

COMMITTEE ON THE RIGHTS OF THE CHILD ANNUAL DISCUSSION DAY 2004 – REALISING THE RIGHTS OF THE YOUNGEST CHILDREN

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1 INTRODUCTION

South Africa is currently developing a new dispensation for children. The Children's Bill was six years in the making and involved an extensive and thorough consultation and research process. This culminated in the development of a Draft Children's Bill by the South African Law Reform Commission (SALRC), which was handed to the Department of Social Development (DoSD - recognised as the lead department) in December 2002. A process of review and revision involving the lead department and a range of other relevant government departments then commenced, resulting in a revised version of the Bill, which is currently on the table.

The SALRC version of the Bill was, in the main, welcomed by the child rights and service delivery sector in South Africa. It was focused on primary prevention and early intervention, and proposed some creative ways of counteracting the vulnerability of those children living in the circumstances which rendered them even more vulnerable to exploitation, neglect and abuse. This included children living and working on the streets, children who had been trafficked, children infected and affected by HIV, children living in child-headed households, children with disabilities and chronic illnesses, and children who have been sexually abused. In particular, the National Policy Framework which the Bill proposed had good potential to ensure inter-sectoral planning and budgeting across a range of relevant departments in order to ensure the protection of the basic rights of the most vulnerable children.

The DoSD Draft Bill, released in August 2003, has been considerably watered down by a number of critical excisions, including the removal of the National Policy Framework.

2 A SNAPSHOT OF THE SITUATION OF YOUNG CHILDREN¹

- There are approximately 6.5 million children aged 0 – 6 years ²
- More than half the children under 5 are in poverty stricken non-urban areas (61.8% of African children, 20.5% coloured, 6.6% Indian and 9.4% white)³.
- 21.6% of children 0 – 9 years are stunted and 10.3 underweight. Younger children aged 1 – 3 years of age are most severely affected as well as those living on commercial farms (30,6%) and in tribal and rural areas.⁴
- 16% of 0 – 6 year olds were in ECD provision in May/June 2000⁵
- 21% of 5 – 6 year olds, 15% of 3 – 5 year olds and 5% of children under 3 were in provision
- 40% of ECD services are in rural areas and 60% in urban areas
- 4% of the population is estimated to have disabilities, but children with disabilities account for only 1.36% of those enrolled in ECD provision including special facilities.
- Access to ECD services which could counter some of the effects of poverty is lower

¹ Information extracted from Biersteker, I and Newman, M (2003): "ECD Sub-Group Discussion Paper", unpublished.

² Statistics South Africa (2001)

³ ibid

⁴ 1999 National Food Consumption Survey Figures given in a Draft Document by A. Behr: Nutrition for Early Childhood Development Centres. presented at a Workshop on the Draft Guidelines for Registration of Day Care Centres, Union Buildings Pretoria, 25/4/02

⁵ Department of Education (2001a)

⁶ Actuarial Society of South Africa (2002)

- than the national average in the three provinces with the greatest numbers of poor children – Northern Province (8%), Eastern Cape (13%) and KwaZulu Natal (15%)
- With Regard to HIV transmission, in 2001 there were an estimated 63,880 infants affected perinatally and a further 18,289 babies newly infected by mother's milk.⁶
 - Of nearly 48,000 educators/practitioners working with children in pre-schools 23% have no training at all. Of those trained, 85% require additional training of some kind.
 - It is the poorest families who have least access to ECD services.

3 INTERNATIONAL AND DOMESTIC OBLIGATIONS

3.1 The Convention on the Rights of the Child

The Convention was adopted and opened for signature, ratification and accessions by the General Assembly resolution 44/25 of 20 November 1989. It was ratified by South Africa in 1995.

Article 6

State parties shall ensure to the maximum extent possible the survival and development of the child.

Article 26

State parties shall recognise for every child the right to benefit from social security, including social insurance.

Article 27(1)

State parties recognise the right of every child to a standard of living adequate for the child's physical, mental, spiritual, moral and social development.

Article 27 (3)

State parties ... shall in case of need provide material assistance and support programmes, particularly with regard to nutrition, clothing and housing.

3.2 African Charter on the Rights and Welfare of the Child

The Charter was adopted and opened for signature, ratification and accessions by the Organisation of African Unity resolution 24.9/49 of 1990. It was ratified by South Africa in 2000.

Article 6

The right to survival, protection and development.

3.3 The South African Constitution, Act 108 of 1996

Section 28 (1)(c)

Stipulates that every child has the right to basic nutrition, shelter, basic health care services and social services.

The Grootboom case established that, in order for the State to deliver socio-economic rights relating to housing, health care, food, water and social security, it must devise comprehensive and workable plans to facilitate the realisation of these rights.

4 CURRENT BLOCKAGES TO THE REALISATION OF BASIC RIGHTS OF THE YOUNGEST CHILDREN

4.1 Government Policy⁷

Young children are developmentally vulnerable particularly the approximately 3,8 million (59,2%) of 0 – 6 year olds who grow up in poverty⁸ or those with special needs as a result of disabilities or growing up affected or infected by HIV/AIDS. The three main government departments responsible for service provision for young children – Education, Health and Social Development – recognise this and their policies target children under five. The policies have many common strands including:

- Recognition of the preventive value of good services for the youngest most vulnerable children
- Recognition of multiple approaches including direct services and services targeted at the parents, families and communities.
- Focus on most at risk poorest, those with disabilities
- Focus on the need for health and nutritional support
- Commitment to integrated service delivery and optimal use of existing resources and services.
- Concern for quality assurance/standards.

However, a nation-wide ECD audit indicated that sites catering for predominantly African children have the greatest number of below-average ratings on infrastructure and support in the form of fees and other income sources, registration and functioning management committees.

4.2 Early Childhood Development Provisioning

A grant of R195 million over three years from 2001 to 2003 was made from the National Treasury to the provinces, earmarked to assist with the phasing in of a compulsory Grade R (reception year prior to the commencement of formal schooling). This grant was intended to be phased out in 2003/2004, but the Education Department has however requested a one year extension to assist provinces which are not yet ready to take responsibility for the programme.⁹ This request may indicate concern that provincial education budgets may not be sufficient to fully rollout grade R as projected. Provincial education budgets are likely to be further stretched by targeting of poor learners which will hit the poorest provinces the hardest.¹⁰

The vulnerability of ECD to other provincial costs is not new. Total provincial ECD spending out of total education spending for all provinces was 0.34% in 2001/2 or less than 1%.¹¹

Establishment of a nationally accredited Reception Year Programme, ongoing curriculum development, research and support for Grade R, upgrading of practitioners and expansion of provision by 2003 to 4500 sites are objectives in the Department of Education's Strategic Plan for 2003 – 2005.

4.3 Targeted Intersectoral Programming for Children Birth to 4 years

The Department of Education is also the lead partner for the development of an integrated service delivery strategy for ECD services for children under 4 years within the framework of the National Programme of Action for Children.

⁷ Biersteker and Newman (2003)

⁸ Cassiem and Streak (2001) using the relative poverty definition of the poorest 40% of households.

⁹ Mail and Guardian 11 – 16 April 2003

¹⁰ Biersteker and Newman (2003)

¹¹ Biersteker, 2001

This age group has become the focus of Department of Social Development ECD provisioning. Here too there has been a pattern of limited financing though the resources have been successfully poverty targeted. Provincial budget allocations to ECD up to 2001/2 were less than one percent of total social development budgets and in fact there was a reduction from 1999/2000 to 2001/2. At the time of the recent nation-wide audit, 40% of children under 5 in ECD facilities received subsidies. This is 4% of the total population of children aged 0 – 5 years. An expansion in the subsidies available might be a stimulus for increased access for children under 5 to ECD programmes. A recently released audit of ECD provisioning in the Western Cape¹² notes that the only stable income of the facilities was derived from government support. A great deal of fundraising was done but as it is not regular or systematic was not a suitable way to generate a full income.

The Department of Social Development issued a Draft Issue Paper on the Transformation of the ECD System in South Africa in February 1998. This made commitments to:

- Promoting subsidisation of varied ECD programmes: centre-, community- and home-based
- Rooting ECD services within the community
- Education programmes for parents as part of ECD programmes for children
- Development of a developmental approach to ECD
- Increasing access of young children to ECD programmes (through promotion of home based and community based facilities for day care, targeting at risk communities, sustaining programmes in communities that are remote and isolated.
- Subsidising children in the ECD system with means test as criteria
- Targeting disadvantaged children in a variety of programmes
- Establishing which ECD programmes are appropriate for specific children
- Providing appropriate ECD programme options (day care, stimulation, health and nutrition programmes
- Inclusion of children with special needs in the mainstream.

Despite a policy commitment to broad programming, the focus is on centre based services, full or part time, and not on family programmes. ECD tends to be seen in this way. Family programmes which have the potential for direct support to the primary caregivers of vulnerable young children also need training for practitioners, nutritional services etc. The lack of budgetary commitment makes expansion of services dependent on the political will at provincial level.¹³

4.4 Nutrition support programme

Nutrition support is being targeted at children in Grade R classes, although children in community-based sites will receive it if these sites are registered with the Department of Social Services. As the majority of children at nutritional risk are not in centre-based services they remain excluded

4.5 Training for ECD Practitioners

Some 11,000 centre-based ECD practitioners require basic training, and another 31,800 need further training. The Department of Education's strategic plan targets include training of 4,500 practitioners under the conditional grant (for Grade R), 100 trainers and 1,000 other Level 1 and 4 learnerships. Donor

¹² Unit for Social Research: Western Cape Dept of Social Services and Poverty Alleviation, July 2003

¹³ Biersteker and Newman (2003)

funding for ECD training, the bulk of which is offered through NGOs, is not enough to sustain it or them, and there is a loss of capacity in the sector. Funds need also to be allocated towards training programmes for family programmes which target children outside of the ECD centre models.

4.6 Operational costs

The lack of commitment to providing income via subsidies to support the operational costs of child care will ensure the continued inequitable provision of services with the poorest services for the poorest children and a complete lack of provision for the those in most need.

5 THE POTENTIAL ROLE OF LEGISLATION

Resources Aimed at the Prevention of Child Abuse and Neglect (RAPCAN) is a child-rights NGO working in Cape Town, South Africa. We are concerned that our new Children's Act reflects the broad vision which had long been sought for children in South Africa – by being rooted in the full range of internationally recognised rights of children. We need to ensure that all relevant structures of government along with their non-governmental partners and the broader community give priority to the basic needs of children. A range of preventive measures should be set out in the Bill to ensure in the first place that children could grow and develop within healthy families and communities. Where these measures fail, various early intervention mechanisms should come into operation. If these mechanisms do not have the desired effect, an effective protective system should be in place to protect children from further harm and ensure their reintegration in the community. Special attention should be paid to the needs of children who experience multiple infringements of their basic human rights on a daily basis, such as those living on the streets, those caught up in child prostitution, those exploited for other forms of labour, those marginalised by disability and those in child-headed households or affected in various ways by HIV and AIDS.

We are convinced that the way to achieve these goals lies in ensuring an inter-sectoral National Policy Framework, an extension of the rights guaranteed to children by the South African Constitution (a mini-Bill of Rights for children which confirms and operationalises the realisation of basic child rights), and adequate resourcing of the prevention, early intervention and child protection services.

Thank you.
July 2004

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Press Articles

What will happen to the children? Mail and Guardian April 11 – 16 2003

Key Questions

How can services be extended and improved without a budgetary commitment?

Is the lack of specific mention of family based programmes a barrier to funding and support as mentioned in the White Paper?

How can nutritional support be guaranteed for all young children who need it?

Is the registration fee a barrier to poor centres even starting the process?

Are we seeing a pulling back of interdepartmental initiatives around the integration of service provision. What are the implications of this?

Grade R funding is a concern. The Bill removes any reference to Primary schooling. How can we ensure that the needs of Grade R children are adequately addressed?

In the Basic Principles we note with concern the change to clause 20(1) which omits mention of social security. Does this not threaten the child's rights as

enshrined in the Consitution and undermine efforts towards providing a comprehensive package of services where the need exists?.