

Children in South Africa

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Children have been at the forefront of concerns regarding human rights violations in South Africa since 1976, when scholars took to the streets in protest against unequal education. Since that time, there have been many reports on the situation of children – first produced by child rights advocacy groups and, in the last decade, produced by both State and civil society institutions. Yet these reports have not been produced on a regular, annual basis; nor has there been any systematic means of tracking advances with child rights over time.

The publication of the *South African Child Gauge* is an attempt by the Children's Institute, University of Cape Town, to report on the situation of children as an annual reminder of the challenges that we, as a country, still face in our efforts to promote and protect child rights.

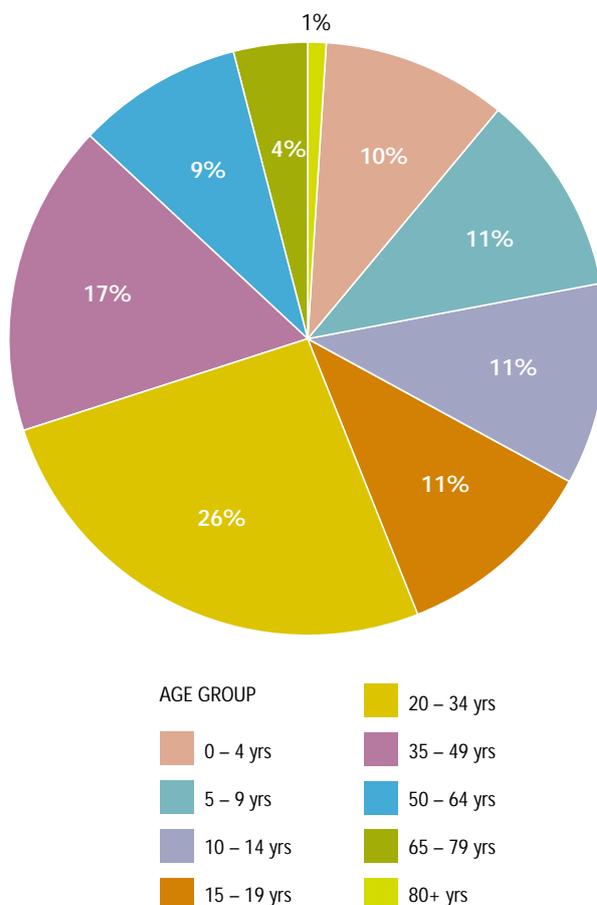
Each year, the *South African Child Gauge* will examine the links between children's reality, South Africa's commitments to child rights, and society's progress in this regard. This will be done through commentary on the country's response to different aspects of the challenge of realising children's rights, and through a set of broad-based indicators aimed at gauging improvements in the situation of children over time. This first issue focuses on children and HIV/AIDS, presented against the backdrop of a narrative and quantitative snapshot of the situation of children in South Africa.

For us at the Children's Institute, the *South African Child Gauge* is our contribution to the nation-wide efforts to advance child rights in South Africa. It is also an expression of our conviction that evidence should guide policy and practice, and should be available to all who are engaged in such efforts.

Children: A national priority

South Africa's Constitution defines children as persons aged less than 18 years. According to the 2001 Census, South Africa has just over 19 million children, making up 43% of the total population. Children thus represent a significant proportion of the country's citizens and therefore constitute a group worthy of special consideration.

Population of South Africa:
Distribution of adults and children in 2001



Source: Statistics South Africa (2003) *Census 2001 database*.

Throughout the apartheid years, children in South Africa carried a large burden of discrimination and violation of their rights to survival, development, protection and participation. In an attempt to address this legacy, children have received priority attention since 1994, and have been made new promises by those charged with bearing duty for them – namely government and civil society.

Duty-bearers: Regarded by the United Nations Convention on the Rights of the Child (CRC) as those organs of the State and civil society – institutions and individuals, including parents and caregivers – with duties and responsibilities for translating the rights in the CRC into tangible benefits in order to make them meaningful.

In its first few years of democratic rule, the new South African government adopted a framework for a comprehensive national plan of action for children, with the principles of the CRC and the Constitution forming the core of this framework. The plan identified all duty-bearers across government and civil society sectors with specific responsibility for ensuring the realisation of child rights.

But despite the adoption of the plan of action by the government, and its wide endorsement by civil society, the plan has yet to be implemented in a comprehensive way. And notwithstanding the foundation of a progressive and child-friendly Constitution, the pace of the legislative and policy reform required for the implementation of the plan has been slow.

“Every child has a right to ... a name and nationality ... care ... basic nutrition, shelter, services ... be protected ... not to work ... not to be detained ... to have a legal practitioner in civil proceedings ... not to be used ... and to be protected in times of armed conflict. A child’s best interests are of paramount importance in every matter concerning the child.”

Section 28, South African Constitution

A decade of progress with promises

Much progress has been made with child rights in South Africa. In compliance with the requirements of the CRC and the Bill of Rights in the Constitution, duty-bearers for child rights in the past decade have moved from promises to action in different ways. The government has initiated a range of child-sensitive legislative reforms, policies and programmes, while civil society has also played an important role in advocacy and action for advancing child rights. A significant civil society contribution has been to restore alliances on advocacy issues through organised responses to legislative reform; through the establishment of non-governmental organisations (NGOs); and through setting up formal and informal networks aimed at complementing the government’s social services for children. In addition, several academic and research initiatives were established to inform interventions for children.

Although the ‘children first’ approach is widely supported in the political arena, this has not been realised in law, in policy, or, especially, in the national budget.

***‘Children first’ or ‘first call for children’:
According to the United Nations World Summit for Children, which took place in 1990, this call represents a political and moral commitment by States and parties to put children first when allocating resources, particularly when it comes to socio-economic rights and children’s basic needs. States and parties must commit themselves to implement the CRC, and in particular its four principles:***

- The right to non-discrimination.
- The right of a child to have his or her best interests taken account of as a primary consideration.
- The right to survival and development.
- The right of the child to have his or her views respected.

Legislation

The government has drafted important legislation in the fields of juvenile justice, social security and health. However, while the social security laws make reference to children, the health laws are almost silent on children's special needs and requirements. In this context, civil society made a strong call for a comprehensive piece of legislation for children – the Children's Bill which, after more than a decade of widespread dialogue and debate, is now reaching finalisation. Paula Proudlock provides a more detailed account of the progress of this important law in *Part 1: Legislative developments 2004 and 2005*.

Policies

While there have been many specific sectoral policy and programme interventions for children, macro-development policies have not always been made in the best interests of children. While the government is committed to addressing the immediate realities of poverty and its consequences, its focus in recent years on the long-term economic development of the country has taken precedence, which has direct implications for child policies and programmes.

On the one hand, the principles of the Reconstruction and Development Programme (RDP) provided a framework for taking action in the interests of children. For example, the recommendations of the 2002 report of the government-appointed Committee of Inquiry into a Comprehensive System of Social Security emphasised a response to poverty through social development measures. These included universal cash grants; a package of services to enable everyone – including children – to live and function in society; strategies to ensure access to food and income generation; and consideration for children and adults with special needs. On the other hand, the macro-economic policy for Growth, Employment and Redistribution (GEAR), which evolved from the RDP, has given greater prominence to strategies towards long-term economic growth, with much less attention to the immediate challenges of addressing the dire situation of children, especially those living in poverty.

Since 1994, many policies in support of child rights have been drafted in the fields of health, education and other basic social services. Interventions by various government departments, such as justice, social development, health, education, sport and recreation, have resulted in the implementation of many child-oriented policies and programmes, such as the Child Support Grant (CSG), free

primary health care, the National School Nutrition Programme and the School Fee Exemption Policy. All these have been well received, while the success of their implementation has been variable across the provinces.

A major achievement in the past decade has been the favourable progress with coverage of some social services for children. In 2005, based on the *General Household Survey 2004*, 67% of eligible children under the age of 14 years are receiving the Child Support Grant. (More detailed information is provided in *Part 3: Children Count – The numbers*). While the CSG helps to provide a minimal means of financial support to children, the fate of the universal Basic Income Grant, recommended as a more pervasive approach to addressing income poverty across the nation, remains in dispute.

Despite the above achievements of greater social security measures for children, children's access to a full range of basic services, as prescribed in the Bill of Rights, remains fraught with problems. The complex bureaucracy involved in accessing basic nutrition, shelter, basic health care services and social services, coupled with inequity in the provision and distribution of such services of quality, constrain the good intentions in support of child rights. And the lack of a clear definition of what such services entail limits the capacity of civil society to make appropriate demands for their constitutional rights.

Failure to locate all child-sensitive policies in a comprehensive rights-based framework has therefore not only resulted in missed opportunities for closer collaboration between government departments, but also between all the duty-bearers – State and civil society – working towards advancing child rights.

The budget

The notion of the 'first call for children' implies that this call should also be reflected in resource distribution. In supporting this notion, the Children's Budget Project of the Institute for Democracy in South Africa (IDASA) is tracking the allocation of monetary resources to children in government budgets, and their advocacy efforts in this regard have extended to countries across the globe, with variable success. In South Africa, this tracking of pro-child budget allocations has proved extremely challenging because of limited available data, and also because of the way in which government budgets are arranged. Despite these constraints, the IDASA project's efforts have demonstrated inequities in the distribution of resources between children and adults, and have highlighted the challenges which countries face in trying to achieve socio-economic rights for children in the spirit of 'children first'.

What progress has been made with advancing child rights?

Right to survival

Children's survival, which is a central right for children, is under threat. According to the Medical Research Council of South Africa, 40% of deaths of children under the age of five years are directly attributable to HIV/AIDS, and common, preventable poverty-related conditions, such as diarrhoea, pneumonia and trauma, remain major child killers.

On the one end of the spectrum of childhood, causes of death of very young children are also related to poor maternal health and inadequate provision of services. On the other end, deaths of older children and adolescents are caused by accidents, homicide and suicide, much of which is related to risk-taking behaviour. Currently the system for collecting and reporting on child deaths is sub-optimal. However, the Children's Institute has initiated research towards hosting a national enquiry into child deaths with a view to developing a systematic approach to this national crisis.

Every child has a right to survival, development, protection, and participation.

Section 28, South African Constitution

Right to development

In the past decade, the government and civil society have achieved much to ensure the child's right to development. For example, the State has committed itself to ensuring access to basic education for all. However, the delivery of quality education remains unfulfilled. And while it is well known that the early years represent the critical period during which stimulation and care of the very young are vital in terms of ensuring their survival, nutrition and development, this area of responsibility falls between several government departments, with no over-arching co-ordinating framework of policies, norms and standards for the provision of education. In this setting, the major responsibility for delivery of early childhood development programmes and services is left in the hands of NGOs and community-based organisations (CBOs), many of which are inadequately resourced.

Right to protection

Children's rights to protection from physical, emotional, social and environmental assaults are still under threat despite some positive developments in this area. For example, South Africa is a world leader in tobacco control, resulting in stringent legislation to protect children from both active and passive forms of smoking. This is one example of the extent to which the right of children to be protected from adverse environmental conditions has been implemented.

Yet children remain vulnerable to other forms of abuse, and the violence pervading South African society manifests in injury and death of children. The Medical Research Council of South Africa has found that injury by firearms or other blunt objects to children under 15 years resulted in 10% of deaths in 2003. Carol Bower, director of the Resources Aimed at the Prevention of Child Abuse and Neglect (RAPCAN), estimates that 400 – 500 thousand children are sexually abused every year (personal communication to the author). This violation of children's rights to protection occurs in a setting of poverty, endemic violence and fragile family dynamics. A lack of safe care for young children and of recreational care for those of school-going age result in children being exposed to preventable injury. And, while corporal punishment in schools has been outlawed, there is no protection for children in their own homes where violence against them is perpetrated by adult caregivers due to inadequate preparation for parenthood and a failure to understand children's developmental needs and capabilities.

Right to participation

So far, children's rights to participation have received least attention globally, although these rights address the very heart of the notion of children's citizenship. The CRC acknowledges a child's evolving developmental capabilities, and also emphasises the child's right to have a voice, to be heard and – most importantly – to be taken seriously.

South Africa has been at the forefront of action regarding children's rights to participation. More than a decade ago, NGOs convened a children's summit where children from across the country expressed their concerns about rights violations and made a series of suggestions for redress. More recently, children were given the opportunity to make presentations in Parliament. (See *Part 2: Heroes in the context of vulnerability: The participation of children in the Children's Bill.*) While these efforts towards greater child participation in decision-making are commendable, the responsibility for

giving children a voice extends all the way from Parliament into the home, where traditional practices, the interpretation of religious texts and power relations often mitigate against the realisation of this right.

Children's realities: The unfinished agenda

Eleven years is a short time in which to reverse the legacy of decades of inequity and uneven distribution of wealth and resources. During this time, several factors in the national and global environments further aggravated the circumstances of children and diluted efforts to address their realities.

The HIV/AIDS pandemic is first among these factors that are standing in the way of the realisation of child rights. This is well illustrated in *Part 2: Children and antiretroviral roll-out: Towards a comprehensive approach*, which reflects on the health needs of children infected with HIV and the related challenges of prevention and treatment. It also shows us that the pandemic extends way beyond infections as it impacts on the vast number of children who are affected by the ill health of their caregivers, whose ability to care for them is compromised. In this setting, roles are reversed as children become caregivers of those sick and dying adults who are normally charged with their care, with serious consequences. The end result is that huge responsibilities are placed on a range of duty-bearers who must make adequate provision for these children's needs while the caregivers are alive, and also after they have died.

Of equal concern is the second major obstacle to the realisation of child rights, which is the on-going income inequality and widespread poverty that prevail in South Africa. Unemployment remains a barrier to the development of all South Africans. Statistics South Africa, in using the expanded definition of unemployment, estimates that 41% of the economically active population were unemployed in 2004. In her paper, *Earnings inequality in South Africa, 1995 – 1998*, Budlender points out the stark racial inequalities in the distribution of individual and household income, with half of all Black individuals living in households with no income, compared to 36% of White individuals. This is confirmed in the *Human Development Report 2005*, published by the United Nations Development Programme, which reports a Gini coefficient of 57.8% in 2003, which indicates an unacceptably high income inequality.

The Gini coefficient reflects the gap between the rich and the poor. It is a measure of income or other forms of inequality, where 0 represents perfect equality and 1 represents perfect inequality. The number is expressed as a percentage.

The impact of poverty is disastrous for children. Statistics for 2004 show that 11,905,147 (66%) children were living in poverty in South Africa, and that this number is increasing. The effect of this on children manifests in malnutrition, poor growth and increased vulnerability to diseases, all of which compromise children's capacity to develop their full potential.

The State has established a number of poverty alleviation strategies aimed at addressing income, household security and access to basic services. The State's intentions for children, complemented by the efforts of NGOs, faith-based organisations (FBOs) and CBOs, are admirable. Yet, despite these measures, there is a long way to go before the socio-economic rights of children who live in poverty are realised.

The road ahead

The promises of the last decade have had many positive impacts on children and much has been achieved, but there is still a long road to the full realisation of their rights. Decades of inequity have left us with a range of child circumstances on which all duty-bearers are obliged to act. Our journey has been paved with good intentions and we have made significant progress in relation to our commitments to children. But there are several factors which will influence both the pace and the direction of future plans and actions, and progress is likely to be slow.

South Africa's entry into the global community has placed an obligation on the country to comply with the requirements of several international treaties, such as the CRC, and with global plans, such as the Millennium Development Goals (MDGs). This has helped to fast track the formal adoption of some of these treaties, such as the CRC, which the government ratified in the first year of democracy. Yet there are also some disadvantages to entering the global community. For example, while the Millennium Development Goals embody a vision linking poverty reduction, development, rights, peace and security, its goals are a technical formulation to address

issues which are fundamentally political. While all of the goals are child-related, they are time bound, not framed in equity-sensitive terms, and emphasise health and development without taking a comprehensive, sector-wide approach to the full spectrum of child rights.

Millennium Development Goals

- **Eradicate extreme poverty and hunger**
- **Achieve universal primary education**
- **Promote gender equality**
- **Reduce child mortality**
- **Improve maternal health**
- **Combat HIV/AIDS, malaria and other diseases**
- **Ensure environmental sustainability**
- **Develop a global partnership for development**

At a national level, the task of redressing decades of economic and social inequity cannot be accomplished overnight. Over the next decade Parliament plans to shift its focus from legislation to increasing opportunities for public participation. This is complemented by the government's commitment to pay greater attention to the implementation of services.

This shift holds tremendous promise for on-the-ground actions in favour of children and provides an even greater opportunity for all duty-bearers to accelerate their efforts to honour the 'first call' for South Africa's children. And, in recognition of children as an important constituency in South African civil society and, with very explicit socio-economic and political rights, it gives children a chance to engage with seats of power to make their voices heard – and be taken seriously.

The *South African Child Gauge* is one channel through which this journey towards the comprehensive realisation of children's rights will be documented in future. It will also serve as a platform for the monitoring of the policy environment and the status of children in terms of their health, living conditions and access to services, and therefore, their dignity.

Sources

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