

# Children's Voices in Parliament: Turning up the volume

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## 1. Introduction

The Joint Monitoring Committee on the Improvement of Quality of Life and Status of Children, Youth, and Disabled Persons (JMC) was established in Parliament October 1999. This new committee has an important role to play amongst the 45 other committees in Parliament - a role that is still in the process of being defined. How the committee defines itself and works with the other committees in Parliament, civil society organisations and government departments is crucial to whether it will be able to fulfil its mandate of promoting and protecting the rights of children, youth and disabled persons.

This article looks at the background to the establishment of the JMC, its mandate, challenges, work to date and future plans. A special emphasis is placed on promoting civil society involvement in the JMC's work.

## 2. The Committee's Mandate

The 26 Portfolio Committees in the National Assembly and the 9 Select Committees in the National Council of Provinces (NCOP) mirror government departments and are tasked with debating and passing legislation specific to the department that they mirror and holding the relevant departmental officials to account. The JMC on the other hand will serve as a monitoring body in Parliament to review old and new legislation and to ensure that all government departments meet their stated objectives and goals with regard to children, youth, and disabled persons.

The JMC was established in Parliament as the counterpart to two of the "desks" in the Office of the President (children and disabled persons). This relationship has been formalised structurally by linking the JMC to the Minister of the Office of the President. The JMC has members from both the National Assembly and the NCOP and is thus representative of all the political parties and provinces.

According to the Rules of Parliament, the JMC,

*(a) must monitor and evaluate progress with regard to the improvement in the quality of life and status of children, youth and disabled persons in South Africa, with special reference to the Government's commitments in respect of any applicable international instruments and*

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<sup>1</sup> Elements of this article are drawn from a research paper on implementing children's rights in South Africa, available from the CLC.

*to duties and responsibilities in respect of any applicable legislation;  
and*

*(b) may make recommendations to both or either of the house, or any parliamentary committee on any matter arising from paragraph (a).<sup>2</sup>*

One of the first initiatives by the JMC was to formulate an action plan:

- (1) to provide inputs into legislation;
- (2) to generate awareness of the Committee and its work through the media;
- (3) to invite presentations by government departments, Commissions, NGOs, and political formations;
- (4) to make presentations to Portfolio Committees;
- (5) to increase their own understanding of the issues through national and international study tours;
- (6) to conduct training sessions for the members;
- (7) to participate in activities organised by civil society;
- (8) and to monitor and evaluate policies and programmes.

### **3. Challenges for the JMC**

The main challenges faced by the JMC are: (1) a broad mandate; (2) overcoming formal limitations in the legislative process; (3) sharpening its oversight function (4) and co-ordinating its activities with similar bodies that work in the field of children's rights.

#### **3.1 The Broad Mandate**

The JMC has the daunting task of trying to cope with all the issues and concerns of children, youth, and disabled persons – *three* distinct and highly politicised spheres that may overlap in many instances, but each of which could easily take up the time of a specifically dedicated committee. By giving the JMC such a broad mandate, the architects may have committed the JMC to several tasks that it does not have the time or human resources to treat with equal or adequate consideration.

In an effort to deal with this problem, the Committee has been divided into three Sub-Committees. The members of the Sub-Committee on Children could serve as the main points of contact for civil society organisations working with children. In addition, the JMC may divide the next Parliamentary year (9 months) into 4 time periods, in which the entire Committee will give its attention to each of the three issues and use the final 2 months to produce its report.

If the JMC is to effectively represent these three constituencies, it will need to develop a constructive partnership with members of civil society engaged in these fields. To do this, the JMC needs to actively seek and encourage civil

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<sup>2</sup> Rule 132D. Joint Rules of Parliament (As approved by the Joint Rules Committee). 24 March, 1999. 2<sup>nd</sup> Edition: January 2000.

society involvement using methods that also reach NGOs and CBOs outside of Cape Town, specifically those based in rural areas. Civil society organisations need in return to respond to requests for input and information from the Committee and to use the Committee as a platform to get issues onto the national agenda. Many of the Committee members are new to both Parliament and the specific subject they are tasked to monitor. Many of them would therefore appreciate information and support from civil society organisations.

### **3.2 Formal Limitations**

Portfolio Committees are tasked with passing legislation that falls within the government department that they mirror. The JMC's mandate is not to replicate this function but rather to keep a watchful eye over the deliberations in the Portfolio Committees and to intervene if necessary.

One formal mechanism, provided by the rules of Parliament, ensures that the JMC will be able to review new legislation pertaining to children and make recommendations to Parliament in the form of a report. Technically, however, the JMC may only perform this review function if a bill is formally referred to it by Parliament<sup>3</sup>.

The other formal mechanism through which the JMC may influence the legislative process, is by participating in joint sittings with relevant Portfolio Committees when bills relating to children are being discussed, amended and passed.

As an example, the Child Justice Bill, which is due to enter Parliament next year, will be referred to the Portfolio Committee on Justice in the first instance, and may also be referred to the JMC. Through joint sittings with the Portfolio Committee and by producing a report on the Bill, the JMC may be able to ensure that the Bill promotes and protects children's rights.

The problem with both these formal mechanisms is that they do not ensure that **all** legislation impacting on children will automatically land on the desk of the JMC or that the JMC will be invited to attend joint sittings when child specific legislation is being discussed. Whether a bill pertaining to children is brought to the attention of the JMC will thus be dependent on the vigilance and political assertiveness of the members and the political will of the chairpersons of the respective portfolio committees.

This problem is compounded by the fact that many bills may not, on the surface, appear to concern children. An example is the National Health Bill that is

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<sup>3</sup> Procedurally, a decision to refer a Bill to the JMC can only be made through a resolution adopted in the National Assembly and/or the NCOP, or, if parliament is in recess, by the Speaker of the House and the Chairperson of the NCOP.

scheduled to come to Parliament towards the end of 2001. This bill could completely bypass the JMC because children are not the primary subject.

In its role as a monitor of legislation, the main challenge will therefore be to ensure that all relevant legislation is brought to the attention of the JMC and that the JMC has sufficient political clout to be successful in its requests for joint sittings.

Civil society organisations can keep the JMC informed of new legislation and its potential impact on children. This will enable them to timeously request that the particular bill be referred to them for review and report or to request joint sittings with the portfolio committee concerned.

Despite the formal limitations highlighted here, these do not prevent the JMC from using informal advocacy strategies to intervene in the legislative process. The JMC will need the necessary information and support from civil society in order to strengthen its political capacity to take on such an advocacy role.

### **3.3 Oversight and Implementation**

Discussions within the JMC also indicate an emphasis on their role as a monitoring or “oversight” body that focuses on the **implementation** of policy, legislation and programmes. The majority of meetings held by the JMC thus far have been devoted to briefings by the various government departments and statutory bodies on the policies and programmes that affect the status and life of children, youth, and disabled persons. The JMC will review these policies and programmes on a yearly basis to assess the extent to which they have been implemented, and whether or not they have had a significant impact.

Civil society organisations should keep the JMC informed of the problems that they are experiencing in relation to service delivery by government departments. The JMC would also like to be kept informed of success stories and partnerships with government departments that have improved service delivery to children. Although they will not be able to respond to every problem, the JMC will be able to use the information when deciding on the best possible policy or legislative solution.

### **3.4 The NPA and Overlap**

Using its oversight and monitoring functions, the JMC could also be effective in monitoring the implementation of the National Programme of Action for Children (NPA). The NPA, which was launched in 1996, is the national strategy for implementing the United Nations Convention on the Rights of the Child, and is spearheaded by the Office of the President. The JMC has been briefed by the Office on the Status of the Child (situated in the President's Office) on the NPA, but the precise nature of the JMC's role in this process has not yet been fully developed. The National Children's Rights Committee, the Human Rights

Commission, and the Office on the Status of the Child all occupy relatively similar roles in the NPA implementation and monitoring process. Within this context, the JMC will need to determine how best to maximise its strategic position as a body within Parliament while avoiding any overlap or redundancy with external organisations and institutions.

#### **4. Work to Date**

Since its first meeting in October 1999, the JMC has received briefings from the departments of Welfare, Education, Labour, Transport, Sport and Recreation, Justice and Correctional Services; the Human Rights Commission, Commission on Gender Equality and National Youth Commission. Presentations were geared to providing an outline of programmes, policies, budget issues, anticipated programmes and policies, and monitoring mechanisms to ensure implementation, with regard to children, youth, and disabled persons.

The JMC also participated in a joint sitting with the Portfolio Committee on Labour for the approval of an ILO Convention concerning the prohibition of the worst forms of child labour. And in May 2000, the JMC was tasked with debating and passing an amendment to the National Youth Commission Bill and interviewing and selecting the new Youth Commissioners. The last meeting of the Committee for the year 2000 was held in September where the members discussed the recent spate of violent acts against children in the Western Cape.

A schedule is currently being formulated for next year, when NGOs will be invited to make presentations. The aim of these presentations will be to gain a complementary view of the work being carried out in the various government departments with regard to children, youth, and disabled persons. The committee members view NGOs and CBOs as their link to people “on the ground”, providing them with a more comprehensive picture of what is *really* happening. Although the Chairperson has indicated that national NGOs, “umbrella bodies”, may be preferred by the JMC, the agenda has not yet been set and NGOs and CBOs that would like to make presentations should write letters requesting an opportunity to do so.

#### **5. Conclusion**

The way in which the JMC will operate in 2001 and in the future is still being formulated. Civil society needs to be assertive and supportive of this new Committee if it is to be an effective voice for children in Parliament.