

PUBLIC PARTICIPATION IN PREPARING A NEW CHILD PROTECTION LAW



National Consultation on the Child Care and Protection Bill

2009



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THE IMPORTANCE OF PUBLIC CONSULTATION

Namibian Constitution, Article 95(k)

The State shall actively promote and maintain the welfare of the people by adopting, *inter alia*, policies aimed at ... encouragement of the mass of the population through education and other activities and through their organisations to influence Government policy by debating its decisions.

In 2009, the Ministry of Gender Equality and Child Welfare embarked on an extensive consultation process to guide the revision of the draft Child Care and Protection Bill.

The Child Care and Protection Bill is a vital piece of legislation intended to replace the outdated Children's Act 33 of 1960. The public has given input on various drafts of the Bill since it was first proposed, but the last public consultations occurred in 2003. Further consultation was necessary to ensure that the new law will meet the needs of children in the 21st century.



Broad and effective public consultation is important for several reasons:

- (1) Public and stakeholder involvement in the law reform process will help to raise awareness of the legal issues and create a sense of ownership.
- (2) Widespread consultation will help prepare service providers for effective implementation of the new law.
- (3) Broad consultation will smooth the passage of the Bill through Parliament and may eliminate the need for costly Parliamentary committee hearings.

OBJECTIVES OF THE CONSULTATION PROCESS

- ☉ to refine the Bill to ensure that it is appropriate to the Namibian situation
- ☉ to draw on the experience of other African countries with recent law reforms on similar issues
- ☉ to raise public awareness of the forthcoming law and increase public understanding of children's rights in Namibia
- ☉ to get input from service providers and other key stakeholders to ensure that the law will be feasible to implement in practice.



Step 1:

IDENTIFYING NATIONAL AND INTERNATIONAL PARTNERS

The **Ministry of Gender Equality and Child Welfare**, with support from **UNICEF**, engaged the technical services of **Legal Assistance Centre** to assist with the consultation process.

The Ministry then convened a **Technical Working Group** which meets regularly to supervise and direct the process. This group consists of members from the Ministry of Gender Equality and Child Welfare, Ministry of Justice, Law Reform and Development Commission, Legal Assistance Centre and UNICEF.

International expertise has been engaged to enable Namibia to draw on the experiences of other countries which have recently passed similar laws. Professor Julia Sloth-Nielsen, Dean of the Law Faculty at the University of the Western Cape and widely acknowledged as one of Africa's foremost child law experts, has assembled an **international team of experts** to assist the Ministry. The involvement of this team is also intended to provide an opportunity for skills exchange between Namibian professionals who work with children and their counterparts in other countries.



Some of the members of the
Technical Working Group



Step 2: PREPARATION AND RESEARCH

An essential component of the process was extensive preparation, research and analysis *before* the public consultations started. One of the keys to effective public input is presenting information which can spark discussion and debate.

With the help of the Legal Assistance Centre, the Ministry collected information on international best practice and the approaches taken in other countries on all of the many different topics covered by the draft Bill. This information was used as the basis for publications and workshop inputs.

With information about different models and different options used elsewhere in the world, people were able to engage in more informed debate about what might work well for Namibia.

Step 3:

MAKING LEGAL LANGUAGE USER-FRIENDLY

The Child Care and Protection Bill is a 200-page document that covers 21 different topics. To make the information accessible to the general public, the Ministry needed to convert the Bill into user-friendly materials for adults and children. The Ministry produced the following documents:

- ④ one-page **factsheets** on all 21 topics in the Bill
- ④ a **summary of the Bill**
- ④ a **text of the Bill with commentary** on some of the key issues for discussion.

The factsheets were central to all stages of the revision process. Each factsheet was designed to contain the key information required for readers to discuss, debate or comment on the issue. Most of the factsheets summarised the current law, the proposed law and the approaches taken in a few other countries. Many used examples or charts to make issues clearer. All were designed in a colourful and easy-to-read format.

The factsheets were widely distributed across the country and made available on the Internet. They were used to brief journalists and to explain issues to workshop participants. They have been well-received by people who work with children and by the general public. Namibia has also received compliments from international child law experts on the quality and usability of the factsheets.

“...by launching a multifaceted consultation process, deliberating with stakeholders, inviting public participation, seeking technical and legal support from the Legal Assistance Centre and other practitioners and academics, and conducting a comparative study of similar legislation elsewhere in the region, I dare say that the Ministry and its partner organisations have set high standards in consultative and transparent legislative process preceding the tabling of legislation which will hopefully be emulated in future.”

Hon Justice Peter Shivute, Chief Justice of Namibia, Address at the Closing Session of the Specialist Workshop on the Child Care and Protection Bill, 19 August 2009

DRAFT CHILD CARE AND PROTECTION ACT – ISSUES FOR PUBLIC DEBATE

OVERVIEW OF THE PROPOSED CHILD CARE AND PROTECTION ACT

Number 1 outlines the objectives of the Bill and the role of the state, while also identifying those South African organisations that are likely to be affected by it. It also provides an overview of the Bill's structure, the history of similar legislation, and the Bill's objectives and scope. The Bill is divided into three parts: the Child Care and Protection Act, the Child Care and Protection Regulations, and the Child Care and Protection Amendment Act.

Key features of the proposed Child Care and Protection Act

Definition of "child"	Definition of "parent"	Definition of "guardian"	Definition of "child in need of care and protection"
Definition of "child in need of care and protection"	Definition of "child in need of care and protection"	Definition of "child in need of care and protection"	Definition of "child in need of care and protection"
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Other key provisions

- Establishment of the Child Care and Protection Board
- Establishment of the Child Care and Protection Commission
- Establishment of the Child Care and Protection Tribunal
- Establishment of the Child Care and Protection Fund
- Establishment of the Child Care and Protection Agency
- Establishment of the Child Care and Protection Inspectorate
- Establishment of the Child Care and Protection Services
- Establishment of the Child Care and Protection Centres
- Establishment of the Child Care and Protection Homes
- Establishment of the Child Care and Protection Day Care Centres
- Establishment of the Child Care and Protection Residential Care Centres
- Establishment of the Child Care and Protection Foster Care Centres
- Establishment of the Child Care and Protection Adoption Centres
- Establishment of the Child Care and Protection Child Welfare Services
- Establishment of the Child Care and Protection Child Protection Services
- Establishment of the Child Care and Protection Child Development Services
- Establishment of the Child Care and Protection Child Health Services
- Establishment of the Child Care and Protection Child Education Services
- Establishment of the Child Care and Protection Child Nutrition Services
- Establishment of the Child Care and Protection Child Social Work Services
- Establishment of the Child Care and Protection Child Legal Services
- Establishment of the Child Care and Protection Child Financial Services
- Establishment of the Child Care and Protection Child Insurance Services
- Establishment of the Child Care and Protection Child Tax Services
- Establishment of the Child Care and Protection Child Pension Services
- Establishment of the Child Care and Protection Child Social Security Services
- Establishment of the Child Care and Protection Child Housing Services
- Establishment of the Child Care and Protection Child Transport Services
- Establishment of the Child Care and Protection Child Communication Services
- Establishment of the Child Care and Protection Child Information Services
- Establishment of the Child Care and Protection Child Research Services
- Establishment of the Child Care and Protection Child Evaluation Services
- Establishment of the Child Care and Protection Child Monitoring Services
- Establishment of the Child Care and Protection Child Reporting Services
- Establishment of the Child Care and Protection Child Referral Services
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DRAFT CHILD CARE AND PROTECTION ACT – ISSUES FOR PUBLIC DEBATE

THE DEFINITION OF A "CHILD" WHEN SHOULD A CHILD BECOME AN ADULT?

THE DEFINITION OF A CHILD

The Bill defines a child as a person who is under the age of 18 years. This definition is broad and covers all children, regardless of their gender, race, or ethnicity. It also includes children who are in the process of becoming adults, such as those who are 17 years old and have not yet reached the age of 18.

THE AGE OF ADULTHOOD

The Bill defines the age of adulthood as 18 years. This is the age at which a person is considered to be an adult and is no longer under the protection of the state. This age is consistent with international standards and is also the age at which a person is considered to be a legal adult.

WHAT IS THE AGE OF MAJORITY?

The Bill defines the age of majority as 18 years. This is the age at which a person is considered to be a legal adult and is no longer under the protection of the state. This age is consistent with international standards and is also the age at which a person is considered to be a legal adult.

WHAT IS THE AGE OF RESPONSIBILITY?

The Bill defines the age of responsibility as 18 years. This is the age at which a person is considered to be a legal adult and is no longer under the protection of the state. This age is consistent with international standards and is also the age at which a person is considered to be a legal adult.

WHAT IS THE AGE OF CONSENT?

The Bill defines the age of consent as 16 years. This is the age at which a person is considered to be a legal adult and is no longer under the protection of the state. This age is consistent with international standards and is also the age at which a person is considered to be a legal adult.

WHAT IS THE AGE OF CRIMINAL RESPONSIBILITY?

The Bill defines the age of criminal responsibility as 12 years. This is the age at which a person is considered to be a legal adult and is no longer under the protection of the state. This age is consistent with international standards and is also the age at which a person is considered to be a legal adult.

DRAFT CHILD CARE AND PROTECTION ACT – ISSUES FOR PUBLIC DEBATE

OBJECTIVES AND GUIDING PRINCIPLES OF THE CHILD CARE AND PROTECTION ACT

The purpose of the Bill is to ensure that all children in South Africa are protected and cared for in a safe and secure environment. The Bill is based on the following objectives and guiding principles:

Objectives

- To ensure that all children in South Africa are protected and cared for in a safe and secure environment.
- To ensure that all children in South Africa are provided with the best possible care and protection.
- To ensure that all children in South Africa are provided with the best possible education and training.
- To ensure that all children in South Africa are provided with the best possible health and social services.
- To ensure that all children in South Africa are provided with the best possible legal and financial services.
- To ensure that all children in South Africa are provided with the best possible information and communication services.
- To ensure that all children in South Africa are provided with the best possible research and evaluation services.
- To ensure that all children in South Africa are provided with the best possible monitoring and reporting services.
- To ensure that all children in South Africa are provided with the best possible referral services.
- To ensure that all children in South Africa are provided with the best possible referral centres.
- To ensure that all children in South Africa are provided with the best possible referral services.
- To ensure that all children in South Africa are provided with the best possible referral centres.

Guiding principles

- The best interests of the child shall be the primary consideration in all actions concerning the child.
- The child has the right to be heard in all matters affecting the child.
- The child has the right to be protected from all forms of abuse and neglect.
- The child has the right to be provided with the best possible care and protection.
- The child has the right to be provided with the best possible education and training.
- The child has the right to be provided with the best possible health and social services.
- The child has the right to be provided with the best possible legal and financial services.
- The child has the right to be provided with the best possible information and communication services.
- The child has the right to be provided with the best possible research and evaluation services.
- The child has the right to be provided with the best possible monitoring and reporting services.
- The child has the right to be provided with the best possible referral services.
- The child has the right to be provided with the best possible referral centres.
- The child has the right to be provided with the best possible referral services.
- The child has the right to be provided with the best possible referral centres.

CHILD PARTICIPATION

The Bill provides for the participation of children in all matters affecting them. This includes the right to be heard in all matters affecting the child, the right to be provided with the best possible care and protection, the right to be provided with the best possible education and training, the right to be provided with the best possible health and social services, the right to be provided with the best possible legal and financial services, the right to be provided with the best possible information and communication services, the right to be provided with the best possible research and evaluation services, the right to be provided with the best possible monitoring and reporting services, and the right to be provided with the best possible referral services and referral centres.

THE DRAFT CHILD CARE AND PROTECTION ACT
Issues for Public Debate

Booklet 1

Department of Social Development
UNICEF
GOVERNMENT OF THE REPUBLIC OF NAMIBIA



DRAFT CHILD CARE AND PROTECTION BILL

Ministry of Gender Equality and Child Welfare, 2009

The Bill is a draft Bill to provide for the establishment of a child care and protection system in the Republic of Namibia. It is based on the best interests of the child and the right of the child to be heard in all matters affecting the child. The Bill is divided into three parts: the Child Care and Protection Act, the Child Care and Protection Regulations, and the Child Care and Protection Amendment Act.

Objectives

- To ensure that all children in South Africa are protected and cared for in a safe and secure environment.
- To ensure that all children in South Africa are provided with the best possible care and protection.
- To ensure that all children in South Africa are provided with the best possible education and training.
- To ensure that all children in South Africa are provided with the best possible health and social services.
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- The child has the right to be provided with the best possible referral centres.

DRAFT CHILD CARE & PROTECTION BILL

SUMMARY

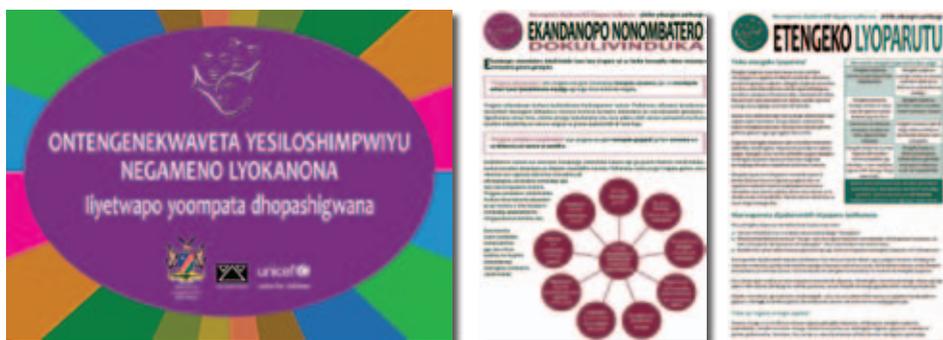
Ministry of Gender Equality and Child Welfare
GOVERNMENT OF THE REPUBLIC OF NAMIBIA

April 2009

The presentation of information in user-friendly form is essential to promote participation and discussion.

Step 4: TRANSLATION INTO LOCAL LANGUAGES

Although English is the official language of Namibia, many people continue to be more comfortable communicating in one of the many indigenous languages. To ensure that the information about the Bill was effectively communicated, the factsheets were translated into four other languages: Afrikaans, Oshiwambo, Nama/Damara and Rukwangali.



This process is actually more difficult than it might seem. The translations had to be accurate, and yet written in the language which people actually use rather than with formal academic vocabulary. Where possible, the text was translated by one person and then checked by two other translators with one reading the translated text aloud while the other checked it against the English version. The goal was to ensure that the translation would be accessible to the public.



The Ministry also provided radio stations with information on the Bill, for broadcasts in various local languages. Many of the topics in the bill were discussed on air and there would often be a corresponding increase in the number of SMSs received when topics of particular interest to the public were broadcast.

Step 5:

DISSEMINATION OF INFORMATION

Namibia has a population of 1.8 million people. However, population density is low, with just two people per square km and only one in three people living in urban areas. This means that spreading information to all corners of the country can be challenging.

To ensure that information about the Bill was disseminated as widely as possible, the Ministry used a variety of different methods:

1. **Regional meetings**, held in 4 regions and inviting participants from all 13 regions
2. **National meetings** on six different themes, which invited international experts to discuss law reform with Namibian stakeholders

These meetings included regional counsellors, social workers, traditional leaders, magistrates, prosecutors and NGO representatives.

3. **Children's consultations** in three regions
4. Participation at **national conferences** organised by various Ministries and groups
5. Key factsheets compiled into small booklets and disseminated as inserts in national **newspapers** in three languages
6. Feature articles written for local **magazines** such as *OYO young, latest and cool*, *Sister Namibia* and *Real magazine*
7. **Opinion pieces** in newspapers
8. Programmes on national and local **radio** stations
9. **Press releases** and **media briefings** distributed to journalists individually and at group meetings and media workshops
10. Presentations on national **television** talk shows
11. Information distributed by **email**
12. Information dissemination on the **internet**.

Details	Total circulation
English booklet inserted in 2 English daily newspapers	58 000
Afrikaans booklet inserted in the national Afrikaans newspaper	22 000
Oshiwambo booklet inserted in 1 national English newspaper (contains a daily Oshiwambo section)	41 000
Total circulation rate of 3 newspapers	80 000

Based on a survey of readership levels, and considering that the inserts were released on different days, the Ministry estimates that approximately 40% of the population would have seen the placement of the booklets in the 3 newspapers.



REACHING KEY STAKEHOLDERS

The **regional workshops** brought key stakeholders together to discuss certain sections of the Bill in detail. Two **national workshops** were held. The first focussed on discussions of international best practice. The second focussed on comparing draft Bill to a very similar South African law passed in 2005, to allow Namibia to learn from South Africa's successes and mistakes. The Ministry also **sent copies of the Bill** and summary directly to some **200 Namibian individuals and groups** which work with children, requesting their written input.



New information presented



Group discussions



Opinions heard



Step 6: INVOLVING CHILDREN AND YOUTH

A specific consultation process was implemented to ensure that children and young people were involved in the revision of the Bill.

This consultation was led by a **Children's Reference Group** designed as a youth version of the Technical Working Group. The Children's Reference Group met on a monthly basis to lead and direct the children's consultation process, making decisions on which topics would be of most interest to children and on the best ways to solicit children's views.

The Ministry engaged a team of consultants with experience in working with young people to reach out to children and youth for their input.

- ⑥ The team adapted the adult information materials for use with children.
- ⑥ The team trained facilitators from organisations which already work with young people to discuss the Bill and collect input in the process of their ongoing activities throughout the country. One of the components of the training was the discussion of ethical guidelines which should be followed when involving children.
- ⑥ The team held youth consultations in three regions.

In addition, the Ministry arranged to place the draft Child Care and Protection Bill on the programme of two national youth conferences which took place during the year.

To help inspire more youth input, a local business offered an MP4 player as a prize for the most thoughtful input received from a young person.

THE RIPPLE EFFECT

The training of leaders from children's groups and organisations started a ripple effect. The aim of this approach was to empower organisations to discuss the Bill without the involvement of the central organisers at every event. Through this ripple effect, information would reach more people than would otherwise be possible. The same principle was applied during the regional consultations, where participants were encouraged to discuss the information received with colleagues, community members and stakeholders.



YOUTH ACTIVITIES CONDUCTED

- ④ monthly meetings of the Children’s Reference Group
- ④ training of youth facilitators from a range of youth groups and organisations
- ④ regional consultations
- ④ feature articles printed in youth magazines and the Youth Paper (a supplement in a national newspaper)
- ④ workshops conducted with local youth groups to discuss the Bill and to assist the youth to create radio shows for national broadcast
- ④ a student intern from the youth group Young Achievers assisted the Legal Assistance Centre in developing the children’s intervention

FACEBOOK DISCUSSION PAGE: [http://www.facebook.com/search/?q=Child+Care+and+Protection+Bill ...](http://www.facebook.com/search/?q=Child+Care+and+Protection+Bill...)



Home Profile Friends Inbox

Protecting Children’s Rights in Namibia

Global



Basic Info

Name: Protecting Children’s Rights in Namibia
Type: Common Interest – Current Events
Description: In 2009, the Ministry of Gender Equality and Child Welfare will be revising the Child Care and Protection Bill. Join this group to discuss the issues in the bill.

Contact Info

Email: CCPA@lac.org.na

Recent News

Some topics to discuss:
What should the age of majority be in Namibia?
How old should you be to have access to contraceptives?
Should parents be allowed to beat their children?

Members

Displaying 8 of 275 members

[See All](#)



REACHING YOUNG PEOPLE THROUGH FACEBOOK

The Ministry solicited input through **Facebook**, a social networking site on the Internet which is very popular with young people. People who joined the Facebook discussion group could give input on issues in the Bill which interested them by posting a comment on the Internet.

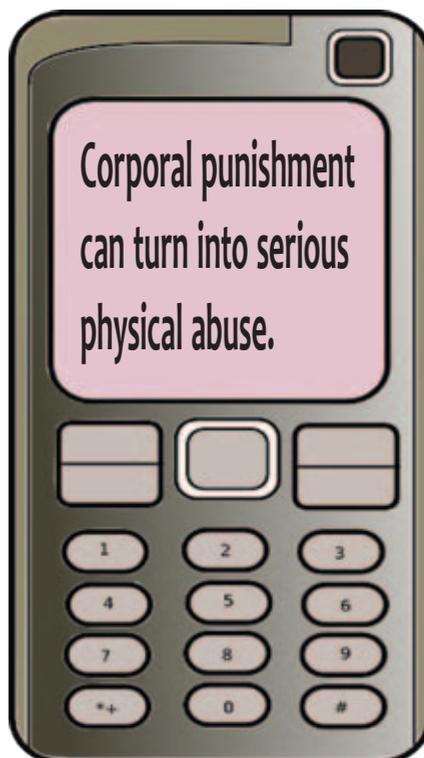
Step 7: COLLECTING AND COMPILING FEEDBACK

The outreach to the public, although extremely successful, was only half of the revision process – feedback was essential to complete the consultation process. To encourage broad input, the Ministry’s team utilised a range of mechanisms including SMS, email, fax and post. The intention was that people could provide as much or as little feedback as they wished, and that the cost of giving feedback would be as low as possible.

The Ministry invited comment via SMS and set up a dedicated SMS line for this purpose. This allowed people to give fast feedback whenever and wherever they were. It was also more accessible for younger people and people living in rural areas than email, fax or post. The cost of the SMS was the same as a standard SMS, which permitted people to SMS for free when this was offered by their service provider.

**YOU CAN HELP IMPROVE
THE PROPOSED CHILD
CARE AND PROTECTION ACT**

Send your comments to:
SMS: 0814241591
Email: CCPA@lac.org.na
Fax: 088613715
Post: PO Box 604, Windhoek

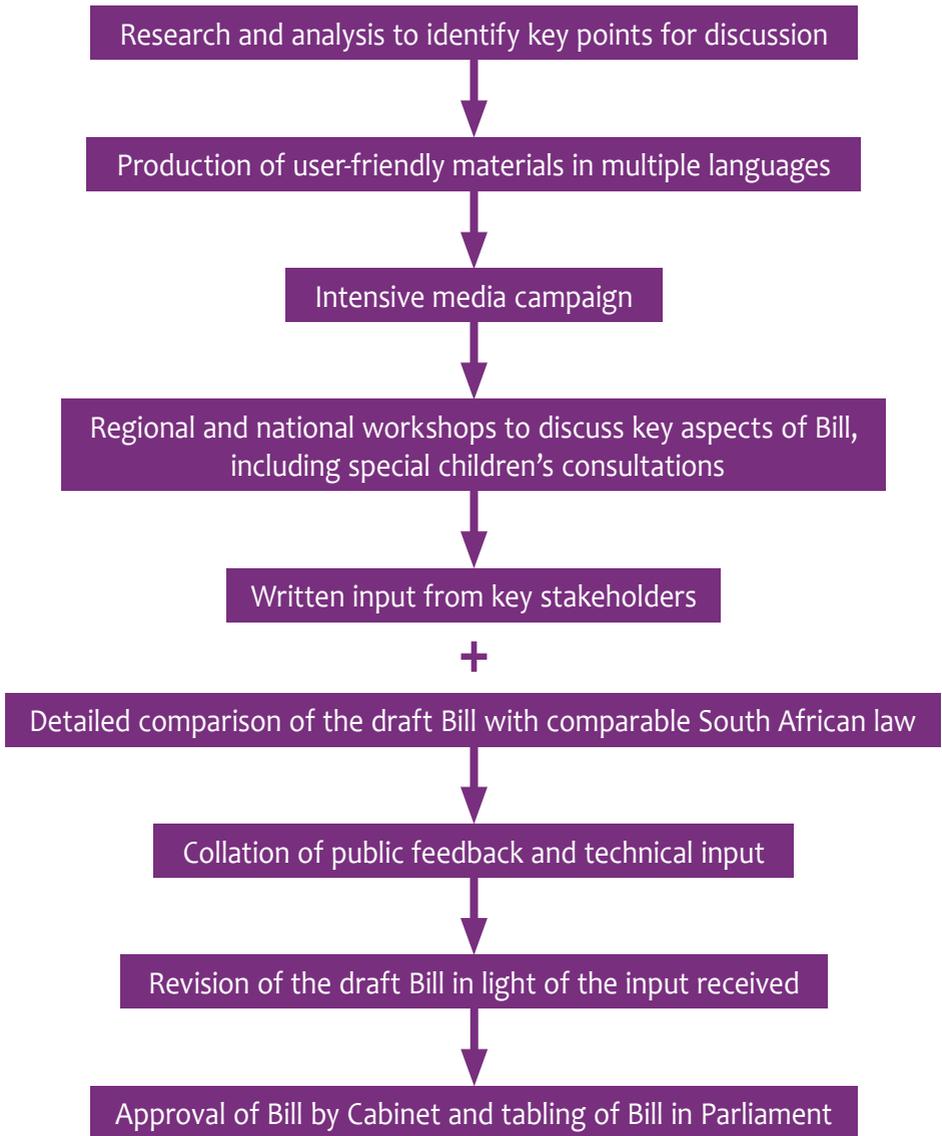


In order to make sure that the feedback could make a difference, it was necessary to compile it in an orderly manner. The Legal Assistance Centre organised the input received by topic and summarised it on behalf of the Ministry, so that the Ministry and the legal drafters could easily take it into consideration in the revision process.

People were encouraged to give the reasons behind their opinions and suggestions, to allow for better analysis of the input. Although there is a wide difference of opinion amongst members of the public on some issues, the feedback definitely gives guidance on how to make the law better-suited to Namibian needs and conditions.



STAGES IN THE CONSULTATION PROCESS



INDICATORS OF SUCCESS

Participation in the revision process was excellent. Consultative meetings were well-attended and constant feedback was received through fax, post, email and SMS throughout the consultation process.

The media maintained their **interest** in the process, and the Child Care and Protection Bill featured on the radio, in print and on the television during the entire revision process.

The **timeline** was followed so that the Bill could be revised on schedule.

The consultation process was well received, with positive **acknowledgements** from the Namibian public, key stakeholders and international observers.





KEY INGREDIENTS FOR SUCCESSFUL CONSULTATION

- ⑥ Encourage multi-sectoral involvement in the leadership team.
- ⑥ Allocate a significant amount of time for research and preparation before the consultation process starts, so that information can be compiled on the national and international context and on best practices in other countries.
- ⑥ Allow time to develop accessible, well-written and well-researched materials for the public and the media.
- ⑥ Engage the media. Consider assigning a dedicated media liaison person for a set period of time during the process to keep the issue alive in the media.
- ⑥ Make special efforts to target the groups of people most affected by the issue – children in this case. For other laws or issues, key groups might be women, communal farmers or people working in certain sectors.
- ⑥ Ensure that feedback mechanisms are simple and easy for the public to use.
- ⑥ Consider appointing a dedicated person to compile and organise the public feedback into a usable form.
- ⑥ Use partner organisations for a “ripple effect” – but plan for unexpected expenses which may arise from this technique.
- ⑥ Use as many different means as possible to engage the public, to ensure that different communities are engaged in the process.

“People’s participation in the affairs of their nation is a precondition for a democratic government. Throughout the struggle for national independence our goal has been to provide our people with the opportunity to participate in national decision-making, especially those decisions which affect their lives.”

President Sam Nujoma, 1993



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LAC website: www.lac.org.na.