

R2E CWD

National Campaign to Promote the Right to Education of Children with Disabilities

Submission to the Parliamentary Portfolio Committee and Select Committee on Women Children
and People with Disabilities on the implementation of the UN Convention on the Rights of Persons
with Disabilities

17 July 2012

1. Introduction

The R2E CWD is a National Campaign comprising a number of Civil Society Organisations which promotes the right to education for children with disabilities.

This submission refers in particular to the implementation of Article 24 of the UN Convention on the Rights of Persons with Disabilities (UNCRPD). We acknowledge that Article 24 cannot be viewed in isolation from other Articles of the convention which impact the lives of children with disabilities and their rights to access quality education, including but not limited to the following:

- Article 5 (Equality and Non-discrimination),
- Article 7 (Children with Disabilities),
- Article 8 (Awareness Raising),
- Article 9 (Accessibility).

Whilst Article 24 speaks of persons with disabilities and their right to education more broadly, the R2E CWD Campaign focuses on the educational rights of children with disabilities.

Article 24 envisages access to an education for persons with disabilities which promotes:

- the full development of human potential, sense of dignity and self worth,
- the development of personality, talents and creativity as well as mental and physical capabilities to their fullest potential
- enabling persons with disabilities to participate effectively in a free society.

2. Progress made in terms of the implementation of Article 24

Whilst White Paper 6 (the policy outlining an Inclusive education system in South Africa) was adopted in 2001 many of the provisions of Article 24 can be found within this policy document. This policy sets out a 20 year plan for the roll out of an Inclusive Education system. **Please note:** Whilst White Paper 6 makes provision for the increased capacity of the general education system to accommodate wider diversity it does not in fact support the goal of full inclusion.

Progress made to date in terms of the provisions of both White Paper 6 and Article 24 include:

- The establishment of approximately 500 Full Service (model inclusive) Schools across the Country. The aim of these schools is to accommodate learners requiring low to moderate levels of support needs.
- An increase in the number of learners with disabilities who have been included in ordinary public schools
- The introduction of the Screening, Identification, Assessment and Support Strategy (SIAS) to co-ordinate and guide the provision of support for learners with special needs. The SIAS strategy is in line with the provisions of Article 24 2(d) and (e). In particular the Individual Support Plan (ISP) process outlined in the strategy speaks directly to Article 24 2 (e) of the Convention.

- In response to the *Western Cape Forum for Intellectual Disability v The Government of South Africa and The Government of the Western Cape* court case ruling, the Western Cape Department of Education has established a multi-disciplinary task team to investigate the educational support needs of children with severe intellectual disabilities.
- There are many examples of good inclusive practice happening in many schools around the country. These schools are responsive to the needs of the children in their communities and make the effort to include and support all learners.

3. Challenges to the implementation of Article 24

There are many challenges to the effective implementation of both White Paper 6 and Article 24 provisions relating to the provision of quality education for children with disabilities in South Africa.

Specifically in response to Article 24 the following challenges to compliance are, inter alia:

- **Article 24 2(a)** provision for “free and compulsory primary education” – the South African Schools Act does make the provision that no child may be refused admission to a school on the grounds that his/her parents are unable to afford to pay school fees. In addition a family receiving a Social Grant is exempt from the payment of school fees.

There is wide provincial variance as far as the allocation of funding for special schools is concerned with no national funding standard which applies uniformly.

In addition, the costs of school uniforms, stationery, extra mural costs and learning materials make schooling unaffordable for many. The recent Stats SA Household Survey Results of 2012 indicate that 35.9% of people aged 7 – 24 that were not attending an education institution were not doing so because they could not afford to.

Furthermore, transport costs for children in South Africa accessing special schools is prohibitively expensive as special schools are often far from home. In general the provision of accessible public transport for children with disabilities to attend school is unacceptably poor and the costs of private transport too high. Findings of the Strasburg, Meny-Gibent and Russel study of 2012 show that 50% of participating households that paid for transport paid more than R250 per month and that this had caused some learners to drop out of school or to be absent frequently.

In light of this, it would be fair to say that whilst a child may not be excluded from attending school due to an inability to pay school fees, the Stat does not in fact offer free schooling as envisaged by the requirements of Article 24 2 (a).

With regard to the requirement for **compulsory primary school attendance**, the South African Schools Act s3(2) provides that the Minister must, by notice in the Government Gazette, determine the ages of compulsory attendance at school for learners with special education needs. Despite the fact that this Act was promulgated in 1996 this has still not been done.

Recent statistics show that only 4-5% of children with disabilities attend ECD facilities (Department of Basic Education's analysis of 2010 General Household Survey, 2012). This has direct and serious consequences for a child's opportunity for continuing on to access primary education.

The Department of Basic Education estimates that as many as 480 000 children with disabilities of school-going age are out of school. This is a 70% increase on the 280 000 of out of school children with disabilities estimated in White paper 6 in 2001. Whilst statistics show high percentages of children generally accessing schooling in South Africa, a disproportionately high number of children with disabilities make up the percentage of those children who are excluded from accessing basic education.

- **Article 24 2 (b)** provides "Persons with disability can access an inclusive quality and free primary and secondary education on an equal basis with others in the communities in which they live" – Firstly, with regards to the concept of "quality" education, whilst the provision of quality education forms part of the strategic objectives of Government this concept has not been adequately defined. This has particular relevance for children with disabilities as the quality of education which they are receiving falls far below a generally accepted quality standard and is certainly not on an "equal basis with others in the communities in which they live".

Accessing quality education on an equal basis with others also directly relates to the provisions of **Article 24 2 (d)** which speaks to ensuring children with disabilities access support required within the general education system to facilitate effective education.

The SIAS strategy, as mentioned above, has been in the process of review for the last 2 years. The initial strategy was recognised as placing too great an administrative burden on educators and the need to simplify the strategy was identified. The fact that this has taken so long is unacceptable and results in non-compliance with the provisions of this sub Article. This also relates to the provisions in **Article 24 2 (e)**

"Equality" for children with disabilities in this Article refers to children being able to learn on a substantively equal footing with their peers and relates to **Article 24 2 (c)** which provides for "Reasonable accommodation of the individual's requirements". Schools in general do not provide these reasonable accommodations as standard practice and as a result children with disabilities do not in fact learn on an equal basis with their peers.

- **Article 24 3 (a) & (c)** relate to the provision for braille and other forms of augmentative and alternative modes of communication (AAC). In many special schools and virtually all ordinary public schools, the considerable absence of provision of materials, teaching and support in braille or using AAC clearly points to non-compliance with this sub article.

The same can be said of **Article 24 3 (b)** where sign language has yet to be recognised as an official language of instruction and where teachers are not trained in sign language to teach deaf learners. This results in deaf learners exiting the education system functionally illiterate.

- **Article 24 4** places an obligation on State Parties to ensure the employment of qualified, trained teachers who are equipped with skills and language necessary to teach learners with disabilities effectively. The inability of Government to effectively roll out an in-service training system has hampered the co-ordination of standardised and monitored in-service training of teachers.

Until recently teachers studying their pre-service qualifications were not exposed to content on inclusive education strategies (in many Universities inclusive education content is still not offered), hence the need for this to become prioritised training in-service.

The South African Council of Educators (SACE), has been tasked with the implementation of a Continuous Professional Development (CPD) system for educators to improve their skills in-service but this has been plagued with delays and a national roll out is far from being realised.

Furthermore, specialised training in braille, sign language or other forms of AAC is still not a requirement for teachers teaching children with disabilities in special schools in particular. This results in poor communication and teaching for children with disabilities.

4. Recommendations of methods to assist the implementation of Article 24

Compliance with the convention and commitment to the implementation of White Paper 6 needs to be given greater priority. Goals to achieve this should be given greater prominence in the Department of Basic Education's Strategic and Action Plans.

Structures, processes and strategies such as SIAS, the CPD Point System to be implemented by SACE, etc. if operating effectively should be useful tools for aiding compliance with Article 24.

Oversight, which holds the Department of Basic Education accountable for these structures, etc. is essential.

Parliament should adopt effective and pro-active oversight measures on the Department of Basic Education to ensure compliance with both national policy and the UN CRPD Article 24 provision.