

**Addaiyan Journal of Arts, Humanities and Social Sciences**

© Addaiyan International Publishers

(An international Publisher of Research &amp; Academic Resources)

Journal Homepage: <https://aipublisher.org/projects/ajahss/>

ISSN : 2581-8783 (Online)

DOI: 10.36099/ajahss.3.6.12

**Does South Africa stand accused of paying lip service towards protection of children from violent behavior?****Bellita Banda Chitsamatanga, Nomthandazo Ntlama-Makhanya**

UNESCO 'Oliver Tambo' Chair of Human Rights Centre

University of Fort Hare

South Africa

**Corresponding Author\***

Bellita Banda Chitsamatanga

**Article History**

Received: 31.05.2021

Accepted: 14.06.2021

Published:30.06.2021



**Abstract:** Tapping on International and regional law, the South African constitutional law places an obligation on the state and other duty-bearers to protect every child from violence. However, the extant literature and electronic media is awash with cases of violence against children which remains high in South Africa. This review gives a synopsis of why South Africa stands accused of paying lip service towards the protection of children from different forms of violence.

**Keywords:** Children, violence, law, policies, protection

**INTRODUCTION**

In a recent 2020 report by the World Health Organization (WHO) titled global status report on preventing violence against children 2020 it emerged that

Globally, it is estimated that one out of two children aged 2–17 years suffers some form of violence each year. Worldwide, close to 300 million children aged 2–4 years regularly experience violent discipline by their caregivers. A third of students aged 11–15 years worldwide have been bullied by their peers in the past, and 120 million girls are estimated to have suffered some form of forced sexual contact before the age of 20 years (WHO, 2020 p. 1).

Within the South African context, the story is not totally divorced from the foregoing assertions, an annual report for 2018/2019 given by Bheki Cele, Minister of the South African Police Services, revealed shocking statistics that a staggering 943 children were murdered and more than 24,000 sexually assaulted between 2018/2019. But then, Imray and Janssen (2020) are quick to advance these statistics are not surprising taking into consideration that in a country where more than 50 people are murdered every day, children are not considered as special and neither are they spared from being violated. Worse still in a country numbed by shocking crime statistics on a daily basis it is easy to lose sight of the children behind

the numbers who are battered, raped, killed. It is evident that the high proportions of children that are victimized through different forms of violence, from rape, homicide, corporal punishment in schools, and violent discipline by care givers on a daily basis in South Africa does not only send cold shivers down the spine, it also puts at the forefront evidence of lack of political will by the State and the responsible stakeholders to curb Violence Against Children (VAC). In a study done by Hsiao et al. (2017) titled “*Violence against children in South Africa: the cost of inaction to society and the economy*” these scholars cement the above and lament that there remains a paucity of both political and financial investment to prevent children from experiencing violence. This is regardless of the fact that South Africa is a member state of a number of international and regional laws that necessitate it to observe a high level of resolve and commitment to ensure that every child receives appropriate nurturing and protection. Moreover, this is a country that has the most comprehensive as well as, the sturdy domestic legal framework that establishes the responsibility of the State to protect children from torture, inhuman, and degrading treatment and violation of their right to dignity and security of the person.

For instance, the South Africa constitution of 1996 known as the most revered constitution in the world, in Section 28 provides a yardstick on the protection children in South Africa. Of particular importance is Section 28 (1)(d) which reads as follows:

(1) Every child has the right-

(d) to be protected from maltreatment, neglect, abuse or degradation;

Thus section 28 is influenced by articles 19, 20, and 32-37 of the UN Convention on Rights of Child (CRC) in of 1989, which South Africa is a signatory. These articles explicitly touch on the right to protection of children from abuse and neglect including ‘cruel, inhuman or degrading treatment or punishment’. Whereas the African Charter on the Rights and Welfare of the Child (ACRWC) of 1990 particularly, Articles 15, 16, 21, 25, and 26 respectively, also buttresses on the importance of children’s protection. Whereas, The South African’s Children’s Act 38 of 2005 intends:

- to give effect to certain rights of children as contained in the Constitution;
- to set out principles relating to the care and protection of children;

However, given the above, it is clear that loopholes exists within the South African legislation that has been specifically developed and adopted towards the redress of VAC. This has in the process led to a majority of children in South Africa being exposed to various forms of harmful treatment and practices that are perpetrated either by family, state officials, or private persons.

This calls for a human rights-based approach that recognizes the need for all stakeholders to come on board. The reason being, protecting children from harm is a multi-sectoral enterprise that requires each and every individual to cement their obligation to take affirmative and meaningful action to prevent and respond; punish and redress acts of violence against children. Though it is evident that there are a myriad of factors that fuel child violence both social and political, however, the levels of crimes against children has been and continue to be exacerbated by the absence of meaningful consequences for the perpetrators thus, lending legality to their behavior. Moreover, failure to provide insights into institutional structures that exist or more frequently do not exist or do not function well to protect children gives license for

these atrocities to continue unabated. Thus, these gaps may explain why violent behavior against children which manifests in different forms, continues with impunity and high prevalence in South Africa. At the same time, the state response to such crime continues to be fraught with flaws and indecisive action highlighting yet again the gap between existing laws and measures taken by responsible authorities. This has led to a culture of silence which is deeply rooted amongst children that are abused. To make matters worse parents of the abused children and communities have also been found wanting of turning the blind eye towards VAC. Undoubtedly this has for a very long time given and continues to give the perpetrators the leeway to continue committing VAC. In a country that is often perceived both domestically and internationally as one of the most violent in the world, this in itself justifies concerted action to break the cycle of violence that South African children are exposed to. Moreover with 2030 around the corner, the elimination of violence against children as provided for in *Target 16.2 of the 2030 Agenda for Sustainable Development which reads "end abuse, exploitation, trafficking and all forms of violence against and torture of children"* should be a wakeup call if South Africa is not going to stand accused of continuing to pay lip service towards the protection of children from violent behavior. This is why any form of violence which affects children's rights to education, equality, human dignity and respect, freedom and security, privacy and integrity, health, and right to life must receive priority at all levels and structures in South Africa.

## REFERENCES

1. African Charter on the Rights and Welfare of the Child (ACRWC)[1990], [https://www.unicef.org/esaro/African\\_Charter\\_articles\\_in\\_full.pdf](https://www.unicef.org/esaro/African_Charter_articles_in_full.pdf) . (Accessed 03 July 2021).
2. Children's Act (No. 38 of 2005) as amended by Children's Amendment Act (No. 41 of 2007). <http://www.ukukhanya.co.za/41-2007-childrens-amendment-act-2007/>. (Accessed 03 July 2021).
3. Convention on the Rights of the Child (CRC)[1989] <https://www.unicef.org.uk/what-we-do/un-convention-child-rights/> (Accessed 03 July 2021).
4. Hsiao, C., Fry, D., & Ward, C.L. et al. (2017). Violence against children in South Africa: the cost of inaction to society and the economy. *BMJ Global Health* 3, 1-12.
5. Imray, G. & Janssen, B. (2020). In South Africa, child homicides show violence 'entrenched' <https://apnews.com/article/homicide-cape-town-africa-south-africa-only-on-ap-fb11beaaedfe580c3c3b2c3cd5cbde6d> (Accessed 01 June 2021)
6. Mahlakoana. T. (2020). Crime Statistics: 943 children murdered and more than 24,000 sexually assaulted. <https://ewn.co.za/2020/07/31/crime-stats-943-children-murdered-and-more-than-24-000-sexually-assaulted> (Accessed 01 June 2021).
7. Republic of South Africa (1996a). Constitution of the Republic of South Africa (Act No. 108 of 1996). Pretoria: Government Printers. <http://www.justice.gov.za/legislation/constitution/SACConstitution-web-eng.pdf> (Accessed 03 July 2021).
8. WHO (2020). *Global status report on preventing violence against children 2020: executive summary*. Geneva: