



ARC-CRSA Alternate Report Coalition – Children's Rights South Africa

Key messages

September 2016

Key messages overview

1. Child poverty is serious and inequality is deepening, the children who are most marginalised and should be prioritised for services continue to be excluded.
2. South Africa is failing to provide political leadership on children's rights.
3. South Africa has not created an overall children's budget, this is linked to persistent failures in resourcing and spending on children's rights.
4. Weak and inconsistent data bedevils planning to realise children's rights.
5. South Africa's education system is unequal and the quality of education is extremely weak.
6. South Africa's health system remains unequal and the rate of child malnutrition is unacceptably high.
7. Violence against children is at alarming levels, yet the child protection system continues to seriously fail children.
8. The administrative burden of processing high numbers of foster care grants is debilitating the child protection system.
9. Marginalisation, discrimination and exclusion of certain children is deepening, this is especially problematic with regard to children with disabilities and migrant, asylum seeking and refugee children.
10. Barriers to birth registration affect access to services for the most vulnerable children and have a particularly serious impact on foreign migrant children.

The ARC-CRSA reference group includes the following organisations:

Centre for Child Law, University of Pretoria; Children's Institute, University of Cape Town; Childline South Africa; Community Paediatrics, University of the Witwatersrand; Dullah Omar Institute, University of the Western Cape; Equal Education Law Centre; Lawyers for Human Rights; Legal Resources Centre; Resources Aimed at the Prevention of Child Abuse and Neglect; Save the Children South Africa; and Sonke Gender Justice

1. Child poverty is serious and inequality is deepening, the children who are most marginalised and should be prioritised for services continue to be excluded

The Government report claim that poverty is declining, creates an inaccurate impression of the situation of poverty and inequality in South Africa. Nearly 56% of children live in poverty, and 32% of all children live in households where there is no employed adult;ⁱ 43% of female-headed households do not include a single employed person.ⁱⁱ South Africa is a deeply unequal society; despite a decrease in absolute income poverty, income inequality has increased.ⁱⁱⁱ The country has one of the highest global Gini coefficients, at 0.68, and progress in addressing inequality has been weak.^{iv} Although South Africa is a middle-income country, resources are unevenly distributed and while some children thrive, the majority face serious challenges.

2. South Africa is not providing senior political leadership on children's rights

Over the past decade, political leadership on children's rights has waned. Institutional arrangements for leadership are poor, and linked to this, planning, monitoring and accountability systems are weak or ignored. Although designated as the 'lead department' the Department of Social Development is not the appropriate department to exercise leadership or authority over the range of departments responsible for delivery on children's rights (such as education, health, justice etc.).

The South African Government should increase the role of the Presidency through integrating structures to provide systemic leadership on the delivery of children's rights. This may include establishing a Department of Children within the Presidency and enhancing structures for children's rights within the Department of Planning Monitoring and Evaluation.

3. South Africa has not created an overall children's budget, this is linked to persistent failures in resourcing and spending on children's rights

South Africa's relatively strong legislative framework for children's rights is undermined by persistently questionable budgeting priorities and in cases where resources are allocated, poor management of expenditure. Added to this, a lack of credible data bedevils budgeting processes across departments. Spending on some critical areas such as early childhood development and social security is positive, however this doesn't address the serious problems in education or healthcare spending, nor in the lack of sufficient allocations to child protection services or prevention programmes for example.

The billions of rands spent on the 2010 FIFA World Cup and on the arms deal are two better-known examples of strongly contested budget and expenditure priorities.¹ Further there are a range of government expenses and budget decisions that could be allocated to provisioning children's rights. These include fruitless and wasteful expenditure and irregular expenditure (including corruption), which amounts to billions of rands every year.² It also includes millions of rands that are spent annually on costs such as paying salaries for protracted periods to officials who have been suspended but their cases not finalised, to paying rental on unpaid property, duplicating services, legal costs, and consultant services to name but a few.

The South African government must commit to on-going and participatory children's budgeting processes across all departments, led by the National Treasury.

4. Weak and inconsistent data bedevils planning to realise children's rights

Much of the data needed to fully understand the realities facing children are not available, partly because disaggregated information is not collected or made available and also because systems for regular effective data collection are weak. This means that planning, budgeting, monitoring or evaluation are not based on reliable information and contributes to children not accessing services.

¹ Equal Education (undated) *15 Ways to pay for decent schools. The norms and standards for school infrastructure are affordable if government collects sufficient revenue and does not waste it.* Accessed at: <http://www.equaleducation.org.za/file/2015-02-23-15-ways-to-pay-for-decent-schools>

² Equal Education (undated) *ibid*

5. South Africa's education system is unequal and the quality of education is extremely weak

The poor state of delivery on education in South Africa is serious. Although much progress has been made in respect of education for some children, the education system is profoundly unequal and this inequality appears to be deepening over time. Commentators describe South Africa's education system as "dual"; with a much larger, ailing system servicing 75-80% of learners and a smaller better one catering for the wealthier 20-25%.³ Both national and some provincial departments consistently overspend in less critical areas, and underspend in areas where effective and full spending is absolutely necessary such as on school infrastructure with many schools continuing to operate without electricity, with no or unreliable water supply, and don't have any toilets or are dependent on pit-latrines.⁴

South Africa has high levels of drop-outs, matric pass rates must be measured against the fact that almost half of learners who start school do not complete matric. The quality of education provision is drastically unequal, mainly disadvantaging poor, and mostly black South African learners. In the 2013 school year, 1 407 schools were labelled as 'underperforming' due to having matric pass rates of below 60%; 86% of these schools are the poorest and most under-resourced.

The South African Government must continue to increase the allocation to the basic education budget, emphasising allocations to address the deep inequality in the education system, it must urgently take all necessary measures to effectively address mismanagement and corruption in the the national and provincial departments. The current education post provisioning model must be replaced with a pro-poor one and the government must pay increased policy attention to addressing the poor quality of learning and learner retention.

6. South Africa's health system remains unequal and rates of child malnutrition are unacceptably high

Despite government's commitment to universal coverage of health care, there is little evidence of progress. Child and adolescent health remains compromised by unequal access, poor coverage of key prevention programmes, poor quality of care, and a failure to explicitly acknowledge children's needs in national core standards and the National Health Insurance White Paper. Government's failure to define a package of health care services for children makes it extremely difficult to hold government accountable, safeguard children's right to basic health care services, and ensure that children receive their fair share of resources.

The department of Health must as a matter of priority, to design an Essential Package of Care that outlines a package of essential services for children from birth through to adolescence, with strong emphasis on prevention and promotion. This should specify norms and minimum standards for child health services, staffing and resource needs and include an implementation strategy with clear targets and a dedicated budget in order to enhance planning and accountability.

While the South African Government has made some progress in reducing Severe Acute Malnutrition case fatality rates, the rates remain nearly double the WHO target of 5%. A third of children (31%) who died in hospital in South Africa in 2013 were severely malnourished; a quarter of children in the country are stunted (an indicator of chronic malnutrition); and one in four households experience hunger with a further quarter at risk of hunger. Growth promoting activities are mostly restricted to weighing and plotting children, with no systematic effort at supporting hungry or malnourished children, unless they require hospitalisation. In spite of the measures taken to promote breastfeeding, exclusive breastfeeding rates remain low.

The South African government must commit to a national integrated food strategy to address child hunger; and ensure that undernourished children are offered food and/or food supplements. Greater effort is needed to support sustained breastfeeding, and enforce regulations to prohibit the marketing of breast milk substitutes. Addressing barriers to accessing the child support grant is an important element of a strategy to address child hunger and malnutrition.

³ South Africa's Education Crisis: The quality of education in South Africa 1994 – 2011; Nicholas Spaull, October 2013, *Report Commissioned by Centre for Development and Enterprise*.

⁴ <http://www.equaleducation.org.za/content/2013/10/15/2013-10-11-EE-comment-on-September-2013-norms-draft-regs-FINAL.pdf> as at, 23 February 2014.

7. Rates of violence against children are alarmingly high, yet the child protection system continues to seriously fail children

South Africa has high levels of interpersonal, community and sexual violence, to the extent that violence against children has been 'normalised'. The 2015 Optimus national prevalence study established that 20% of children report an experience of sexual abuse before the age of 18.^v A national study on child homicide shows conclusively that children under-5 are at increased risk of being killed in the home due to fatal child abuse. Marginalised children (e.g. children with disabilities and children in rural areas) are even more vulnerable to violence.^{vi} Children with disabilities are at increased risk of sexual abuse and neglect in Gauteng and it is likely to be similar in all parts of the country.^{vii}

Numerous reports of violence against children perpetuated through certain harmful customary practices are reported. Anecdotal evidence suggests that girls and boys, in some instances as young as 12 years are subjected to practices such as forced marriage, illegal circumcision and virginity testing without their consent. From June 2001 to December 2006, one provincial Health Department recorded 208 deaths and 115 mutilations out of 2,262 hospital admissions due to initiation practices.^{viii} A 2014 report revealed that despite the high number of deaths and injuries, only 11 people had been convicted.^{ix}

A child death review pilot highlighted the need to strengthen the policy framework for child protection as children are dying due to an overburdened system; however, the challenges to appropriate implementation of law and policy remain obdurate and serious. The relatively solid legal frameworks to address child protection and the criminal justice system have not contributed to prevention or increased protections to children, and require urgent budget and programmatic interventions. Programmes that have been introduced are rarely evidence-based or reach the children who require them most. Prevalence of violence seems to be little affected and unequal access to child protection and criminal justice services persists. A conviction rate study in 2000 found a conviction rate of 7%,^x compared with analysis of more recent data provided by the SAPS and the National Prosecuting Authority reveals that the conviction rate in 2013 was unchanged at 7%.^{xi} The failure to legislate the prohibition of corporal punishment in the home and properly implement it in the education system exacerbates the vulnerability of all children to violence, but especially marginalised children, such as children with disabilities and poor children. Finally the institution of two (poorly implemented) registers is an example of poor policy decision that effectively wastes resources without having the desired impact of increasing protection to children.

8. The administrative burden of processing high numbers of foster care grants is debilitating the child protection system

The current arrangements relating to foster care are highly problematic, impacting in two significant ways. Firstly, classic foster care has proven to be an ineffective way of delivering social grants and services to South Africa's uniquely large number of orphans. The formal foster care system has been over-utilised to deliver social assistance to relatives caring for orphans, and yet there are 1.4 million orphans still to be reached. The system is in a state of collapse and is being supported through a court order that provides a temporary administrative solution. Secondly, the reliance of the foster care system for orphan care by relatives is placing inordinate strain on the already compromised care and protection system, and leaving children who are abused or neglected (or at risk thereof) without adequate services.

9. Marginalisation, discrimination and exclusion of certain children is deepening, this is especially problematic regarding children with disabilities and migrant, asylum seeking and refugee children

In addition to the broad social inequality addressed in point one, some children face greater discrimination than others. Children who are particularly excluded, marginalised or discriminated against include: black children; children living in poverty; working class children; children with disabilities; migrant children; rural children; orphaned children; children living and working on the street; children in conflict with the law; and lesbian, gay, bisexual, transgender and intersex (LGBTI) children. Intersections between these compound the discriminations they face. Children with disabilities and migrant, asylum seeking and refugee children in South Africa face multiple systemic discriminations. Both of these groups of children face especially serious barriers to healthcare, education, child protection and criminal justice support amongst others.

Inter-departmental collaboration and integration of services for children with disabilities is poor to non-existent and must be prioritised by the South African government. The lack of access to health, ECD, education and social security rights for children with disabilities as well as the levels of violence committed against them is a serious concern. The absence of information disaggregated for children with disabilities renders them invisible and masks the disproportionate extent to which they are excluded from services and severely impedes effective planning and budgeting to enable the full inclusion of children with disabilities in South African society. The barriers faced by children with disabilities in rural areas are profound.

African migrant children who are displaced in their countries of origin due to persecution, generalised violence or abject poverty are unquestionably marginalised in South Africa. Refugee and asylum-seeking children, whether unaccompanied or accompanied by their parents or caregivers experience serious hardships primarily as a result of the poor implementation of law and policy.

10. Barriers to birth registration affect access to services for the most vulnerable children and have a particularly serious impact on foreign migrant children.

Birth certificates and identity documents are critical in the South African context as denial of these can result in a denial of a range of other rights, such as education, social grants and health care. Vulnerable groups of children (rural children, those living with extended family, orphans, and children of foreign national parents) continue to face problems in accessing birth registration. Two self-reporting surveys reveal a significant number of unregistered births. Analysis of the 2008 National Income Dynamics Study revealed that 11% of children in South Africa under 3 did not have a birth certificate.^{xii} Analysis of the 2011 General Household Survey produced similar results.^{xiii} 50% of children are only registered after the prescribed period of 30 days—with the percentage being higher in the more rural provinces.^{xiv} Despite this, in March 2014, South Africa put into effect an Amendment to the Births and Deaths Registration Act (No. 18 of 2010) that makes birth registrations after 30 days more difficult to access by imposing additional requirements (in the form of an affidavit) and the payment of a prescribed fee.^{xv}

For a child born to a non-South African to be issued with an unabridged birth certificate (DHA 19), the law requires that a certified copy of the valid passport and/or visa of the mother or father or both must be produced; critically, this process makes birth registration of children born to undocumented or stateless parents impossible.

ⁱ Hall, K, and Sambu W. 2014. Income Poverty, Unemployment and Social Grants in Mathews S, Jamieson L, Lake L & Smith C (eds). 2014. *South African Child Gauge 2014*. Cape Town: Children's Institute, University of Cape Town.

ⁱⁱ Statistics South Africa. 2010. *Social profile of South Africa, 2002–2009*. Pretoria: Statistics South Africa. Available from www.statssa.gov.za/publications/Report-03-19-00/Report-03-19-002009.pdf (accessed 6 March 2013).

ⁱⁱⁱ Sudhanshu S. 2012. Rising inequality in South Africa: Drivers, trends and policy responses. *Consultancy Africa*. www.consultancyafrica.com/index.php?option=com_content&view=article&id=1142:rising-inequality-in-south-africa-drivers-trends-and-policy (accessed 6 March 2013).

^{iv} Finn A & M Leibbrandt. 2013. *Mobility and Inequality in the First Three Waves of NIDS*. SALDRU Working Paper Number 120/ NIDS Discussion Paper 2013/2. Cape Town: SALDRU, University of Cape Town

^v Burton P, Ward C, Artz L & Leoschut L. 2015. *The Optimus Study on Child Abuse, Violence and Neglect in South Africa*. Centre for Justice and Crime Prevention. Cape Town.

^{vi} Hesselink-Louw A, K Booyens and A Neethling. 2003 Disabled children as invisible and forgotten victims of crime. *Acta Criminologica* 16(2) p.165-180.

^{vii} Deroukakis, M. 2010. A retrospective analysis of children with and without disabilities attending the Teddy Bear Clinic, Johannesburg (Master's Dissertation). Johannesburg, South Africa: University of the Witwatersrand

^{viii} Eastern Cape Department of Health. Undated. *Health Statistics: Circumcision Statistics Since June 2001*. Retrieved from www.ecdoh.gov.za/uploads/files/120707095947.pdf.

^{ix} See www.da.org.za/2014/08/119-initiation-deaths-11-presons-convicted/

^x Paschke, R. and Sherwin, H. 2000. *Quantitative research report on sentencing*. Institute of Criminology, University of Cape Town.

^{xi} Townsend L, Waterhouse S, Nomdo C. (2014) 'Court support workers speak out, upholding children's rights in the criminal justice system' *South African Crime Quarterly*

^{xii} Hall K. 2008. *Analysis of the National Income Dynamics Study 2008, Wave 1*. Cape Town: Children's Institute, University of Cape Town.

^{xiii} Hall K. 2011. Analysis of General Household Survey. Cape Town: Children's Institute, University of Cape Town.

^{xiv} Department of Home Affairs data as set out on Pg 74 and 136 of the South African Country Report

^{xv} Proudlock P and Martin P. 2014. Children's rights to birth registration: A review of South Africa's law. In Proudlock P (ed) 2014. *South Africa's Progress in Realising Children's Rights: A Law Review*. Cape Town: Children's Institute, University of Cape Town & Save the Children South Africa. Pg 30