CALL FOR CHANGE IN RULES OF EVIDENCE

TANIA BROUGHTON

children must testify in court, rules governing how raped from the law books. unconstitutional and struck aiming to have them deemed ing the charge against present ban-based - are leadtwo of which are Durrights organisations -

wersarial system, founded in the Criminal Procedure Act, front their attackers in court and be cross-examined, has a profound impact on a child's which forces children to con-At present, they say the ad-

with the constitution which lowes court and the child would dictates that the interests of be called on to feet the again of children must be paramount. Heat the child would have to be in any circumstances. This is in direct conflict

The probe has been called for by Pretoria High Court Judge Eberhard Bertelsmann. who raised the general inquiry

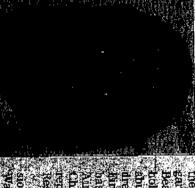
HREE children's victed in lower courts of raping while presiding giver the sentencing of two men both soil

of the accused and his of her level on a section. dence were premised upon con-frontation by the child witness gal adviser.
Applying the procedure particularly to child victures of mented that the rules of evi-At the time, the judge com-

pern about the effect on the violent trime, was flues tionable and might not be in the best interests of the child. The judge also raised a con-

child if the high courtifled not conform the conviction of the accused. Thus meant the case would either be sent back to the

He then called for subpussions from unterpsted parties to be admitted as amicus curiae



NAMES BEAUTION

specifically to the ministers of justice and constitutional de velopment, education, sufety and security health, police, so that bevelopment; correctional pstitutions and non-governrected that the order specifically to the or

mental organisations
Among those who have responded and been accepted by

Court for determination.

referred to the Constitutional

ganisations Operation Bobbi Bean which rescues and upholds the rights of sexua Purst, as well as the Cape Town the court are Durban-based orien's rights group Children nused children, and the chilued Rapcan (Resources injed at the Prevention, of presented by Durban's Legal sources Certire ld Abuse and Neglect) – all

rights and interests of child victims who testified against sion to the court. Samaitha Waterhouse of Rapean said the issues: raised involved sine heir abusers in court in a preliminary subm

arresult of reporting the orimes nonal trauma, particularly at in court, being suestioned and cal psychological and emoagainst them, including physihaving to meet the perpetrator would age that the children aced a number of pressures as The three organisations exacer. stitutional, the matter will be

resented and directly questioned the child. This resulted hated if the accused was united n extreme anxiety

" Gamers" (resulting in the truth being bidden from the court this the semantics and this control and the semantics and the semantic and the semant Children also often got con-

She said their submissions would be bullstered by a case study undertaken by Children Fig. which examined the "soc relevant sections of the Crimihearing will be held in Novem-All interested parties have nal Procedure Act to be unconber Should the judge find the appearances - to conclude make submissions and the until the end of this month to