

## PORTFOLIO COMMITTEE ON BASIC EDUCATION

### Summary of key findings of the civil society alternate report to the UN CRPD focussing on the Right to Education for children with disabilities In South Africa

**Submitted by:** Inclusive Education South Africa (IESA) on behalf of Right to Education for Children with Disabilities Alliance (R2ECWD)

**Contact:** Robyn Beere, Director, Inclusive Education South Africa; Co-Chair, Right to Education for Children with Disabilities Alliance (R2ECWD)

021 762 6664

0829272996

[robyn@included.org.za](mailto:robyn@included.org.za)

We thank the Portfolio Committee for the opportunity to share the perspective of civil society on progress in the implementation of inclusive education in South Africa. In 2016, disability rights and education organisations; researchers and academics developed a report on Inclusive Education, Article 24 of the United Nations Convention on the Rights of Persons with Disabilities (UNCRPD), in response to the Government of South Africa's Baseline Report (2014), to the UN Committee. The report was written by 10 primary and 19 contributing authors and was endorsed by 53 Individuals, academics and civil society organisations.

The report focuses on education for learners with disabilities specifically, and not the wider spectrum of children that inclusive education embraces.

We commend the Government of South Africa (GOSA) on its frank and honest Report to the CRPD where they highlighted many of the challenges and overdue actions which are hindering children with disabilities in South Africa from enjoying quality, equitable, inclusive education.

#### Violation of rights

1. The right to education, enshrined in our Constitution, applies equally to every child in South Africa, yet, according to the Department of Basic Education, in 2015, 597 753 children with disabilities were out of school,<sup>1</sup> which is almost double the 280 000 estimated in 2001<sup>2</sup>, indicating that GOSA is failing its national and international education obligations for children with disabilities.
2. Abuse, neglect and inadequate care characterise life for children in many special schools and special school hostels. No specific legislation is in place to protect learners at special schools and hostels. Protective measures in the Children's Act do not apply to special schools as they are not categorised as "child and youth centres". GOSA has not developed specific legislation, guidelines, or post provisioning norms to address the ensuing gap. This is a shocking oversight.

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<sup>1</sup> The Department of Basic Education, *Report on the Implementation of Education White Paper 6 on Inclusive Education: Overview for the Period 2013-2015* (2016),

<sup>2</sup> Department of Basic Education, *Education White Paper 6: Special Needs Education: Building an Inclusive Education and Training System* (2001), 30.

3. In its five-year strategic plan 2015/16-2019/20, the Department of Basic Education (DBE) again made the commitment to prioritise the realisation of Outcome 1, Goal 26 of the National Development Plan (NDP) – to strengthen inclusive education – but has yet again failed to translate this into meaningful action plans, targets or budgetary allocations.

## **Discriminatory attitudes and practices**

### **Admission policies**

1. Civil society organisations (CSOs) receive regular reports of children refused admission to ordinary schools on the basis of their disability without reasonable accommodations being considered (such as assistive devices or additional classroom support). CSOs find that most parents carry this burden as a condition of their child's acceptance into school. For the majority of parents who are unable to afford it, this means the exclusion of their children.
2. Admission policies for ordinary and special schools remain discriminatory. For example, incontinence is a ground for exclusion from many special schools. Another practice requires female learners to take contraceptives as a condition to admission.
3. The DBE's Special School guidelines require that "special schools be organised according to their programme of specialisation", and that "a special school may admit only learners who require support in the area of specialisation offered at the school".<sup>3</sup> Learners with multiple disabilities who do not easily fall within a school's "area of specialisation" are often excluded.
4. At most special schools there are long waiting lists controlled by the schools. No alternative to placement is provided for learners, who can remain on these lists for up to five years.

### **Transport**

5. Learners are still being transported in unsafe, inappropriate vehicles that have not been adapted.<sup>4</sup>
6. Many families cannot afford the cost of learner transport. Funding norms and standards that comprehensively address the transport needs of learners with disabilities have yet to be adopted.

### **Lack of Funding**

7. As the CRPD emphasised recently in its General Comment on Inclusive Education, "Using the lack of resources and financial crises as justification for failure to make progress towards inclusive education violates article 24."<sup>5</sup>

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<sup>3</sup> Department of Basic Education, Guidelines to Ensure Quality Education and Support in Special Schools and Special School Resource Centres to Support Inclusive Education (2014), 7

<sup>4</sup> SECTION27, *Too Many Left Behind: Exclusion in the South African Inclusive Education System with a focus on the Umkhanyakude District in northern KwaZulu-Natal* (2016), paragraphs 123-129.

8. We commend the DBE on the revised Screening, Identification, Assessment and Support Policy (SIAS), which was gazetted in 2014. We believe that the policy contains important provisions for the roll out of support to all learners experiencing barriers to learning in both ordinary and special schools and welcome the adoption of this policy. We believe, that with effective implementation, it will go a long way to embedding support at school and district levels. However, the norms and standards for resourcing the policy have not yet been approved which undermines the allocation of adequate funds for implementation. We thank the Department for updated information regarding the progress in developing these norms, as supplied in their response to this report, “The Draft Minimum Norms for the Distribution of Resources in an Inclusive Education System (including post-provisioning norms) are at an advanced stage of development and will be presented to the Heads of Education Committee (HECOM) and the Council of Education Ministers quite soon as a first step towards obtaining approval for publication of the norms for public comment.”<sup>6</sup>
9. No special schools are categorised as “no-fee-paying schools” and thus do not provide free basic education.<sup>7</sup> While poor families may apply for fee exemptions, many parents are unaware of this or struggle with the procedures.
10. Secondary costs, such as hostel accommodation and transport, impact poor households. Constant underfunding, no norms regulating post provisioning and inadequate budgeting unreasonably shifts the burden of costs to parents, and schools have to cut costs, services and posts in order to survive. This has a negative impact on schools’ ability to provide quality education and care for children with disabilities.<sup>8</sup>
11. We commend the Department and Treasury on the recent allocation of a Conditional Grant to support 8000 learners with Profound Intellectual Disabilities. It has the potential to make a significant difference to the education and development of these learners. This is as a result of a high court judgement against the Department in the Western Cape Forum for intellectual disabilities v Department of Basic Education case.

#### **Lack of disaggregated data / inadequate monitoring and reporting**

12. GOSA’s planning provides few benchmarks or adequately defined indicators to ensure appropriate monitoring of inclusive education – quantitative or qualitative. We acknowledge that a Technical Task Team has been established comprising data and research specialists from the DBE, DSD, the Departments of Home Affairs, Health, Higher Education and Training

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<sup>5</sup> CRPD, General Comment No. 4: Article 24, the Right to Inclusive Education (2 September 2016) at paragraph 27.

<sup>6</sup> Press statement by the Department of Basic Education in response to response to the civil society alternative report, 2 April 2017

<sup>7</sup> Human Rights Watch, *Complicit in Exclusion* (2015), p. 24, fn. 80

<sup>8</sup> SECTION27’s *Left in the Dark* report notes that special schools for visually impaired learners complain about the lack of funds in an environment where independent audits estimate that the average cost of schooling per learner per year is R89 000. Some schools for visually impaired learners go without electricity for months because of lack of funds, and schools are “compelled to choose between which expenses to cut”. Though underfunding is a problem for all schools it is particularly inhibiting for schools in which expensive assistive devices and materials need to be procured and additional specialist teaching and non-teaching staff members must be hired.

and the South African Social Security Agency (SASSA), to strengthen and expand the Memorandum of Understanding on the integrated learner tracking system with a focus on tracking out-of-school vulnerable children and those with disabilities.

13. Regular reporting through data and statistics provides a mechanism for accountability and monitoring. GOSA's inadequate monitoring and reporting is directly linked to poor data collection and analysis, and reflects GOSA's lack of political will around this issue.

### **Meaningful participation**

14. Despite claims by GOSA in paragraph 206 that 96% (CSOs dispute this figure which conflicts with GOSA's other data) of learners with disabilities of school-going age are attending school, the report fails to adequately highlight the poor quality of education that the majority of learners with disabilities receive in both special and ordinary schools.
15. GOSA has interpreted accessibility narrowly as referring to physical access rather than meaningful participation in learning. It does, however, acknowledge that a large percentage of learners with disabilities are unable to access the curriculum effectively.
16. Whilst there is reporting on the establishment of full service schools and district-based support teams in all provinces, the mere designation of full service schools does not reflect the underlying exclusion from meaningful participation that is a reality for learners with disabilities in these schools.

### **Learners with Visual Impairment (VI)**

17. The CAPS curriculum was introduced in 2012, yet by 2015, 17 out of 22 special schools for learners with VI reported not having received a single textbook, workbook or teacher's guide for the CAPS curriculum in braille, and only 150 of the more than 600 CAPS textbooks had been adapted into braille.<sup>9</sup> This is in direct violation of the Supreme Court of Appeal's ruling that each learner has a right to a textbook for each subject at the start of the academic year.<sup>10</sup>
18. Key subjects such as mathematics and physical science are not offered by most special schools for visually impaired learners. Career and higher education options for learners with VI are limited as a consequence.

### **Deaf learners**

19. There remains a critical lack of advanced South African Sign Language (SASL) skills in schools for the deaf. Despite the fact that 859 of the 1,332 teachers in schools for deaf learners have received in-service SASL tuition, only 92 are qualified to teach in SASL. This suggests very

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<sup>9</sup> The DBE established a Braille Advisory Committee in 2016. The Committee has not met and does not have a mandate.

<sup>10</sup> *Minister of Basic Education v Basic Education for All* (20793/2014) [2015] ZASCA 198; [2016] 1 All SA 369 (SCA); 2016 (4) SA 63 (SCA)

limited proficiency of the remaining teachers teaching deaf learners.<sup>11</sup> This lies at the heart of the poor educational attainment of deaf learners.

#### **Inadequate teacher development**

20. We acknowledge the response by the DBE that more than 28 139 teachers from 3 711 schools and 1 444 officials in all 81 districts have attended the SIAS orientation programmes. We appreciate the Department naming this as orientation and not training or skills development, as it has only been carried out over five days and includes curriculum differentiation, a skill in which very few teachers in South Africa have been adequately trained.
21. We also commend government for the inclusion of a “cross-section of officials from Inclusive Education, Curriculum, Assessment and Education Management and Governance”<sup>12</sup> in the orientation.
22. The claims by GOSA that inclusive teaching content was included in nationwide NCS training of educators in 2011, is overstated. This add-on to NCS training was either not done at all in some provinces, or only briefly mentioned in others. This cannot be reported by GOSA as adequate skills development of educators.
23. There are no professional qualifications specifically for teaching children with intellectual and visual impairment, autism, or severe and complex support needs.
24. There is no professional category, qualification or training for teacher assistants. Little, if any, training is provided for class assistants and district and provincial personnel.
25. There is a severe shortage of educators with advanced braille skills – a brief introductory training in uncontracted braille is at times mistakenly portrayed as braille proficiency.

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<sup>11</sup> Question 1776 (NW214tE) by Ms H S Boshoff (DA). Date of Publication of Internal Question Paper: 26/09/2014.

<sup>12</sup> Press statement by the Department of Basic Education in response to response to the civil society alternative report, 2 April 2017