

Watch out Dad! Otherwise, I will Call 9111: *The Best Interests of the Child in South Africa: A Human Rights Perspective*

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Abstract

Children are one of the most susceptible sections of the society. They have been exposed in various harsh, brutal practices, culture, customs and values. This is true especially for African children, whom the scenario of defunct nations: extreme poverty, conflict, famine, tyranny make them the primary victims. Within their short time period of childhood, they were compelled to burden a long-term physical, social, psychological, spiritual effect. At worst form, the vulnerability of children could be illustrated in this way:

"Many children came to school wearied from tasks they had already performed. Some had walked for several miles before school distributing milk to customers; others had sold newspapers on the streets or had worked at home. They thus came to school tired and hungry. Nonetheless, these same children were frequently punished for being inattentive and failing to understand the teacher." (Maria Montessori, 1988)

Law with its instrument and mandated institutions, thus, has made response to lessen children unruliness. The Convention on the rights of children is the first comprehensive children human rights instrument at global level. The convention has interesting principles such as the best interests of the child.

This principle has influenced the world legal system from common law to socialist legal system. The maxim of the best interests of the child articulated under the constitutions and subsequent laws of almost all state parties of the convention. South Africa could not be the exception that section 28(2) of the Constitution and section 243(3) of Children's Act 38 of 2005 render paramount principle in every circumstance and case concerning children.

Human rights obligations are bizarre if they are not interpreted and practically implemented by the ultimate organ especially courts, who considered as the supreme guardian of the child and expected to implement and decide in the best interests of the child in every case brought to them.

This article therefore will make an assessment on the enactment of South African courts regarding to baby boys and girls, and it will also make an attempt to answer the question 'to what extent the courts act in the best interests of the child?'

