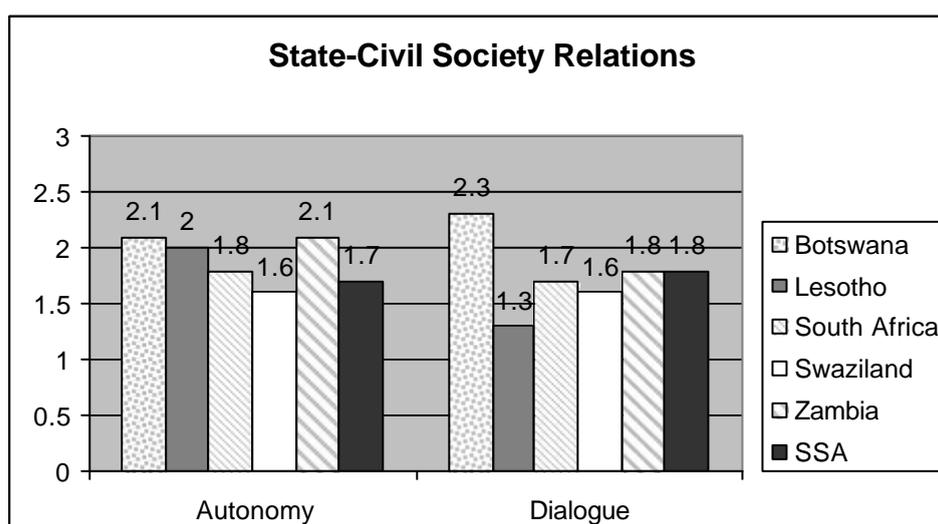


During interviews, CSOs were asked "How independent is civil society from the government" and this data was then matched with that of the Civicus CSI survey. All the countries in this study, with the exception of Swaziland, scored above the Sub-Saharan Africa average of 1.7. South Africa was marginally higher, while the remaining three countries obtained scores above 2.

Responses to the question "To what extent does the state engage & dialogue with civil society?" show that only Botswana was rated above the Sub-Saharan Africa average of 1.8 with a high rating of 2.3. The other four countries were all below or equal to the Sub-Saharan Africa average.

Despite the rather blunt method of using averages to analyse these questions, the data shows that the civil society organisations interviewed were reasonably autonomous from the state, with most above the Sub-Saharan Africa average. However, the state's dialogue and interaction with civil society organisations is mostly below or on a par with the continental average.

## 7.2 To what extent can CSOs exist & function independently from the state?

Regarding the question of autonomy, the table below shows a relatively widespread response. This could be a reflection of the two ways of looking at this question: (1) Does the state try to influence civil society in their actions by sanctions, withholding funding and ostracism?; or (2) Are civil society able to act independently from the state in terms of funding and support given the lack of state support in most of the countries?

| | To what extent can CSOs exist & function independently from the State? | | | | |
|---|---|---|---|---|---|
| | Botswana (7) | Lesotho (3) | South Africa (12) | Swaziland (5) | Zambia (8) |
| **State controls it** | | | ● | ● | |
| **There is frequent & unwarranted state interference** | ● | ● | ●● ● | | ● |
| **State accepts independent civil society but there is occasional interference** | ●● ●● | ● | ●●● ●● | ●● ●● | ●●● ●● |
| **Civil society operates freely** | ●● | ● | ●● ● | | ●● |

Only 8 out of 35 surveyed organisations said that civil society operates freely. The majority, 19 out of 35, said that there is occasional interference. 6 said there is frequent and unwarranted state interference. The above table illustrates that civil society in the region seems to be relatively free and independent with some state interference.

Reasons for these perceptions are varied. According to a South African respondent the state has a "duty to create a vibrant civil society which should be integrated at certain levels to develop their cooperation and rise above narrow political interests. At the provincial level the government should be seen to work with civil society". While,

another respondent said that civil society shouldn't be independent as "we are there to push them [i.e. government] and fill the gap when they can't. There needs to be a symbiotic relationship". "The role of civil society is to critique and balance the government and we therefore need to work with the state".

"It often depends on who you work with," said another respondent, "lower level government officials are pressured to do the work they are not qualified to do which leads to antagonism and resentment of civil society. The middle level often has a lack of direction and insight. Civil society also sometimes doesn't know its own role and doesn't lobby or advocate properly".

The source of funding for CSOs had a significant impact on the independence of organisations. Several responses alluded to this factor: "for those who depend on the state for their funding, especially those involved in service delivery, independence is difficult". "There can be serious conflicts if these NGOs become outspoken." "Civil society can exist independently, but only to a limited extent. More and more funding for civil society activity is channelled through the state. And the state has more control and can become more restrictive which makes civil society more dependent on it".

A Botswana respondent said that "it may be good idea to draft a memorandum of understanding with the government to lay out the operating procedures". "The government uses funding and support as a leverage to get organisations to focus on certain agendas." Some instances of government rejecting registration applications of organisations or closing organisations down have been reported in the media in Botswana and Zambia.

## 7.3 To what extent does the state engage & dialogue with civil society?

| | To what extent does the state engage & dialogue with civil society? | | | | |
|---|---|---|---|---|---|
| | Botswana (7) | Lesotho (3) | South Africa (13) | Swaziland (5) | Zambia (7) |
| **No dialogue** | | | ● | | |
| **State only engages a small subset** | ● | ● | ●●● ●● | ●● | ●● ● |
| **State engages CS broadly but on ad hoc basis** | ●● ● | ●● | ●● ●● | ●● ● | ●● ● |
| **Mechanisms in place for dialogue with broad range of CS** | ●● ● | | ●● ● | | ● |

The table above provides a more detailed analysis of the results and provides a clearer picture of how the interviewees felt about state-civil society relations. It appears that the majority of the child rights organisations feel that there is some state engagement with a few, select civil society organisations, but in an ad hoc manner. In Botswana, South Africa and to a lesser extent in Zambia, some civil society organisations feel that the state does enter into meaningful dialogue with civil society.

The comments from the South African organisations claimed that the government policy of facilitating public participation is good and is required as part of the constitution. But it is often "tokenistic where public submissions and hearings are often held and announced too late". A South African respondent said that "all these Imbizo's[2] are good, but they are often forced because of the political agenda". However, in some cases it is a success. For instance the government did listen to the SANAC (South African National AIDS Council) process.

In Botswana, the government is meant to involve civil society, but it is often done as an "afterthought." At times, when civil society is invited to government for a meeting, only a few organisations are represented and they find it "difficult to assert themselves or challenge as they are not as powerful and are outnumbered". "We are probably included because of our moderate adversarial relationship. Also many CSOs are friends of the government".

A respondent in Swaziland commented that the "government has been trying lately and on some projects we work with committed officers and things work well. Things happen. Others don't work so well – people are sleeping on the job". Another said that there were "some people in government who want to see change. But effective dialogue is difficult as they have a system that is not based on merit and democracy and therefore it is hard to make effective changes". And another warned: "you must be careful as they often want you to rubberstamp what they want to do".

This is backed up by the US Department of State's (2008) report on Human Rights where they found that a number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases - but, government officials were rarely responsive to their views.

In Zambia, the government started talking to CSOs in the early 1990s when there was a regime change. CSOs are now included in national planning and even in the national budget process. However, dialogue is still very limited and as with other countries in this survey, communication only tends to occur when there is a problem. The government also usually chooses which issues it engages with and sometimes only consults with a small, unrepresentative group of CSOs. The state also tends to treat civil society as the opposition which makes it difficult for CSOs to engage constructively.

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[2] An Imbizo is a Zulu word used in South Africa for a meeting that is usually organised by a government department or thinktank.

**7.4 To what extent are CSOs free to engage or criticise the government?**

In this question, all the respondents agreed that they were free to engage with the government. But when it came to criticism, they were much more guarded or hesitant in their answers. The table above shows that the Botswana organisations feel they are most free, along with certain South African organisations. Among the other countries surveyed, conditions in Lesotho and Swaziland appear to be the most restricted.

| | To what extent are CSOs free to engage or criticise the Government? | | | | |
|---|---|---|---|---|---|
| | **Botswana (7)** | **Lesotho (3)** | **South Africa (13)** | **Swaziland (5)** | **Zambia (7)** |
| **Not allowed** | | | | ● | |
| **There are some constraints** | | ●● | ●●● ●● | ● | ●● |
| **Minimal constraints** | ●● ● | ● | ●● ●● | ●● ● | ●●● ●● |
| **No constraints** | ●● ●● | | ●● ●● | | |

In general, if there is state control over the media, then any criticism of government does not tend to be aired. But increasingly in the region there are several new, independent radio, TV stations and newspapers which have broadened the access to international media and there is a rise in internet usage. CSOs can use these resources to help publicise criticisms. But there are risks in doing so, especially when their views are aired internationally.

In South Africa there appears to be relatively more space for criticism, although there may be intimidation and a sense that "if you speak out too much you may come to attention." The media in South Africa is less dominated by those controlled or operated by the state and the independent media is open to champion causes raised by civil society, for example the Treatment Action Campaign's use of the media in their attempt to force the government to roll out antiretroviral (ARV) treatment.

When it comes to criticising the government, there appear to be two tiers or types of CSOs identified: those who receive support from the government (and major donor agencies), who tend to be sympathetic and thus don't "take the government to task; and those who don't receive government money or support and who struggle to find funding." For example, one organisation in South Africa said "if you are fed by the government, you are limited when you criticise".

In Botswana, organisations felt that while there was no direct interference or threats, openly criticising the government was frowned on, "there is very limited space for

dissenting voices". The Botswana government regard civil society as having a critical function, but CSOs may find themselves sidelined in government fora if they are too critical and may have funding denied. "There are different departments. Some drop you and do not engage you if you have been critical. There are consequences".

Working together with other CSOs is perceived to minimise the chances of being victimised or ignored. An interviewee in Swaziland succinctly said that "when you are a lone voice it is not very easy to be heard".

An organisation in South Africa said that criticism is limited by the type of CSO you work for. "If you work at the coalface or in a small organisation, then you probably won't have the skills or the time to take on the government". That is why small organisations need to form good networks and belong to national organisations so you can "feed into them and they can carry the criticism to the government". Another said that they had "not experienced many problems as we are recognised and are large. If we were small and dependent on the government, then we may have problems".

## 8.0 Holding the State accountable

### 8.1 To what extent does the State have the capacity to meet its obligations as a duty bearer?

According to Article 4 of the UNCRC, when a state ratifies the Convention it becomes obliged under international law to implement its provisions. In addition to this obligation, the General Comment #5 issued by the Committee on the Rights of the Child (UN Committee on the Rights of the Child 2003), outlines general measures which a state needs to implementation to ensure compliance with the CRC. (See appendix 3 for more details).

| | To what extent does the State have the capacity to meet its obligations as a duty bearer? | | | | |
|---|---|---|---|---|---|
| | Botswana (7) | Lesotho (3) | South Africa (13) | Swaziland (5) | Zambia (8) |
| **Seriously ineffective** | | | ●● | | |
| **Limited capacity** | ●● ●● | ●● | ●●● ●● | ●● ●● | ● |
| **Functional, but perceived to be unresponsive** | ●● ● | ● | ●●● ●●● | ● | ●●●● ●●● |
| **Fully functional & perceived to work in public's interests** | | | | | |

During interviews with CSOs, most of the respondents said that the state either has limited capacity as a duty bearer or that it is functional, but is perceived to be unresponsive.

**a. South Africa**
In South Africa there are "some serious problems with capacity issues and that is why they sometimes ask CSOs to step in". There is some progress, for example changes in social security grant policy, but progress is slow. However, with service delivery being devolved from a national level to provincial or municipal level, quality has been affected, "not by lack of money, but by a lack of capacity to identify and spend it well".

The lack of capacity in South Africa is also due to problems recruiting and keeping good staff. "If you look at the government newspaper adverts for positions, you will get an idea of how many posts need to be filled. And then there are the posts that have been frozen. And we know that there is a large staff turnover".

Another South African respondent was more cynical: "The government likes to pretend it is implementing. But it does so in an inappropriate and inconsistent manner that is at odds with civil society. For instance the new Children's Act was passed and implementation and planning was begun in July 2007. At the conference on implementation in May 2008, no CSOs were included. They have planned the implementation in isolation". "It will need a big moral and value shift, more than just money. It will take years to shift the culture".

A study undertaken by the Open Society Foundation (2007) in South Africa into the service delivery in education and health sectors found that although South Africa is in the forefront of promoting good governance it is still struggling to translate it into effective implementation. The gap between policy formulation at national level and implementation at local level was found to be the interplay of the following factors:

- Insufficient harmonisation of strategic plans and general coordination between national, provincial and local levels..
- Policy reform overload, leading to difficulties in prioritization.
- Insufficient quality and quantity of government officials for implementation.
- Insufficient popularisation and participation of communities and other stakeholders in the designing and implementation process of policies and plans.
- Insufficient monitoring and evaluation.

The graph below shows that there is a roughly 50:50 split between people who thought that the local government in South Africa was handling its spending decisions badly/fairly badly and well/fairly well (Afrobarometer Survey 2006B).

In South Africa, the effective delivery of basic municipal services (i.e. water, electricity, sanitation, refuse removal and roads) is one of the government's ongoing challenges (Good Governance Learning Network 2008). The ability to meet these needs is not likely to happen, even in the medium term. Civil society, especially when grouped in networks, has an important role to play in ensuring that local governance is empowered to achieve its mandate. The lack of service delivery is not just a due to

technical services, but also to the shifting political changes occurring in local government.
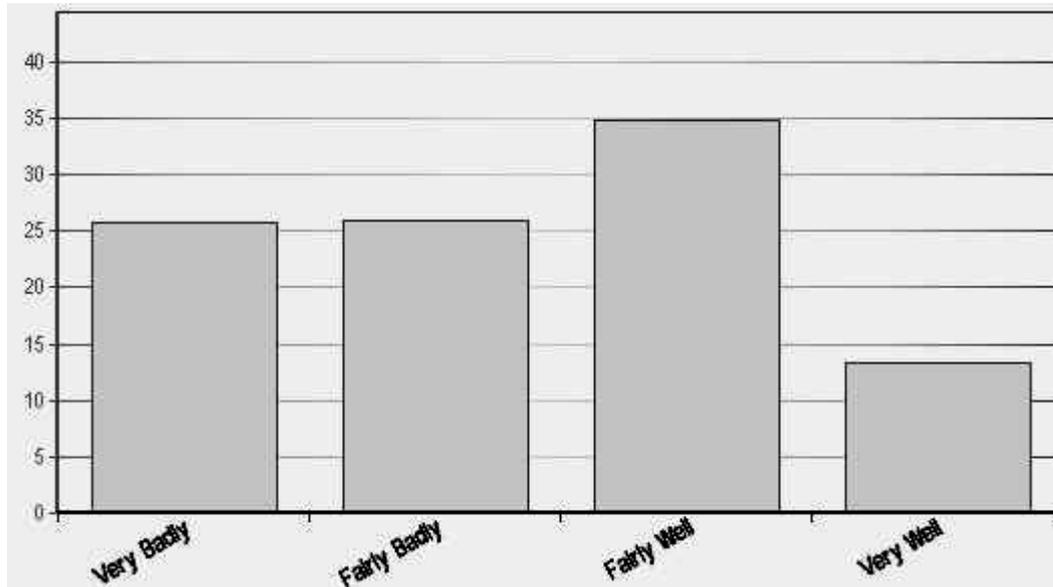


**South Africa (2006): How well is local government handling spending decisions?**

## b. Zambia

Almost 80% of the Zambian respondents in the Afrobarometer (2006) survey said that local government is handling spending decisions either very badly or fairly badly. The US Department of State (2008) reported that although the government sought to improve the welfare of children through the Ministries of Labour, Social Security, Sport, Youth and Child Development, as well as Education, scarce resources and ineffective implementation of social programs continued to adversely affect children.
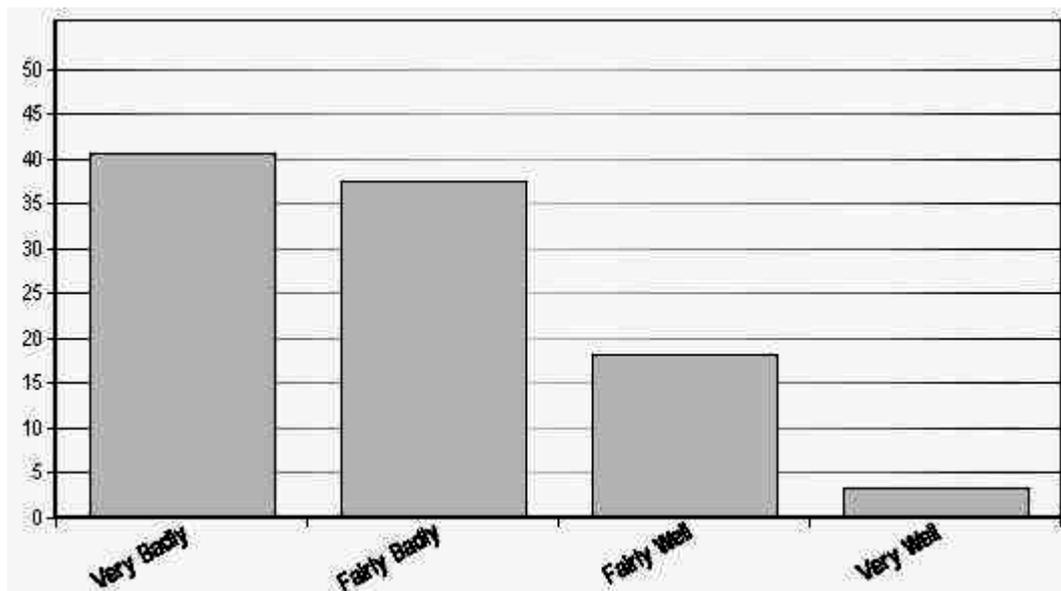


**Zambia (2005): How well is local government handling spending decisions?**

Money for implementation also appears to be a problem: "The tax base is too low. There are only a quarter of a million tax payers. It is a poor country where 54% are children. Massive unemployment as well as the impact of HIV/AIDS means that many parents or adults cannot provide for children. So the burden is greater on the state."

But another Zambian CSO says that despite the poverty, the "government gets a lot of assistance from bilateral donors, but have a problem in the setting of priorities. Often it doesn't put in as much money as it should".

Shifts in local government have also caused problems. Local government councils (city, municipal or district) provide essential infrastructure and services on behalf of the Zambian government. They have legal powers to raise revenue required to finance the provision of infrastructure and services. However, there has been a fragmentation of the revenue bases of councils and the creation of several smaller, but unreliable councils, resulting in the complete destruction of the local government system. Mulenga (2005) claimed that it seems as if the council now collects money from residents to sustain itself, rather than providing services to sustain the lives and economic activity of the residents.

## c. Swaziland
A Swaziland CSO said that "this is one of the things the government lacks - implementing the policies it has put in place. There is a lack of commitment". Another CSO says that the "government priorities are really skewed and they don't share them with NGOs. There is some bickering as the government thinks the NGOs are controlling the process."

Another claimed that the "government has more than is evident. But it is mismanaged, there is fraud and corruption and no political will. In some cases there is no money allocated". Another example is the Ministry of Social Welfare: "Their capacity is not adequate and when NGOs push them and make demands, the government can't keep up with the high pace of the NGOs".

The Swazi government is not prepared to dialogue on certain issues – "e.g. poverty and HIV/AIDS are OK; but political issues are more sensitive". It is also very slow in dealing with issues: "government has its own ways of doing things".

According to a news article in 2007, Swaziland's healthcare system was in a critical condition. A new National Health Policy was being introduced, but there were severe doubts over whether the promised improvements will actually be implemented. The National Emergency Council on HIV/AIDS, which distributes money from the UN Global Fund to Fight HIV/AIDS, Malaria and Tuberculosis to HIV/AIDS groups, has been critical of what it considers government under-spending on health services. But, the new Health Policy acknowledges limitations in service delivery, and sets 2015 as the target for significantly improved healthcare in Swaziland (Irin News 2007).

Makhuba (2002) in an article on the role of local government in effective service delivery in Swaziland's health and education systems noted several problems.

- There were too many structures involved in service provision within the jurisdiction of local authorities which meant there was no control and accountability on service provision.
- There is a lack of information for effective service delivery. For example there is no clear data on the number of children in each urban area.
- People in the urban areas of Swaziland generally do not participate in local government activities. For instance, turn out in all the towns was low in the September 2001 Local Government Elections.
- The local governments rely heavily on the payment of rates and subventions from central government for their livelihood. This has had a significant effect on service provision mainly because these sources of revenue cannot be relied on due to the inconsistency in their payments.

**d. Lesotho**

Approximately 70% of the respondents in Lesotho rated local government spending decisions as either very badly or fairly badly (Afrobarometer 2006). A Lesotho respondent said that "there is about 50% of capacity to meet obligations depending on what the financial bearing is. The more money needed, the longer it takes to implement. If the government has to employ more people, it takes time. So they generally implement partially and slowly".
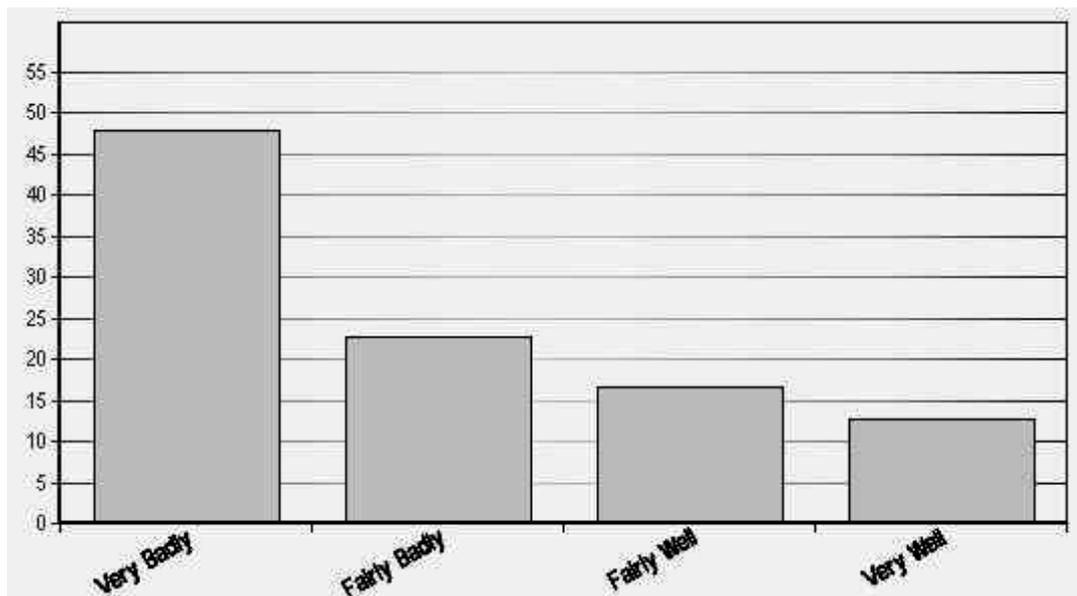


**Lesotho (2005): How well is local
government handling spending decisions?**

Public sector service delivery remains the most critical area in the development of our country (Lesotho 2007). Inadequate service delivery of a range of public services is the result of poor governance and politics, which in turn, are some of the main causes underlying poverty in Lesotho (Turner 2005). Although there have been significant improvements in the quality and coverage of public services like water supply, the coverage and performance of other services remain static or are in decline. For example, the introduction of free primary schooling was initially welcomed, but the standards of schooling are reported to be declining.

**e. Botswana**

About 40% of the Botswana respondents in the Afrobarometer 2005 survey said that local government is handling spending decisions either very badly or fairly badly while almost 60% said that the spending decisions were handled either fairly well or very well (Afrobarometer 2006).

Botswana appears to suffer from a lack of personnel and processes that ensure the implementation of projects. Prioritisation is also a problem. "For instance why is the military budget so high? Lobbying has been unsuccessful in changing this".

However, some aspects are working well, such as the roll-out of ARVs. But other issues, such as "the OVC Food Baskets are slow and often delayed as implementation is not well planned out". "There is a new Performance Management System which has set goals etc, but there is still a long way to go". Many of the basic services are being provided in Botswana, but they "don't go beyond the normal things like schooling, vaccines, health, food, etc. It is the services like psychosocial support that are missing".
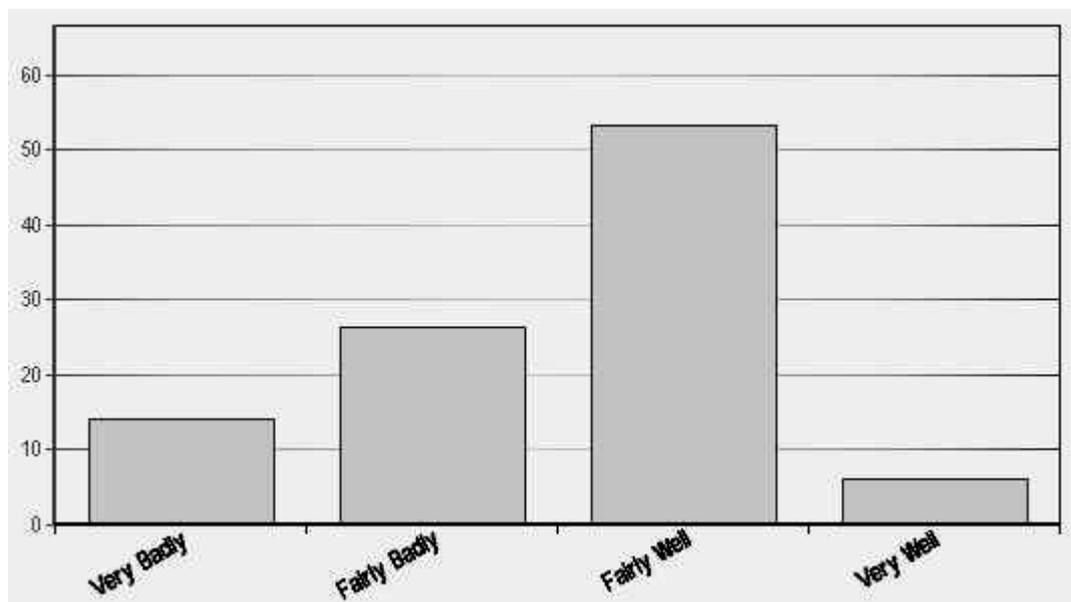


**Botswana (2005): How well is local government handling spending decisions?**

In May 2008 the Botswana Deputy Permanent Secretary in the Ministry of Education and Skills Development said delays in the construction of the second university and five senior secondary schools, problems related to school fees, the double shift programme, recovering money from the grant-loan scheme beneficiaries and lawlessness at some schools haunted the ministry. The ministry's problems have prompted it to re-strategise and urgently improve on service delivery (The Voice 2008).

## 8.2 To what extent are civil liberties enshrined by law & practice?

Many respondents noted that there is a difference between enshrining a law and putting that law into practice. In all the five countries the difference between having laws and implementing them was mentioned.

However, from the table below it is clear that the CSO respondents in Botswana, Lesotho, Zambia and Swaziland felt that there were some "restrictions and limited opportunity for participation".

Only in South Africa did the majority feel that there were "substantial rights with isolated restrictions," but there were also some responses in all four categories which tended to reflect the different interpretation of the question. For example one of the South African respondents said that "there is a gap between rights, protection and realisation which is due to poor administration, poor performance and poor service delivery."

Respondents felt that Botswana's laws are generally good, but they can be restrictive, especially regarding minority groups. Furthermore most of the rights and freedoms in their 1966 constitution were based on civil and political rights, while tending to ignore social and economic rights.

| | To what extent are civil liberties enshrined by law & practice? | | | | |
|---|---|---|---|---|---|
| | Botswana (7) | Lesotho (3) | South Africa (13) | Swaziland (5) | Zambia (8) |
| **Serious restrictions on civil liberties** | | | ● | ● | |
| **Some restrictions & limited opportunity for participation.** | ●● ●● | ●● | ●● | ●● | ●●● ●● |
| **Substantial rights with minor or isolated restrictions.** | ●● | | ●●● ●●● ●●● | ●● | ●● |
| **Full freedom to exercise rights & participate meaningfully.** | ● | ● | ● | | ● |

Zambian respondents generally conceded that there had been an improvement in the laws, especially since 1991 when the Kaunda regime was replaced by a more democratic government. Over the past 17 years the constitution has been revised with some good laws especially regarding civil rights. However as one respondent said, "there is a long way to go" when talking about the implementing the laws. For instance the "National Child Policy needs to be implemented and there should be a plan of action and funding, but to date nothing has been forthcoming".

One respondent said that Lesotho has laws that are less progressive: "you'll think it is there, but you are not sure in practice. When there are no proper laws or when people are not aware of them, it limits participation". Another said that there is "no implementation of the Child Protection Act even though it was supposed to be in place several years ago".

In Swaziland, the problem of having a dual political system means that there are many grey areas between the legal and traditional laws. One CSO said that "there is a big issue regarding rights. For instance there are talks about elections in Swaziland, but if you try to educate people [i.e. voter education], restrictions are placed on us" and another said that "there is not much freedom to explore people's rights".

According to the Media Barometer (2005), Swaziland is run on a dual system of governance: a one-party adaptation of Western-style parliamentary structures on the one hand, and a powerful traditional system of governance on the other. Conflict between the two systems is unavoidable and impacts heavily on freedom of expression. While the media may seem to be operating freely, journalists practice self-censorship due to a pervasive atmosphere of intimidation, state unpredictability and constant fear.

## 8.3 Perceptions of corruption
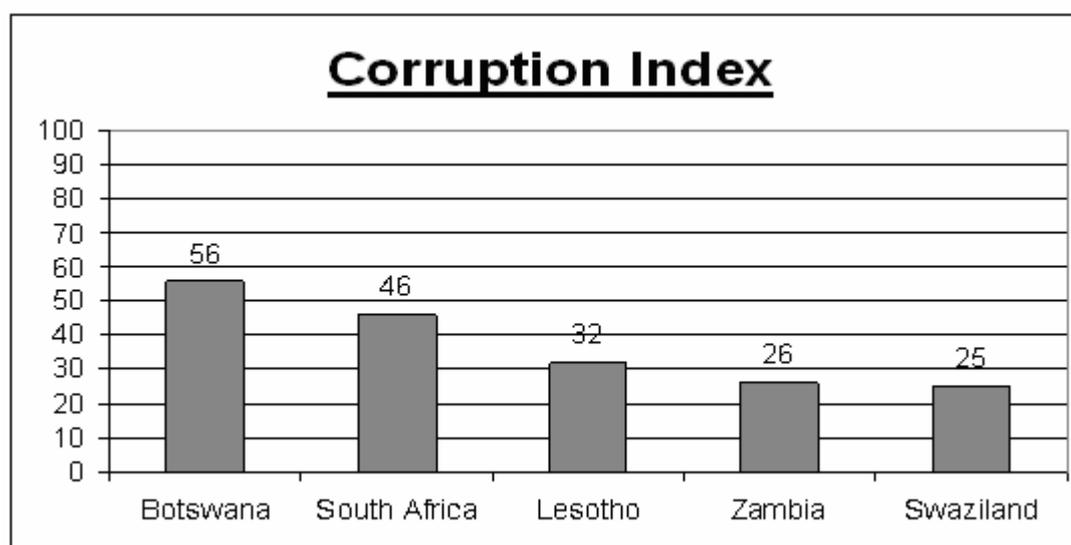


| Botswana | South Africa | Lesotho | Zambia | Swaziland |
|---|---|---|---|---|
| **Corruption is perceived as present.** Ranks 37th out of 163 countries in Transparency International's Corruption Perceptions Index for 2006 & is rated as Africa's least corrupt country. | **Corruption is perceived as significant.** Ranks 51st out of 163 countries in Transparency International's Corruption Perceptions Index for 2006. | **Corruption is perceived as significant.** Ranks 79th out of 163 countries in Transparency International's Corruption Perceptions Index for 2006. | **Corruption is perceived as widespread.** Ranks 111th out of 163 countries in Transparency International's Corruption Perceptions Index for 2006. | **Corruption is perceived as widespread.** Ranks 121st out of 163 countries in Transparency International's Corruption Perceptions Index for 2006. |
| Source: Heritage Foundation (2008). | | | | |

The above data shows that according to Transparency International's Corruption Perceptions Index for 2006, Botswana is Africa's least corrupt country, scoring 56 out of 100 and is ranked 37th in the world. The other four countries have varying

worsening levels of corruption scores, with Zambia and Swaziland rating the worst with 26 and 25 out of 100 respectively.

**8.4 What is the perceived level of corruption in the public sector?**

The Transparency International data matches the findings in the graph below with respondents in Lesotho, South Africa, Swaziland and Zambia perceiving levels of corruption in the public sector to be substantial to very high. Some South African child rights organisations said levels were moderate or low. In Botswana the level of perceived corruption tended to be moderate or low.

The role of the media was often discussed in tandem with this question as it is usually media reports which highlight corruption in the government. In Lesotho one CSO, who perceived levels of corruption to be high, said "media brings up these issues and when the noise dies down, nothing happens". "MPs are being given loans by via the cabinet or parliament from the banks with no repayment plan and interest free". It was noticeable that the only two child rights organisations interviewed which declined to comment on corruption in the government were from Lesotho.

| | What is the perceived level of corruption in the public sector? | | | | |
|---|---|---|---|---|---|
| | **Botswana (7)** | **Lesotho (3)** | **South Africa (13)** | **Swaziland (5)** | **Zambia (8)** |
| **Very high** | | ● | ●●● ●● | ●● ●● | ●● ●● |
| **Substantial** | ●● | ●● | ●● ●● | ● | ●● ● |
| **Moderate/low** | ●●● ●● | | | ●● ●● | ● |

According to the US Department of State (2008) the Lesotho government justified a plan to sell government-owned vehicles to high-ranking officials at low prices as a necessary measure to retain top officials. The Directorate on Corruption and Economic Offences, the country's primary anticorruption organ, recommended that the Department of Public Prosecutions (DPP), a beneficiary of the plan, prosecute. However, the DPP declined, stating that the vehicles were sold legally. The acquisition of official vehicles for private use by the ruling elite is still the subject of public criticism. Reports of nepotism in government have also appeared in the media.

In Swaziland "there is a dual system: customary and civil laws. And when it comes to royal blood, the law is not upheld". "Swaziland is a monarchy and not a democratic system. Appointments have also been made nepotisically. There is a fear of missing out as you rely on an intricately woven series of favours and family networks". "The

media helps to expose and let us know about issues. Otherwise very few people talk about these issues". "We read about it every day and it's everywhere – government, NGOs, it is enshrined everywhere in Swaziland".

"When money goes missing, nobody is held accountable". "In the 2007 budget speech – Swaziland lost about US$5 million to corruption. Also the US$2 million for a Job Creation Summit was embezzled". "According to the Minister of Finance – the amount of embezzled and missing money has risen in the past year from about US$5 million to over US$6 per month".

In South Africa, the perceived high levels of corruption could be due to the relative freedom of the media to report and investigate on corruption in the government. For instance there have been some recent high profile cases which have raised awareness. Several of the CSOs commented that "it is at all levels - all the way through" and "those in power see resources as theirs to take". The lack of values or moral boundaries is also a problem – "even parents ask and sometimes encourage their children to break laws" and "it is very high – for instance there have been over 2000 cases of infractions regarding the child grants".

### 8.5 How successful is civil society in holding the government accountable?

| | How successful is civil society in holding the government accountable? | | | | |
|---|---|---|---|---|---|
| | Botswana (7) | Lesotho (3) | South Africa (13) | Swaziland (5) | Zambia (8) |
| **No activity & no impact** | | | | | |
| **Some Civil Society activity but no impact** | ●● ●● | ●● | ●● | ●● ●● | ● |
| **Some Civil Society activity but limited impact** | ●● ● | ● | ●●●● ●●●● ●● | ● | ●●●● ●●● |
| **Civil Society plays a significant role & has an impact** | | | ● | | |

The CSOs were asked about their success at holding the government accountable. Having the room to be critical is not the same as issuing criticism. From their response it is clear that in all the countries there is some civil society activity with no or limited impact. Those in Swaziland, Lesotho and Botswana tended to feel that there is very little or no activity. In South Africa and Zambia, there is some activity with limited impact occurring.

In Zambia where there have been some limited successes, one CSO said that "the Government humours you. They talk to you, but do nothing". In Botswana the Government is rarely held accountable and there is a weak NGO Council. A Swaziland CSO said that "it is appalling. The ones who are complaining are ostracised. The ones who want to make changes say nothing".

In South Africa the legal framework is there to enable civil society to hold the government accountable. But when the government is unresponsive, litigation may be the only viable way of achieving this. But it is costly, lengthy and getting government to fulfil its duties may be exasperating.

In Zambia one organisation said that they didn't have the necessary skills to challenge the government and there is a need for more capacity in certain areas e.g. national budgeting.

In Swaziland the 2006 Constitution was born out of legal strife where the government was forced to obey an order of the court. It is closely based on the International Covenant on Civil and Political Rights. The one chapter that has some substance concerns Child Rights and the Rights of the Family: "But we haven't had anybody exploring the constitutional problems and so civil society is not sure how to use and explore these rights. There are spaces there which we haven't quite woken up to yet".

Quite often the state is listening, but not doing anything: "there is a hierarchy and a long process that hinders coming up with results". In South Africa, some sectors are more responsive, or at least have been forced to become responsive, as in the case of HIV/AIDS. However, regarding other issues, such as government corruption and the arms deal, civil society has made very little impact. In Zambia, the ill-conceived NGO Bill met with massive civil society opposition and it has now been returned for revision. In Lesotho one organisation claimed that "the government doesn't listen. We can complain, but what does that change? They must be willing to change… be open to change".

Using the media to raise issues and apply pressure gets the government's attention, "but it often rankles and has negative consequences". Lesotho CSOs are "free in meetings and media, but the big radio stations and TV are state controlled, and private stations are in towns not in the rural areas." In Botswana the media is "slowly getting involved and is quite vocal. There is freedom to say what we want, but there is no government activity". The local print media in Botswana has also carried a few articles and inserts.

Timing and knowing who to target plays an important role in determining the success of an advocacy strategy. One South African organisation noted that "a vibrant civil society uses its opportunities well and even if it is unsuccessful, the public debate generated from the case has often has helpful side effects".

Using the opposition parties in parliament is also a tool used by CSOs to raise questions and make enquiries. However, in South Africa this method is at times seen as disloyal and going against the democratic movement. One former anti-Apartheid activist, who is now involved in civil society, explained that "in the first five years or so after the 1994 elections, we were swept up with nation building. We lost our

critical faculties for a while. However, during the past five years, civil society has shifted to become more critical of the government".

Civil society also uses other institutions, such as Human Rights Commissions and Gender Commissions. In Zambia, one organisation said: "you can go through the treaty bodies. It is a way of holding government accountable. For instance in Geneva we highlighted points to ask government and the UN did raise them in their meeting. The government officials were surprised and had to go off and do more research".

Finding a listening ear inside the government is also important. According to a South African CSO, "there are some heroes in the system, who try their hardest". Often these well-meaning people in the government also face censure and pressure from their peers.

One Zambia organisation noted that "if you are organised and consistent with the message, you can get government to respond to certain issues but you need to keep up the pressure and you need a number of organisations to be effective".

In Botswana, the human rights group Survival International has done good work when they took on the government re the rights of the Basarwa People (a.k.a. Bushmen or San) who have been moved off their land in the Kalahari Desert.

**8.6 Effectiveness of child rights sector in influencing public policy & the national budgeting process?**

| | How effective is child rights sector in influencing public policy & the national budgeting process? | | | | |
|---|---|---|---|---|---|
| | Botswana (7) | Lesotho (2) | South Africa (13) | Swaziland (5) | Zambia (6) |
| **No activity of any consequence** | ●● ● | | | ● | |
| **Limited activity & impact** | ● | ●● | ●● | ●● ● | ●●● ●● |
| **Some activity but limited impact** | ●● ● | | ●●● ●●● | ● | ● |
| **Plays a significant role & having an impact** | | | ●●● ●● | | |

Some donors don't encourage organisations to challenge the status quo. A South African organisation claimed: "Often there are donor restraints placed on us, especially the bilateral donors like the Gates Foundation who forbid us doing lobbying with their funding".

The table above shows how CSOs perceived the ability of the child rights sector in influencing public policy and the national budgeting process. Most countries thought that there was limited impact by the sector, with some organisations in Botswana and Swaziland choosing 'no activity of any consequence'. The only country where several respondents thought that child rights organisations play a significant role and had an impact, is South Africa.

In South Africa, several organisations noted that they have a long history of opposing and holding the government accountable as they had originated during the apartheid era and still continued to pressurise the government. The sector also has been very successful in influencing policy development in certain areas, such as changing the levels and age limits of government child support grants. However, there seemed to be many organisations that "talk a good talk," but it is difficult to determine the impact they are making. Limitations in resources and capacity are a problem. To counter this, many CSOs tended to pick their battles and concentrate in areas that they can make the most impact with their limited resources.

When it came to influencing the formulation of the national budget in South Africa, there also has been some success: "We are not going backwards, although it sometimes feels like it. But the stats do show an increase in funding for children".

However, respondents noted several challenges that they experienced concerning this work. For example, one respondent noted that the budget is difficult for people to understand. While organisations are trying to influence the budget process, very few people are involved at community level: "Ordinary people should be able to look at the budget and come up with suggestions, but it is long and full of jargon. Also the budget is only available in English – it should be translated into other languages". Another respondent said that "the work should be done before the budget speech – that is where we should get involved in the process". Another noted that "we are not involved at the start of the process in October when they start preparing the budget". Organisations also felt that the government "always seems to have pre-prepared the budget without input and then claim that it is too late to make changes and that no money has been allocated for child rights work".

In Zambia there seemed to be little civil society activity of any consequence in influencing the budget, while there is some activity with limited impact on influencing public policy. One of the Zambian organisations said that although they had conducted some training on budgeting and budget advocacy, this type of work was still too new to assess any real impact. However, there seems to have been some improvements, such as creating a budget line for children. Another problem in Zambia is that there appears to be restricted access to national budget figures, which makes it difficult to access funds and know how the money is allocated.

In Swaziland, much like the other countries in this survey, there has been some success in influencing public policy regarding the laws and policies, but there has been little real progress when it comes to budgeting. As one CSO commented "we did look into the budget with the eyes of a child and started criticising it. The health allocation is very low – only half of the required 15% is allocated. And 5% of the total budget is given to the King". CSOs are not involved in drawing up the budget: "The government officials just sit in an office and drop in the numbers". Another

respondent noted that budget issues very rarely capture the public attention and there is little analysis in the media. However, it was noted that there is a new Decentralisation Policy which could be used to influence the budgeting process in future.

There is also Regional Child Budget Network, Imali Ye Mwana, which focuses on regional budget issues relating to children. But members feel that it lacks linkages with work done at a national level and there is a perception that it looses focus on the regional issues.

## 9.0 Enabling environment for civil society

### 9.1 The civil society policy environment
A range of legislation governing the operation of civil society organisations exists in the five countries. (See Appendix 4a for more details regarding specific legislation.)

All the organisations interviewed were legally registered (see table below for types of registration per country). Two (one in South Africa and the other in Botswana) were newly registered and had experience bureaucratic problems registering, and thus were technically operating illegally, but with tacit official approval, while awaiting their final registration papers.

| | How were the CSOs registered? | | | | |
|---|---|---|---|---|---|
| | Botswana (7) | Lesotho (4) | South Africa (13) | Swaziland (6) | Zambia (9) |
| NGO/PBO | ●●●● ●● | ●● ●● | ●● ● | | ●●●● ●●●● |
| Section 21 | | | ●● ●● | ●●● ●●● | |
| Trust | ●● | | ●● ● | | ● |
| University | | | ●● ● | | |

For all the organisations that were operating as non-profit organisations, registration afforded no real benefits apart from being able to access government and donor funds more easily. In most cases they were not obliged to submit reports to the registering government department.

Several of the organisations did express a concern regarding the lack of government accountability both in terms of the work they were meant to be doing as well as the

fact that they were often working with children and should be obliged to follow some sort of registration process. One organisation in Botswana noted that there is a "need to keep civil society more in check. There are lots that are not properly organised and should close".

## 9.2 Government support

Organisations were asked "What level of resources do CSOs receive from the State in the form of grants or contracts?"

In South Africa there is some funding available from the government for certain types of projects, but it depends on the relationship the CSO has with the state. State funding seems to be dependent on the areas that the government is focussed on.

In Botswana, Swaziland, Lesotho and Zambia, the answers tended to be "not much," "nothing," or "minimal". For example, in Botswana small government grants and some funding are available for organisations which are aligned to the Presidential Directorate. While in Lesotho and Swaziland funding is very minimal or non-existent. In Zambia there is some funding for institutions of care and orphanages, for women and children in rural areas. Generally, there is little funding government available for Zambian child rights organisations.

See Appendix 4b for more details regarding the level of assistance available to CSOs from government by country.

# 10.0 Donor relationships

Fifteen regional and country level donor organisations were interviewed during this study. These organisations work with a range of structures within the state as well as with different civil society organisations within the five focal countries. The donor organisations were purposefully selected due to their interest in and work addressing child rights issues in Southern Africa. Their support largely focuses on:

- Capacity building;
- Technical and financial assistance;
- Support and facilitation in policy development and
- Programme activities.

## 10.1 Influence/ impact of donors on development priorities and interventions

Donor's perception of their influence and impact varied considerably. To some extent their views were dependant on the types of relationships (i.e. bilateral or multilateral) that they had with the different countries, the different organisations/institutions they worked with and the type of support they provided. For example, donors who worked directly with government felt compromised in some cases in terms of their development priorities and differing cultural and traditional perceptions. They also felt that as international donor/development agencies they were in a particular country at the invitation of the government and this placed certain restrictions on them, they were driven by the agenda of the host country.

There were some donors who felt that the work they did was extremely effective and without the support of their funding many essential services would not be available as, in many of the Southern African countries, governments did not have the required human and material resources.

The views of donors who worked with smaller organisations or who were involved in multilateral agreements also varied, depending on the organisations with whom they partnered. Donors who work in close partnerships with local communities were more likely to feel that their work was more effective. On the other hand some donors felt that small projects were not adequately dealing with the wide range of problems affecting children.

According to donors very few civil society organisations have a good understanding about how to work at regional levels and they found that CSOs started working at a regional level to access funding, but that these activities tended to divert them from their core mandate. Getting organisations to acknowledge their limitations is a challenge in this context.

**a. Donor policies**
The wide range of donor policies and practices sometimes has a negative effect on work done with CSOs. The fact that the different donors have different requirements in areas such as reporting and budgeting, puts a huge load on the recipient organisations and "this sometimes means that civil society organisations or even governments are not in command but rather the people that hold the purse strings". There was a feeling that "to a great extent funds come with conditions and these are the basis of the donor's framework. So funding is tied to addressing the donor's needs" and not necessarily the development needs of the country. Thus, donor priorities and policies were sometimes viewed as a double-edged sword. On the one hand they coerce governments to take on relevant and necessary development steps but on the other hand they could determine the government's agenda.

CSOs and in some instances governments in countries that were exceedingly dependent on donor funding sometimes compromised their priorities to suit donors. There was a feeling that donor priorities in some cases could influence the development agenda of countries. A few respondents did not support the notion that donors should determine the national development agenda but felt donors should fit in with the host country's agenda. On the other hand there were some donors who did not necessarily agree with government agendas, but were bound to work with these governments even if these programmes did not make sound development sense.

Most donors felt that there was a pressing need to harmonise their activities across organisations. There were instances where different donors worked on the same issue through different projects, duplicating the efforts and ultimately reaching fewer people.

All the donors who were interviewed agreed that issues such as HIV/AIDS, poverty, and high levels of unemployment increased needs and tended to minimise their impact. However, they were often unable to evaluate the extent of their impact and a number raised concern over the lack of up to date data that could assist them in assessing needs as well as impact.

## b. Donors relationship with the state

According to the respondents, donor relationships with governments in most countries are good. Often the extent of the reliance on donor funding determines the type of relationship the donor organisations will have with the state. All are committed to developing a programme of co-operation. This generally allows donors an entry point.

Some respondents felt that when working with governments, donor priorities were not always taken into account. Donors and governments are involved in the conceptualisation of programmes or projects but a third party, which frequently did not have the capacity, implemented initiatives and this in turn compromised the programmes.

With regard to children's rights, donors have accused some governments of slacking in the domestication of international laws and treaties. They felt this has a direct impact on dealing with children and the problem is exacerbated by the dual legal systems in place in some of the countries. The legal review processes taking place in some countries, e.g. Zambia, was commended. However concern has been raised about government's readiness to implement. One of the respondents felt that "to be successful government had to have certain things in place to show their commitment". This respondent further claimed that the "effort to address the plight of children comes mainly from donors and civil society organisations" and not much from government. Another respondent felt that commitment from government is beginning but still has a long way to go. He felt that the review process is a step in the right direction.

Donor respondents felt it was the state's responsibility to encourage dialogue between the government and civil society and that government should strengthen mechanisms to do this. "When civil society drives the agenda for an enabling environment it becomes a problem".

Donor respondents also felt it is the state's responsibility to provide an enabling environment for civil society to operate in and government "should give civil society the freedom to organise themselves to implement activities without being hampered. Some states do to a certain extent. They tend also to not take criticism positively".

## 10.2 Perceptions about the effectiveness of the human and child rights sectors

All the donors who were interviewed felt that child rights needed its own space and should not be incorporated within human rights sector. There was a feeling that the human rights sector was very broad and children's issues could become marginalized and not be adequately addressed is subsumed within this wider sector.

Donors' perception of their relationships with civil society organisations, in particular organisation involved in child rights, ranged from cordial to extremely good. There was a feeling that relationships with child rights organisations varied, depending on the type of organisation and the issues at stake. Issues related to policy development, law reform and efforts at regional level tended to work well. However, in the child rights sector respondents felt that many players did not truly understand or demonstrate a rights based approach to development and this can sometimes create tensions.

There were mixed views on the effectiveness of the children's rights sector. Donors who felt that the sector was not very effective claimed few organisations adopted a rights based approach to children's issues. There was a perception that very few CSOs recognised "that children have rights and they tend rather to have a 'handout' approach and not a rights based approach". Thus, CSOs tended to focus on immediate needs rather than on the realisation of child rights.

According to some donors the lack of effectiveness in the child rights sector can be seen by the absence of a national programme of action for children in most countries. In addition civil society organisations involved in children's rights have had minimal impact on the budgeting process. However, CSOs involved in children's rights have been more successful in the policy development arena and in raising awareness around children's issues especially in relation to sexual abuse, child labour, health and education. Some donors commended the child rights sector's influence on policy development particularly in the case of South Africa and Zambia to a lesser degree.

In relation to children's rights some donors felt that the children's sector was fragmented and generally urban based. They also expressed concern about the competitive environment of the child rights sector and in some instances the lack of co-operation between members of the sector.

Most donors criticised government's role in the child rights sector. The main concerns related to the lack of implementation of laws and policies. Respondents were concerned that different ministries are implementing various acts that deal with children and this often leads to discrepancies and results in a lack of co-ordination. According to some donors there also appears to be a lack of ownership of projects and programmes by government.

Donors highlighted a number of issues that had a direct impact on children. These included the following:

- **The high numbers of child labourers**: Child labour in Zambia is excessive with a high proportion of children involved in child labour performing hazardous work. According to one of the respondents, the issue of child labour has been known for a number of years.
- **High infant mortality rate**: The under five infant mortality rate is staggering and not improving particularly in rural areas. This is a reflection in the unequal access to health care.
- **Child trafficking**: Child trafficking is on the increase mainly for labour and prostitution. This includes internal trafficking predominantly for domestic labour.
- **Physical abuse**: The use of extreme physical force used on children. According to one respondent "children are often beaten into line".
- **Safety for girl children around sexual abuse**: Young girls and boys are being sexually abused in various settings for example through trafficking, at school, at home.
- **Free education**: Free education has led to an increase in enrolment but has had no impact on the high drop out rate. The quality of education, the lack of infrastructure and the shortage of teachers are having a negative impact on government's ability to provide the free education.

**10.3 CSO perceptions of donors**

Most respondents appeared to have positive relationships with the donors who support them. And many CSOs had relationships which had been established over a number of years. Given that all CSOs rely on donors for the vast majority of their funding and other resources, these relationships were very significant. In addition to funding, CSO respondents in all five countries noted other positive aspects of their relationships with donors, such as:

- Providing a source of up to date advice, new ideas, alternative approaches and connections to knowledgeable experts;
- Acting as a sounding board and support for CSO's ideas, opinions and points of view, especially when these ideas are nascent or experimental;
- Providing referrals to other colleagues or institutions and helping CSOs to network with other organisations;
- Promoting and showcasing CSOs and their projects in wider forums;
- Offering logistical help, especially when CSO lack material resources;
- Sharing information and other useful development resources.

Aspects that remain challenging for CSOs include:

- **Dependence on limited sources of support**: Organisations in all the countries emphasised the need to diversify their resource mobilisation strategies and sources of current support. Many organisations noted the need to reduce their reliance on too few international donors and to identify other potential sources of local support in order to become more independent. Examples of suggested strategies included:
    - buying their property;
    - renting out office space to others;
    - using own premises for training activities/ meetings;
    - using own staff to do catering;
    - in South Africa, trying to find local/corporate funders;
    - building up a reserve fund;
    - undertaking consulting work.
- **Exclusion of certain costs**: The reluctance of some donors to fund salaries and other 'overhead' costs is one of the most difficult challenges mentioned by CSOs in this study. Several constraints related to these exclusions were alluded to, such as understaffing and programme staff having to "double up" and undertake both admin and programme activities simultaneously. "This makes us feel as if we are rushing around and can't give enough quality time to the children. We get bogged down in admin duties and writing reports when we should be out implementing and are behind in our work". Secondly, the lack of funding for salaries means that CSOs struggle to find additional funding and can't offer competitive employment packages or afford to employ experienced staff. Not only does this overburden existing staff, but it contributes to rapid staff turnover and an inability to attract or retain good people. "We are working for salaries that are well below the professional rate offered by other organisations". "We are operating at less than full throttle".
- **Resource mobilisation is time consuming**: All organisations noted that they devote considerable time and resources in "chasing funds". As this is usually

regarded as the responsibility of management, leaders felt this left them with insufficient time for strategic programme responsibilities, leading the organisation and building the skills of new and inexperienced staff. Resource mobilisation was particularly frustrating when the amount of time involved did not reflect the level of funding acquired. For example, small amounts of relatively short term funding sometimes entailed onerous proposal and donor reporting criteria and the establishment of additional, complex systems. CSOs felt that donors should prioritise the sending of a clear, timely "yes" or "no" to grantees.

- **Limitations of short term funding timeframes**: Because of the short term timeframes of many grants, e.g. six months to one year; the emphasis on projects vs processes; the late disbursal of funding from donors and the limited assurance of ongoing funding, CSOs often find it difficult to plan strategically for the future or to initiate longer term, process oriented projects. Despite the fact that their experience and project results indicate the necessity of doing so.

- **Donor staff turnover**: CSOs also found difficulty in coping with turnover among donor staff, as well as unexpected changes in donor strategies and funding priorities. These changes cause blockages, implementation delays, and further insecurities due to uncertainties in their status as grantees. CSOs also noted that it takes time to build trust in personal relationships with new donor officers, who often have a different style, priorities and interpretation of the donor's regulations to their predecessors. Thus CSOs found these changes unsettling and difficult to adapt to.

## 10.4 Support to civil society

In term of support to CSOs, donor respondents provided a range of inputs, including the provision of financial resources, technical support and advice, training, reviews of programmes, conducting research, building capacity as well as providing co-ordination for the programmes. Donors also play an important role in providing a forum for the exchange of knowledge and ideas across the child rights sector.

According to donors very few organisations have a good understanding about how to work at regional levels and often organisations start working at a regional level to access funding thus diverting from their own mandate. "Getting organisations to acknowledge their limitations is a challenge in this context".

Another constraint is the lack of support infrastructure for CSOs, such as resource and capacity building centres. A few such organisations and independent organisation development consultants exist in South Africa and Zambia, but these resources are virtually absent in the three other countries.

## 10.5 Donor achievements and challenges

On of the key achievements of the child rights sector has been the fact that children's rights have been put on the agenda in most countries. People are beginning to realise that children have rights especially in relation to child labour, sexual abuse, health and education. In many countries the development of laws relating specifically to children has started and in some instances has resulted in the formation of a children's act.

Lack of adequate infrastructure, shortages of key skills, certain cultural practices (especially adult attitudes toward children), not involving local communities sufficiently, slow implementation of policies by government, lack of political will, lack of resources are some of the limitations faced by donors. Skills and education within civil society organisations in some instances are not up to standard and this affects how they operate. In addition the exodus of skills mainly due to illness and death has affected both government and civil society organisations.

Working with volunteers was described as often being problematic. Although volunteers were often unskilled, they are committed and thus time was spent training them. On the other hand because of the high levels of poverty volunteerism becomes difficult to sustain especially if no stipend is provided. Often the high levels of poverty affected people's ability, motivation and capacity to engage in civil society activities.

Poor socio-economic conditions have been described as a challenge for the effective functioning of civil society. In terms of programme intervention certain communities were unable to participate in programmes. For example youth who should be participating are ill so this means older people have to take over. Communities are dependent on external forces instead of being self-reliant. Each family has many problems to cope with and social networks are getting smaller.

In terms of children's rights organisations many donors felt that "dealing with children's rights in a world that thinks children do not have rights" is seen as one of the major challenges for the child rights sector. Some donors felt that the children's sector was fragmented and generally urban based. They also expressed concern about the competitive environment of the child rights sector and in some instances the lack of co-operation between members of the sector.

Although in most cases laws to protect civil liberties are in place implementation remains questionable in practice. "It is especially difficult for children or their representatives to bring issues to legal forums".


## 10.6 Paris Declaration and other international agreements

In March 2005, leaders of the major multilateral development banks, international and bilateral organisations, donors and recipient country representatives gathered in Paris for the second High-Level Forum on Harmonization (INTRAC 2008).

This group was committed to take action to improve the management and effectiveness of aid. To this effect, the Paris Declaration was signed by nearly 100 signatories; partner Governments, bilateral and multilateral donor agencies, regional development banks and international agencies. However, only three of the five countries in this survey are signatories of the Declaration, i.e. Botswana, South Africa and Zambia (see the full list of signatories in Appendices 7 - 8).

The Paris Declaration marked for the first time an agreement by all signatories to measure their success at making aid more effective, and for donors and developing countries to monitor each others' progress.

Thus, some of the wealthiest and poorest countries from across the world signed up to fifty commitments to do aid better. For example, by 2010, 85% of aid going to developing countries should show up in developing country budgets. This will help to ensure that aid is aligned to poverty reduction priorities.

Signatories also agreed to follow the five principles of the Paris Declaration:

- **Ownership:** Donors respect recipient country policies and help them to exercise effective leadership over those policies.
- **Alignment:** Donors base their overall support on partner countries' national development strategies, institutions and procedures (donor-recipient coordination).
- **Harmonisation:** Donors aim to harmonise practice between themselves (donor to donor coordination) to be less burdensome for partner countries.
- **Managing for Results:** Both donors and partner countries manage resources and improve decision making for results.
- **Mutual Accountability:** Donors and developing countries hold each other mutually accountable for development results.

**a. Awareness of the Paris Declaration**

Almost all the donors who were interviewed were aware of the Paris Declaration. However the understanding of the Declaration and opinions of its impact varied. There was a general understanding that the purpose of the Declaration would be to avoid duplication, co-ordinate and scale up activities. One of the concerns about instruments like the Paris Declaration as well as other international agreements, such as the UNCRC and the African Charter on the Rights and Welfare of the Child, is the lack of a punitive process for non-compliance.

Interestingly, very few of the donors interviewed were unaware of the status of the reports for submission to the UNCRC and the African Charter on the Rights and Welfare of the Child (this was not the case among government respondents). The lack of government capacity was often given as a reason for non-submission.

In contrast, only 19 out of the 42 (45%) CSOs interviewed had heard of the Paris Declaration. And many of those who had heard of it didn't really know much about it.



**Have You Heard of the Paris Declaration?**
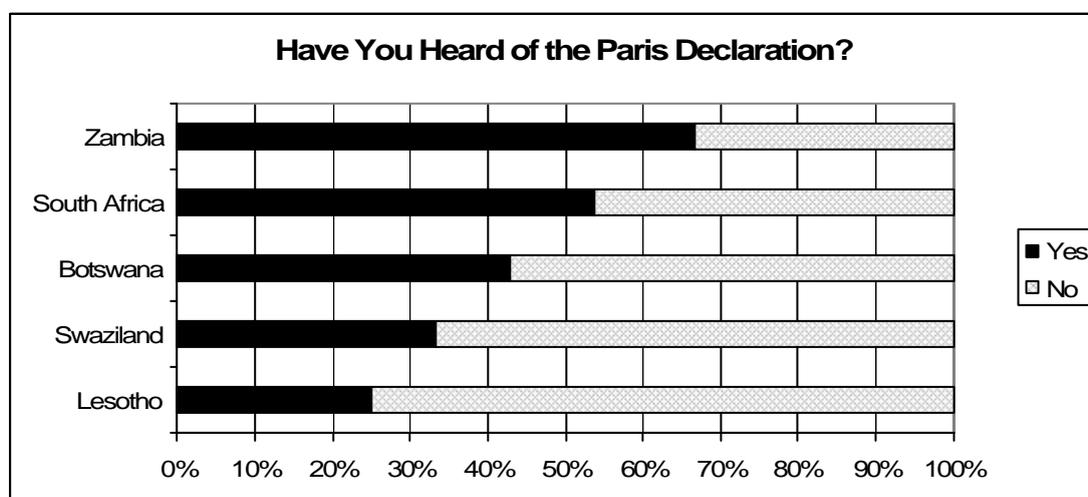
**b. The Paris Declaration and the role of civil society**

The Paris Declaration is another of the international instruments that CSOs can use to hold donors and governments accountable. INTRAC (2008) says that "the role and participation of CSOs in both planning and budgetary processes needs to be institutionalised" and that usually "participation was mostly as a result of ad hoc meetings, rather than being identified as a core stakeholder group through which consultations must occur". It is up to the CSOs to look for the space to integrate their interests within national frameworks, rather than Government extending the necessary invitations to collect opinions and perspectives. In addition to the planning stages, another entry point for CSOs is at the monitoring and evaluation stage of development programmes.

The new expertise required for CSOs to engage their governments in this way has hampered the participation of CSOs so far, as they often do not have research and advocacy programmes which centre on aid issues. Northern CSOs should assist more in this area.

However, the Paris Declaration fails to adequately address the relationship between Northern and Southern CSOs. In some cases, Northern CSOs become 'retailers' of aid, while in others they impose their own programmes on Southern CSOs for implementation. As Southern CSOs negotiate for space within the general budget, there is a need for Northern CSOs to maintain their watchdog functions and balance the weight of bilateral donor interests (INTRAC 2008).

CSO respondents were asked how civil society could organise themselves to be more effective at a country level by using the ideas of aid effectiveness principles. The following responses were given:

- Understanding the Paris Declaration principles:
    - "It is important for those involved in lobbying & advocacy to understand the Paris Declaration as it provides a tool to track money. We need to find out where the money has gone and why it is not being spent."
    - This could be very important and effective if done in Swaziland e.g. the Global Fund is one of the biggest donors and all their money goes to the new government funded Emergency Response Committee on HIV/AIDS called "Nurture."
    - We need to become a lot more "clever" at confronting the government on these issues.
- Civil society and donors need to pressure the government to do things differently:
    - For instance, there is a need for quicker delivery.
    - There also is need for a structural way to channel funding to civil society. This may require a receiving point or organisation which disburses grants and coordinates the process. This institution should have a broad agenda to promote the different needs and foci of the various civil society organisations.
    - There is a need to look for ways to subvent funds to NGOs at a national level.
    - Bilateral donors should work with both governments and civil society.
    - "NGOs should be able to say which areas they want to work in and not be dictated to."
    - There is a need to include the Paris Declaration principles in child budget initiatives.

- Civil society needs to be better organised, more efficient and coordinated
  - CSOs must coordinate across sectors as well as be being more effective at working at different levels.
  - "It is still very academic in Botswana. We have tried organising ourselves, but it hasn't been successful."
- There are also some ethical issues:
  - A South African organisation noted that "bilateral funding means we have to harmonise with the government policy. But then what about our role as watchdogs? It is a catch 22 situation".
  - The playing field is not perceived to be level: "Donors have an idea of where they want the money to go, but they don't have a background understanding of what is needed".

# 11.0 Children's participation

Children in Africa often constitute more then 50% of the population in their country. Traditionally their position in society is below that of adults and they have to show respect for their elders. However, these traditions are changing as children increasingly having to participate in the economic, social and political arenas of society (Terenzio 2004).

## 11.1 Forms of organisation of children

Children, especially those who attend school, tend to organise themselves into small social, religious or sports groups, usually under the control or supervision of adults. But larger children's movements have developed in Africa, Latin America and Asia. These movements focus on working and marginalised children and are aimed at addressing the issues they face. For example, the African Movement of Working Children and Youth (AMWCY) is a labour organisation which was founded in 1994 and now has over 400 groups that supports the rights of African child workers in 20 countries (Wikipedia 2008). Once organised, children who are part of these movements are able to gain access to education, healthcare, to be trained, to be respected, to escape from certain forms of repression and hazardous labour, to take time out from their work to express themselves and to be children.

However, responses from the organisations involved in this study confirm that there are few examples of children's groups in the region and no 'child led' organisations. For example, one South African respondent said "it has been difficult to find organisations with established groups of children. So far we have only identified seven organisations in the whole country who work with groups of children". In all of the countries, the major limitation mentioned was the traditional role of children. Several respondents cited the old adage that many people think that "children should be seen and not heard". For instance, in Botswana children have not always been allowed to talk, "especially at the Lakhotla where it is held that they should be seen and not heard" and in Swaziland "it is a cultural thing – children aren't allowed to talk or do things for themselves, especially in rural areas".

These attitudes are found throughout all levels of society, not just in the rural villages, but among parents, teachers, professional care givers, government officials and even

within 'progressive' CSOs. "There is also little innovation in organisations – they think that children can't run anything as they are not used to having children doing things. They are living in old times and don't expect children to be able to articulate anything of value".

However, some children are involved in their own small groups at school, churches and youth/sport clubs, cultural clubs, etc: "There are many small groups where children learn skills like how to work together, management skills, learn about themselves, how to organise, delegate, etc. But people don't recognise these groups as a child run and led initiative. Usually they think that they should be involved in advocacy for child rights and protection and have a proper programme. They often dismiss the fact that children have organise themselves and can determine where and when they want to do it".

Children have also played important roles in the past and in their communities. For instance in South Africa "if we think back to the role of children in the 1970s and 80s when they played a vital role in [in challenging Bantu education], it is curious as to why this type of participation hasn't continued" And in many instances, some children do have responsibilities placed on them: "They tend cattle and clean the house. If they can do that, then they can also be given other responsibilities".

Three children's groups were interviewed as part of this study. These children reflected on both positive and negative experiences of working in such groups:

- "Some adults don't listen to what we say – they just make up their own minds or change what we say to suit their own views".
- "They [adults] don't explain to us why they make certain decisions and make excuses for not implementing our plans".
- "We like to be involved and to know what is going on – but they [adults] don't take us seriously". "We want to lead our own activities".
- Attitudes of both adults and other children to these groups were mixed: "Some teachers are threatened [by these groups] and they react negatively". "Other children are jealous – they think we are acting better than them". "Parents ignore messages that children's rights are important". "Don't underestimate what children can do – especially girls".
- Children need a suitable, private place to meet on their own. "But [adults] shouldn't hover around when we are having meetings. Leave us alone to get on with it so we can talk freely".
- Suitable and timely support needs to be provided by adults: "They [adults] should be available when we need help – but should also let us get on with work on our own".
- Most children's groups tended to involve older children, aged 10 – 17 years. "There is nothing for very young children – they also want to be involved".
- Attitudes to being allocated funding for activities were mixed. Some children wanted money to undertake activities: "Give us money for activities, but help us to manage it properly". While others felt this was problematic: "Money causes problems – we should find things we can do without money".

## 11.2 Child-led organisations

One South Africa CSO respondent was concerned about the excessive emphasis on 'child-led' organisations: "What is so fantastic about 'child-led' organisations? Why are they held up as the ideal? We need to unpack what this term really means. Is this the most practical and useful form of children's group? Not every child needs to be a leader. Actually what children really want is a relationship with a caring adult where they can talk and be listened to responsively".

CSOs also raised practical questions about how children's groups evolve into child-led organisations, as there is virtually no information or case studies on how this process occurs. It was felt that to be effective, such groups need to be rooted within a system. Thus there is a need for guidelines regarding the role of adults and CSOs who support such groups. "You can't do this type of work without groups of children. But we need to start more strategically, by creating 'child-focused' groups first". There is also a need to broaden our understanding and assumptions about child participation, "it doesn't only happen in the context of child-led organisations".

# 12.0 Organisation of the child rights sector

## 12.1 National and regional civil society networks

The Global Civicus Survey of civil society notes that in Africa, civil society has responded significantly to poverty alleviation – even if this role can and ought to be improved. What remains is a widening of CSO activity spheres to address the other central challenge of Africa – democratic governance (Opoku-Mensah 2008).

The report also notes that given the centrality of issues of governance to the resolution of Africa's problems, until civil society is able to develop the capacity to influence the public policy environment, the long-term relevance of civil society for the continent will remain in doubt.

The study recommends that there should be a scaling up of civil society activity beyond the nation-state to issues of continental governance. There is a growing indication that regional integration may potentially present the most important opportunity for improving political accountability across the continent and that some internal political contradictions, especially in some of the smaller landlocked countries within Africa, will only be resolved when these nations become integral parts of larger entities. This rationale is further strengthened by the increasing importance of regional institutions as instruments to establish a culture of democratic governance on the continent and the important watchdog role of civil society in this regard.

Finally, the study identifies two key challenges for civil society:

- How to meaningfully engage in continentally inspired policy processes at the national level e.g. regarding NEPAD's peer review mechanism; UNCRC domestication and reporting and AU/ ACRWC reporting and use of relevant complaints/ communication mechanisms;

- How to create horizontal linkages within civil society across national boundaries in Africa to be able to engage in continental political fora.

In terms of the formal organisation of the child rights sector within the five study countries, most organisations appear to be involved with networks on a monthly or quarterly basis. This reflects that regular meetings are being held between CSOs. However, the diversity of the networks shows both the different types of child rights organisations interviewed as well as the disjointed nature of the sector. (See Appendix 5a for details of these networks and levels of networking activities.)

### 12.2 Networking successes & challenges

The CSOs in the surveyed countries are at different levels of networking. To a large extent this is a reflection of the development of the child rights sector. An established, large and vibrant sector usually means that the networks are more established, more active and better supported and resourced.

South Africa tends to have several well established networks, some of which are permanent while others are ad hoc, only arising to address a specific need and then disbanding when the goal has been satisfied. The child rights sectors in Botswana and Zambia are smaller, although fairly well established. Thus their networks are small, but focussed and are doing good work. In the two countries with the smallest child rights sectors, Lesotho and Swaziland, many of the networks are newly formed, fragile and still trying to find their place and purpose. A worrying aspect of this situation is reflected in the recent closure of a national child rights network in Lesotho.

Having large and vibrant networks does not necessarily mean that these networks are perfect or harmonious. All respondents mentioned challenges faced by the networks that they run or are involved with. The larger the networks, the more problems were experienced with ensuring coordination, cooperation, sourcing funding and maintaining commitment of members. There are also many networks, and organisations have to ensure that they are involved in those that are most useful to them and their programmes. Personality clashes are common and turf is jealously guarded. In those countries where networks are still emerging – defining the vision and focus of the network, building capacity, coordination of activities, sourcing funding and sustaining the momentum and commitment of a diverse membership are key challenges.

See Appendix 5b and c for further details of networking successes and challenges and linkages to other organisations.

## 13.0 Capacity of the child rights sector

### 13.1 What is the difference between the human rights and child rights sectors?

When asked the above question, most CSO respondents perceived that child rights were a subset of human rights: "Child rights are human rights, but they are special as

they need adult support to get realised"; "child rights are part of human rights, but they are applied in a special way".

However, some CSO respondents also noted that there was a need for a specific child rights sector within the human rights sector, as this made it easier to ensure that child rights issues were adequately addressed. Due to the special needs and vulnerability of children, children's rights needed particular focus and attention:

- Children's rights can be easily marginalised, ignored or overlooked.
- Children don't have a vote so the state doesn't regard them in such a high regard as adults.
- Children are often overlooked in favour of other groups e.g. women.
- Children do not have a voice in their communities or government structures.
- Children are a diverse and difficult group to understand (i.e. need to consider both sexes, ages ranges from birth to 18 years old, evolving capacities of children as they grow and mature etc).
- Children have a limited access to complaints mechanisms.
- Children are dependent on others for their needs and these adults often don't properly articulate children's needs.
- "Adults are organised and children often miss out".
- Children are more disenfranchised – thus there is a need to work harder to bring them to a place where they are more empowered.

Other comments from CSO respondents highlighted the need to focus specifically on child rights, as opposed to more general human rights:

- If countries have a poor human rights track record, the child rights situation tends to be much worse and "further down the scale".
- People often think of human rights, but overlook or disregard child rights.
- "In the rights realm all individuals have the same rights, but in reality people are not treated the same". Children tend to experience discrimination more than other groups.
- Human rights are more general and broader. In contrast child rights are more specific; they focus on children as a particular group with distinct needs.
- Some human rights organisations operate in a way which tends to sideline child rights issues in favour of broader issues e.g. the 2007 teacher's strike in South Africa affected learners, but this was not given much attention.
- In the human rights commissions the issues are more political and influenced by the political situation in the country – and thus, there is a tendency to ignore or marginalise child rights.
- There is a need to develop greater understanding of child rights within the human rights sector (in both government and civil society).

CSO respondents also noted that different organisations working in both the human rights and child rights sectors seldom come together. For example, in Lesotho a national umbrella body for NGOs has separate commissions for different types of organisations, but members don't interact, although they work on common topics.

In contrast to the predominant perception among many CSOs, that child rights is a subset of human rights, donor respondents perceived child rights as a distinct sector, separate from human rights. As mentioned above, donors felt this distinction was critical to ensure that child rights did not suffer from being marginalised or not being inadequately addressed within the much broader human rights sector. Thus, it was felt that a distinction should be maintained between the child rights sector and the broader human rights sector.

**13.2 How effective is the child rights sector at realising children's rights?**

When asked how effective CSOs perceived the child rights sector to be, most CSO respondents in the five countries said that there has been 'limited to some activity with limited impact'. Only in South Africa and Zambia did CSOs feel that the child rights sector had 'a significant role and impact'.

| | How effective is the child rights sector in empowering or supporting adults & children to realise their rights? | | | | |
|---|---|---|---|---|---|
| | Botswana (7) | Lesotho (2) | South Africa (13) | Swaziland (5) | Zambia (6) |
| **No activity of any consequence** | • | | | | |
| **Limited activity & impact** | •• | • | •• •• | •• • | •• |
| **Some activity but limited impact** | •• •• | • | •••• •••• | •• | •• |
| **Plays a significant role & has an impact** | | | • | | •• |

Respondents in all five countries often struggled with the terms in this question. In determining how effective the sector has been several respondents thought that it was difficult to evaluate as the work the sector was involved in was relatively wide ranging, new and difficult to measure. However, it was thought that over time, the impact would increase.

Within the sector, different organisations appear to work on different issues to varying levels of effectiveness. Terrain, government attitudes, local customs, infrastructure, population levels, donor funding, etc all influence how they measured their effectiveness.

Many pointed to individual and often small successes that they and others have achieved. But on the whole, there was a general agreement that they have made a limited impact in the short time that they have been working in the child rights sector. And many agreed that there is a lot more that could be done.

In terms of service delivery, many of the organizations, especially those working with various government departments, seemed to be noticing some impact. But when it came to education of staff, adults and government, advocacy, influencing public policy and legislation and access to resources, it was generally felt that much more work needs to be done.

Several reasons were given for the perceived limited impact achieved by child rights organisations, including both external factors and internal:

- **Shallow child rights culture:**
  - In Swaziland the main challenge was empowering people as "they don't come from a rights based culture". "People think of themselves as mere subjects rather than citizens who have rights".
  - Regarding the level of knowledge of child rights, a respondent noted that "there is often a large amount of ignorance at the workshops we run. There is a lot of popular knowledge, but a lack of depth and lack of knowledge about the tools you can use for implications". They felt that "child rights are on their lips, but they don't have a depth of understanding".
  - Although there appears to be a growing awareness in the child rights sector of the need to build capacity of adults, especially parents and guardians, one organisation noted that "often their [adult's] perception of child rights causes problems. But once they realise what it is about they are more aware".

- **Limited domestication of the UNCRC and law reform processes:**
  - Zambian respondents felt that the lack of child friendly legislation limited the effectiveness of the child rights sector in the country, for example much work still needed to be done regarding establishing child protection systems and "translating laws into reality".
  - There is also limited experience and practical skills on the part of CSOs in designing and implementing effective and strategic advocacy and lobbying strategies to influence decision makers and public policy.

- **Nascent nature of the child rights sector and organisations:**
  - In Zambia respondents felt that it was difficult to determine how effective the sector has been as child rights were new in the country and there is still much more capacity building to be done. One respondent noted that "even in the child rights sector there are many organisations which are unaware of the CRC and other child rights legislation". Organisations in the child rights sector do not see themselves as human rights organisations and "very few can be really classified as child rights organisations".
  - Many CSOs target the urban and peri-urban areas, thus child rights activities are almost non-existent in rural areas. However, "when CSOs have reached these neglected areas, there has been a significant impact".
  - Respondents in Botswana also felt that their child rights sector is "still small and in its infant stages" and only a few CSOs work on child rights education. One respondent noted that the civil society sector has many organisations that "focus on OVCs and orphans, but the few child rights organisations that are around are not very strong".
  - The child rights organisations in Swaziland felt that there needs to be more people and resources to strengthen the sector, for example it was noted that many

rights education and training projects were currently under threat from a lack of funding and many are on the verge of closing down.
- Lack of meaningful child participation in the programmes at all levels.

- **Small scale of child rights interventions:**
  - In all the countries, the child rights sector is new and still growing. It is striving to make an impact and be accepted by those working with children in the CSOs and government as well as by adults such as parents, teachers and community leaders.
  - Much of the work being done is on a small scale basis, thus impact will be small.
  - In South Africa respondents noted that "there are some good projects and people who are doing good work in the child rights sector". However the scale of the work being carried out by the sector is still too small and many organisations are limited by a lack of financial and human resources.

- **Rural-urban divide:**
  - In all the countries most organizations are based in urban areas and the rural areas are often neglected because of large undeveloped areas or difficult terrain. This makes it difficult to both work in the rural areas and form networks between the organisations.

- **Lack of monitoring and evaluation systems to determine impact and change:**
  - In Lesotho CSOs were unsure of the extent of the impact they were having as they had no monitoring or evaluation systems to measure their achievements or to determine if they were "on the right track".
  - Other respondents noted that impact was difficult to determine as "changes in the child rights sector takes a long time".
  - Effective monitoring and evaluation also a problem in South Africa, one respondent said "we do lots of training, but there was little or no follow-up on what happens afterwards".

- **Limited sectoral coordination and networking:**
  - The level of organisation within the child rights sector is limited in most of the countries surveyed. In the smaller countries such as Botswana, Lesotho and Swaziland, there are few child rights organisations and they struggle to formally coordinate activities or form networks as well as to keep them going. In Zambia, and especially South Africa, the sector is larger. But CSOs still struggle to find time to collaborate and coordinate their activities across the sector.

- **Lack of resources:**
  - In all countries, irrespective of the size of the child rights sector, the number of donors present, level support of the government, or the work being implemented, scare resources and especially the competition for these resources, was identified as a major barrier for CSOs.


### 13.3 Successes & challenges in the child rights sector
Raising awareness of child rights is having some positive affects in both the civil society sector and with government. But the issue of child rights is still perceived to be a new area for many CSOs and communities, especially in more remote rural areas.

The nascent nature of many organisations and the child rights sector itself is also a key challenge. Being 'new', the child rights sector finds it difficult to mobilise resources and coordinate initiatives in order to be more influential. There is also a large rural-urban divide in terms of activities of both the child rights and public sectors. Cultural practices and adult beliefs remain a significant barrier to the realisation of children's rights.

See Appendix 6 for further details concerning the success and challenges of the child rights sector.

## 13.4 Gaps in the child rights sector
The respondents were asked to identify the most significant gaps in the child rights sector.

- **Organisation capacity constraints:**
  - "The voice of civil society is weak" – "we need to partner with communities and other child rights organisations to create a large voice".
  - CSOs often lack a clear rights based framework/methodology to guide their work and "do not really know how to go about human rights work".
  - CSO staff need more child rights programming education and capacity building "as many organisations who work with children do not know much about these ideas".
  - There is a need to increase the number of people and staff in CSOs involved in child rights work.

- **Working with children:**
  - Need to improve the quality and the level of understanding of children's participation in programmes. "Children should be able to articulate their own needs and wants".
  - Need to use more innovative ways of working with children. "We need to use the correct media to get the message out and use different techniques when dealing with children as opposed to adults."

- **Working together:**
  - There is a need to coordinate the activities of organisations within the sector "so that we can identify which organisations are good, what they are working on and where they are working. Then get the others to fill the gaps".

- **Working with government:**
  - Government needs to become involved with the harmonisation of their policies – "this would help CSOs to determine where they can become involved".
  - "Government needs to come out with clear and straightforward policies on children i.e. who will be doing things and what the government has to do". "[The government] must implement policies".

## 13.5 What is needed for the child rights sector to become a social force?
Regarding the challenges facing civil society, Opoku-Mensah (2008) notes that civil society in Sub-Saharan Africa remains rather weak, fragile and is characterised by

lack of financial resources, weak umbrella organisations and a concentration of resources on a few CSOs predominantly located in the urban areas. These challenges are further exacerbated by considerable donor dependency. Many civil society organisations and their activities are funded entirely from external sources and that there are few sources of domestic funding.

An historical analysis shows that donor priorities and commitments do change. And new donor policies, such as the Paris Declaration, are expected to lead to a significant decrease in direct foreign funding to civil society. The Global Civicus Study warns that there is a paradox emerging: at the same time that there seems to be a gradual institutionalisation of civil society organisations and their activities in Africa, there is a realisation that the sustainability of civil society organisations and their activities is not guaranteed.

The following challenges were identified regarding the child rights sector becoming a social force. These issues were highlighted by CSOs as well as government officials and donors:

- **Strengthen the internal capacity of child rights organisations:**
  - Develop and deepen an understanding of child rights based approaches and methodologies.
  - Reduce the focus on service delivery as a means to an end – instead use these activities as a means to exercising and claiming children's rights.
  - Scaling up and broadening the focus of child rights programmes and interventions (including increasing organisation size, capacity and level influence).
  - Increase the coverage of child rights programmes, especially in remote rural areas.
  - Improve the capacity to lobby and advocate more effectively, especially the ability to hold government accountable for fulfilling children's rights.
  - Develop skills to constructively engage and influence key decision makers, especially the capacity to influence public policy.
  - Build on existing strong, well established child rights organisations to develop a more robust child rights sector.
  - Improve CSO accountability to children, communities and other CSOs as well as to donors and other stakeholders.
  - Improve the level of self regulation within CSOs and the sector to ensure internal transparency, accountability and legitimacy.

- **Consolidate national and regional child rights networks:**
  - Consolidate the fragmented and disbursed aspects of the child rights sector at national and regional levels.
  - Further develop a range of properly organised, representative child rights networks around which CSOs can collaborate to amplify the formal voice and profile of the sector to address child rights issues more coherently.
  - Build horizontal linkages within civil society across national boundaries to engage regional structures and African child rights issues.
  - Clarify or elaborate common positions and approaches to child rights issues.
  - Explore or clarify the distinction between the human rights and child rights sectors and possible implications for addressing child rights issues.

- **Engage and influence government and public policy:**
  - Government to provide and strengthen mechanisms and democratic, representative fora for regular interaction with civil society and the child rights sector in particular.
  - Lobby government to establish and implement national programmes of action for children.
  - Government to prioritize funding and support for CSOs and networks in the child rights sector within national plans and budgets.

- **Diversifying levels of funding and other types of support for child rights organisations:**
  - Support of the child rights organisations needs to recognise the heterogeneity of the child rights sector and to cater for the needs of different types of organisations.
  - Organisations capacity development needs to be an integral part of funding strategies, as funding is only as useful as CSO's ability to use funding effectively.
  - Lobby government and donors to increase level and type of funding and support for child rights.
  - Develop local funding sources within the private sector.
  - Challenge the current short term, project based nature of donor funding as it is not conducive to building sustainable child rights organisations or realising rights.

# 14.0 Conclusion

International studies, such as the Civicus Global Survey of the State of Civil Society, reinforce the findings of this study. One of the key findings to be confirmed is that environmental factors, such as the political context, legislation, culture and socio-economic situation, have the greatest impact on the state of civil society. Thus, civil society faces two critical challenges: to proactively engage the state to improve the external environment in which CSOs operate, especially deepening democracy and, secondly, for individual CSOs to manage internal challenges. Both these aspects need to be addressed by a range of actors if civil society, and the child rights sector in particular, is to become a social force for change.

**a. Profiles of the child rights sectors**
In terms of a nature of the child rights sector, the study found a range of conditions across the five countries surveyed. In some countries, such as South Africa, the child rights sector is relatively large, well established and organised, while in others, such as in Lesotho and Swaziland, it tends to be nascent and fragmented.

Child focused CSOs tended to be relatively small, ranging in size from an average of 6 staff (Lesotho) to 25 staff (Botswana) and commanding relatively modest budgets, ranging from an average of US$ 48,000pa (Lesotho) to US$ 490,000pa (South Africa).

**b. Enabling environment for civil society**
Civil society operates in a partially disenabling environment in the five surveyed countries, with the most critical inhibiting factors being significant socio economic problems, such as child poverty, illiteracy, lack of basic services and corruption; as

well as weak, unaccountable states. For example, respondents in South Africa and Zambia felt that the state was generally functional and able to meet its obligations, but was perceived to be unresponsive to child rights issues. In Botswana, Lesotho and Swaziland, the state was perceived to lack capacity.

According to a study by the Open Society Foundation (2007), the gap between policy formulation at national level and implementation at local level was found to be the interplay of the following factors:

- Insufficient harmonisation of strategic plans and general coordination between national, provincial and local levels.
- Policy reform overload, leading to difficulties in prioritisation.
- Insufficient quality and quantity of government officials for implementation.
- Insufficient popularisation and participation of communities and other stakeholders in the designing and implementation process of policies and plans.
- Insufficient monitoring and evaluation.

In countries with dual legal systems, such as Swaziland and to a lesser extent Zambia, the problem is exacerbated as there are many 'grey areas' between civil and customary laws, especially those aspects affecting children.

According to Transparency International's Corruption Perception Index (2006), Swaziland and Zambia are perceived to be most corrupt of the five surveyed countries and South Africa and Botswana perceived to be relatively less corrupt. The role of the independent media in publicizing and investigating cases of corruption was also highlighted.

All countries surveyed had some form of legislation requiring civil society organisations to register. The complexity of this legislation ranges from very informal, vague guidelines that exist in Lesotho to the comprehensive NPO Act that exists in South Africa. All organisations interviewed were legally registered as some form of civil society organisation. But many CSOs felt there was no real benefit to registration apart from being able to access government and donor funds more easily. In most cases organisations were not obliged to submit regular reports to the registrar to maintain their legal status. Follow up on reporting did not appear to happen anywhere.

Significantly, in Zambia, the proposed NGO Bill has met with a great deal of opposition from civil society and as a result was withdrawn for revision. The two main points objected to involve the power of the Minister of Home Affairs to register or deregister CSOs and the fact that all CSOs must submit themselves to an external financial audit.

In terms of funding and other forms of government assistance, only CSOs in South Africa noted that they received significant funding from government. CSOs in the remaining four countries tended to received little or no funding from government.

**c. State-civil society relationships**

Although civil society enjoys a certain level of autonomy from the state and freedom of expression, there are occasional threats from the state which undermine this autonomy and several respondents feel that the state sometimes interferes with CSOs.

Civil society organisations tend to work with government institutions and structures which focus on child rights issues, such as education, health, social development and justice. There appears to be a growing recognition in the region of the importance of the work carried out by the CSOs in the child rights sector. This recognition is reflected in the varying degrees of positive cooperation that exist between CSOs and government, the level of involvement of CSOs in service delivery and input into child focused legislation, policies and programmes. Levels of collaboration with government appear to be weakest in Swaziland and Lesotho. There is also variation within countries, with some ministries/ departments being more cooperative than others. However all respondents in all countries mentioned examples of successful state-civil society relationships which addressed child rights issues.

The key challenges faced by child rights organisations working with government include:

- Slow and limited domestication of international human rights treaties and implementation of legislation, policies and programmes.
- Difficulties in dealing with slow and unresponsive government systems, structures and bureaucratic processes.
- Limited funding and support from government.
- Limited space for a representative body of CSOs to openly engage government formally, authentically and regularly.

Government perceptions of civil society in general and the child rights sector in particular included:

- Civil society is not as robust as needed.
- There is limited synergy and coordination within civil society and the child rights sector.
- A more organised and formal, representative voice is needed for the child rights sector
- Child rights sector is often constrained by the lack of/ implementation of legislation to deal with children's rights.
- The child rights sector could be more effective at holding government accountable for fulfilling children's rights.
- CSOs are regarded as having long established relationships with communities and insights into local development needs.
- However, most CSO interventions and activities are too small in scale and ad hoc to address the current level of demand.
- At times the perceptions of government exhibit a narrow view of the role of civil society, seeing it mainly in terms of direct service delivery on the part of the state.

Generally CSO respondents felt reasonably autonomous from the state, with occasional instances of interference. But when it came to the ability to criticize

government, interviewees were more guarded in their responses. Conditions in Botswana and South Africa appeared to be most free in this regard, while conditions in Lesotho and Swaziland were more restricted. The existence of a free and independent media as well as the extent to which CSOs depend on government funding, were identified as the two key determining factors in this area.

In terms of dialogue with government, most CSOs felt that only a few, unrepresentative organisations were involved in an ad hoc, poorly organised, and tokenistic manner when convenient for government. However in Botswana, South Africa and to a lesser extent in Zambia, formal mechanisms have been established for ongoing meaningful dialogue between state and civil society. More needs to be done to prioritize space for and the quality of dialogue between state and civil society.

**d. Capacity of the child rights sector**
Civil society in the surveyed countries is characterised by high levels of individual citizen participation, especially at community level. But its primary weaknesses lie at the organisation and sector level, such as limited financial resources, strong dependence on donors, weak support infrastructure, e.g. resource and capacity building centres, and ad hoc levels of communication and formal coordination within the child rights sector.

The study revealed that CSOs are making a significant contribution towards raising awareness about child rights and service delivery. The main activities CSOs are successfully involved in include providing children with basic services, legal support, child rights education, health care and child protection. However, their role in influencing public policy and law reform through advocacy, parliamentary lobbying or using human rights bodies and mechanisms or as a watchdog for the state is still limited.

When asked how effective child rights organisations were at holding government accountable for the fulfilment of child rights, respondents in Botswana, Lesotho and Swaziland perceived that they had 'little or no impact'. This was echoed by perceptions of government officials and donor representatives. Only in South Africa and Zambia did some respondents feel that child rights organisations were 'involve in some activities, but with limited impact.' However, some notable successes have been experienced, such as influencing public policy around child grants and national budget processes.

When asked how effective CSOs perceived the child rights sector to be similar results were found. Most CSO respondents in the five countries said that there has been 'limited activity to some activity with limited impact'. Only in South Africa and Zambia did CSOs feel that the child rights sector had 'a significant role and impact'. Several reasons were given for the perceived limited impact achieved by child rights organisations, including both external factors and internal:

- A shallow child rights culture.
- Limited domestication of the UNCRC and law reform processes.
- Nascent nature of the child rights sector and organisations.
- Small scale of child rights interventions.
- Urban rural divide.

- Lack of monitoring and evaluation systems to determine impact and change.
- Limited sectoral coordination and networking.
- Lack of resources.

Donors' views regarding the effectiveness of the children's rights sector were mixed. Donors who felt that the sector was not very effective claimed few organisations adopted a rights based approach to children's issues. There was a perception that very few CSOs recognised "that children have rights and they tend rather to have a 'handout' approach and not a rights based approach". Thus, CSOs tended to focus on immediate needs rather than on the realisation of child rights. In relation to children's rights some donors felt that the children's sector was fragmented and generally urban based. Also very few organisations appear to have a good understanding about how to work at regional levels and often organisations start working at a regional level to access funding thus diverting from their core mandate.

In summary, the overall impact of the CSOs on child rights issues is significant in the area of service provision, education and awareness raising; whereas engaging and influencing decision makers regarding child rights legislation is still to be addressed.

**e. Organisation of the child rights sector**
While the level organisation within the child rights sectors across the study countries is generally still being developed, a few issue based networks have been established and are addressing certain child rights issues.

South Africa tends to have the most well established child focused networks, some of which are permanent while others are ad hoc, only arising to address a specific need and then disbanding when the goal has been satisfied. The child rights sectors in Botswana and Zambia are smaller, although fairly well established. Thus their networks are small, but focussed and are doing good work. In the two countries with the smallest child rights sectors, Lesotho and Swaziland, many of the networks are newly formed, fragile and still trying to find their place and purpose. A worrying aspect of this situation is reflected in the recent closure of the only national child rights network in Lesotho.

However, having large and vibrant networks does not necessarily mean that these networks are perfect or harmonious. All respondents mentioned challenges faced by the networks. The larger the networks, the more problems were experienced with ensuring coordination, cooperation, sourcing funding and maintaining commitment of members. There are also many networks, and organisations have to ensure that they are involved in those that are most useful to them and their programmes. Personality clashes are common and turf is jealously guarded. In those countries where the networks are still emerging – defining the vision and focus of the network, building capacity, coordinating activities, sourcing funding and sustaining the momentum and commitment of a diverse membership are key challenges.

## 15.0 Recommendations

The Global Civicus Study on the State of Civil Society identifies two key challenges for civil society:

- How to meaningfully engage in continentally inspired policy processes at the national level e.g. regarding NEPAD's peer review mechanism; UNCRC domestication and reporting and AU/ ACRWC reporting and use of relevant complaints/communication mechanisms.
- How to create horizontal linkages within civil society across national boundaries in Africa to be able to engage in continental political fora.

More specifically, CSO, donor and government respondents noted the following challenges that need to be addressed in order for the child rights sector to become a social force:

- Strengthen the internal capacity of child rights organisations.
- Consolidate national and regional child rights networks.
- Engage and influence government and the public policy environment.
- Diversify levels of funding and other types of support for child rights organisations.

In the light of the findings of this study, specific recommendations concerning SCS's programme in the region include:

- Disseminate and discuss the results of this study with partner CSOs, networks other stakeholders within the child rights sector.
- Use the findings of the report to prioritise a set of strategies which SCS could support to further strengthen the child rights sector in the region.
- Continue to provide platforms and opportunities for CSOs in the child rights sector to build and integrate a stronger child rights practice and set of practical tools into their interventions.
- Further explore the concept of children's participation with CSOs, especially the role of child-adult partnerships and the implications of these for fostering child movements or child focused groups.
- Initiate discussions around the content and aims of the Paris Declaration to increase awareness of it among CSOs and support CSOs to determine how they can more effectively engage with its principles, include these principles in child budget initiatives and make international aid more effective.
- Continue to support national and regional networks, especially for these organisations to evaluate their structure and performance and to document case studies and successful models for wider replication within the sector.
- Continue to support national or regional child rights networks to use alternative reports, formal communication and compliant mechanisms and observer status relating to various human rights instruments in order to exercise and claim children's rights and hold governments accountable for the fulfilment of child rights.
- Further research could explore examples of good practice where a strong and democratic state has emerge alongside a robust civil society, particularly in the

South, as the political environment has such a significant influence on the state of civil society.

- Review SCS's funding mechanisms as current short term, project based nature of donor funding is not conducive to building sustainable child rights organisations or realising rights.

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# Appendices

## Appendix 1: Organisations and institutions interviewed

**South Africa (13)**
- Alliance for Children's Entitlement to Social Security (ACESS);
- Child Justice Alliance/Children's Rights Project (Community Law Centre);
- Centre for Child Law;
- ChildLine;
- Children's Institute;
- Children's Resource Centre;
- Children's Rights Centre;
- Keep the Dream;
- Media Monitoring Project
- Molo Songololo;
- National Children's Rights Community;
- RAPCAN (Resources Aimed at the Prevention of Child Abuse & Neglect);
- Soul City Institute for Health & Development Communication.

**Botswana (7)**
- Botswana National Youth Council;
- Botswana Network on Ethics;
- ChildLine;
- DITSHWANELO;
- Stepping Stones International;
- Youth Health Organisation (YOHO);
- YWCA.

**Lesotho (7)**
- NGO Coalition on the Rights of a Child;
- Children's Coordinating Committee - NGO Coalition on the Rights of a Child;
- Lesotho Child Counselling Unit (LCCU);
- Children's Committee – Lesotho Child Counselling Unit (LCCU);
- Good Shepherd Centre for Teenage Mothers;
- Lesotho Society of Mentally Handicapped Persons;
- Phomolong Support Group.

**Swaziland (6)**
- Council of Swaziland Churches;
- Moya Centre;
- Save the Children Swaziland;
- Swaziland Action Group Against Abuse;
- World University Services;
- World Vision.

**Zambia (9)**
- African Network for the Prevention & Protection Against Child Abuse & Neglect (ANPPCAN);
- Children in Need (CHIN);
- Child Justice Forum;
- Jesuit Centre for Theological Reflection (JCTR);
- Women & Law in Southern Africa (WILSA);
- YWCA;
- Zambian AIDS Law Research & Advocacy Network (ZARAN);
- Zambia Civic Education Association (ZCEA);
- Zambia Interfaith Network Group on HIV/AIDS (ZINGO).

**Government**

**South Africa (2)**
- Department of Education;
- Department of Health.

**Botswana (2)**
- Ministry of Education;
- Department of Women Affairs.

**Lesotho (7)**
- Ministry of Education and Training;
- Ministry of Health and Social Welfare (Health);
- Ministry of Health and Social Welfare (Welfare);
- Child and Gender Protection Unit;
- Correctional Services (for children in juvenile centres);
- Office of the First Lady (Deals with OVCs);
- Lesotho AIDS Programme Coordinating Authority.

**Swaziland (4)**
- Ministry of Education;
- Ministry of Health and Social Welfare;
- Ministry of Justice and Constitutional Affairs;
- National Children's Coordination Unit.

**Zambia (2)**
- Ministry of Education;
- Ministry of Justice.

**Donors (14)**
- Department for International Development (DFID) – Southern Africa Reg Office;
- Department for International Development (DFID) – Zambia;
- Forum Syd – Zambia;
- Foundation for Human Rights;
- GTZ – Zambia;
- International Labour Organisation (ILO) – Zambia;

- Oxfam Australia – South Africa;
- Plan International – Zambia;
- Save the Children Norway – Zambia;
- Save the Children UK – South Africa;
- SIDA – Regional Office;
- UNICEF – East and Southern Africa Regional Office;
- UNICEF – Zambia;
- USAID – Zambia.

## Appendix 2a: Current examples of state-civil society collaboration

The table below lists examples mentioned of state structures, units or departments with whom child rights organisations work or are involved.

| | State Organisations | Units/Depts & Additional Comments |
|---|---|---|
| **Botswana** | Min of Health | Child health & welfare. |
| | Min of Education | Schools & some feeding schemes. Approve projects re schools. |
| | Min of Local Government | Dept of Social Services (especially re child rights), Dept of Social & Community Dev. They are the custodians of the child in Botswana & are responsible for the social security of everybody. |
| | Min of Labour & Home Affairs | Women Affairs Department. |
| | Min of Youth, Sports & Culture | Deals with youth & teenagers. |
| | Min of Justice | Attorney General, Public Prosecutor. |
| | Min of Labour | Ensures that under 15 year olds are not involved in child labour. |
| | Police | |
| | National AIDS Coordinating Agency | |
| **Lesotho** | Min of Justice | Probation Unit, Correctional Services & Children & Gender Probation Unit (in the Police). |
| | Min of Health | Social Welfare & Family Health Division, Rehabilitation Unit. |
| | Min of Education & Training | Special Education Unit. |
| | Dept of Social Welfare | |
| | Min of Agriculture | |
| | Home Affairs | |
| | Local Government | New. |
| **South Africa** | Dept of Social Development | Social cluster. |
| | Dept of Health | |
| | Dept of Education | |
| | Dept of Justice | National & provincial. |
| | Dept of Correctional Services | National & provincial. |
| | Dept of Safety & Security | |
| | Provincial Gvt | |
| | Local / Municipal Gvt | |
| | Provincial Child Rights Advisory Council | |
| | SANAC (SA National AIDS Council) | |
| | Dept of Housing | |
| | SA Police Services | |
| | Human Rights Commission | |
| | Office of the Rights of the Child | In presidency & provincial levels. |
| **Swaziland** | Regional Development & Youth Affairs | New. It handles issues of decentralisation to the 4 geographic areas. Have to negotiate with them when entering into communities. |
| | Ministry of Health & Social Welfare | |
| | Ministry of Education | Education, OVCs, corporal punishment. |
| | Ministry of Justice | Laws, building capacity of prosecutors, Sexual Offences Bill. |
| | Ministry of Home Affairs | Gender Unit. |

|  | **State Organisations** | **Units/Depts & Additional Comments** |
|---|---|---|
|  | National Children's Coordination Unit | Attempt by govt to ensure that child rights are in the fore. Has several groups (eg. Community Development, Education, Health, Psychosocial Support). |
|  | Law Society. |  |
| **Zambia** | Min of Community Development & Social Services |  |
|  | Min of Gender, Sport, Youth & Child Development | Children's Affairs Department. |
|  | Min of Education |  |
|  | National AIDS Council |  |
|  | Zambian Law Development Commission |  |
|  | Min of Justice |  |
|  | Human Rights Commission |  |
|  | Min of Health |  |
|  | Prisons Services |  |
|  | Directorate of Public Procurement |  |
|  | Drug Enforcement Commission |  |
|  | Sector Advisory Groups | i.e. Social Protection Advisory Group. |
|  | Macroeconomic Advisory Groups |  |
|  | Outreach Group |  |
|  | Minister of Home Affairs | Police. |
|  | Local & District level | District Development Coordinating Committee is made up of various task forces such as HIV/AIDS, OVCs, etc. |

## Appendix 2b: The successes of civil society's work with government

| Botswana | Lesotho | South Africa | Swaziland | Zambia |
|---|---|---|---|---|
| - Foster Care project started in 2007 where the government sees us as the experts in this field.<br>- Managed to put human rights language on the table in a meaningful way.<br>- Have a MoU with Social Services that was initiated by a child rights organisation re the procedures for a place of safety.<br>- Have a strong partnership with Min of Education; they trust us.<br>- Relationship with Dept of Social Services has been quite cordial & they support us. Some resources are forthcoming.<br>- We are now working together on a National AIDS Strategy. | - Govt recognise civil society's expertise.<br>- Attending meetings gives us an opportunity to take advantage of the contact with govt. | - We have funding commitments with some departments.<br>- We report to parliament on the Portfolio Recommendations Committee who accept our input.<br>- Child trafficking: in our initial 2000 report, many minister's & govt officials were sceptical. But it has now been introduced in govt schools. More & more organisations are responding to child exploitation issues.<br>- Constitutional Court case re PMTCTs & led to formation of SNAC.<br>- Have good relationships with Depts of Social Development, Education & Health; their DGs are only a phone call away & they make things happen (other depts are still difficult).<br>- Have good relationship with Provincial Child Rights Advisory Council.<br>- Have a cooperative relationship with the Dept of Education re Schools of Industry & Reform.<br>- Worked on Children's Act & made inputs into the Bill which were taken on board.<br>- Parliamentary liaison on the Child Justice Bill. | - The govt has limited regarding their capacity, so they use us in the rural areas.<br>- Our govt doesn't operate like others. Often we don't see the results immediately, but then we hear them say things or do something that we have worked on.<br>- On some projects we work with committed officers. It works well and things happen.<br>- More invitations are forthcoming to critical meetings because of the noises we have made. | - Accepted as a partner regarding Children's Clubs etc.<br>- Have had our views heard regarding some child rights issues.<br>- Social Protection: have had input on funding levels & the definition of social protection.<br>- At state level we serve on various thematic groups.<br>- At district level there are fewer people and it is easier to work with them.<br>- Have good relationships with Min of Home Affairs & good rapport with Min of Health. They have finally taken on the concerns that we have been talking about for years. |

## Appendix 3: The state's obligations as a duty bearer

According to Article 4 of the UNCRC, when a state ratifies the Convention it becomes obliged under international law to implement its provisions. In addition to this obligation, the General Comment #5 issued by the Committee on the Rights of the Child (UN Committee on the Rights of the Child 2003), outlines general measures which a state needs to implementation to ensure compliance with the CRC. The table below outlines these eights measures and provides examples of how various countries are complying with them:

| Measure | Regional issues |
|---|---|
| **The process of law reform** | • All the countries surveyed have ratified the UNCRC and all (except Zambia and Swaziland) have ratified the ACRWC;<br>• There is a complex range of fragmented legislation relating to child rights across the region, e.g. penal codes and legislation relating to adoption, education and social welfare. This poses a significant barrier to the harmonisation of laws and legal protection of children;<br>• Several countries in the region have undertaken a comprehensive review of laws relating to children and developed legislation accordingly (African Child Policy Forum 2007):<br>-**Lesotho** – Children's Protection and Welfare Bill (pending enactment)<br>-**South Africa** – Children's Act (2005); Children's Amendment Act (2007); Sexual Offences Act (2007); Child Justice Bill (pending enactment)<br>-**Swaziland** – Kingdom of Swaziland Issue Paper for a new Child Law (2005)<br>-**Zambia** – Penal Code (amendment) Act (2005) and other statutes are currently undergoing revision to bring them in line with the UNCRC e.g. Affiliation and the Maintenance of Children Act (1995) etc.<br>• However, new legislation and policies enacted by Governments in the region have not been matched by required budget support to implement required services, rehabilitate or expand infrastructure and employ & develop required personnel;<br>• The UNCRC in **Botswana** has not yet been incorporated into national legislation and thus can not be invoked in court. Existing legislation remains outdated and some customary laws and traditions do not take into account the UNCRC's principles and provisions. The fragmentation of legislation is further complicated by the dual legal systems, where common and civil law coexists with customary and religious law;<br>• As a result children continue to suffer from inconsistent and limited implementation of UNCRC provisions. |
| **Development of independent human rights institutions for children** | • There are examples of monitoring mechanisms established within the region, such as:<br>-**Lesotho** – Independent Children's Commission in the Children's Protection and Welfare Bill, which is a small, independent commission reporting directly to Parliament and is empowered to solicit its own funding. It's mandate includes monitoring the well being of children; promoting and protecting their rights; investigating issues pertaining to child rights violations; making investigations and referrals; monitoring compliance with international and regional treaty obligations and coordinating awareness raising activities;<br>• However, more work in needed to ensure that such mechanisms are independent and consist of representatives of both government and civil society at national and local levels as well as have adequate resources and sufficient authority to carry out their objectives;<br>• **Botswana, Lesotho, South Africa** and **Zambia** have established, functioning, independent ombudsmen or human rights commissions;<br>• These bodies handle complaints regarding human rights violations and abuses |

| Measure | Regional issues |
|---|---|
| | in both the public and private sector such as, xenophobia, school violence, freedom of expression, corruption and public sector maladministration. Except in Angola, these bodies appear to operate without government interference;<br>• However, all countries, which have established and functioning bodies noted the following challenges:<br>-Lack of staff to follow up human rights issues or submit reports;<br>-Lack of resources, funding and equipment;<br>-Low levels of public awareness of offices & their services;<br>-Failure to follow up on recommendations when rejected/ignored by government and lack of authority to enforce determinations (Zambia);<br>-Too much caution when addressing abuses by government;<br>-Lack of independence of some human rights commissions;<br>-Bodies tend to deal with all violations of human rights, there is little specific focus or units that deal with child rights violations and do not have specific ombudspersons responsible for focusing on who focus on children's rights;<br>In **Swaziland**, constitutional provisions are made for the establishment of independent human rights commissions, but so far no appointments have been made. Furthermore the constitution states that the ombudsman may not investigate "any matter related to the exercise of any royal prerogative by the crown." |
| **Development of comprehensive strategies or agendas for children** | • It appears that only a few countries have established comprehensive strategies to deal specifically with children's rights:<br>-**Botswana** – has a National Plan of Action for Children (2006-16) which puts children at the centre of programming for the next 10 years. In addition to this plan, the Nation Child Welfare Committee was established to oversee, develop and coordinate law and policy actions for children, publicise the CRC and monitor its implementation;<br>-**South Africa** – child rights activities are coordinated by the National Programme of Action for Children (NPA) Steering Committee, which is chaired by the Office on the Rights of the Child in the Presidency. Government departments, UNICEF, Human Rights Commission and the National Children's Rights Committee all serve of the NPA;<br>• Despite the existence of these plans and structures, governments in the region are faced with sever constraints regarding the implementation of legislation and polices, such as staff shortages, high turn over of staff, redeployment of existing staff, lack of adequately trained staff (especially when dealing with children's issues), slow and unnecessarily bureaucratic systems, application backlogs, lack of basic infrastructure, equipment and resources, bribery and corruption among government officials (especially regarding applications for grants, id documents, birth certificates and exemption certificates) and the lack of independent compliant and monitoring mechanisms for children's services. All these problems result in children being denied access to their rights and to care and support. |
| **Development of permanent governmental coordination mechanisms** | • Permanent governmental coordinating mechanisms are also rare in the region. In addition to those strategies and structures mentioned above, there are few other examples;<br>• Only **Botswana** and **South Africa** appear to established national, integrated coordinating mechanisms or strategies;<br>• Coordinating structures on other countries tend to focus on specific areas or target group, such as orphans and vulnerable children, rather than the focusing on activities relating to children as a whole for example:<br>-**Zambia** – the National Steering Committee on Child Labour was established by the Ministry of Labour and Social Security in 2000 to provide policy guidance on the elimination of child labour. The steering committee involves various line ministries, private employers, employees and CSOs. |
| **Systematic monitoring and data collection** | • Some countries in the region are continuing with updated Demographic and Health Surveys and national studies focusing on children e.g. Swaziland;<br>• Limited information and studies have been conducted relating to children's |

| Measure | Regional issues |
|---|---|
| | rights and issues they face, particularly domestic violence and abuse, birth registration, street children, trafficking; migration, refugee children, children in remote rural areas, as well as the overall analysis of the situation of children's rights in the region;<br>• However, MDG reports, which are being submitted at regular intervals by countries in the region, are contributing to a body of readily available data to track the situation of children nationally and regionally. However, assessments and the tracking achievements relating to the MDGs consciously avoid a child rights orientation or framework and only focus on a few select indicators directly related to the eight Goals;<br>• Follow up State Party Reports to the UNCRC have not been submitted on time by several countries (e.g. Botswana, Lesotho and South Africa) and to date none of the countries in the region have submitted an Initial Report to the ACRWC. |
| **Allocation of resources for children** | • The combined threat of high levels of poverty and the impact of HIV/AIDS has reversed many development gains made during the last decade and eroded hopes for future improvements;<br>• National budget allocations in the majority of countries in the region have not kept pace with the demand for basic services and infrastructure, especially in the light of the elimination of user fees in health and education sectors;<br>• It is common for annual budget allocations for key sectors, such as health and education, to be less that than 10% of GDP. This results in insufficient funding for developing infrastructure, recruiting and training government staff and is reflected in higher rates of maternal and infant mortality;<br>• Many countries are grappling with an evolving aid environment which is centred on direct budget support and sector wide approaches, with all significant funding for a given sector supporting one policy and expenditure programme across the sector;<br>• Compounding the situation is the fact that official development assistance has been denied to many upper middle income countries (e.g. South Africa and Botswana) and lower middle income countries (e.g. Lesotho and Swaziland) during the past decade. However, these governments argue that even if they are not formally classified as low income countries (e.g. Zambia), they have commensurate needs. |
| **Education, training and awareness raising on the UNCRC** | • In many countries, civil society organisations and human rights commissions conduct awareness programmes with government to collect information to fulfil the State's international treaty obligations;<br>• Child friendly UNCRC materials have been produced in South Africa;<br>• Many Governments in the region have laws which provide for public access to information, although at times Governments are slow and unresponsive to requests for data and official documents regarding children's rights;<br>• In Botswana, Lesotho and Swaziland the law restricts public access to government information and Government operations lack transparency. |
| **Collaboration in the process of implementation with civil society** | • It is encouraging to note that both local and international CSOs are represented on structures relating to governmental coordinating mechanisms regarding children's rights, especially in Botswana, South Africa and Zambia;<br>• However, concerns have been expressed about the representivity of some CSOs which have been selected to sit on such structures. In some cases, these organisations are not effective and do not adequately represent the majority of organisations in the child rights sector concerned;<br>• International human rights organisations also work with human rights commissions and ombudspersons to collect information on Government's fulfilment of international treaty obligations. |

(data from Children Now Network 2007, MDG Monitor 2007 & US Dept of State 2008).

## Appendix 4a: The civil society policy environment

The table below outlines the current legislation governing the operation of civil
society in the five countries included in this study:

|  | **Legislation governing civil society** | **Effects of legislation** |
|---|---|---|
| **Botswana** | - Have to register under the Botswana Societies Act (1977) with Registrar of Societies in Min of Labour & Home Affairs (US Dept of State 2006). | - NGOs are not really regulated. But Government can refuse to register certain NGOs (e.g. as in the case of some gay & lesbian societies)<br>- Regulations were written a long ago & do not take into account the changes that have since occurred. |
|  | - There is a National Policy for NGOs (2001). | - NGOs must register with BOCONGO (Botswana 2001). |
|  | - Children in Need of Care Regulations (2005) | - Governs the establishment and operations of foster care institutions. |
|  | - New Children's Act due in 2008 | - Will include requirements for CSOs working with children. |
| **Lesotho** | - CSOs must register at the Law Office under the Societies Act (1966). | - The act under which civil society must register doesn't include any regulations regarding how civil society organisations must operate or what they should be doing. If they receive government money, they should report on its use. |
|  | - Dept of Social Welfare | - Has some guidelines for CSOs. |
| **South Africa** | - Non Profit Organisation Act (1997) covers the regulations for NGOs which can be: CBOs, FBOs; Section 21 Companies (under the Company Act 61 of 1973); Trusts (registered with Master of the Supreme Court under the Trust Property Control Act 57 of 1988); Any other voluntary association that is not-for-profit.<br>- NGOs register under the Directorate of NPOs, Dept of Social Development. | - NPO Act covers the formation of most NGOs & has several legal structures under which an NGO may be registered.<br>- Registration of an NPO is not compulsory but voluntary. Registration gives an NPO some legitimacy, & applications for funding, whether to government or other funding organisations, are more likely to be successful when an NPO is registered.<br>- Registration imposes obligations on NPOs, such as having to submit an annual narrative & financial reports to the directorate, & complying with a code of good practice.<br>- Large organisations with big programmes & budgets will usually registered as a Section 21 Company.<br>- Smaller organisations tend to be registered as a Trust or Voluntary association (Paralegal Advice Centre 2008).<br>- There is general lack of monitoring of non profit organisations – especially the smaller ones. |
|  | - Public Benefit Organisation (PBO) | - The organization's sole purpose must be to undertake one or more public benefit activities, carried out in a non-profit manner & with an altruistic or philanthropic intent. PBOs are restricted in their ability to engage in political activities but not in lobbying. They are entitled to a broad range of tax benefits, including income tax exemptions & exemptions from the donations tax (US International Grantmaking 2008). |
| **Swaziland** | - NGO Policy (2005) | - All CSOs are obliged to register.<br>- But there is no structure to oversee registration or to determine criteria.<br>- No impact of this policy felt yet - still to be explored (e.g. implications for subvention regarding CSOs) |

| | Legislation governing civil society | Effects of legislation |
|---|---|---|
| **Zambia** | - Registration of Societies Act (1958). | - Controls how CSOs are formed. There is a new requirement in the Act whereby CSOs will have to pay $570 to register in an attempt to reduce number of CSOs in the country. The government could use this requirement to close down CSOs. |
| | - Proposed NGO Bill (2007) | - The Bill was opposed by civil society sector & thus withdrawn for revision.<br>- The two main points in the proposed Bill which have been opposed to by civil society are that the Minister of Home Affairs can register or deregister NGOs & all NGO's must submit themselves to an external financial audit. |

**Appendix 4b: Government support provided to CSOs in the CR sector**

|  | Botswana | Lesotho | South Africa | Swaziland | Zambia |
|---|---|---|---|---|---|
| **Level of Funding** | - Not much govt funding is available for child rights organisations.<br>- P3 million (US$360 000) was divided among 150 NGOs. That is not much & shows the lack of willingness to support us.<br>- Those organisations involved with the Presidential Directorate get funding.<br>- In 2007 we received a once off contribution for some training. | - Very little govt funding is available for child rights organisations.<br>- Govt funding is not stable e.g. Minister of Social Welfare gives what they have but some years there is no money.<br>- Sometimes the First Lady gives us clothing & food. | - Support is partial rather than complete. Grants for child rights are usually subsidies & they only pay for part of the services provided by CSOs.<br>- Access to govt funding depends on the organisation & the state's perception of them. Some get a large amount while others have to go elsewhere, usually outside the country. | - Very little govt funding is available for child rights organisations.<br>- The NGO Policy makes provisions for subventions to NGOs, but there is still no support received as yet. | - There is some funding – e.g. for orphanages & institutions of care.<br>-Child rights organisations get no funding from govt. |
| **Accessing Funding** | - CSOs have to be registered as a trust or society to get govt funding.<br>- Dept of Social Services gave us some money, but they haven't asked us for any reports or even to sign a contract. | - Funding has been restructured regarding implementation of projects. | - Since the NPO Act was developed & implemented there are more opportunities for CSOs to access funding.<br>- Government has prioritised certain areas: women & children, housing, water – means that CSOs need to buy into these programme areas to get govt funding.<br>- Funding for hard issues is difficult to get.<br>- Bilateral funding via the | - There is a system of patronage. If the system were to work right, it should be the same for everyone.<br>- If you touch the right person at the right time – maybe they will support you.<br>- We can access some money from Coordinating Assembly for NGOs (in Ministry of Economic Planning). | - NGOs linked to Ministry of Community Devt receive money for women & children in rural areas.<br>- There is a new funding programme (Direct Budget Support System) where donor funds for NGOs are now going via the government, so many CSOs have had cutbacks. |

|  | **Botswana** | **Lesotho** | **South Africa** | **Swaziland** | **Zambia** |
|---|---|---|---|---|---|
|  |  |  | government is hard to access & reporting requirements are onerous. |  |  |
| **Funding Comments** | - Govt funding amounts are too small to help CSOs achieve their goals.<br>- Need a bigger NGO structure to meet donors & government at the same level. |  | - We don't take any money because of our stance & advocacy.<br>- The government requires us to have good reporting procedures, but they don't have the same level of accountability for themselves. |  | - Government refused to accept E5 million from the EU as an apparent 'punishment' of NGOs for challenging the NGO Bill. |

The table above lists the main responses from the regional child rights organisation survey regarding the level of government assistance to the sector. The two major sections that most of the organisations focussed on were the level of funding and how to access what funding was available. With regard to funding levels, in all countries the sector is usually severely under funded. In South Africa there seems to be some funding for specific projects, which is dependent on how the state sees the organisations. With regard to accessing what little funding there is, it seems that there is some movement in the respective governments that may lead to some limited or targeted funding in the future. Generally the process of accessing government support is difficult.

## Appendix 5a: National and regional civil society networks and level of activity

| | | Comments | 1-7 days | Week-2 Weeks | Monthly | 1/4ly | Ad Hoc / issues |
|---|---|---|---|---|---|---|---|
| **Botswana** | BOCONGO | The Botswana Council of NGOs is the national umbrella body for NGOs. | | | ● | ● | ● |
| | BONASO | The Botswana Network of AIDS Service Orgs (BONASO) is the umbrella body for AIDS orgs. "Still quite weak, but has potential." | | | | ●● | ● |
| | BCC (Council of Churches) | A faith based social & economic justice advocacy network, & a national umbrella body for member churches. | | | | ● | |
| | Botswana Youth Council | Botswana National Youth Council is a NGO established via presidential directive to coordinate all youth focused NGOs (aged 12-29 years). | ● | | | ● | |
| | Child Labour Network | National network that meets quarterly. | | | ● | | |
| | Corporal Punishment Network | Regional network meets 2 x year. | | | | ● | |
| | Child Budget Network | Regional network that meets 2 x year. | | | | ● | |
| | Marang Child Care Network | Coordinates & provides support at national level to 26 CBOs working with OVCs. | | | ● | | ● |
| **Lesotho** | Non Violence v Children | National. | | | | ● | |
| | Campaign for Education Forum | National coalition of orgs working & advocating on education rights. | | | ● | | |
| | NGO Coalition | National umbrella body for CR which shares information & technical support. Has over 50 members. (Recently closed) | | | ●● | | |
| **Swaziland** | CR & Advocacy Consortium | NGO Stakeholders Group | | | ● | | |
| | 13 National Groups | NGO driven which liaise with govt & coordinate activit ies e.g. Gender, Youth, Children's Unit | | | ●● | | ● |
| | CANGO Network | Nat | | ● | ● | | |
| | Food Security Network | Nat | | | ● | | |
| | National Church Forum on HIV/AIDS | National ecumenical body organised around HIV/AIDS & OVCs. | | | ● | | |
| | Dept PM Social Support Network | Nat ional | | | | ● | |
| | OSISA Education Network Group | Nat ional | | | | | ● |
| | National Children's Coordinating Unit. | Need a more united voice –this is slowly happening through the new consortium that is being created | | | | | |
| | Corporal Punishment Network | Regional | | | ● | | |
| **South Africa** | ACESS | Nat ional | | | ●●● ●● | | |
| | AIDs Network | Nat ional | | | ● | | |
| | Circle of Change | Nat ional | ● | | ● | | |
| | Women's Network | National | | | ● | | |
| | Basic Income Grant Coalition | National | | | ● | | |

|  |  | Comments | 1-7 days | Week-2 Weeks | Monthly | 1/4ly | Ad Hoc / issues |
|---|---|---|---|---|---|---|---|
|  | Child Justice for All | National | ●● |  |  |  |  |
|  | Children's Bill Working Group | National | ● |  | ● |  | ● |
|  | Sexual Offender's Working Group | National | ● |  |  |  |  |
|  | Child Justice Alliance | National |  |  | ● |  |  |
|  | Childline Group | National |  | ● | ● | ● |  |
|  | Child Protection Commission | National |  |  | ● |  |  |
|  | CRIN | National |  |  | ● |  |  |
|  | SANAC | National |  |  |  | ●● |  |
|  | CINDI | National |  |  |  |  | ● |
|  | SANTAC | Regional |  |  | ●● |  |  |
|  | SA Netwk on Child Trafficking | National |  |  | ● |  |  |
|  | Child Rights Committee | National |  |  | ● |  |  |
|  | SAPSAC | National |  |  | ● |  |  |
| Zambia | ECPAT | International |  |  |  | ● |  |
|  | CHIN | Regional | ● |  | ●●● ● |  | ●● |
|  | ZCEA | National |  |  | ●●● ● |  |  |
|  | NGO Coordinating Committee | National |  |  |  |  | ● |
|  | WILDA | National |  |  | ● |  |  |
|  | AMPPCAN | National |  |  |  |  | ● |
|  | Child Justice Forum | National |  |  |  |  | ● |
|  | SCS Network | National |  | ● |  |  | ● |
|  | Corridors of Hope | Regional |  |  | ● |  |  |

## Appendix 5b: Networking successes and challenges

| | Botswana | Lesotho | South Africa | Swaziland | Zambia |
|---|---|---|---|---|---|
| **Network Successes** | - Networks help organisations support each other, especially where other organisations have already made in-roads.<br>- CSOs able to challenging corporal punishment in the constitution.<br>- Member organisations learn from other countries (especially from South Africa) by being involved in networks. | - Not many significant successes, but there are some – e.g. reworking the Child Protection Act (from the 1980s).<br>- Child rights organisations were involved in the new Child Protection & Welfare Bill of 2004 as well as the Sexual Offences Act of 2003. | - The child rights works well together & the sector tends to be helpful & cooperative.<br>- Members generate lots of creative & positive ideas.<br>- Networks had an impact on increasing the basic income grant.<br>- Proposals for children's sector in SANAC – almost all were accepted.<br>- Can support each other re legal action – match up clients with legal CSOs re HR & CR abuse. | - | - Share resources, ideas & have joint workshops.<br>- Can divide up tasks & activities so there is no duplication. |
| **Network Challenges** | - When the project ends it is difficult to sustain relationships that were formed for the project.<br>- Not having aligned activities in order to support each other.<br>- Despite having high standards, many child rights organisations are not equal or well organised | - Unless specific child rights organisations have a presence ("there to make a noise") they may be marginalised as they are often not the only organisation working in the field.<br>- There is little support from individual member organisations – secretariat taking responsibility for implementing activities.<br>- Secretariat develops a 'life of its own' separate from | - Networks are under-resourced & marginalised.<br>- Need an experienced network coordinator.<br>- Political disagreements between the members.<br>- Different/ conflicting expectations of members.<br>- Need to have an ongoing assessment (M&E).<br>- Difficult balancing being a service provider & also focusing on national issues.<br>- Communication between members. | - Managing diversity of members - CSOs at different levels of development have different needs & expectations..<br>- Level of commitment & involvement of members is low.<br>- Role & benefits of membership not clear.<br>- Communication with members in rural areas is difficult – no email, telephone, etc.<br>- Members cannot find time | - Child rights programming is new & members are inexperienced.<br>- Need to build skills & capacity of members to work together.<br>- Members are overcommitted & under resourced – difficult to get a quorum at meetings.<br>-Networks are "something that you do on the side & are not paid for."<br>- Members focus on its own programmes & miss out on |

| | Botswana | Lesotho | South Africa | Swaziland | Zambia |
|---|---|---|---|---|---|
| | | members.<br>- Role of members unclear.<br>- Unmet/ conflicting expectations of role & function of network.<br>- More space for report backs & sharing needed. | - Need to find personalities who can work together to avoid clashes. | to attend meetings which results in very little progress being made.<br>- Duplication of activities - need to do a mapping exercise to determine who is doing & to coordinate work of members.<br>- Sending mixed messages - need to consolidate information to stop sending out mixed messages. | synergies.<br>- There is often money for the meetings, but not for salaries.<br>- Turnover of key staff driving the process.<br>- Members are suspicious of each other ("trust is absent") because they compete for the same resources. |

## Appendix 5c: Linkages with other organisations

CSOs were also asked to name three to four main child rights organisations that they work with and how often they interact with them. The table below lists these other organisations along with the level of interaction. For example, in Botswana, five CSO respondents named ChildLine – one has contact with them several times a week, one met with them on a quarterly basis and three worked with them on ad hoc issues as and when they needed to.

This study does not include all child rights organisations, thus, the number of organisations and the level of interaction appear sporadic. This is a reflection of the diverse range of child rights organisations operating in the region and the extent to which they tend to interact with other organisations. However, it appears that the Lesotho organisations tend to be insular and do not work with the other organisations or could not find any others to work with in the country.

| | Organisation | 1-7 days | Week-2 Weeks | Monthly | >1/4ly | Ad Hoc / issues |
|---|---|---|---|---|---|---|
| **Botswana** | ChildLine | ● | | | ● | ●●● |
| | SOS Children's Village | ● | | ● | ●● | |
| | DITSHWANELO | ● | ● | | ● | ● |
| | Youth for Christ | | | ● | ● | |
| | Lifeline | | | ● | | |
| | Women's Shelter | | | ● | | |
| | Stepping Stones | | | | ● | |
| | Ghansie Youth Trust | | | | ● | |
| | UNICEF | | | | | ● |
| | BOFA (Family Welfare Assn) | | | | | ● |
| **Lesotho** | World Vision | | ● | | | |
| | UNICEF | | | ● | | |
| **Swaziland** | Swaziland Action Group v Abuse | ● | ●● | ● | | |
| | Save the Children Sweden | | | ● | | ●● |
| | UNICEF | | ● | ● | | |
| | Swaziland Council of Churches | | | ● | | ● |
| | World Vision | | | | | ● |
| | Lutheran Development Service | | | | | ● |
| | Family Life | | | ● | | |
| | Salvation Army | | | ● | | |
| | Baylor Clinic | | | ● | | |
| | World University Services | | | ● | | |
| | WILSA | | | | | ● |
| | Family Life Association | | | | | ● |
| **South Africa** | ChildLine | ● | | | | ●● |
| | Child Rights Centre | ● | ● | ● | | |
| | Children's Institute | ● | | | | ●● |
| | Child Welfare | ●● | | | | |
| | Centre for Child Law | | | | | ●● |
| | Community Law Centre | ● | | | | |
| | Legal Resources Centre | ● | | | | |
| | SCS | ● | | | | |
| | Lawyers for Human Rights | ● | | | | |
| | RAPCAN | | | ● | | |

| | Organisation | 1-7 days | Week-2 Weeks | Monthly | >1/4ly | Ad Hoc / issues |
|---|---|---|---|---|---|---|
| | NICRO | | | | | ● |
| Zambia | Jesus Cares Ministries (ILO) | | | ●● | ● | |
| | Children in Crisis | | | ● | | |
| | Community Concern | | | ● | | |
| | Hosanna | | | ● | | |
| | Mapalo | | | ● | | |
| | Save the Children Norway | | | ● | | |
| | YWCA | | | ● | | |
| | Rural Youth & Children in Need | | | ● | | |
| | Legal Resources Foundation | | | ● | | |
| | Sports in Action | | | ● | | |
| | ZARAN | | | | | ● |

**Appendix 6: Successes and challenges in the child rights sector**

|  | Botswana | Lesotho | South Africa | Swaziland | Zambia |
|---|---|---|---|---|---|
| **Successes** | - Greater degree of recognition that children have rights, especially when compared to five years ago.<br>- Parents understanding that rights come with responsibilities.<br>- Influenced the Children's Act. The government attempted to enlist their own supporters to influence the Act, but the sector managed to regain control as part of the Technical Advisory Group.<br>- Lobbying for policy change.<br>- Starting some service delivery projects. |  | - Consolidation of the child rights sector - all the organisations have "their own plans & diaries, but when we need to work together we do."<br>- Changes in law & policies affecting children.<br>- Awareness & access to education for pre-school children improved the amount & manner of government funding.<br>- Extended children's grants to other age groups.<br>- Getting government to realise that children have a place & that children need to be put first.<br>- The Advisory Council for Child Rights was established due to the work of the child rights organisations. | - There are now policies that help to address children's issues (i.e. clarification of definition of a child being 0-18 years).<br>- Formulation of a Children's Bill is in its final stages.<br>- Government Co-ordinating Unit established to look at children's issues.<br>- CSOs have made input on Sexual Offences & Domestic Violence Bill. | - Child rights is still new, so difficult to judge so far.<br>- Sensitizing communities re child rights.<br>- Training of media, communities & professionals in dealing with children.<br>-Some law reform achieved.<br>- Office of the Children in human rights structure is in the process of being established. |
| **Challenges** | - Coordination: child rights organisations usually pushing their own indiv mandate - thus coordination & collaboration is not very sustainable.<br>- Staff and organisations are over committed. | - Trying to get into the rural areas to raise awareness about child rights e.g. the report back on the Children's Bill was done by the government & the people think that it was donor driven. | - Divided & fragmented child rights sector.<br>- Competition for scarce resources & funding.<br>- Competition for staff & skilled leaders.<br>- There is a big racial divide. Certain skills reside with | - Rights issues are not high on priorities list.<br>- Still trying to convince adults about child rights.<br>- Need legislation to support what the work of the child rights sector.<br>- Need to include or partner | - Difficult to source & keep volunteers as the economy grows & there is more employment available. Also when times are hard, people must find paid work.<br>- Competing with other NGOs for scarce donor |

| | Botswana | Lesotho | South Africa | Swaziland | Zambia |
|---|---|---|---|---|---|
| | | - Cultural practices restrict the participation of children.<br>-Limited understanding of children rights among adults, staff & communities.<br>- Lack of monitoring & evaluation of projects.<br>- Lack of information on who is doing what – thus CSOs tend to work on their own as they don't know who to work with.<br>- Limited organisation leadership capacity - volunteer board members from small rural CBOs lack skills & awareness of CR issues.<br>- Lack of collaboration among CSOs means govt doesn't listen to us.<br>- Competition for resources- "once we have funders, we have to keep it a secret". | certain racial groups.<br>- Advocacy skills & strategies are weak.<br>- Lack of proper planning.<br>- Presidential Office on the Rights of the Child is supposed to work with the government & CSOs, but often they ignore many orgs.<br>- Can't work on the full spectrum of child rights due to capacity constraints.<br>- There are too many organisations in certain areas, even if they haven't the capacity to do the work properly or work at scale<br>- Children are a diverse group i.e. babies, toddlers, youth, teens, pre-teens, etc – need capacity to work with all children.<br>- Older children are often left out regarding service delivery. | more with government (e.g. Min of Public Welfare) on child rights programming.<br>- Difficult to work with govt officials who are not committed - "it is a problem to work with people who are just doing their job".<br>- Feel that findings are not seriously considered e.g. reports are sent to CABONGO who identify issues for govt follow up. But not sure if there are any meaningful follow ups.<br>- Some organisations are small & lack the capacity to address CR issues at scale.<br>- Competition & struggle for funding - "rights are not seen as tangible by donors" & it is difficult to get funders to understand the concepts & ideas re child rights.<br>- Funding constraints limit scope, activities and participation of CSOs.<br>- Need to build the capacity of professionals working on rights, especially in govt. | funding.<br>- Old &established organisations are viewed as stable & so money goes to newer ones.<br>- Child rights is still new, so need to build capacity of staff on child rights.<br>- Lots of red tape in dealing with the government ("We want them to move yesterday, but the government only moves tomorrow").<br>- If something happens (i.e. defilement), the women's network talks about it, but the child rights organisations remain silent. |

## Appendix 7: Countries adhering to the Paris Declaration

Afghanistan
Albania
Argentina
Australia
Austria
Bangladesh
Belgium
Benin
Bolivia
**Botswana**
Brazil
Burkina Faso
Burundi
Cambodia
Cameroon
Canada
Cape Verde
Central African Republic
Chad
China
Colombia
Congo D. R.
Cook Islands
Czech Republic
Denmark
Dominican Republic
Egypt
Ethiopia
European Commission
Fiji
Finland
France
Gabon
Gambia, The
Germany
Ghana
Greece
Guatemala
Guinea

Guyana
Haiti
Honduras
Hungary
Iceland
India
Indonesia
Ireland
Israel
Italy
Ivory Coast
Jamaica
Japan
Jordan
Kenya
Korea
Kuwait
Kyrgyz Republic
Lao PDR
Luxembourg
Madagascar
Malawi
Malaysia
Mali
Mauritania
Mexico
Moldova
Mongolia
Mozambique
Namibia
Nepal
Netherlands
New Zealand
Nicaragua
Niger
Nigeria
Norway
Pakistan
Papua New Guinea

Peru
Philippines
Poland
Morocco
Portugal
Romania
Russian Federation
Rwanda
Samoa
Sao Tomé & Principe
Saudi Arabia
Senegal
Serbia and Montenegro
Sierra Leone
Slovak Republic
Solomon Islands
**South Africa**
Spain
Sri Lanka
Sudan
Sweden
Switzerland
Syria
Tajikistan
Tanzania
Thailand
Timor-Leste
Togo
Tonga
Tunisia
Turkey
Uganda
Ukraine
United Kingdom
United States of America
Vanuatu
Vietnam
Yemen
**Zambia**

**Appendix 8: International organisations adhering to the Paris Declaration**

- African Development Bank
- Arab Bank for Economic Development in Africa
- Asian Development Bank
- Commonwealth Secretariat
- Consultative Group to Assist the Poorest (CGAP)
- Council of Europe Development Bank (CEB)
- Economic Commission for Africa (ECA)
- Education for All Fast Track Initiative (EFA-FTI)
- European Bank for Reconstruction and Development (EBRD)
- European Investment Bank (EIB)
- Global Fund to Fight Aids, Tuberculosis and Malaria
- G24
- Inter-American Development Bank
- International Fund for Agricultural Development (IFAD)
- International Monetary Fund (IMF)
- International Organisation of the Francophonie
- Islamic Development Bank
- Millennium Campaign
- New Partnership for Africa's Development (NEPAD)
- Nordic Development Fund
- Organisation for Economic Cooperation and Development (OECD)
- Organisation of Eastern Caribbean States (OECS)
- OPEC Fund for International Development
- Pacific Islands Forum Secretariat
- United Nations Development Group (UNDG)
- World Bank

**Appendix 9: CSOs present at the High Level Forum, Paris 2006**

- Africa Humanitarian Action
- AFRODAD
- Bill and Melinda Gates Foundation
- Canadian Council for International Cooperation (CCIC)
- Comité Catholique contre la Faim et pour le Développement (CCFD)
- Coopération Internationale pour le Développement et la Solidarité (CIDSE)
- Comisión Económica (Nicaragua)
- ENDA Tiers Monde
- EURODAD
- International Union for Conservation of Nature and Natural Resources (IUCN)
- Japan NGO Center for International Cooperation (JANIC)
- Reality of Aid Network
- Tanzania Social and Economic Trust (TASOET)
- UK Aid Network