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INFORMATION ABOUT NAMIBIA'S LAW

Who Speaks Up for the Child? Understanding Children's Rights In Namibia...Article 15 of the Constitution

According to the 2023 Census, there are approximately 1.29 million children aged 0-17 living in Namibia, making up almost 43% of Namibia's total population.

As children make up such a large part of our population, it is more essential than ever that all Namibians understand how our Constitution and laws guarantee protection for every child.

The highest law in Namibia is the Constitution. While the Constitution protects the rights and interests of every individual, special attention is given to the rights of a child in Article 15.

Article 15 creates a foundation for protecting children's identity and care. It establishes every child's right to a name, nationality, and parental care whenever possible. These rights affirm a child's place within a family and society, supporting dignity, development, and long-term well-being. Article 15 also shields children from harmful work, exploitation, and unjust detention. The Constitution further states that legislation enacted must speak to the best interest of children.

While the Constitution explicitly addresses children's rights, for the first 29 years after independence, legal protections for Namibia's children were still defined by the old Children's Act 33 of 1960, a law inherited from South Africa during apartheid.

In 2015, Parliament passed the Child Care and Protection Act 3 of 2015 (CCPA), a child-centred law that replaced the outdated Children's Act. The act was enforced on January 30, 2019.

There are many differences between the former Children's Act and the CCPA, including a new age of majority. Age of majority refers to the age that an individual is legally recognised as an adult. The new law sets the age of majority at 18 years old, lowering it from 21 to reflect the social reality that many young Namibians are already working or living independently before the age of 21.

The CCPA has 17 Chapters, all of which uphold the constitutional principles of equality, non-discrimination, dignity, ensuring fair impartial treatment for children in all state facilities, including care facilities, detention centres, and structured environments for children's safety and protection.

One of the most important components of the CCPA is its protocol for child protection in a variety of situations.

For example, the CCPA creates mechanisms to safeguard children from abuse, neglect, and exploitation. Section 131 specifically addresses children in need of protective services, ensuring timely and effective intervention. According to the law, any suspicion that a child might need protective services is grounds for a social worker to investigate. Some professionals like school principals, teachers, private social workers, healthcare providers, labour inspectors, religious leaders and staff members at registered child care facilities are legally mandated to report any suspicion of child safety risk to a State social worker or to police. Failing to do so, has a hefty penalty of N\$20 000 or five years imprisonment, or both. However, a member of the public can also make a voluntary report that will be kept confidential; this is done to protect the individual from the offender in some cases. All Namibians can play a key role in safeguarding our children.

In practice, when there is reasonable suspicion of harm, authorities must assess the child's situation within 24 hours. Even children can report threats to themselves or others, triggering protective procedures.

This is one example of how our laws protect children but only when we are aware of how to best use them. The Act also establishes that the best interests of the child must be the most important consideration in all matters affecting children. Sections 135 to 137 ensure that any protective measure promotes the child's welfare, dignity, and development rather than merely removing them from harm.

When a case involving a child goes to court, this principle is especially important. In any case involving a child, a Magistrate's Court becomes a Children's Court, and a Magistrate becomes a Children's Commissioner with the core responsibility of prioritising a child's care, protection, and development above all else. These courts provide a framework to protect every child's rights, ensuring that matters affecting them are not only dictated by parents, guardians and representatives, but also through participation by the child when they are mature enough to provide input.

The CCPA also prohibits corporal punishment (section 228) and exploitation or forced labour (section 234), reflecting the prioritisation of development and rehabilitation over physical discipline or harmful labour. Children are recognised as rights-holders, and the state, parents, and institutions share a legal and moral obligation to uphold these rights.

Namibia's commitment to child protection is also reinforced by our participation in various international instruments like the United Nations Convention on the Rights of the Child and the African Charter on the Rights and Welfare of the Child, which create additional obligations to protect the wellbeing and rights of children.

Namibia, and our Constitution in particular, has established a robust legal framework to protect children, recognising them as rights-holders and ensuring that their best interests guide all interventions. Through the Constitution, the CCPA, international commitments, and specialised Children's Courts, children are safeguarded from harm, exploitation, and neglect, while being supported to grow with dignity, safety, and fairness. Let us all uphold our constitutional obligation and protect our vulnerable children at all times.

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