

what is 'a child advocate'?

N. Cecilia Sililo-Tshishonga, lawyer and Deputy Director of Entokozweni Early Learning Centre, Soweto, explores the potential for advocacy where children's issues reach our courts.

Children are vulnerable creatures, and often they suffer in silence. The necessary change should start within the family but if the situation within the homes does not improve, then intervention by outsiders becomes necessary. Somebody out there needs to stand up and speak for the child, particularly where the child is 'gagged', that is, where the parents are the perpetrators. This, then, is where advocacy comes in.

Who, at present, is the child's advocate? According to the Children's Act, and the Criminal Procedure Act, no child is allowed to make a statement without the assistance of his/her parent or legal guardian. What then if the child needs to speak against his/her parent or legal guardian? The Children's Act states that the Supreme Court is the ultimate guardian of all minors, that is, the courts can override the powers of any parent/guardian if need be. But how often do the courts exercise this right? Relatively seldom, in fact. This, therefore, calls for advocacy by a child advocate.

Who should assume this important duty of advocacy on behalf of the defenceless child? The pos-

sibilities include child care workers, nurses, doctors, or any conscientious member of the community. However, there is red tape to be overcome: for example, counsellors with Child Line, a branch of Life Line which is concerned with child abuse, require the assistance of a registered social worker to take this kind of action. The social workers themselves find it difficult enough if a case is taken to court and they have to square up against a determined attorney or advocate.

Where, then, does this lead us? Does it not call for child lawyers who specialise in children's rights? Rather than let a state-employed social worker bicker in court with a trained lawyer, might it not be best to insist on legally qualified persons on both sides in order to reach an equitable decision? I can foresee a problem: costs. Who is going to bear the costs of a case that is 'brought to court by a child'? Must child lawyers appear Pro Bono? Will they appear *in loco parentis*, or as mere representatives?

The question of child advocates is a tricky one, which needs to be considered seriously. □