

Access to and the provision of pre-school education: The trajectory since 1994*

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There can be no keener revelation of a society's soul than the way in which it treats its children
(Nelson Mandela).

1 Introduction

This paper was precipitated by the hypothetical question, 'If you were in charge of education in South Africa today, given the unequal socio-economic circumstances of people in the country in the past, now and probably in the future, and given the unsatisfactory quality of education provided to the overwhelming majority of learners in the country, and given the skills, values and knowledge needs of the country's economy as well as of our society at large, would you prioritise the spending of money on pre-school education and elevate its status to become part of the fundamental right to a basic education?'

The Constitution of South Africa neither explicitly excludes nor includes Early Childhood Education (ECE) (including pre-school education) in section 29(1)(a) which provides that everyone has the right to a basic education, including adult basic education.¹ Section 29(1)(b) provides that everyone has the right to further

*Our thanks are due to Advocate Justus Prinsloo and Professor Jan Nieuwenhuis of the University of Pretoria for their valuable comments.

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¹Constitution of the Republic of South Africa, 1996. Early Childhood Education (and Development) is generally understood as pre-school education as well as the first three years of formal schooling (the so-called foundation phase). In this paper we focus on pre-school education as the foundation phase is unambiguously part of the fundamental right to a basic education and its status as part of the school system is clear in Act 84 of 1996, s 1. (See the definition in the Education White Paper 5 on Early Childhood Development (200 item 1.3).

education, which the state, through reasonable measures, must make progressively available and accessible.

Whether or not the right to a basic education in South Africa includes the right to ECE (specifically pre-school education) has not been the subject of litigation or authoritative legal writing. In their widely used *Bill of Rights handbook*, Currie and De Waal,² for instance, discuss only two facets of education rights namely the right to instruction in the official language of choice and the right to establish private educational institutions.

The South African Schools Act defines a school as a public school or an independent school which enrolls learners in one or more grades from grade R (Reception) to grade 12.³ This would at least suggest that the year prior to when formal primary school education⁴ begins may be part of the fundamental right to 'a basic education'.⁵ The impression that the state treats the provision of ECE as a serious responsibility is confirmed on page 3 of the National Development Plan 2030⁶ which proposes that all children should have access to two years of pre-school in order for the Plan to succeed. In addition, the Human Resource Development Strategy for South Africa (HRD-SA) 2010-2030 formulates its first strategic priority as ensuring universal access to quality early childhood development, commencing from birth up to age four.⁷ However, the fact that state funding of grade R education is not on par with funding for grades 1-9 creates doubts about the state's view of the nature and necessity or desirability of ECE.

None of the above provisions or statements explicitly include pre-school education in the right to basic education. Two main questions will therefore guide this discussion:

- (1) Should or could pre-school education be regarded as a part of the fundamental right of South African children to a basic education; and
- (2) what is the state of pre-school education in the country at the moment?

It goes almost without saying that, in a country with high levels of poverty and large numbers of children coming from deprived or disadvantaged backgrounds, pre-school education can play a very significant role in getting children 'school ready' so that the formal school system from Grade R up can concentrate on its

²*The Bill of Rights handbook* (2005) (5th ed) para 8.4.

³Act 84 of 1996, s 1.

⁴*Ibid.* One can conclude from the definition of 'school' that grade R is in fact part of the formal school system. See also s 12 with regard to the provision of public schools.

⁵If pre-school education is indeed a fundamental right, the state would be forced to regard it as such and give effect to s 7(2) of the Constitution, 1996.

⁶National Planning Commission, 2011.

⁷2009 at 18

main function of getting children 'college ready' and 'career ready'⁸ by equipping them with the necessary knowledge, skills and values (attitudes) instead of having to compensate for the disadvantages with which the majority of children have to contend.

2 Is pre-school education a part of the existing right to basic education?

Section 39 of the Constitution of 1996 provides that –

- (1) When interpreting the Bill of Rights, a court, tribunal or forum –
 - (a) must promote the values that underlie an open and democratic society based on human dignity, equality and freedom;
 - (b) must consider international law; and
 - (c) may consider foreign law.

Since no court or tribunal or forum in South Africa has made a pronouncement on whether or not pre-school education should be regarded as a fundamental right, we will look first to the values underpinning the South African Constitution, then to international law and finally to foreign law (and practice) for guidance. We will look to both legal and educational sources in this regard.

2.1 Constitutional values

Section 1(a) of the Constitution provides that the Republic of South Africa is founded on a number of values including human dignity, the achievement of equality and the advancement of human rights and freedoms. Section 3(2)(a) provides that everyone is equally entitled to the rights, privileges and benefits of citizenship. It seems logical that disadvantaged children cannot enjoy the benefits of the values of dignity and equality without having accessed the quality pre-school education that would allow them at least a chance to start their education on a par with more advantaged children.⁹ Similarly, such children need the benefits of good pre-school education to be able to be ready to enjoy the right to education as set out in section 29 of the Constitution. Moreover, section 9(3) of the Constitution provides that '[t]o promote the achievement of equality, legislative and other measures designed to protect or advance persons, or categories of

⁸The terms 'career ready' or 'college ready' came across very strongly in information provided by, and papers read by officials from the Council of Chief State School Officers (CCSSO), the National Association of Elementary School Principals (NAESP), the US Department of Education and the American Association of School Administrators (AASA) at a policy seminar presented in the National Guard Museum, Washington DC on 2012-06-18 as part of the 8th *International Symposium on Educational Reform* (ISER). The US, too, is grappling with problems regarding the quality of education provided to its learners.

⁹It should be emphasised that this educational principle is taken up as part of the policy directives contained in the National Education Policy Act 27 of 1996 s 4(b).

persons, disadvantaged by unfair discrimination may be taken'. It is now possible to argue that imposing duties on the state regarding pre-school education or even making pre-school education compulsory could fulfil the intention of section 9(3) as given expression in the National Education Policy Act.¹⁰ In the final analysis, it is demonstrably in the child's best interests¹¹ to have access to quality pre-school education and it is the duty of the state to 'respect, protect, promote and fulfil the rights in the Bill of Rights'.¹²

2.1.1 The temptation to ignore pre-school education

Since pre-school education is not explicitly included in the education provision in section 29(1) of the Constitution, it might be expedient for education authorities to ignore it (and other educational needs) and to view basic education simply as 'ordinary education' or special needs education¹³ offered from Grades 1 to 9 in schools. It is certainly tempting to focus one's efforts, money and energy on producing good Grade 12 ('Matric') results (that is 'teaching to the test' irrespective of, and sometimes despite, the quality of the curriculum or the examination which produces the results). Such an approach allows the provision of more choices in the secondary school curriculum in the higher grades and to produce matriculation results that permit political functionaries like the Minister of Basic Education to reflect well in the public eye, not to mention that it minimises spending on education.

A case in point comes from the Western Cape. In the unreported case *Western Cape Forum for Intellectual Disability v Government of the Republic of South Africa and the Government of the Province of the Western Cape* case no 18678/2007 (Western Cape High Court) Cleaver J delivered the judgment on 11 November 2011. He summed up the applicant's contention regarding children with severe or profound intellectual disabilities as follows:

... since the state provision for children with severe or profound intellectual disabilities is

- 4.1 Very much less than is provided for other children.
- 4.2 Inadequate to cater for the educational needs of these children; and
- 4.3 Only made available where a non-governmental organisation provides such facilities,

The policy and practice of the respondents infringes the rights of these children in respect of their right to education, their right to equality, the right to human dignity and their right to protection from neglect and degradation.¹⁴

¹⁰27 of 1996, s 4(b).

¹¹Section 28(2) of the Constitution provides that the best interests of the child are of paramount importance in every matter concerning the child.

¹²Section 7(2) of the Constitution.

¹³Schools Act (n 3) s 12.

¹⁴Paragraph 4.

In the judgment Cleaver J made the following orders:¹⁵

... the respondents have failed to take reasonable measures to make provision for the educational needs of severely and profoundly intellectually disabled children in the Western Cape, in breach of the rights of those children to:

- 1.1 a basic education
 - 1.2 protection from neglect or degradation
 - 1.3 equality
 - 1.4 human dignity
- (2) The respondents are directed forthwith to take reasonable measures (including interim steps) in order to give effect to the said rights of severely and profoundly intellectually disabled children in the Western Cape, ...

Essentially the court found unfair discrimination against a specific group of children.¹⁶ The *Western Cape Forum* case might inform the debate about children's need for pre-school education and the nature and status of such education, namely, whether or not it should be regarded as a fundamental right covered by section 29(1) of the Constitution. Even if there is a vast difference between the numbers of the children with whom the *Forum* case dealt and the numbers of children who might need pre-school education, the case still seems pertinent to the debate.

2.2 *International law*

Section 231(2) of the Constitution provides that '[a]n international agreement binds the Republic only after it has been approved by resolution in both the National Assembly and the National Council of Provinces, unless it is an agreement referred to in subsection 3' and this implies that one can only look for guidance to the nature and status of the right to pre-school education in those international agreements that have been ratified by South Africa.

The following international agreements that have been ratified by South Africa have relevance to our discussion:

2.2.1 **United Nations Convention on the Rights of the Child**¹⁷

Article 18(1) provides that –

states parties shall use their best efforts to ensure recognition of the principle that both parents have common responsibilities for the upbringing and development of the child. Parents or, as the case may be, legal guardians, have the primary responsibility for the upbringing and development of the child. The best interests of the child will be their basic concern.

¹⁵Paragraph 52.

¹⁶Section 9(3).

¹⁷Adopted and opened for signature, ratification and accession by General Assembly Resolution 44/25 of 1989-11-20.

Article 18(2) further provides that, for the purpose of guaranteeing and promoting the rights set forth in the Convention, states parties shall render appropriate assistance to parents and legal guardians.

As pre-school education is in the best interests of the child, it seems that the Convention obliges states parties to at least assist parents to provide access to pre-school education. In South Africa it would be hard to gainsay that pre-school education seems to be in the best interests not only of the children but also of the country itself.

Article 28(1)(a) of the Convention stipulates that states parties recognise the right of the child to education and will, with a view to achieving this right progressively and on the basis of equal opportunity, make primary education compulsory and freely available to all. On face value this provision appears to exclude pre-school education but article 29(1)(a) is susceptible to an interpretation that is in line with educational and psychological views on child development:

States parties agree that the education of the child shall be directed to the development of the child's personality, talents and mental and physical abilities to their fullest potential.

It is clear from educational and psychological literature that the child's personality, physical and mental abilities do not suddenly start to develop when they begin their formal schooling. Such development starts before birth and continues through schooling. Research by Hyde emphasises the consequent importance of early intervention in the life of the child and is clear that the time before the age of six is a pronounced period of rapid development of the brain. Learning which takes place during this time tends to be sustained.¹⁸ Pre-school education has demonstrated its ability to impact positively on the child's ability to benefit from later education phases.¹⁹ Studies tracing the achievements attained through the Head Start programme in the USA in the 1960s were initially doubtful about the effectiveness of the programme²⁰ but –

A raft of long-term studies of Head Start reaches the same conclusion: Head Start students graduate from high school, go to college and get jobs at higher rates than their at-risk peers who do not experience early childhood education. The fact is that Head Start does work for a vast majority of children.²¹

¹⁸Hyde *Investing in early childhood development: Benefits, savings and financing options* (2006) 12-13; Santrock *Child development* (2007) 12.

¹⁹Vegas and Santibáñez *The promise of early childhood development in Latin America and the Caribbean: Issues and policy options* (2010) 46.

²⁰See, for instance, Ludwig, Jens and Phillips 'Long-term effects of head start on low-income children' available at <http://home.uchicago.edu/~ludwigj/papers/NYAS-LudwigPhillips-HeadStart-2008.pdf> (accessed 2012-07-23); Gorman 'Favorable long-term effects of Head Start' available at <http://www.nber.org/digest/aug01/w8054.html> (2012-07-23); and US Department of Health and Human Services (2010) 'Head Start impact study: Final report' available at http://www.acf.hhs.gov/programs/opre/hs/impact_study/ (2012-07-23).

²¹'Busting myths about Head Start's effectiveness' (2011-03-21) available at <http://www.ffyf.org/blog/busting-myths-about-head-starts-effectiveness> (accessed 2012-07-23).

According to economist James Heckman of the University of Chicago, and Nobel Laureate, 'throughout the course of their education and lives, Head Start graduates tend to be more persistent in their education, more inclined to healthy behaviors and less inclined to be involved in criminal activity'.²²

It therefore seems important to intervene deliberately to stimulate learning which is active and which encourages self-discovery. Patterns in children's brains are said to develop before children turn six.²³ The indicators from the educational and psychological literature on child development seem to suggest that all governments need to give concerted attention to supporting and/or providing pre-school education if they want to give effect to the provisions of the Convention.

2.2.2 African Charter on Human and Peoples' Rights²⁴

Article 17(1) provides that every individual shall have the right to education. This is a wide, ambitious and inclusive definition and it is probably problematic in regard to its implementation in further and higher education as well as pre-school education.

2.2.3 Convention Against Discrimination in Education²⁵

In terms of article 1 of this Convention, 'the term "discrimination" includes any distinction, exclusion, limitation or preference which, being based on race, colour, sex, language, religion, political or other opinion, national or social origin, economic condition or birth, has the purpose or effect of nullifying or impairing equality of treatment in education and in particular:

- (a) Of depriving any person or group of persons of access to *education of any type or at any level*;²⁶
- (b) Of limiting any person or group of persons to education of an inferior standard;
- (c) Subject to the provisions of Article 2 of this Convention, of establishing or maintaining separate educational systems or institutions for persons or groups of persons; or
- (d) Of inflicting on any person or group of persons conditions which are incompatible with the dignity of man.

This Convention is wide-ranging and prohibits all discrimination that has the purpose or effect of nullifying or impairing equality of treatment in education. The wide-ranging nature of the right to education is apparent from article 2 which

²²*Ibid.*

²³Hyde (n 18) 12-13.

²⁴OAU Doc CAB/LEG/67/3 rev 5, 21 *International Legal Materials* 58 (1982) adopted 1981-06-27 (Banjul Charter).

²⁵United Nations Educational, Scientific and Cultural Organization (UNESCO), Adopted by the General Conference at its 11th session Paris 1960-12-14.

²⁶Own emphasis.

provides that, for the purposes of this Convention, the term 'education' refers to *all types and levels of education*,²⁷ and includes access to education, the standard and quality of education, and the conditions under which it is given. It is clear that the Convention is meant to apply to all types and levels of education, including pre-school education.

If one draws the provisions of this Convention to their logical conclusions and read them in conjunction with article 2, one can argue that the lack of formal provision for pre-school education in South Africa –

- (a) Deprives children of access to pre-school education;
- (b) Limits previously-disadvantaged persons to education mostly of an inferior standard. It can indeed be said that South Africa has two education systems: highly-performing and well-resourced schools on par with the best in the world that form approximately 20% of the school system, and the remaining 80% of schools that are underperforming and dysfunctional;
- (c) Creates two systems, one performing well and the other dysfunctional. This distinction is unlike the racially separated systems of the pre-1994 era; and
- (d) Inflicts on the majority of learners conditions which are incompatible with human dignity, for example, schools that do not have toilets, running water or electricity and that constitute unsafe environments for children and teachers, physically and psychologically speaking.

Article 5(1)(a) furthermore provides that education shall be directed to the full development of the human personality. As has been pointed out, such 'full development' is not possible without the earliest possible educational intervention.²⁸

2.2.4 Unesco experts' Consultation on the operational definition of 'Basic Education'

Although this Consultation was the result of a request made to UNESCO 'to initiate a reflection and dialogue process for the elaboration of an operational definition of basic education and to elaborate a definition that will be universally accepted and recognized'²⁹ and is, as such, not international law, it does represent the important international dialogue on basic education and also pre-school education. The Thematic Framework document³⁰ prepared to facilitate discussion at the Consultation elicited the problems associated with defining the

²⁷Own emphasis.

²⁸See section 2.2.1 above.

²⁹UNESCO information note: *Experts' consultation on the operational definition of basic education*, Paris 2007-12-17/18.

³⁰UNESCO December 2007.

concept of basic education very clearly and comprehensively. The Information Note proposed that the discussions be guided by considering the following aspects of basic education: The level and scope of basic education, its content and purpose, who the recipients of basic education are (for whom is it meant?) and what legal and policy frameworks guide the provision of basic education.³¹

What is even more pertinent to the purposes of this paper is that, in a background paper prepared in his personal capacity for the Consultation, Robert Cowen³² proposed that the concept of basic education be kept as simple as possible by limiting it to the provision of education from the ages of 6 to 18.³³ This proposal excludes pre-school education from the scope of basic education. However, Cowen asserts that 'the time-frame 6 to 18 *should have added to it three years* of part-time, informal, or full-time and formal, free or fee-paid, as *EITHER pre-school education OR as post-secondary education.*³⁴

Cowen also recommends that the curriculum for basic education needs to contain seven motifs:³⁵

- (a) learning how to learn in schools including the acquisition of numeracy or literacy appropriate to the age of the child as this is defined by local social expectations;
- (b) to ensure the acquisition of people and social skills which permit normal relations with school peers and a range of appropriate adults;
- (c) to be introduced to moral codes appropriate to the age of the child and to local social contexts, building however toward international interculturalist attitudes;
- (d) to ensure that sufficient understanding of science and technology and its application to the daily life, taking into account to the age of the child, is acquired;
- (e) ensure that sufficient broad general knowledge and routines and habits of work are acquired for employment after school;
- (f) to equip the child with the sense of what is to be a citizen of a country or region; and
- (g) to emphasise and cultivate all those attitudes, social skills, and metaphorical and literal languages which will permit social and geographic mobility.

It seems that all of these motifs could well be developed from pre-school through to higher education. If these motifs are all essential elements of basic education, one could argue that pre-school education is also part of basic

³¹At 2.

³²Emeritus Professor of Education in the Institute of Education, University of London, and also President of the Comparative Education Society in Europe. His paper expressed his own view of what is understood by basic education.

³³At 19. It should also be noted that s 5 of the South African Schools Act of 1996 makes provision for children to start their formal school education below the age of 6.

³⁴At 20.

³⁵At 21.

education because the motifs are also developed in and through pre-school education.

2.3 *Foreign pre-school law and practice*

We collected information from a cross section of countries³⁶ to answer the following questions:

- 1 Is pre-school education in the last two years before primary school compulsory for all children of that age?
- 2 If it is not compulsory, do children have the choice to go to a pre-school education institution?
- 3 If they have such a choice, who pays for the education?
- 4 Do you have enough qualified teachers to provide education to all learners who want pre-school education?
- 5 Are pre-school education institutions state or private institutions? If both types occur, what are the percentages?

The following experts provided the information via e-mails to JL Beckmann on 22, 23 and 24 July 2012: Dr DI Sutherland CBE (Scotland),³⁷ Prof J Bathon (USA),³⁸ Mr M Risku (Finland),³⁹ Prof H-P Fuessel (Germany)⁴⁰ and Mr Jim McAlpine (Australia).⁴¹ In short, the responses indicate that in none of the countries concerned is pre-school education compulsory except for some Australian states where kindergarten starts at the age of five years.

All children in the pre-school education age bracket potentially have access to pre-school education whether in private or state institutions. In Australia some pre-schools are private but there are limited government subsidies; there is a limited number of government pre-schools but this is growing; such pre-schools are now being co-located with primary schools; and fees are charged for attendance but subsidies are available to poorer people. The education may be funded through various forms of state contributions or through pre-school fees. In Finland it is free of charge for parents and 99.4% of children of pre-school age attended pre-school institutions there in 2009. In Germany more than 96% of children attend pre-school.

Finland and Scotland report that they have enough qualified pre-school educators. In Germany, 'there are problems' in this regard. In the USA there is a significant shortage of such teachers who can usually earn better salaries teaching in primary (elementary) schools. In Australia there is a shortage but more teachers are being trained.

³⁶Scotland, the USA, Finland, Germany and Australia.

³⁷Former Registrar of the General Teaching Council for Scotland.

³⁸University of Kentucky.

³⁹Vice-Director, Institute of Educational Leadership, University of Jyväskylä.

⁴⁰Professor of Educational Governance of the Humboldt University and a deputy-director of the German Institute for International Educational Studies (DIPF).

⁴¹Past President of the Australian Principals' Association.

This limited report does not contribute a great deal to the debate about whether or not pre-school education should be a fundamental right and part of basic education. One may try to read some meaning into the 2009 PISA (Programme for International Student Assessment) results.⁴² Of the countries explored Finland and Australia are significantly above the OECD (Organization for Economic Cooperation and Development) average in regard to learner performance in reading, mathematics and science while the USA, Germany and the UK (Scotland included) are not significantly different from the OECD average.⁴³

3 The trajectory of pre-school education in South Africa

3.1 The De Lange Commission of 1981

In 1981 the De Lange Commission⁴⁴ was appointed by the apartheid regime to investigate the education system in the country. The Commission recommended to the government that pre-Grade 1 classes should be established in order to prepare learners for schooling. There was indeed legislative provision for pre-primary schools for all population groups.⁴⁵

3.2 The National Education Policy Investigation (NEPI) Report of 1992

It was only in the early 1990s that democratic movements regrouped and debated future policies the new government could be expected to follow. The African National Congress published the National Education Policy Initiative report (NEPI)⁴⁶ which recommended that the new government should establish Grade R classes to enhance the performance of learners in Grade 1. It is, to an extent, ironical that the pre-1994 provisions were in fact repealed by the South African Schools Act 84 of 1996 and not re-enacted for pre-primary education as contemplated by the NEPI Report and the National Education Policy Act 27 of 1996.

3.3 White Paper 1 on Education and Training 1995⁴⁷

White Paper No 1 on Education and Training of 1996 was the forerunner of later Early Childhood Development (ECD) policies. It was a comprehensive policy that

⁴²Available at <http://www.oecd.org/dataoecd/54/12/46643496.pdf> (accessed 2012-07-24).

⁴³South Africa does not participate in PISA.

⁴⁴Investigation into the Provision of Education in the RSA.

⁴⁵See the definitions in s 1 of each of the following Acts: Education Affairs Act (House of Assembly) 70 of 1988 (for white persons); Coloured Persons Education Act 47 of 1963; Indian Education Act 62 of 1965; and the Education and Training Act 90 of 1979 (for black persons).

⁴⁶1992.

⁴⁷Department of Education.

addressed all sectors of education including ECD which was not catered for in the previous dispensation.

3.4 Interim Policy for Early Childhood Development of 1996⁴⁸

The Interim Policy for Early Childhood Development of 1996 launched the three-year National Reception Year Pilot Project of 1997. This project's main concern was the provision of a national system of one year's public provision of early childhood development (ECD) namely the Reception Year (Grade R) for five- and six-year-olds. This was a pilot that would usher in a national Grade R programme. The sites of the piloting were in poor communities. It was envisaged that Grade R programmes would provide adequate opportunities for children to develop to their fullest potential, especially those children who lived in poverty.⁴⁹ The aim was to test the impact of a pre-schooling programme on the education of learners.⁵⁰

3.5 Nationwide audit on ECD

The nationwide audit on ECD came immediately after the Interim Policy for ECD. The government was aware that in order to introduce any reforms on ECD, it needed to take stock of what the ECD landscape looked like. The nationwide audit set about to determine: the number of ECD sites, the number of children catered for in these sites, the quality of these sites in terms of material and human resourcing and the qualifications of the practitioners.

One of the findings of the audit was that almost 70% of the teaching personnel did not have any recognised pre-school teaching qualifications. In 2000 low percentages of children countrywide were registered in some form of day care:⁵¹ 5.4% in the under 3 age group and 15.9% in the 3-5 years age group. The national average for the two groups was 9.5%. Naidoo⁵² points out that the statistics had changed dramatically according to the Census conducted in 2007. The Gross Enrolment Rate (NER) (the number attending at an institution divided by the total population age group) for the under four age bracket was 22.6% and that for the 5 year old group was 58.4% at that time.

⁴⁸Department of Education.

⁴⁹Department of Education 2001. White Paper no 5 on Early Childhood Development. Pretoria: Department of Education

⁵⁰As can be inferred from para 3.5 below this pilot was not particularly impactful.

⁵¹Department of Education *The nationwide audit of ECD provisioning in South Africa* (2001). Day care may or may not include pre-school education.

⁵²Naidoo *Statistics on education from the Community Survey and GHS* (2007) Presentation to the Department of Education Pretoria.

3.6 *White Paper 5 on ECD⁵³ of 2001*

The White Paper 5 on ECD came about as a result of the Nationwide Audit and the Interim Policy on ECD. This policy gave effect to the establishment of the Grade R class with a national curriculum. The provision of ECD (Grade R) was streamlined and a coherent framework in which it was to be offered was determined.⁵⁴

According to White Paper 5 on ECD⁵⁵ the purpose of this policy is to:

- eradicate the cycle of poverty, poor adjustment to school, increased grade repetition and the school dropout rate;
- bridge the curricular differences and disparities between formal education and informal education systems; and
- maintain the principle of continuity in the knowledge of the children.

Despite the fact that this policy addressed the pre-Grade 1 class only, it showed willingness and commitment on the part of the government to bring about reforms and to invest in the phase.

3.6 *The implementation of grade R*

Grade R became compulsory from the beginning of 2001. It was intended that by 2010 all children in the country should have attended grade R before moving to grade 1.⁵⁶ Despite the intention that grade R attendance should be compulsory, it is not free. It is at present being subsidised to about 70% of the Grade 1 funding. Parents still have to pay a certain amount of fees to augment the subsidy from the government. There are still children who cannot afford this class. Therefore there is a large cohort of children moving from home into grade 1 classes without attending a grade R class.⁵⁷

The national policies have evoked resistance and criticism from many quarters in various fields of knowledge as they were seen as a form of prescriptiveness by the government. The most vociferous of these voices pointed to the lack of clarity and content of the new curriculum. As a result the quality and quantity of programmes in preschools for the age cohort 0-5 years were designed to combat the problem of 'maladjustment', or to prepare the child for formal education, and differ from one provider to another as there are no benchmarks to define their format.

Most of the teachers responsible for grade R have undergone retraining in the Revised National Curriculum Statement that became compulsory from the

⁵³Department of Education (2001).

⁵⁴*Ibid.*

⁵⁵*Ibid.*

⁵⁶This date has been extended to 2014 per the President's State of the Nation Address on 2009-06-03.

⁵⁷Phatudi *A study of transition from preschool and home contexts to grade 1 in a developing country* PhD thesis University of Pretoria (Pretoria) (2007).

beginning of 2004. Despite aiming at some form of equity in the case of grade R programmes, disparity in offering these programmes persists as the training undergone by the teachers differs from one area to another. To make matters worse the Nationwide Audit of ECD Provisioning in South Africa⁵⁸ revealed that fewer than 26% of teachers in the preschool area have qualifications recognised by the Department of Education. This means that 74% do not possess the necessary skills and knowledge and are therefore not qualified to teach in preschools.

3.8 Number of children in registered ECD centres: 2009-2011

The number of children registered in ECD centres is growing rapidly. It is estimated that the registration of children is now at 83%. It is therefore possible that by 2014 the country will have achieved the universal registration and attendance of all children who are supposed to benefit from early education.⁵⁹ The challenge that the country still faces is that of quality, so that ECD attendance may have a positive influence on future education.

3.9 Learners in grade R

According to Education Statistics in South Africa 2010⁶⁰ there were 707 203 male and female learners in grade R in 2010 in both public and independent schools. In grade 1 there were 1 116 899 learners. If one takes the number of grade R learners as a percentage of grade 1 learners, it seems that 63% of learners that could attend grade R classes did in fact do so. Table 1 on page 6 of the Education for All Country Report South Africa 2008 shows that the Gross Enrolment Rate (GER) in grade R at sites attached to public and independent ordinary schools increased from 15.2 in 1999 to 48.8 in 2007. This growth seemed to have continued from 2007 to 2010 and a GER of 100 in grade R seems attainable.

3.10 Teacher training

From data released by the Education, Training and Development Practices Sector Education and Training Authority (EDTP SETA) on ECD practitioners who have achieved qualifications from the ETDP SETA or are currently enrolled according to the National Learning Records Database (NLRD), it is apparent that both enrolments and achievements are too low to service the needs of an expanding sector.⁶¹

The current target set in the Expanded Public Works Programme (EPWP) Social Sector Plan⁶² is to train 80 000 ECD practitioners and grade R teachers at

⁵⁸Department of Education (2001).

⁵⁹Interview with L Biersteker (Director of Research of the Early Learning Resource Unit, Cape Town) by N Phatudi.

⁶⁰Department of Education (2012).

⁶¹ETDP SETA Data December 2011.

⁶²Available at <http://www.epwp.gov.za/index.asp?c=Home> (accessed 2012-07-24).

levels 4 and 5 for the period from 2009/10 to 2013/14. According to information provided at the EPWP Summit on Social Sector Training in October 2011, training will have to be accelerated to meet the target.⁶³

4 Conclusion

Our exploration of the topic does not prove conclusively that all role players and authorities view preschool education as a part of basic education and thus a fundamental right that creates a right for the child and a duty for the state. However, there is adequate educational and psychological child development evidence that preschool education holds great benefits for learners and for the country alike and such evidence should, by itself, cause governments to give serious attention to the promotion of pre-school education (that is, the year before grade R as grade R is already in legislative terms part of the formal school system). Such promotion could include greater funding for grade R, restructuring of expenditure on education to release more funds for pre-school and the gradual elevation of the status of preschool education so that it will be available to all who qualify for it, preferably entirely or largely at the state's cost. Although the levels of poverty in South Africa indicate the necessity of preschool education, the sheer demand for pre-school places funded by the state might make it very difficult for the state to achieve universal grade R enrolment in 2014. However, great strides have been made and we believe the movement towards the inclusion of preschool education in the concept and provision of basic education should be accelerated as there is no convincing evidence that it should not be part and parcel of the right to a basic education. Including two years of preschool within the definition of 'school' in the South African Schools Act⁶⁴ or inserting a definition of preschool education into this Act will go a long way towards clarifying the meaning of 'a basic education' in section 29(1) of the Constitution of the Republic of South Africa, 1996⁶⁵ and will also illustrate that the meaning of a constitutional provision can be illuminated by a provision in another Act. In a sense such an amendment of the Schools Act⁶⁶ will also confirm that the state is doing the right thing namely to build its practice, policy and legislation on sound empirical social science research.⁶⁷

The literature and the practice in some more developed countries would seem to suggest that South Africa has 'done the right thing' to promote preschool education. All that remains is that the right thing be done right by extending the provision to preschool education.

⁶³More information available at <http://www.epwp.gov.za/index.asp?c=About>.

⁶⁴84 of 1996.

⁶⁵Constitution of South Africa, 1996.

⁶⁶84 of 1996.

⁶⁷See the directive principles of the national education policy, ss 4(k-l) of the National Education Policy Act 27 of 1996.