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THE CINDI NETWORK – LINKING THE CHILDREN'S AMENDMENT BILL (GOVT GAZETTE NO 29150) WITH OUR 10TH ANNIVERSARY CONFERENCE REPORT (SUMMARISED IN CHILDRENFIRST – VOLUME 10 NO 64 DATED JULY/AUGUST 2006) – ACKNOWLEDGEMENTS TO LAWYERS FOR HUMAN RIGHTS, CHILDLINE, LIFELINE AND RAPE CRISIS AND THE BUILT ENVIRONMENT SUPPORT GROUP

1 BACKGROUND

1.1 CINDI

CINDI, founded in July 1996, is a multi-sectoral network of over 100 civil society and government agencies (NGOs, CBOs, FBOs, local and regional government departments) capable of implementing diverse, effective, and sustainable programmes for children affected by HIV/AIDS in the province of KwaZulu Natal. The broad aim of the network is to assist member organizations to identify and assist children in distress, particularly orphans and other children affected or made vulnerable by HIV and AIDS. The CINDI Network works through an innovative clustering strategy that allows close collaboration among members with expertise in a particular technical area in order to provide a continuum of HIV/AIDS care and support to beneficiaries. This strategy allows CINDI to seek funding or programme funds it receives through these clusters. The clusters include: a) Community Development Cluster (CD), b) Home-Based Care Cluster (HBC), c) Psychosocial Support Cluster (PSS), d) Children-in-Care Cluster (CIC), and e) Schools and Youth Development Cluster (SYD).

1.2 Tenth Anniversary Conference

CINDI celebrated 10 years of networking for children affected by HIV/AIDS in April 2006 by holding a commemorative conference to mark the occasion. Five hundred delegates from South Africa, Namibia, Zimbabwe, Zambia, Swaziland, Rwanda, the United Kingdom, Switzerland, Australia and the United States travelled to Pietermarizburg where they heard over 80 presentations – which have been summarised in ChildrenFIRST's journal dedicated to the CINDI Conference. Delegates at the Conference made the following recommendations and commitments:

We, the delegates to the 10th Anniversary Conference of the CINDI Network, acknowledge that many South African children are in crisis because the AIDS epidemic constitutes a "global emergency and one of the most formidable challenges to human life and dignity" (*2001 Declaration of Commitment by the Special Session of the UN General Assembly of HIV/AIDS*); and we make the following recommendations and commitments:

1. There is a challenge to scale up services through integrated systemic interventions:
   - for all children at risk (without stigmatising children affected by HIV and AIDS);
   - for family structures:
     - by providing support;
     - by providing access to ARV treatment to delay loss of care-givers;
     - by enhancing existing psychosocial skills of care-givers;
   - by promoting food security and economic development;
   - by acknowledging the need for further involvement of men and boys as carers.

2. There is a need to acknowledge and support the role of volunteers and community-based organisations through:
   - developing and implementing policies relating to standardised remuneration and organisational support;
   - enhancing the care of care-givers;
   - ensuring access to further formal educational qualifications.

3. There is a need to address service delivery issues such as:
   - increased inter-sectoral co-operation;
   - the bottlenecks at the Department of Home Affairs with regard to service, delivery of documents and the payment of fees;
   - the dysfunctional nature of SANAC;
   - the participation of children and youth;
   - monitoring of policy implementation and impact assessments.

2 LINKING THE CONFERENCE WITH THE BILL

2.1 We acknowledge and welcome the opportunity to take part in the consultative process.

2.2 There is general agreement that this is a critical chapter in the Bill and embodies the development ethos of the White Paper on Welfare which is the over-arching policy document that underpins (in theory) all legislation and policy coming from DSD.

2.3 The following schedule attempts to link the concerns raised at the CINDI Conference, with provisions in the Bill.

	Conference Theme	Problem Statement	Reference to relevant legislation or the Children's Amendment Bill	Recommendation
1	Government Leadership lack of political will	1 The implementation of the Children's Amendment Bill requires an interdepartmental and intersectoral strategy. This should be a legal obligation on other government departments and not a discretionary function.	Section 145 and Section 146. -	1 Reinstate Section 145 (1) of the August 2003 version, and substitute An inter sectoral strategy would provide comprehensive services to children and families eg an integrated approach to access to schooling should involve the DoE, HA and DoSD. This collaboration could result in the planning of programmes that identify vulnerable children and bring resources from many departments eg school feeding schemes, fee exemptions, CSGs etc
		2 Inefficient service delivery by public servants	Public Administration Act	2 Poor level of service delivery we suggest that regulations that address this issue be enacted that place obligations on social workers and other role-players to perform to an optimal level be drafted. 3 Enforce Batho Pele

2	Child Protection	**Memorandum of Concern from LifeLine & RapeCrisis:** "LifeLine and Rape Crisis Pietermaritzburg would like to express their extreme concern that the current draft of the Sexual Offences Bill does not make the provision of medical or psychosocial care for survivors of sexual offences a mandatory obligation of the state. We have for the past three years worked at the local state crisis clinic at Northdale Hospital (Pietermaritzburg) forging a successful and good working relationship with all involved in the provision of comprehensive medical services to rape survivors and providing both the crisis and on-going counseling through the appropriate training of our own staff stationed at the crisis clinic and providing training to the hospital staff as part of our partnership with the Hospital. This project forms part of an official research project under the Nelson Mandela School of Medicine and demonstrates a 56,2 % adherence rate to PEP. An excellent achievement by international standards and one which has been recognized by the 2005 Impumelelo awards for private public partnership. We know from our experience that 42% of the survivors are between 14-18 years old and that 14,4% are already HIV positive. Are the remaining 58,6% of teenagers to be left to become HIV+ by the state?	Chapter 8	**We believe that the provision of the following is the minimum requirement of the state:** **1 Crisis counseling and** **2 VCT counseling should be offered immediately. as should** **3 PEP, Orvil, antibiotics to prevent other STIs , pain killers and even a short course of sleeping tablets and any other medial treatment indicated in such an emergency should be offered FREE to all survivors of sexual assault.** **4 Further the state should ensure that further psychological counseling and medical monitoring, at least for next the four weeks, should be offered free to all survivors of rape, whether they are HIV+ or negative.** Further we would advise that the ability to form partnerships with relevant NGO's to assist with the provision of some of the service is cost effective and enables the client to access further services from such NGO's, as required at times in the future - such as court day support."

3	Child Participation	Every child capable of participating meaningfully in any matter concerning that child has the right to participate in those proceedings in an appropriate way and views expressed by the child must be given due consideration.	Section 10	This Clause is supported, but how will government departments implement "child participation" in a meaningful and age appropriate way?
4	Community Care for vulnerable and orphaned children affected by HIV and AIDS	1 Child headed households a) No database b) Accessing of grants by children who are under 16 and caring for younger siblings c) Right to shelter and security of tenure: The HIV/AIDS pandemic is seriously undermining the livelihood security of orphaned children. Legally, children should inherit their parents' home. Unfortunately in traditional societies abiding by customary law, older relatives usually move in when parents are ill and take over the home when the household head dies (HSRC, 2006; Aliber et al., 2006). Most traditional societies don't believe in wills as these represent wealth and possible discrimination from wider society if they do have wills. Once relatives take over, overwhelming evidence suggests that children are abused and end up on the street. Institutional policy mechanisms need to be out into place that ensure children legally inherit the parents house such as signing of wills as part of purchasing property. A massive campaign is needed to promote the importance of wills as a gesture of love to provide for dependents when caregivers die. This is better done by government, as a legitimate protector of child rights in this country. 2 Alternative care (institutions vs community care): Institutional care is commonly known as children's homes where one person is in charge of the care and development of many children. This type of care is detrimental to the psycho-	Section 136	1a Creation of a national data base on vulnerable children affected by HIV and AIDS for planning and fast tracking 1b Inclusion of the adult mentor to administer grants on their behalf, and conferring on children who are the de facto carers of younger children parental rights and responsibilities as reasonably necessary. The monitoring of the adult mentor remains unresolved and needs urgent debate. 1c Section 136 – Child-headed households – this section is full of ambiguities and needs much more discussion on the roles and responsibilities of the children's court, ngos and designated adults contained in the section. We are also concerned that it appears that the DoSD has no role to play under section 136. This is unacceptable. 1d Furthermore, the children's court currently cannot cope with the backlog of foster grant applications, and this lack of capacity will be compounded by the provisions of Section 136 unless funds are made available to improve staffing and capacity. 1e Cindi applauds the recognition of child headed households and the need to support and protect the children in these households. However in the same way that children in foster care and in child and youth care centres can apply for extensions of care orders until the age of 21 years if their education is incomplete, the same provision should apply to children in child-headed

		social development of children as they grow up in an environment that lacks nurturing and without the opportunities of developing relationships of trust. Consequently, children grow up unable to relate to other human beings and display anti-social behaviour. There are many alternatives to institutional care such as • Community family care: 6 children are placed in care of a foster carer. Homes are located within communities. Transitional housing subsidies are provided with foster care grants. • Home extensions: care givers who absorb orphans into their homes can extend their homes to add another room for the child without compromising their existing arrangements. However existing low cost homes are built in such a manner that makes extensions impossible. • In-situ community care: strengthens the capacity of extended families and communities to care for displaced and vulnerable children. However we need a policy framework to speed up grants to care givers as well as effective monitoring of these children.		households as frequently their education is disrupted by the responsibility of care of sick parents, caregivers and younger siblings. Extending the age to 21 years would enable continued access to those resources.
5	Food Security	More than 14 million people (thirty-five percent) are vulnerable to food insecurity in South Africa of whom women, children and the elderly are the most vulnerable (de Klerk et al., 2004). In addition a further forty-three percent of households experience food poverty as they spend less money on food than is necessary for a basic diet (de Klerk et al., 2004). The incidence of food insecurity is demonstrated by the fact that ten percent of children between 1-9 years of age are underweight, 21.6 percent suffer from stunting and 3.7 percent suffer from wasting (de Klerk et al., 2004). According to Labodorios	Not included in the Bill	Basic Income Grant for all South Africans and school feeding schemes to be extended to high schools and all schools in lower income areas. The production of wild edible plants should be encouraged in household, communal and school gardens.

		(2000) 52 percent of national households experienced hunger in 1999, 23 percent were at risk of experiencing hunger; only twenty-five percent were identified as food secure. According to the National Food Consumption Survey (Labadorios, 2000) almost 50% of children in KwaZulu Natal experienced hunger in 1999, 26 % were at risk of hunger while only 28 % of children were food secure. It is unacceptable for children to experience hunger on such as massive scale. Not only are our children malnourished, they grow up with cognitive problems that permanently impair their functioning. Food insecurity-induced malnutrition begins in-utero. Mothers need to access nutritious food while pregnant and then have access to nutritious food to feed their babies once they cease breastfeeding. Mechanisms need to be placed to ensure that mothers don't sell the formula they get at clinics. Food gardening projects as well as poultry and livestock farming need to be promoted to increase access to food while simultaneously providing income generation opportunities. Integrated food security projects are prerequisite for sustainability.		
6	Pyscho social support	The Best Interest of the Child is of paramount importance	Section 6 (Bill dated Aug 2003)	We emphasise the need for psycho social support for bereaved children who may experience stigma and trauma.
7	Schools Access	Despite the provisions of the SA Schools Act, vulnerable children continue to be denied access to schools because of transport difficulties, inability to pay school fees, buy uniforms and stationery. Furthermore, children without adult caregivers, cannot apply for school fee exemption.	SA Schools Act	Intersectoral commitment to developing schools as sites of care and support for orphaned and vulnerable children.
8	Health Care	1 Access to treatment – provision of ARVs is falling short of targets for both adults and children and we support the call of civil society organizations to meet targets so as to preserve parenthood	Chapter 8	3 Preservation of parenthood and prevention of orphanhood: Services to parents should be flagged here such as linking parents to ARV

		and postpone orphanhood.		programmes and supporting their treatment compliance as a strategy for the preservation of family life.

4 GENERAL CONCERNS

4.1 The Bill is very comprehensive and will require extensive human resources to give effective meaning to the spirit of the Bill and the Act. Budget allocations and human resource provisions are not addressed at all.

4.2 Guardianship of Children – The fact that guardianship remains vested in the High Court is really problematic for orphaned children who require the protection of a court mandated guardian to assist in their protection and also the protection of their homes and properties, is iniquitous due to lack of both physical and financial accessibility. We recognize this as problematic and request that this be reconsidered as a matter of urgency and allow this issue to be dealt with in the Children's Court.

4.3 The South African National AIDS Council has been non-functional from its inception, and the lack of direction from this Council has negatively impacted on the rights of children and their caregivers infected and affected by HIV and AIDS. The delay in finalizing the National Strategic Plan for 2006 – 2011 is unacceptable and accelerated attempts are now being made to finalise it within the last three months of 2006 – without meaningful consultation with civil society.

4.4 Definitions – the Bill has not provided definitions for the following :

- Court ordered kinship care (Chapter 12, S 180 (2) (a)
- Corporal punishment (Chapter 6 Part 4 S139 (1 – 4)

4.5 Chapter 12 S180 (2) (a) and (3) are contradictory in that the former excludes the placement of a child in court-ordered kinship care, and the latter provides for the placement in foster care with the family member?

4.6 CINDI notes that Chapters 5 (Partial Care) and 6 (ECD) need thorough consultation with experts in these fields.

4.7 The Bill places the onus of implementation of services to children on government departments – who will monitor implementation and hold the departments accountable? We believe that there is a need for a Children's Ombudsperson to address adequate service delivery to children.

4.8 Chapter 6 Part 1 – Child Protection S105 (1)

- Line 1 on pg 16 the world 'concludes' should be replaced with 'reasonable suspicion'
- Provides for mandatory reporting – should the Bill contain a sanction for non-reporting?

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