



Cross-boarder cooperation for children's safety

By Neliswa Demana

The South African government is working hard to ensure that South African children receive the best education. However, this is not the case in Zimbabwe as children who are living along the border cross into South Africa (SA) to attend school during the day or even to see a doctor. This is a great risk to their personal safety.

In an effort to help these children, officials from 15 countries discussed ways to strengthen cross-border co-operation for the protection of children at risk and to better regulate inter-country adoption in Pretoria on 23 to 25 February 2010.

Speaking at the conference, Chief Family Advocate, Ms Petunia Seabi said the South African government was in talks with Zimbabwean authorities to set up protocols to protect these children. She said neither of the governments would prevent children from accessing services across the border, but would rather try to address the risks the children take while crossing the border unaccompanied.

"The National Programme of Action for children in South Africa deals with all policies and plans to promote and implement the treaties. It also coordinates the efforts of different government departments and Non-Governmental Organisations," she said.

Adv Seabi said an efficient and effective method of cross-frontier child protection will uphold the child's best interest. "A proper method will provide mechanism; enhance collaboration and cooperation between party states in safeguarding the welfare of children. It will also ensure the applicability of the laws of the country of origin in foreign countries," she explained.

Although governments have ratified the African Charter on the Rights and Welfare of the Child and the United Nations Convention on the Rights of the Child, many countries have yet to ratify the Hague Conventions pertaining to children, which

seek to standardise international law in the best interests of the child and provide a comprehensive legal framework for the cross border movement of children between countries.

The four modern Hague Conventions on children include:

- Hague Convention of 1980 on International Child Abduction;
- Hague Convention of 1993 on Inter-country Adoption;
- Hague Convention of 1996 on the Protection of Children; and
- Hague Convention of 2007 on the International Recovery of Child Support.

In affirming South Africa's commitment to the Convention, Ms Seabi said "The Convention is enforceable between SA and 33 countries. The Convention also enables us to have an efficient and effective method of cross-frontier child protection,"

Deputy Secretary-General for the Hague Conference on Private International Law Professor William Duncan said "The African child is the Continent's most precious resource. Many African countries are reforming their national systems of child care and protection. However, because of the increasing movement of families and children across borders, the protection of the child can no longer be secured by national action alone."

The recent movement of large numbers of unaccompanied minors between Zimbabwe, South Africa and other States in the Region, with the prospect of further movements around the 2010 FIFA World Cup, underlined the urgency of the situation.

Prof Duncan said concerted action by two or more states may be needed to protect children, who are the victims of sale, trafficking or abduction, unaccompanied minors who in large numbers are

crossing country borders. "In all these cases inter-State co-operation is needed to track, find, protect and in some cases repatriate vulnerable children," he said.

The seminar, according to Prof Duncan, was an important beginning but will need follow-up at the national and regional levels if the spirit of co-operation demonstrated by the participants is to be translated into permanent and workable structures, through the Hague Conventions and by other means, for inter-State co-operation in child protection.

The Hague Conference on Private International Law is an inter-governmental organisation based in the Netherlands working for the harmonisation of rules of private international law. It currently has 69 Members located on every continent and over 130 States party to one or more Hague Conventions. The Hague Conference seeks to build bridges between various legal systems, while respecting their diversity. In doing so it reinforces the legal security of private persons which is essential in this age of globalisation.

"States will need assistance in developing Central Authorities to support co-operation," Mr Duncan said. South Africa has already established a central authority.

The authority is headed by Ms Seabi. The Central Authority in South Africa applies, on behalf of the applicant, to the Central Authority of the country to which the child has been taken.

The requested Central Authority or their designated representative should on receipt of the application, take immediate steps to:

- Discover the whereabouts of the child;
- Prevent any further harm to the child;
- Attempt to secure the voluntary return of the child, otherwise initiate or facilitate judicial or administrative proceedings in that country with a view to obtain the return of the child to South Africa or the securing of rights of access to the child; and/or
- Provide or facilitate the provision of legal aid and advice.

The Central Authority will assist in tracing a child if a child has been wrongfully removed from South Africa or retained in South Africa. The Family Advocate will study the application and if the application is well founded in terms of legislation, her office will effect proceedings to locate and return the minor child, to the right place

