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**SUBMISSION ON YOUTH AND UNEMPLOYMENT TO THE PORTFOLIO COMMITTEE ON LABOUR**

**SUBMITTED BY: THE CHILDREN'S RIGHTS PROJECT, COMMUNITY LAW CENTRE, UNIVERSITY OF THE WESTERN CAPE**

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PLEASE NOTE THAT THE COMMUNITY LAW CENTRE WISHES TO ADDRESS THE PORTFOLIO COMMITTEE AT THE PUBLIC HEARINGS AND ACCORDINGLY REQUESTS AN OPPORTUNITY TO DO SO.

This submission consists of a comment on a research project undertaken by the Community Law Centre in relation to children used by adults or older children to commit crime (CUBAC) and how this relates to youth and unemployment. Then the submission makes specific submissions and recommendations on the issue of youth and unemployment.

**PART 1: COMMENT ON CUBAC**

1. Introduction

- 1.1 The draft South African Child Labour Programme of Action (CLPA) was provisionally approved by representatives from various government departments on 4 September 2003, subject to certain amendments and the costing of the recommended actions steps to be implemented by the key government departments. It was submitted to Cabinet for noting in July 2005.
  
- 1.2 The CLPA executive summary notes that, following on from South Africa's ratification of the International Labour Organization's (ILO's) Minimum Age for Admission to Employment Convention 1973 and the Worst Forms of Child Labour Convention (Convention 182) of 1999, as well as the inclusion of a clause in the South African Constitution ensuring children the right not to be subject to exploitative labour,<sup>1</sup> the South African government has been involved in a long process of adopting appropriate policies and a national child labour action programme to combat child labour. This involved extensive consultation with the South African public and key stakeholders from government and civil society, as well as with children.

<sup>1</sup> Section 28 (1)(f).

- 1.3 In drafting the CLPA, certain principles were adhered to and these included the prioritisation and identification of the worst forms of child labour for South Africa, the examination of best practices elsewhere, sustainability and the avoidance of duplication.<sup>2</sup> CLPA has identified a wide range of activities that fall under the mandate of various government departments and agencies, some of which are already contained in existing policy and others that are new and will require expenditure and budgets.<sup>3</sup> In doing so, Annexure A of CLPA sets out the actual action steps that have to be undertaken by designated stakeholders including the Departments of Justice (DoJ), Social Development (DoSD), Education (DoE), Labour (DoL), Correctional Services (DoCS) and South African Police Service (SAPS) as well as employers and NGOs. These steps include policy development, public awareness campaigns, collection of data and statistics and training, amongst many others.
- 1.4 The key elements of CLPA are:<sup>4</sup>
- The rollout of programmes on poverty alleviation, employment, labour, and social matters in areas that involve work that is harmful to children
  - The promotion of new legislative measures aimed at prohibiting the worst forms of child labour
  - The strengthening of national capacity to enforce legislative measures
  - Increasing public awareness and social mobilization against the worst forms of child labour.
- 1.5 One of the worst forms of child labour in South Africa that is identified by CLPA is the instrumental use of children to commit illicit activities, by adults or older children (CUBAC). In relation to children used by adults (or older children), CLPA identified specific actions steps concerning children who are used by adults in offending which form recommendations 56 – 59, namely:
- Regarding the involvement of children in production and trafficking of drugs and other illegal activities, an important element of investigation and prosecution should be finding and prosecuting adults (or sometimes other children) using the children or benefiting from the children's illegal activities, if any. *Lead institution:* Department of Justice. *Secondary institutions:* National Prosecuting Authority (prosecution of those using children) and SAPS (identification of those using children who are in conflict with the law, and investigating cases against them)
  - Where children commit crimes, the diversion of such child offenders away from prison should be the preferred option for children. Where appropriate, prosecution of a child should be converted to a children's court inquiry, after conviction. *Lead institution:* Department of Justice. *Secondary institutions:* Department of Social Development, National Prosecuting Authority (prosecution of those behind children, and diversion

<sup>2</sup> CLPA, p. 3.

<sup>3</sup> CLPA, p.3-4.

<sup>4</sup> CLPA, p. 4.

programmes), SAPS (identification of those using children who are in conflict with the law, and investigation of cases against them)

- Formal education or vocational training should be offered to all children whose sentence involves deprivation of liberty, including those held while awaiting trial. *Lead institution:* Department of Education. *Secondary institution:* Department of Correctional Services
- Authorities holding children in custody should be allowed to continue requiring of them to work. Work is preferable to children being bored and feeling useless. However, policy should be formulated on when children deprived of their liberty may be required to work, and when such work should be remunerated. This policy should be in line with national and international protective laws on children. *Lead institution:* Department of Correctional Services, Department of Education (reform schools). *Secondary institution:* Department of Social Development

- 1.6 The programme Towards the Elimination of the worst forms of Child Labour (TECL) is a technical assistance project to the Department of Labour (DoL) and is essentially an executing agency for the Child Labour Programme of Action (CLPA), which has been adopted by a wide range of South African government departments including those responsible for justice, social development, labour, education, safety and security and local government, as well as by other agencies.
- 1.7 TECL contracted the Community Law Centre to undertake research on the nature extent and causes of CUBAC as well as plan for pilot programmes to eliminate this WFCL. This research involved the following:
- Phase 1: Situation Analysis - this involved a report on an initial national stakeholder analysis conducted with relevant national and provincial government departments as well as members of civil society, namely, NGO service providers and academics. It included qualitative and quantitative research, a literature study to determine an initial assessment of the nature, causes and extent of CUBAC as well as the identification of four potential pilot sites for the following phases of the projects. This was conducted between December 2004 and February 2005.
  - Phase 2: Baseline Survey - this involved further and more detailed qualitative and quantitative research at the four identified potential pilot sites to inform the design of the pilot projects as well as to finalise the selection of two pilot sites. The final two pilot sites are the locations at which the actual identified interventions will be piloted during 2006. The Baseline Survey ran from April 2005 and was completed in mid- August 2005.
  - Phase 3: Project Design - this involved the actual design of programmes and interventions aimed at addressing the relevant issues affecting CUBAC at the two pilot sites.
- 1.8 A separate child consultative research study to explore the experiences of children and was conducted. A total of 541 children were consulted through the process. This number included 420 children that were awaiting trial in Secure Care Facilities (SCFs) i.e Mogale, Leseding and Jabulani Centres in Gauteng and Bonnytoun and Horizons in the Western

Cape, and 121 children in secondary school i.e. Westbury Secondary School in Gauteng. Overwhelming, the groups noted that factors at home were the cause of children getting involved in crime, and noted a number of issues in the home that could influence this including poverty in families, issues of parenting and care of children, and family relationships were raised by 33 of the 41 groups consulted.

- 1.9 Two pilot programme have now been designed and are running in Mitchells' Plain (Western Cape) and Mamelodi (Gauteng) from April 2006 to March 2007.

## 2. CUBAC and Youth and unemployment

- 2.1 The research undertaken with children has yielded significant findings as to why children become involved in crime and these reasons have implications for any policy on youth and unemployment. Some of the findings can be summarised as follows:

- 2.2.1 Those respondents who reported that they had engaged in some activities to earn money, were asked how they used the money, i.e. what did they spend it on? A maximum of two responses were recorded per respondent and the total number of responses (462) therefore exceeds the number of respondents that provided information on this particular question. While the respondents noted a range of things on which money was spent (including buying drugs, buying clothes, contributing to household income, buying alcohol, and buying luxury items), 74.7% of the total number of responses related to three kinds of spending, i.e. buying drugs, buying clothes and contributing to household income. The findings show that a significant number of responses in the total group (43.7%) and in the SCF group (48.8%) indicated that money earned was spent on drugs and alcohol. None of the responses from the school group reported spending their money in this way. Buying clothes was also a significant expenditure, with 25.8% of the total group reporting this. The school group showed a slightly higher reporting (26%) than the SCF group (17.5%) of "contributing to household income". The other categories received reporting rates of less than 5% in the total group.

- 2.2.2 The focus group participants were asked how they believe children first become involved in crime. By far, poverty (and in some cases, unemployment), was noted as the most pervasive of these conditions, described mostly by children as pushing children into committing crime, with 20 of the 41 groups raising this as an issue. Children in the focus groups stated:

- They commit crime for food
- Children come from a hard environment, they have a poor family
- Parents stop giving you money. You have to help yourself.
- There is no food at home.
- Maybe you don't get any food and then you steal.
- There are no jobs.
- You don't get money at home and you go out and rob people.

2.2.3 Some aspects of the problem related to unfulfilled needs was described as aspiring to things that one cannot afford, and not merely to fulfil one's basic needs. This is a theme that emerged throughout the study. Participants noted:

- Your parents can't give you what you want. You want clothes, jewellery and other things.
- Children want the branded clothes.
- Parents are arguing because children want things. They want takkies (branded sports shoes).

2.2.4 The use of drugs and alcohol, and particularly what was characterised as addiction to drugs, emerged as a significant theme throughout this study. This was raised as a reason why children become engaged in crime for the first time by 29 of the 41 groups in the study. It should be noted that "drugs" were cited by 21 of these groups and far more frequently than alcohol which was noted by 5 of the groups. The nature of the influence of drugs especially was characterised in terms of desperation. This was often described by children as the drugs "making" children commit crime. Children said:

- When you take drugs, you start committing crime to get drugs.
- Drugs. They are no good. You smoke once and you want more.
- When you start taking drugs, then you have to go out and do robbery.
- Drugs and Tik<sup>5</sup> make you crazy. Once you start, you must have more.
- Tik plays with your mind.
- You smoke mandrax<sup>6</sup> and Tik and start going with the wrong friends, you become "skelm" (sneaky).
- You become addicted to drugs like Tik and Mandrax, and then start by stealing your mother's things and then you start stealing outside the house, big things.
- Drugs are sweet like honey – it's what you want all the time.

2.2.5 Thirteen of the 41 groups noted gangs as having an influence on children committing crimes for the first time. This was most prominently noted by the groups in the Western Cape, and to some extent in the schools group. The nature of gang influence was described as aspirational, where children observe what gangsters have and how they are perceived by the community, and aspire to the same things.

All 41 groups identified rewards and/or bribes as a means through which adults engage children in crime. Here, a range of examples was provided where children indicated the various means that are used to attract children into committing crime. The key issue related to the nature of the reward that was offered, in many cases the children termed these as "bribes" to do things. All the groups identified material rewards such as money, drugs, guns and clothes. In a smaller number of groups, recognition, esteem, acknowledgement and respect were noted as a reward offered. 29 of the 41 groups identified money as being used to attract children into crime; while 21 groups identified drugs as being used for this purpose. 6 of the groups noted that guns were used for this purpose.

<sup>5</sup> Tik, or tik-tik, is the street name for crystal methamphetamine.

<sup>6</sup> The active ingredient of this street drug is Methaqualone.

2.2.6 One of the sets of responses related to children being made by parents and families to feel guilty for being in the household, and needing to be fed, clothed, etc. One participant noted, "Mothers don't know it, but they cause children to commit crime when they say, 'don't sit around, go and work for money'."

- The father forces the child by asking him "who will buy the clothes for you?"
- They make you feel bad for eating at home.
- You feel guilty that you are not bringing in money.
- You try to help (the household income) here and there with selling drugs and you get involved.
- Maybe you are not attending school and your parents shout at you for not bringing in money.

## **PART 2: COMMENT ON YOUTH AND UNEMPLOYMENT**

3. The General Conference of the International Labour Organisation, meeting in its 93<sup>rd</sup> session in 2005 identified certain issues and challenges, including:
  - Many young workers do not have access to decent work. A significant number of youth are underemployed, unemployed, seeking employment or between jobs, or working unacceptably long hours under informal, intermittent and insecure work arrangements without the possibility of personal and professional development; working in low-paid, low-skilled jobs without prospects for career enhancement and frequently under poor and precarious conditions in the informal economy, both in rural and urban areas.
  - The regulatory environment for investment and enterprises and labour law should create an investment climate that fosters economic growth and decent employment of young persons.
  - One concern is that young persons do not possess basic literacy and numeracy skills that are necessary to access vocational training and transition from a state of unemployability to employability.
  
4. The General Conference of the International Labour Organisation also identified certain essential policies in relation to youth and unemployment:
  - Access to universal, free, quality, public primary and secondary education and investment in vocational training and lifelong learning are essential for individual and social enhancement and preparation for future working life.
  - Education, vocational training, core skills – including literacy and numeracy – labour market services and work experience and awareness of labour rights and occupational health and safety are essential components of a comprehensive policy to enhance the employability of young people
  - Governments should take responsibility for the regular monitoring and evaluation of the performance of policies and programmes promoting decent work for young people.

## **PART 3: SUBMISSION**

5. It is submitted that although South Africa has extensive labour and education policies in place, children are still becoming involved in crime, through the influence of adults, for income generation reasons.
6. CLPA is setting policies and programmes in place for CUBAC and has an integrated approach to child labour. However, implementation is the key. Planning and budgeting of programmes, intersectoral co-operation between Labour, Education and Justice is essential and although there are inter-sectoral committees such as the Inter-Sectoral Committee on Child Justice, there is no discussion on related issues such as youth unemployment, alternative education, vocational training and crime prevention.
7. It is therefore submitted that this Committee liaise with their fellow Portfolio Committees on Education and Justice and Constitutional Development around **implementation** of policies in order to ensure the relevant Departments are actually planning, budgeting and implementing programmes and policies. It is submitted that Parliament, with its oversight role, call the various Departments to account on implementation of policies as well as inter-sectoral co-operation and planning on the issue of youth and unemployment and in particular ensuring employment as a means of crime prevention and eliminating the use of children by adults to commit crime.
8. It is also submitted that the Departments should and can approach the International Labour Organisation for technical assistance in this regard, through the abovementioned TECL project.