

Reflections on child rights and the Constitution

Justice Albie Sachs, Constitutional Court Judge



The huge progress we've made in the last decade simply underlines the huge progress we still have to make. I would say that the biggest gain has been that children are noticed and have some of a voice of their own. The idea of children's rights is powerful. Children have hope in our society. There is no longer any sense of the inevitability of injustice being done to them. Children laugh, play and dream in ways that were impossible for the majority before. They do the unimaginable. In many ways ours has become a wonderful country in which to grow up, where children have an identity, a community, a sense of being somebody, and hope.

Yet there is still abuse at a totally unacceptable level. I don't think it is any worse than it has been; we just know more about it. This makes passivity even less acceptable. We have a wonderful Constitution. The courts are far more effectively geared towards dealing with children, and more sensitively, too. Notions of restorative justice have made great strides, feeding into African traditions based on the principles

of *ubuntu*. The Child Justice Bill, which deals with children in trouble with the law, is ready for adoption by Parliament. In fact, it is more than ready:

implementation could be effected step-by-step, perhaps with pilot projects to

monitor questions of costs and management. Its adoption will show that we can simultaneously be right up there with the best in the world, and at the same time draw on the special richness of our humane culture.

Furthermore, we have to pay special attention to the conditions in which children grow up; their rights to food, clothing and shelter; their right to have healthy bodies and minds equipped to explore the wonders of the world they live in, as well as the right to travel and get to know one another and discover the joys of existence, not only its pains.

Above all, we have a lively community of social and legal activists working skilfully and confidently in this area, keeping the issues constantly before us, and looking for creative and effective solutions.