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TOOLKIT "GET YOUTH ON BOARD!"

International Commitments



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Political commitments and international conventions

The protection of children and youth rights has often been debated in the international arena. It has been the topic of several declarations, programmes of action and human rights instruments. The ratification of the Convention on the Rights of the Child by almost all nations has been the most visible expression of international commitment to children and youth. Nevertheless, there is a wide gap between law and reality; in many countries the rights of children and youth are still violated and only half-heartedly enforced.

As early as 1965, UN organisations acknowledged the role of children and youth as important actors in development and the promotion of peace. In various documents, the international community has progressively emphasised the need to support children and youth and to protect them from harmful treatment.

When we look at international documents that concern children and youth we have to distinguish between two types:

- a) Documents that express the political commitments and strategies of signatory states to improve the situation of children and youth—these are called declarations or programmes of action
- b) Documents that are legally binding and oblige the signatories to respect, protect and support children and youth rights—covenants, conventions, protocols etc.

International commitments to the promotion of children and youth

The following conferences and documents are important milestones in the expression of international commitment to the promotion of children and youth:

- “UN Declaration on the promotion among youth of the ideals of peace, mutual respect and understanding between people” (1965)
- UN World Children Summit (1990) with its resolution “World Declaration on the Survival, Protection and Development of Children” and respective plan of action.
- “The UN World Programme of Action for Youth to the year 2000 and beyond” (1995)
- World Conference of Ministers Responsible for Youth (1998) with its resolution “Lisbon Declaration of Youth”

- Special Session of the UN General Assembly on Children (2002) with its plan of action “A world fit for children”.

Guarantees of children and youth rights under public international law

The following international human rights instruments legally bind the signatory states to observe the rights of children and youth. They address children and youth as a part of the general population (e.g. the human right to participate in government and in free elections) or as members of a particular vulnerable group (e.g. women and girls’ right to non-discrimination on the basis of sex).

- Convention on the Elimination of All Forms of Racial Discrimination (1965)
- International Covenant on Civil and Political Rights (1966)
- International Covenant on Economic, Social and Cultural Rights (1966)
- Convention on the Elimination of All Forms of Discrimination against Women (1979)
- Convention against Torture and other Cruel, Inhuman or Degrading Treatment (1984)

The following international instruments deal specifically with child rights:

- ILO Minimum Age Convention (1973)
- Convention on the Rights of the Child (1989) with its two optional protocols.
- ILO Convention concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour (1999)
- Optional Protocol on the Involvement of Children in Armed Conflict (2000)
- Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography (2000)

The Convention on the Rights of the Child

The UN Convention on the Rights of the Child (CRC) is the most widely ratified human rights instrument in history. It has been signed by every member state of the UN, except Somalia and the United States. It was adopted and entered into force in 1990. Due to its nearly universal acceptance the CRC carries the highest significance as a lobbying instrument in the struggle for the worldwide improvement of the situation of children. It is a potential trigger for far-reaching social and legal reform processes in developing countries. As such, it has served as a model for a number of regional child and youth treaties. It is appropriate therefore to describe the CRC in more detail here.

The convention defines “child” as a young person up to the age of 18. Older youths are therefore not included in its scope. Since a corresponding convention does not exist for young people over 18 years, states are only obliged to maintain their rights on the basis of general human rights instruments, regional youth rights instruments or national laws.

The CRC defines children’s civil, political, economic, social and cultural rights. Many of its articles confirm the general human rights that children enjoy in their capacity as human beings. This was included because of an earlier international debate on the applicability of a number of human rights to children. Examples where the CRC confirms the rights of children already established under general human rights instruments include freedom of thought, conscience and religion; the right to hold opinions; freedom of expression; and the right to education.

Guiding principles of the CRC

Although all rights listed in the CRC are of high importance, and all deserve in-depth study, there are four guiding principles that are central to the understanding of the CRC. These guiding principles are:

- survival and development
- non-discrimination
- best interest of the child
- participation.

A) Survival and development

According to Article 6 CRC, children have the right to survival and development. “Development” must be understood in a comprehensive sense to mean physical, mental, emotional, cognitive, social and cultural development. Therefore the convention strongly obliges its signatory states to support children in their transition process from childhood to adulthood and to help them realise their full potential. Signatories must ensure, among others things, that children are protected from violence, exploitation and harmful treatment (Article 19 CRC); that they have access to the highest possible standard of health and health care services (Article 24 CRC); that they are brought up in a responsible way by their parents or guardians with assistance from the state (Article 18 CRC); and that they receive education that promotes life skills and prepares them for an active role in a free society (Article 28, 29 CRC). The death penalty and life imprisonment must be abolished for offenders below 18 years of age. Young offenders have to be treated in a way that facilitates reintegration into society and provides a second chance (Article 37, 40).

B) Non-discrimination

According to the CRC, all children must enjoy the same rights, regardless of their or their parents’ or guardians’ race, colour, sex, language, religion, political opinion, national or social origin, property, disability, birth or other status. In particular disabled children have to be given the same opportunity to enjoy an adequate standard of living.

C) Best interest of the child

When the state takes any decision that affects children, the best interest of the child must be a primary consideration. This applies to decisions by courts, administrative authorities, legislative authorities and social welfare institutions.

D) Participation

According to the CRC children must be given the opportunity to form their own opinions in all matters affecting them. The parties to the convention must take these opinions into consideration in a prudent manner, in accordance with the children's age and maturity. In particular, children are entitled to the right to be heard and to have their views taken seriously in any judicial or administrative decision affecting them. As prerequisites of participation, the CRC also guarantees the right of children to free expression and access to information from public sources, products of the mass media that are valuable for the development of children, as well as the right to association and free assembly.

Optional Protocols to the Convention on the Rights of the Child

The CRC is supplemented by two so-called optional protocols. These are the 'Optional Protocol on the Involvement of Children in Armed Conflict' and the 'Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography'.

An 'optional' protocol is one which is not automatically binding on the states that have already ratified the original treaty. As the obligations in an optional protocol are additional and sometimes more challenging than the original treaty, the states may choose individually whether or not to be bound by the protocol. Therefore optional protocols have their own ratification mechanisms independent of those for the original treaty.

In contrast to general human rights procedures, states may accede to the CRC optional protocols, even when they are not parties to the convention itself. For example, the United States, which is not a signatory to the CRC, has ratified both optional protocols. Once states have ratified an optional protocol they are bound by it, just as they would be by any other human rights instrument. In terms of their interpretation optional protocols must be construed in the light of the original treaty as a whole. For the CRC, this means it is guided by the principles of survival and development, non-discrimination, best interest of the child and participation.

A) The Optional Protocol on the Involvement of Children in Armed Conflict

This protocol establishes 18 years as the minimum age for compulsory recruitment into the armed forces. It requires states to do everything they can to prevent individuals below 18 years of age from taking part directly in hostilities. To date the protocol has been signed by 122 states and ratified by 119.

B) Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography

This protocol demands the criminalisation of the sale of children, child prostitution and child pornography. It stresses the importance of promoting increased public awareness and international cooperation in the effort to combat these most serious forms of child rights violations. The protocol has so far been signed by 115 states and ratified by 124.

Monitoring the implementation of the CRC

The implementation of the CRC is monitored by the Committee on the Rights of the Child, a body of independent experts nominated and elected by countries that have ratified the convention. It consists of 18 human rights experts representing different states, legal systems and cultures. The Committee also monitors the implementation of the two optional protocols to the Convention. Each country must submit a detailed report to-and appear before-the Committee within two years of ratifying the convention. Thereafter another report must be submitted every five years.

Unfortunately many signatories do not fully comply with this duty for diligent reporting on their progress in the implementation of the CRC. A number of states report very late and some only after diplomatic pressure has been exercised. Moreover the reports are often written in rather euphemistic language and do not reflect the true status of implementation. In reaction to this, many NGOs submit so-called “shadow reports” to the Committee, which are intended to provide a more critical and objective picture than the official state reports. Based on a critical examination of the country reports, including the shadow reports, the Committee issues its “Concluding Observations”. These comment on the progress or shortcomings of implementation, and include recommendations for measures to be taken by the respective states to improve their situation.

Impediments to the implementation of the CRC

As with any other human rights instrument, the CRC allows for a progressive realisation of child rights over a period of time, as long as a state takes deliberate, concrete and targeted steps towards implementation. According to Article 4, states must implement the CRC to the maximum extent of their available resources and, if necessary, seek international cooperation. However, this only applies to economic, social and cultural rights. Civil and political rights, on the other hand, must be realised immediately.

States do not need to realise all child rights through their own institutions and services. Rather, the state plays the role of regulator, coordinator and monitor of the various public and private actors and services entrusted with the promotion of children.

Thus scarce financial resources cannot be viewed the reason for a bad record of implementation among many developing countries. There are instead many factors that cause huge difficulties. As the implementation of the CRC relies on functioning law drafting capacities, court structures and qualified administrative authorities, general deficits of good governance strongly affect a country’s implementation chances. For example, in situations where courts are little trusted and poorly accessible in rural areas, child rights in matters of family law can only be realised in the medium-term if traditional structures for the resolution of disputes are strengthened through the provision of training in child rights. In the longer-term, court structures need to be improved. In contexts of legal pluralism, where traditional law is applied alongside modern law in the official court structure, it is essential that court justices are trained in harmonising traditional law with modern child rights.

The legal sector is just one example of the importance of intersectoral cooperation for the advancement of child rights. It is even important to coordinate strategies in the fields of health, education, administration, public security, social welfare, business development and employment-to name just a few.

Unfortunately, in many developing countries the ministry in charge of children’s affairs lacks the capacity and the standing to initiate and monitor intersectoral cooperation for child promotion. Moreover, it is often unable to integrate policies for the promotion of child rights into national policy planning and budget processes. This means child policies are often little more than paper tigers.

Even where the implementation of the CRC is made a national priority, it is frequently the prevailing top-down approach that hinders any substantial advancement of child rights.

Many states do not appreciate that legal reforms and training for the elite can not alone bring about social change. They invest a lot on training at the ministerial level instead of designing and delivering suitable training for the officers in rural areas who actually decide on matters that affect children on the ground. Traditional authorities who could have a great influence on people's perceptions and behaviour are often not involved in the discussion and popularisation of the CRC. They are often considered traditionalists who cannot be convinced anyhow. However, an open discussion of the similarities and differences that exist between human rights and the principles of customary law can help to decrease resistance to modern human rights and may even give traditional leaders a role in advocating them in the community. Furthermore, limited financial resources are often used as a pretext to ignore the need for strategies that would open up a dialog on child rights at the grassroots level, or for spreading accurate and understandable information to rural and marginalised people. Yet with prudent planning, and in cooperation with civil society and international development cooperation, much can be achieved in terms of empowering children to assert their rights. Rights-based education using school curricula, the media and social work requires financial resources and, more importantly, public commitment and the will to reform.

A good overview of the wide scope of implementation duties and common implementation shortcomings is provided by General Comment No 5 of the Committee on the Rights of the Child ("General Measures of Implementation of the Convention on the Rights of the Child" 2003).

Regional Child and Youth Rights Instruments

African Charter on the Rights and Welfare of the Child

The Organisation of African Unity's "African Charter on the Rights and Welfare of the Child" came into force in 1999. It shares key principles of the CRC, such as survival and development, non-discrimination and best interest of the child, as well as most of the CRC's child rights guarantees (e.g. the right to freedom of expression, qualified education, best attainable standard of health, right to leisure etc.). In addition to this, the Charter provides child rights guarantees that correspond to those contained in the two optional protocols to the CRC. However, the Charter also differs from the CRC in some important aspects.

One reason for designing a separate child rights instrument for Africa was that the Africans felt under-represented during the drafting of the CRC. Only a handful of African countries had been strongly involved in the drafting process, and their demurrals had been partly overridden in the interest of finding consensus between states from different backgrounds. Moreover, it was felt that a separate African child rights instrument would be seen as more legitimate than a potentially foreign-driven international instrument.

As the African Charter has so far been ratified by 41 of the 51 member states of the African Union, it is of high importance as a regional human rights and advocacy instrument.

The preamble to the Charter emphasises that Africa's recognition and protection of human rights should reflect the spirit of its traditional values. But it also stresses in Article 1 (3) that any tradition or custom that conflicts with the rights and obligations of the Charter shall be discouraged. These two principles demonstrate that the Charter intends to promote the bridging of western human rights concepts and African traditional values. This also explains why it goes further than the CRC in stating that signatories must eliminate cultural practices that either negatively affect children's health or discriminate against them on the basis of their sex.

Prominent examples for such harmful traditional practices are female genital mutilation or child marriage. This wish to connect modern concepts of human rights with traditional values also explains why-alongside child rights and the corresponding duties of the state, society and parents-the Charter also establishes the duties of children towards these individuals and entities.

According to Article 31 a child shall have the duty to respect and support its parents and elders, to contribute to the well-being and advancement of the nation, to preserve positive African traditions and to promote the achievement of African Unity.

One aspect in which the Charter lags behind the CRC is in the guarantee of social security. It was intended to reflect not only African sociocultural conditions but also the economic reality, and therefore does not include the right to social security. This omission is debatable, as it would have been possible to formulate the right as a long-term goal requiring the signatories to plan for its progressive realisation.

The Charter requires the establishment of the African Committee of Experts on the Rights and Welfare of the Child (ACERWC). This consists of 11 members elected by the AU Executive Council for a five-year non-renewable term. The members must be nationals of a state that is party to the charter and have solid expertise in matters of child rights. Their tasks are to monitor the Charter's implementation, to interpret it at the request of a signatory and to promote it among governments. The experts examine periodic reports from parties to the Charter, but also consider individual communications made to allege violations of any of the rights enshrined in the Charter. According to Article 44 such a communication can be made by any individual, group or non-governmental organisation recognised by the African Union, or by a member state or the UN. Children themselves are also entitled to make an individual communication to the Committee. The Committee's guidelines state that 'where a child is capable of expressing his or her opinions, they should be heard by a Committee member'.

African Youth Charter

The African Youth Charter is a very recent international instrument. It was adopted by the African Union during its summit in Banjul in July 2006. It serves as a strategic framework for the promotion of youth at regional, national and continental level.

A striking point of the Charter is its broad definition of youth, covering young people between the ages of 15 and 35. The wide age range must be seen against the backdrop of the huge difficulties young African people experience in finishing education, finding employment, becoming financially independent and starting a family.

The Charter extends many of the rights contained in the African Charter on the Rights and Welfare of the Child to the 15 to 35-year-old age group. This includes, for example, the right to free expression and association, education, participation, health care of the best attainable standard and protection from violence and exploitation. It also emphasises the right to support in qualifying for employment or entrepreneurship, and the right to social security.

A central concept of the charter is the enhancement of youth participation at local, national, regional and continental levels. To reach this goal, Article 13 formulates the duty to improve the capacity of the youth to get involved in public life and provide them with access to information on politics as well as instruments for participation. Youth organisations must be strengthened and youth delegations included in important political meetings. In all these respects the needs of marginalised youth must be considered and special support provided.

The Charter takes a progressive approach by demanding the enactment of an intersectoral, holistic and coherent youth policy that aims for youth participation at all governance levels. According to Article 12, the policy must be based on extensive research including consultations with the youth. Young people must participate collectively in all its stages, from its design and implementation, to the monitoring. To ensure that the Charter has a real impact, a detailed action plan is needed, with concrete budget allocations for the implementation of its measures.

Similar to the African Charter on the Rights and Welfare of the Child, the African Youth Charter not only acknowledges the rights of the youth but also their duties towards the family, the community, the state and international society. However, in contrast to the CRC and the African Charter on the Rights and Welfare of the Child, it does not yet require signatories to produce regular implementation reports. It also lacks a committee in charge of its monitoring.

So far the Charter has only been signed by Burundi, Benin, Mali, Nigeria, Rwanda and Togo. To promote accession to the Charter, and its implementation, the African Union founded the African Ministers of Youth Conference, whose mandate also involves revitalising the African Youth Union and integrating this in the process. The Conference has designed a detailed action plan for the period 2007-2015. This is intended to overcome the problems that arise from the lack of political advocacy, communication and sustainable funding. It should also accelerate the accession process.

Ibero-American Convention on Youth Rights

In 2005, the Ibero-American Youth Organisation (Organización Iberoamericana de Juventud) adopted the Ibero-American Convention on Youth Rights (Convención Iberoamericana de Derechos de los Jóvenes), which was signed by 18 Latin American nations. A guide for the implementation of the Convention was elaborated in 2007.

This convention takes into consideration the most important international youth declarations and the CRC. It applies the UN definition of youth as being 15 and 24 years of age. Besides the rights established in the CRC, in Article 20 the Ibero-American Convention on Youth Rights emphasises the right of young people to form a family and to exercise free choice of partner. Related to this, Article 23 states the right to sexual education. The rights to vocational training, employment and social security are also highlighted.

Of special importance is Article 21, which is dedicated to the right of young people to participation. This includes both political and social participation. The parties to the Convention commit themselves to promoting youth participation in policy formulation and legislation. Youth participation also forms part of the right to a healthy environment, in which the state is required to educate and involve young people in environmental protection activities (Art. 31). Article 34, which deals with the right of young people to social, economic, political and cultural development, stipulates that signatory states must make youth promotion a priority area of development planning. They have to provide technical and financial resources for youth promotion programmes in both urban and rural areas. The youth must participate in the drafting of national youth policies and action plans. To give these policies more impact they should be closely linked to national development and poverty reduction strategies and action plans.

Like the African Youth Charter, the Ibero-American Convention on Youth Rights does not provide for a detailed monitoring mechanism so far.

Relevance for development cooperation

Most partner countries of international development cooperation have committed themselves to protecting and promoting young people by signing human rights instruments-most prominently the CRC. However, poor governance, the weak representation of young people and their concerns in civil society, and insufficiently defined competencies for the implementation of these treaties frequently lead to the violation of elementary children and youth rights. Children and youth from poorer families in particular are repeatedly denied their rights, as are girls, who suffer discrimination on the basis of their sex as well as their age. Inadequate protection of their rights means children and youth suffer from many forms of violence, and are denied a role in decisions that affect their position and chances in society.

The protection, socioeconomic integration and participation of young people are therefore highly significant for international development cooperation. In many partner countries young people form more than half the population, and constitute a substantial proportion of those living below the poverty line. Moreover there is ample evidence that the low participation of the poor and vulnerable is one of the main factors hampering the sustainability of international development endeavours. Increasing protection and participation for young people not only improves their quality of life but also helps young democracies to raise a new generation which practises and defends democratic values. Thus the promotion and protection of young people is crucial for poverty reduction, for attaining the MDGs and for sustainable development cooperation as a whole.

Rights-based approach

The human rights-based approach is a conceptual framework intended to ensure that all development planning serves the purpose of realising people's human rights. It uses human rights as a normative basis, and argues that their promotion will make development interventions more sustainable, people-centred and coherent. The approach enjoys special prominence in the field of children and youth promotion, and is already implemented by many specialised NGOs (e.g. Care, Save the Children), UNICEF and a number of bilateral donors. It acknowledges that human rights can serve as a powerful lobbying instrument for citizens, as well as national and international development actors in the struggle for socioeconomic and political reforms. Since human rights are an expression of internationally accepted values, disrespect for them is no longer regarded as an internal affair but as a breach of international obligations with consequences for a country's international standing.

Even more importantly, the acknowledgement of human rights changes the position of citizens within national power structures; they are no longer recipients of charity but holders of rights with legitimate claims on their governments. Therefore the central idea of the approach is to increase the state's accountability by strengthening duty bearers to fulfil their obligations and empowering rights-holders to claim their rights. The category 'rights-holders' includes all citizens, since they have human rights simply for being human beings. As regards duty-bearers we have to distinguish two types: 'principal duty-bearers' and 'moral duty-bearers'. By signing international human rights treaties, states bind themselves to respect, protect and fulfil all human rights for all citizens. This is why they are the 'principle duty-bearers' in the realisation of human rights. Since, like any other contracts, international treaties can only establish duties for the signatories and not for third parties, individuals and institutions can only be considered as moral duty-bearers. Such people with huge responsibilities for the realisation of children's rights include parents, teachers, police officers and child officers.

Another central feature of the human rights-based approach is that it perceives the realisation of human rights not only as an outcome goal but also as a process goal. Therefore all development interventions should be guided by the principles of participation and non-discrimination, as well as accountability and the rule of law.

The approach is particularly relevant for the promotion of children and youth since it diverges sharply from the older perception of young people as being in need of protection rather than as a group holding legitimate claims against their governments and thus as valuable actors in structural reform processes.

German Development Cooperation

German Development Cooperation has built up special expertise in capacity building for public institutions and non-governmental organisations. The strengthening of the rule of law, accountability and accessibility of public institutions plays a key role in all areas of German development interventions.

In July 2004, the German Federal Ministry for Economic Cooperation and Development (BMZ) issued its development policy action plan for human rights 2004-2007, that has since been extended for three years. It expresses the political will to direct development planning even more systematically towards the achievement of economic, cultural, political and civil rights. GTZ advises the BMZ on its implementation. Over the last ten years GTZ has developed a wealth of methods for participatory youth promotion that are intended to empower people to take responsibility for shaping their own lives and societies. GTZ has also gained considerable experience in assisting state institutions in drawing up integrated youth policies and improving their responses to young people's needs.

In April 2008 a new GTZ sector project will start, entitled "Implementation of Children and Youth Rights". Its objective is to develop and advocate new methods for the promotion of young people, using a rights-based approach. The project will involve the systematic use and enhancement of best practices in all sectors of German Development Cooperation for the strengthening of public institutions to fulfil their duties towards children and youth, while at the same time empowering young people to demand their rights.

Examples

Contribution to the drafting, enactment and implementation of the Kenyan Children's Act

From 2000 to 2006, on behalf of BMZ, GTZ implemented the project "Integrated Promotion of Street Children". The project aimed at the social integration of street children and other children at risk in urban poverty areas. Through interventions at macro, meso, and micro levels, the project succeeded in offering many children a sustainable alternative to life on the streets; it improved the acceptance of young people as valuable members of society who deserve special support. Capacity building at the government and ministerial level, the strengthening and networking of NGOs, social welfare institutions and social workers, and the empowerment of self-help groups and youth organisations reinforced each other and contributed to a changed political climate for the promotion of children and youth. Beneath the participatory design of a national youth policy and action plan the project also contributed to the drafting, enactment and implementation of the Kenyan Children's Act which came into force in March 2001. The Act is modelled on the UN Convention on the Rights of the Child. Its provisions include outlawing child labour and child prostitution, and it criminalises female genital mutilation for minors, which was widely practised. Children are granted the right to primary education. Any adults that infringe on this right are liable to punishment. Equally important are the establishment of specialised child courts and the enactment of the Sexual Offences Act, which provides for higher sentences in cases of underage victims. For the effective implementation of these laws and structures, more popularisation and social awareness raising are required, as well as additional training for law applicants; nevertheless, they have already laid a very important foundation for social change.

Combating trafficking and the worst forms of child labour in Côte d'Ivoire

Côte d'Ivoire is the world market leader in cocoa production, producing 40% of the world's output. Due to its labour needs and the worse economic situation prevailing in neighbouring countries, it is notorious for child trafficking and exploitative forms of child labour. 40% of all children between the ages of five and 14 work in agriculture, in private households or in the informal sector. An even larger number of underage labourers are trafficked into the country. These children have no protection; they are physically and sometimes even sexually exploited, and they receive only minimal wages. As the state has not properly implemented international and regional treaties for the protection of children, those affected have hardly any opportunity to escape their situation and catch up with their education.

To improve the situation GTZ implements the project "Combating trafficking and the worst forms of child labour", on behalf of BMZ. The project started in 2002 and will be concluded in 2011. It has contributed to the foundation of more than 200 committees to combat child labour at district, sub-prefecture and village levels. These committees carry out awareness-raising measures and enforce child rights locally. As a result of their work, several hundred children have been freed from exploitive relationships and returned to their families. Legal action has been taken against those responsible for child trafficking and exploitation. To provide for the rehabilitation of affected children the project strengthens the capacity of NGOs that offer victims psychosocial care and formal and non-formal education, and which provide for their socioeconomic reintegration. In 2006 and 2007, nearly 1,000 children were reached through these measures. A further achievement is the high political priority that the government has begun to give to the issue. Especially among the local administrations, a profound commitment has developed to enforce child rights and improve the situation of affected children.

Realising child rights in family law cases before Zambian local courts

Due to its colonial legacy, Zambia has a dual legal system comprising the customary law of the various ethnic groups and the statutory law. The local courts, which form the lowest level of the court structure, handle 80-90% of all cases. Next to minor criminal issues, they deal with family and inheritance matters including divorce, custody, maintenance, adultery, seductions and inheritance claims. In these cases, customary law is applied alongside modern statutory law. In the past, local justices—who are predominantly male and elderly—did not receive any induction courses on statutory law and human rights. Therefore their judgements frequently stood in conflict to the written law, and discriminated against women. As well as women, children were also adversely affected. Custody and maintenance issues were decided without the children being heard and with no adherence to the best-interest-of-the-child principle. In inheritance matters, children were often denied their fair share of a deceased person's estate because customary law was unlawfully administered in place of the Intestate Succession Act, or because that act was not correctly applied.

To attain women and child rights in Zambian local courts, GTZ started the project “Improvement of the legal status of women and girls” on behalf of BMZ in 2000. The project, which ran for seven years, worked at three levels of intervention. At grassroots level, rural women and men were trained as paralegals. They organised sensitisation workshops and provided legal advice in their communities. At meso level, the personnel of local courts received training to enhance their knowledge of women's and child rights, and discussion of gender roles and the position of children in society was encouraged. At the macro level, research into the different Zambian customary law systems was intended to facilitate legal reforms. Although legal reforms have not yet been achieved, the work at the lower two levels has been highly successful. Women and child rights are better adhered to in local courts, the dialog between judiciary and civil society has increased and more women are entering the bench.

Relevant literature and websites

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