



## **SUMMARY OF KEY OBSERVATIONS EMANATING FROM THE DRAFT PERIODIC UNCRC COUNTRY REPORT**

### **1. CHILD PROTECTION MATTERS**

There were various child protection matters that emanated from the draft country report worth noting. I grouped them into the following sub-headings: services for children who suffer from violence, the court system and the child protection register.

#### **1.1 Services for children who suffer from violence**

The draft country report mentions the advances made in relation to child and youth care centres and alternative care for children who enter the child protection system. However, there is nothing mentioned in relation to secondary forms of violence that children might suffer from. In these instances the effects of domestic violence on children was not explored. Shelters for women who suffer from domestic violence hardly have the capacity to provide programmes and services for children as well, and it would be within the mandate of the Department of Social Development to address this.

Children who are placed in child and youth care centres are placed there only for a certain period of time. Heading 5.4 (on page 42 of the report) is entitled family reunification. This section explains the process taken within law and policy regarding the reunification of children who might have been placed within CYCCs. However, it does not give statistics or explains the situation of children who:

1. Have been placed in CYCCs; and
2. Have completed placement in CYCCs and reunified with his/ her family.

Paragraph 190 speaks to the prohibition of corporal punishment in institutions and schools. Tables 21 and 22 paint a bleak picture of the practice of corporal punishment within schools, despite the prohibition. During 2011, 2 103 677 children reported corporal punishment within schools. This is concerning. With that, the report does not highlight the numbers of children in other institutions that might have been subjected to corporal punishment. In this regard, institutions such as drug-rehabilitation centres and initiation schools where the levels of violence is usually high.

Non-governmental organisations provide a vital service for children who are in need of care and protection. However, multiple organisations have raised the fact that the funding model of the Department of Social Development currently in place does not address the funding needs for organisations to provide these services. It is important to highlight this in the report, as NGOs delivering welfare services to children are currently not fully funded by the Department of Social Development, but expected to provide full services for children in need of care and protection.



### Questions for consideration:

- Does the Department of Social Development have any plans/ strategies in place to ensure that shelters for victims of domestic violence are also equipped to address any psycho-social programmes for children who are secondary victims of domestic violence?
- Does the Department of Social Development have any statistics of children who are placed in Child & Youth Care Centres and then reunified with family members? What is the success rate of such reunification?
- What monitoring mechanisms have been put in place to ensure that children follow a process when placed in alternative care and, if in their best interest are reunified with their family?
- What is the situation with regards to corporal punishment of children in other institutions (apart from schools) such as Centres for Drug Rehabilitation?
- Does the Department of Social Development have a plan in place to increase funding to essential NGOs delivering services for children in need of care and protection?
- What governance structures are in place to ensure that the funding provided to NGOs are spent on the correct purpose of providing services to children in need of care and protection?

## 1.2 The court system

The report mentions the various courts established that are child friendly. In this regard, the Children's Act establishes the Children's Court – for children who find themselves within the child protection system and the Child Justice Act establishes the Child Justice Court – for children who have allegedly committed offences.

However, the report does not mention the advances made with regards to the treatment of child victims and witnesses within the general court system. In other words, if a child was a victim of rape, what special court procedures are in place to ensure that such child is protected? Both the Criminal Procedure Act and the Sexual Offences Act of 2008 makes provision for such levels of protection. In this regard, children should testify by way of intermediaries with CCTV cameras and such proceedings should be *in camera*. The report makes no mention of these advances in South Africa, despite it complying with the United Nations Guidelines on the Treatment of Victims and Witnesses.



#### **Question for consideration:**

- Why is little written on the special court procedures in place to ensure the protection of children as victims and witnesses in the justice system? If South Africa complies with the UN Guidelines on the Treatment of Victims and Witnesses, then surely this should be mentioned in the country report on the implementation of the Convention on the Rights of the Child?

### **1.3 The Child Protection Register**

Section 111 of the Children's Act mandates the Director-General of the Department of Social Development to keep and maintain a child protection register. The point of this register is to record the names and details of children who were abused or neglected and perpetrators of such abuse or neglect.

The statistics in tables 29 and 30 are sourced from the child protection register. These statistics do not provide an accurate list of the number of children neglected and ill treated, as the child protection register is not completely updated. Therefore, the statistics are somewhat misleading.

#### **Questions for consideration**

- Are there more accurate statistics available on the amount of children in that enter the child protection system, because they were either abused or neglected?
- Why are we only successfully reintegrating only, on average, 4 000 children per financial, when we are aware that many more children enter the child protection system?

## **2. SOCIAL SECURITY**

The draft Country Report on the implementation of the CRC highlights the importance of the Child Support Grant (currently at R280 per month) in alleviating the worst forms of child poverty. It should also be noted that this grant is the smallest of all the social grants available to children.

In their presentation to the Portfolio Committee on Women, Children and People with Disabilities, the Children's Institute at the University of Cape Town provided evidence that normally the larger grants for children have the biggest impact in their lives. This was so despite the fact that more children are the recipients of the Child Support Grant, than any other grant.



The Foster Care Grant contains a much larger amount (currently at R770 per month). The Children's Institute found that over 1 million maternal and double orphans live with relatives in poverty and in need of an adequate grant. However, only 460 000 orphans are currently the beneficiaries of this grant. A court order is needed to access this grant, which, based on the current backlog in courts, is time consuming and difficult to get. Therefore children, who might qualify for this larger grant, are not receiving it and can only access the Child Support Grant. This amounts to a level of inequality in the provision of grants to children in the same circumstances.

The Department of Social Development has proposed a reform of the Child Support Grant that would provide an increase in amount that children currently receive with this grant, who might be orphaned and living with relatives – without obtaining a court order. This is a welcomed initiative and the draft Country Report on the implementation of the CRC should mention this.

**Question for consideration:**

- What would the next steps be for the Department of Social Development to expand the Child Support Grant to ensure that all children who might be somehow orphaned receive the necessary financial assistance to alleviate any form of poverty that they might experience?

### **3. EDUCATION**

Part 7 of the draft County Report deals with the implementation of the right to education for children in South Africa. This part of the report records the work done in the education sector. It also acknowledges the challenges that the Department of Basic Education currently face, such as teacher absenteeism. This section will briefly highlight the following points to note with regards to education:

- School building infrastructure
- Learner pregnancy
- Access to education for children with disabilities

#### **3.1 School building infrastructure**

The report could highlight more developments made with regards to the replacing of so called "mud schools". The Department of Basic Education in this regard committed to spending R8.2 billion over the medium term expenditure framework to replace such structures. With that, the report should also mention that the Department of Basic Education is in the process of working towards the completion of regulations on school infrastructure, which provincial Departments of Education have a duty to comply with.



### 3.2 Learner pregnancy

The lack of national policy on learner pregnancy has led to school governing bodies setting their own policies with regards to what would happen if a learner falls pregnant. This meant that different standards and policies applied to different schools, which in the end might infringe on a child's right to basic education in terms of the CRC and the Constitution.

The draft Country Report (on page 69) suggest that the State is providing clear guidance on this, which is misleading, as a case (based on two different schools) was recently heard in the Constitutional Court where the policies differed. The question in this regard would be, when would the national policy or regulations be issued on this?

### 3.3 Access to education for children with disabilities

The draft Country Report highlights the challenge in the exclusion of learners with disabilities from the education system. Tables 33 and 34 provide one with an overview of the amount of children with disabilities currently attending schools in mainstream and special schools. However, the draft Country Report on the implementation of the United Nations Convention on the Rights to Persons with Disabilities highlights that approximately 480 000 children with disabilities are currently out of school. The draft CRC report does not mention any plans on how the State plans to address this violation of the right to education by way of implementing the national policy on this, being White Paper 6 on inclusive education.

#### Questions for consideration:

- In taking the replacement of so-called "mud schools" into account, what goals are set to ensure that the Department of Basic Education progressively build proper structures to ensure that children receive education in an environment conducive to teaching and learning? This is vital in holding the Department of Basic Education account to the provision of quality education in South Africa.
- Based on the recent matter relating to learner pregnancy heard by the Constitutional Court during last week (on 5 March 2013), does the Department of Basic Education plan to put any guidelines or policies in place on this matter? A national policy is needed on this to ensure that learners' right to basic education (as found within the CRC and the Constitution) is not restricted too much in these circumstances; based on a particular school that they might be attending.
- Why is there an anomaly in the manner in which the Department of Women, Children and People with Disabilities report on access to education for children with disabilities? If the draft, initial Country Report on the United Nations Convention on the Rights of Persons with Disabilities reports the amount of children with disabilities of school-going age that are not in school, why isn't this draft report not mentioning this? It is important to mention both the



amount of children with disabilities who are currently attending school and the amount of children who are not.

- How does the Department of Basic Education plan to ensure the full implementation of White Paper 6 on inclusive education, if the measures mentioned in paragraph 279 of the draft CRC Report does not address the implementation of White Paper 6?

#### **4. OVERALL MATTERS**

The annexures – especially the tables with statistics need to be marked more clearly. The draft Country Report covers all sections of the UNCRC and complies with the required format. However the statistics are problematic as they are not disaggregated and have no set standard year format. In some instances, statistics are even missing. The budget allocations mentioned are for the entire departments and not specifically allocated towards children – therefore disaggregation is needed in this regard.