Handbook on juvenile law to guide judicial officials

By KELVIN KACHINGWE

EVEN though Zambia’s domestic laws grant children and young people special protection, many remain vulnerable and unable to access the protection to which they are entitled.

This is the view of Tinenenji Banda, a co-founder and director of the Centre for Law and Justice (CLJ), a Zambian organisation that works to protect and promote the welfare of children and juveniles.

Ms Banda’s organisation seeks to safeguard the legal rights of children as well as advocate systematic improvements in juvenile justice.

Its programme – legal education, legal research, legal aid and advocacy – improves access to legal representation for juveniles, informs them of their basic rights, draws attention to gaps within the system, provides specialised training and research support for magistrates and other legal officials, and advocate law and policies that strengthen the juvenile justice system.

It is not a surprise therefore that Ms Banda was a co-project supervisor on the Handbook on Juvenile Law in Zambia which has just been released by her organisation and Cornell University Law School’s Avon Global Centre for Women and Justice and International Human Rights Watch.

The handbook, the first ever practice guide on Zambian juvenile law, was officially released last week at a function...
at the Law Association of Zambia offices in Lusaka attended by magistrates, law practitioners and interested citizens.

The handbook was co-authored by Christopher Sarma and Amy Stephenson, both students in the international human rights clinic at Cornell Law School. The clinic functions both as a public interest law firm as well as a course where students have the opportunity to work on various human rights issues in developing countries around the world.

Ms Banda, who co-supervised the publication of the handbook with Elizabeth Brundige, an assistant clinical professor of law and executive director of the Avon Global Centre, Cornell Law School, says their goal was fairly modest.

"It was to provide the first ever compendium on Zambian juvenile law. And by doing this, we follow the example of other progressive sub-Saharan African countries like Ghana, for instance, that are in the process of creating handbooks not just on juvenile law but on various aspects of the law as well.

"The handbook aims to function as a practice guide and source book for judicial officials and legal practitioners who work in the area of juvenile law. It addresses a range of issues from the constitutional, statutory and human rights framework for juvenile law, special issues that arise in cases of child sexual abuse, and procedural protections for juvenile witnesses," she says.

Supreme Court judge and former Attorney General Mumba Malila says the handbook serves as a reminder that legal practitioners, judicial officers and citizens alike are responsible for protecting the rights of juveniles.

Mr Malila says juveniles who come into contact with the law are a particularly vulnerable group as they may be victims of abuse, in moral danger and in need of care or unaware of their rights when they are accused of committing a crime.

Although the country's domestic laws recognise this vulnerability of juveniles and grant them special legal protections, one ongoing challenge is the lack of a collection of concise but detailed information on Zambian juvenile law.

"The handbook offers a compendium of Zambian juvenile law, including the processing of juveniles in the criminal justice system. It synthesises relevant constitutional and statutory law, case law, and international human rights law and highlights best practices that practitioners may consider when working on matters involving juveniles."

"I hope that judges, magistrates, prosecutors and legal officers will make frequent use of this handbook. Doing so will help to ensure that juveniles in Zambia are able to access justice through the courts," Mr Malila writes in the foreword.

The sources of Zambian law are the juvenile Act and various other statutes, judicial decisions and international human right instruments which the country has ratified.

And Professor Brundige says judges, magistrates, prosecutors and lawyers have a range of tools at their disposal to protect the rights of juveniles.

"For example, international law standards counsel against juvenile detention while a new Zambian stature enables magistrates to issue orders of protection that shield juveniles from abuse. Understanding and applying these tools is critical to ensuring that all children and young people have meaningful access to justice," she explains.

Therefore, Ms Banda says, the purpose of the handbook is to provide an all in one source book for juvenile law so that a magistrate or a prosecutor dealing with a juvenile issue has a one-stop shop as it were.

"It could also serve as supporting material during orientation and training sessions for magistrates and prosecutors assigned to work on juvenile law issues," she says.

In terms of scope and methodology, the handbook addresses the laws relevant to four major categories of juveniles who come into contact with the law. These may be the accused, those in need of protection, child victims of gender-based violence and witnesses.

The handbook also refers to applicable international and regional human rights laws that Zambia has signed and ratified. In addition, it discusses best practices that have been adopted in Zambia and its neighbouring countries in handling cases of juveniles in contact with the law.

"We relied heavily on the Juvenile Act, the Criminal Procedure Act and the judicial decisions, and here I would like to acknowledge the incredible work of the Zambia legal information institute AMLII.

"I am sure many are aware that most of the Zambian cases are now online due to ZAMLII’s efforts which are remarkable and actually made our job much easier than it would have been otherwise," Ms Banda says.

As it is understood that magistrates, prosecutors and legal practitioners representing juveniles grapple with enormous backlogs, a situation exacerbated by the fact that the law governing juveniles is contained in disparate and various sources, it is hoped that the handbook will greatly help them.

After all, it is a one-stop shop.
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