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Orphans, Vulnerable Children and Access to Basic Education with reference to the Convention on the Rights of the Child: The Case of Eastern Cape Province, South Africa

By

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Submitted in partial fulfilment of the requirements for the degree

DOCTOR OF PHILOSOPHY: POLITICS

in the

Department of Political Sciences, University of Pretoria

Faculty of Humanities

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October 2022

Declaration

I, Raymond Chirowamhangu, do hereby declare that the work contained in the thesis entitled *Orphans, vulnerable children and access to basic education with reference to the Convention on the Rights of the Child: The case of Eastern Cape Province, South Africa* for the degree of Doctor of Philosophy in Politics in the Department of Political Sciences at the University of Pretoria, South Africa, is my original work and has not been previously submitted for a degree at any other university.

Signature…… Raymond Chirowamhangu

Date…… 30/11/22

Acknowledgements

I thank God for the strength, endurance, and vision to complete my thesis. It has been a journey.

I am grateful to my Supervisor Professor Victoria Graham and Co-Supervisor Dr. Shangase Mabutho, your patience, motivation, and guidance to complete this research. My, thank you for the good foundation, motivation, and constructive suggestions.

I would also like to express my gratitude to my editors, Nomzamo Dube, Noel Nyati and Imzamo Yami Consultancy, for the review and professional presentation of the thesis.

To Elton, Charity, and Sandra, my family has been my greatest pillar of strength, continuous support and encouragement. To my parents, you laid a strong foundation and I am forever grateful. To David, you fought a good race, thank you for the inspiration.

Special thanks to Ms. Liao, Office of High Commissioner for Human Rights (OHCHR), and Ms. Pilgrim, Executive Office of the Secretary-General (EOSG) for their contribution on human rights.

My gratitude also goes to all the participants who sacrificed their time and effort to contribute to this research.

Dedication

I dedicate this thesis to the global commitment towards children rights and basic education for orphans and vulnerable children.

Abstract

The study examines access to basic education for children, with a special focus on orphans and vulnerable children (OVC) in the Eastern Cape province, South Africa. Access to basic education, if practised effectively, supports the principle of the right to education as stated in Article (28)(a) of the Convention on the Right of the Child (CRC) and Section 29(1) of the Constitution of South Africa, which prescribe that basic education is compulsory for all children. The thesis shows that regional and international treaties; including the Article 11(3)(a) African Charter on the Rights and Welfare of the Child (ACRWC), Article 13 of the Covenant on Economic, Social and Cultural Rights (CESCR) and Article 24(2)(a) of the Convention on the Rights of Persons with Disabilities (CRPD), promote the right to basic education for all children.

This study, which was conducted at the peak of the Covid 19 pandemic, is based on findings obtained from non-governmental organisations (NGOs), primary schools, government institutions, and through online and telephonic interviews. The data was further analysed using data analysis software, Atlas.ti 9.[1] The research embraces a rights-based approach to basic education; which advocates for access to basic education for all children, protects children from all forms of discrimination, and recognises the rights of children with special needs. This research explores the challenges faced by children exposed to children between 0 to 18 years, who lost either or both parents, and are made vulnerable due to poverty, discrimination, disability, domestic violence, HIV/AIDS and harmful cultural practices; such as *Ukuthwala*[2] and illegal initiation practices, which are common in the Eastern Cape province. Access to basic education is restricted as a result of child marriages and sickness because of HIV/AIDS. The study reveals particular areas of concern in the basic education sector in the Eastern Cape province, which include: poor learning infrastructures, the existence of pit latrine toilets, lack of psychosocial support for OVCs, and discrimination.

The research demonstrates how the CRC finds expression at the domestic level in South Africa with regard to OVC access to basic education in the Eastern Cape province. The

[1] Computer-assisted qualitative data analysis software. Source www.atlasti.com
[2] Custom originates from the Xhosa culture in the Eastern Cape province (Mwambene & Sloth-Nielsen, 2011)

CRC, the state has an unequivocal role to play in respecting, protecting, and fulfilling the rights of all children including OVCs, but the research reveals that primary schools, Early Childhood Development (ECD) Centers, special schools, and NGOs in the Eastern Cape, especially in the rural areas, have received minimal support from the government. Moreover, there is lack of political will on improving access to basic education, coupled with poor management and chronic leadership instability have been a major hindrance on the right to basic education OVCs in this province. Consequently, this researcher recommends that a much more active stance be taken to advocate for the right to basic education of OVC, increased sensitization to children rights through the use of media to highlight the challenges in the rural communities in Eastern Cape province, and the creation of a conducive legal and political environment to promote the role of NGOs and grassroots community organisations in education projects and programmes to support OVC.

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List of Acronyms and Abbreviations

ACERWC	African Committee of Experts on the Rights and Welfare of the Child
ACRWC	African Charter on the Rights and Welfare of the Child
CAPS	Curriculum Assessment Policy Statements
CEDAW	Convention on Elimination of all Forms of Discrimination Against Women
CRC	Convention on the Rights of the Child
CRPD	Convention on the Rights of Persons with Disabilities
CSTL	Care and Support for Teaching Learning Programme
DSD	Department of Social Development
ECD	Early Childhood Development
EFA	Education for All
GBV	Gender-Based Violence
HIV/AIDS	Human Immunodeficiency Virus/Acquired Immunodeficiency Syndrome
ICCPR	International Covenant on Civil and Political Rights
CESCR	Covenant on Economic, Social, and Cultural Rights
MDG	Millennium Development Goal
NGO	Non- Governmental Organization
NHRI	National Human Rights Institution
NPAC	National Plan of Action for Children
OHCHR	Office of the High Commissioner for Human Rights
OVC	Orphans and Vulnerable Children
SAHRC	South African Human Rights Commission
SDG	Sustainable Development Goal
SGB	School Governing Body
STDs	Sexually transmitted diseases
UN	United Nations
UNAIDS	United Nations Programme on HIV/AIDS
UNDP	United Nations Development Programme
UNESCO	United Nations Educational, Scientific and Cultural Organization
UNICEF	United Nations International Children's Emergency Fund
USAID	United States Agency for International Development
WCEFA	World Conference on Education for All

CHAPTER 1

INTRODUCTION AND BACKGROUND

1.1 Introduction

The right to basic education is a universal, pre-requisite for all children regardless of gender, race, geographic and social or economic status (Tran & Mwanri, 2013). The Constitution of South Africa,[3] Children's Act 38 of 2005,[4] and Convention on the Rights of the Child,[5] establish that a child is any person below the age of 18 years (Republic of South Africa, 1996; 2005, United Nations, 1989). The right to basic education for everyone, is guaranteed in Section 29 of the Constitution (Republic of South Africa, 1996). The significance of basic education in South Africa has been reinforced through legislative and policy frameworks; such as, the Children's Act,[6] the National Education Policy Act of 1996[7] and South African Schools Act of 1996.[8] This has been further elaborated on in Chapter 4 of this study.

Researchers affirm that the right to basic education is one of the most complex rights in international human rights law because it is acknowledged as an empowerment right and equally an essential means to promote other rights (Kalantry et al., 2009). As such, the violation of the right to basic education has a negative multiplier effect on other human rights. Ssenyonjo (2017), concurs that education is a human right because it intricately links to other rights; therefore, access to basic education has a significant role towards the fulfilment of other rights. Access to basic education is enshrined in the foundational international treaties focusing on the rights of the child, including, the Convention on the Rights of the Child (CRC), African Charter on the Rights and Welfare of the Child (ACRWC), Covenant on Economic, Social and Cultural Rights (CESCR) and Convention on the Rights of Persons with Disabilities (CRPD).[9] The right to basic

[3] Section 28(3)
[4] Section 17
[5] Article 1
[6] Also referred to as the Children's Act 38 of 2005, gives effect to certain rights of children as contained in the Constitution of South Africa.
[7] Outlines the polices, legislative and monitoring responsibilities of the Minister of Basic Education.
[8] Advocates for schooling for all children below 15 years, quality education without discrimination and promotes governance in the schooling system.
[9] In 2007, South Africa was one of the first countries to ratify the UN Disability Rights Treaty, which requires the government to promote an inclusive education system (Human Rights Watch, 2015).

education is prescribed in several internationally approved declarations which include the Universal Declaration of Human Rights, Africa's Agenda on Children 2040,[10] the Abidjan Principles[11] and the World Declaration for Education for all (1990).

The act of treaty ratification signifies acknowledgement by the state that, concerning children's rights, in this case, the state is obligated to develop a plan of action in the form of the National Plan of Action for Children (NPAC). This study provides an updated analysis on the NPAC from 2000 and beyond, and the NPAC in South Africa from 2019 to 2024, which provides an assessment of progress made to promote equality for all children in South Africa (Republic of South Africa, 2012; Atmore, 2019). Despite, the increased rate of treaty ratification by the state, Thurman et al. (2006), highlight that despite the increased rate of ratification of international treaties by states, significant barriers to accessing basic education remain for orphans as compared to non-orphans.

This study investigates access to basic education for orphans and vulnerable children (OVC)[12] in the Eastern Cape province. To attain this central objective, the study evaluates South Africa's domestication and implementation of, in particular, Article 28 and 29 of the UNCRC on the right to education. The research acknowledges the limitations of the CRC as presented in Chapter 4 of this study; however, the focus on the CRC is supported by the following reasons. The treaty is the first legally binding international convention to establish rights for children, including access to basic education for all children (Carlsson, 2020; Mwanza, 2013).[13] The CRC inspired the focus on children rights in the Constitution of South, Bill of Rights through specific legislative measures which advocate and promote children rights in all spheres of life. The founding principles on the CRC, "the best interests of the child" complement the focus on the right to basic education in this study. More importantly, the CRC establishes the foundation of basic education adopted for this study, through the rights-based approach and 4-A Scheme on basic education.[14] Lastly, especially with regards to

[10] Adopted in 2016, is to accelerate efforts towards the implementation of the African Children's Charter
[11] Provides guiding principles on the children rights obligations of States to provide education
[12] The operational definition of OVC for this research refers to children between 0 to 18 years, who lost either or both parents, and are made vulnerable due to poverty, discrimination, disability, domestic violence, HIV/AIDS and harmful cultural practices (See Chapter 3 and 5 for details).
[13] The study acknowledges the contribution of other global instruments on children rights; such as the ACRWC (See Chapter 4 for details)
[14] Based on the principles of available, accessible, acceptable and adaptable (See Chapter 3 for details)

children rights, the CRC extensively informs other regional and international treaties; including, ACRWC and CRPD. While these treaties are not the specific focus of the study, it is nevertheless essential to recognize the importance of regional and context-specific instruments like the ACRWC that can provide additional protections and perspectives that are specific to Africa and can offer valuable insights into the unique challenges faced by children in Africa, therefore, these will be referred to periodically throughout.

South Africa ratified the CRC on the 16th of June 1995 and pledged to protect children from economic and sexual exploitation, violence, and other forms of abuse and to advance the rights of children to education; including, basic education as explored in this research (Republic of South Africa, 2015; Viviers, 2014). Moreover, Article 4 of the CRC provides the basis for legal reform on children's rights by the State:

> *state parties shall undertake all appropriate legislative, administrative, and other measures for the implementation of the rights recognized in the Convention (CRC, 1989)*

Therefore, the state must implement domestic laws and policies to support its commitment to the children rights. The core responsibility of the state in the CRC is to implement constitutional measures to support children's rights and specific to this study, the right to basic education (Simbo, 2012; Doek, 2007).

To understand the relevance of children's rights, the study reflects on other regional and international treaties that speak to access to basic education for all children. Türkkahraman (2012) highlights that the value of basic education is not only in acquiring knowledge but also in promoting individual freedom, supporting participation in democratic processes, and empowering young people to participate in development processes. There have been increasing efforts to promote basic education as a human right. Article 13(2)(a) of the CESCR states that:

> *The States Parties to the present Covenant recognize that with a view to achieving the full realization of this right: Primary education shall be compulsory and available free to all (CESCR, 1966)*

The right to basic education is a human right and basic education should be made available for free to all children;. including OVCs as emphasised in this research. As such, the United Nations' Sustainable Development Goal (SDG) 4, on quality education, focuses on inclusive and equitable quality education; thereby, showing commitment towards non-discriminatory education (Loewe & Rippin, 2015; Immler & Sakkers, 2021).

In support of this view, UNICEF (2015) indicates that denying children access to basic education increases their vulnerability to exploitation and abuse, and girls are at greater risk of abuse when they are not enrolled in school. The challenges of girls cannot be overlooked as they are more likely to encounter learning restrictions due to financial and cultural reasons. As a result, children without access to basic education, may not fully enjoy their human rights.

In one of his seminal writings on access to education, which is applicable in the context of basic education, Julius Nyerere, the first President of Tanzania stated:

> *Education whether formal or informal has a purpose. That purpose is to transmit knowledge of society and to prepare the young people for their future membership of the society and their active participation in its maintenance or development (Nyerere, 1967)*

The post-apartheid era in South Africa ushered in a new trajectory to provide equal opportunities for all, including, orphans and vulnerable children. Ndonga (2012) highlights that this dispensation focused on ending discrimination and achieving a non-racial South Africa. The post-apartheid dispensation has contributed to the formulation of policies and legislation within the framework of human rights to address issues of equity and social justice (Muthukrishna, 2006). This suggests a commitment to the broad view of social inclusion and a strong commitment to the rights of a child, through the Constitution of the South Africa and the South African Schools Act 84 of 1996.

This study focuses particularly on OVCs, supported by research and studies, which show the challenges that OVCs face concerning access to basic education in the Eastern Cape province (Ardington, 2010; Hall, 2016; Naidoo, 2010). For example, the barriers to education on AIDS orphans and children with disabilities, and lack of psychosocial support. South Africa has ratified several international and regional instruments treaties children rights, but the challenges noted above evidently persist.

The number of orphans worldwide rapidly increased, and is estimated to be over 140 million, with HIV/AIDS as the major contributing factor (UNICEF, 2021; Mlambo, 2021; UNAIDS, 2020). Kinghorn et al. (2002) mention that orphans tend to have lower enrolment rates than children with both parents. This is dependent on the social, economic, and cultural circumstances. For instance, limited financial resources have a detrimental impact on access to basic education, even in the context of a “no fee school policy” because the needs of a child are not limited to school fees and stationery. Ishola

(2012), elaborates further to show that household income may be a stronger predictor of non-enrolment than orphan status per se. The culmination of a lack of basic education is perpetuated by poverty, which forces many children to drop out of school, exposing them to a higher risk of sexual exploitation, hazardous labour and living in the street.

Though, such statistical evidence, alludes that there is a lack of qualitative research on the practical challenges affecting OVCs in Africa; similarly, this trend is confirmed in the case of South Africa, especially in the Eastern Cape province (Shibuya, 2016; Mbatha, 2014; Bridgman, 2020).[15] Researchers have exposed several challenges affecting OVCs which include poverty, lack of awareness of the needs of children with disabilities, and lack of political will from the state to assist OVCs[16] (Stover et al., 2007; Strasser et al., 2008).

Omran (2005) acknowledges that several factors contribute to the variation in the conceptualisation of the term OVC; including demographic and epidemiological factors (See Chapter 3 for details). This view is supported by other researchers who found that there are significant discrepancies when comparing OVC estimates from different sources (Childline SA, 2022; Tasamane, 2011; Hunter & Williamson, 2000). Therefore, it is paramount to fully understand and comprehend the research concepts, including the definition of OVC. The next section provides a literature review based on related studies on OVCs and access to basic education.

1.2 Literature review

The objective of this review is to go beyond the body of knowledge and to identify and articulate relationships between the literature and the field of study and provide recommendations for future research (Boote & Beile, 2005; Creswell, 2013; Ramdhani et al., 2014; Maggio et al., 2016). The sources of literature for this study include academic literature, journal articles, statistical records, and government and institutional reports with relevant data on the domestication of the CRC, OVC and basic education.

Research on OVC has been confronted by challenges emanating from the conceptualisation of OVC[17] and significant variations in the compilation of OVC related

[15] See Chapter 4 for details, the lack of disaggregated data on children in South Africa
[16] Refers to the commitment of government representatives to policy; See Chapter 5 for details
[17] The researcher elaborates on the conceptualisation of OVC in Chapter 2 of the research

data (Skinner et al., 2004; Chereni & Mahati, 2013). Furthermore, scholars have explored the basic education challenges experienced by OVCs due to several factors including stigmatisation, financial barriers, lack of psychosocial support, poverty, abuse, and HIV/AIDS (Gumede, 2013; Vedaste, 2013; Boler & Carroll).[18] Whilst there have been studies conducted on the education of OVCs (Ndonga, 2012; Jukes et al., 2008; Grainger et al., 2001), this study focuses specifically on access to basic education as outlined in Article 4 of the CRC, and Section 29(1)(a) in the Constitution of South Africa. Also, supported by various regional and international treaties, for example, Article 11 of the ACRWC and affirmed in Article I (1) of the World Declaration on Education for All,[19] (Republic of South Africa, 1996; Wagner et al., 2012; Mwoma & Pillay, 2016).

The Government of South African has reinforced access to basic education for all children; including, OVCs through a comprehensive constitution that reflects on children's rights and policy frameworks; such as, the Education White Paper 6 on Special Needs Education and Inclusive Education. Despite the mentioned efforts, the study reflects on the lack of access to basic education for OVCs in the Eastern Cape province (Donohue & Bornman, 2014; Dalton et al., 2012). This study supports previous research on OVC, which expose extensive socioeconomic inequalities and limited access to basic education for OVCs in South Africa (Gregsoon et al., 2005; Ardington & Leibrandt, 2010). The education policies in South Africa have been described as “symbolic”, attracting attention when formulated but lack implementation (Jansen, 2010). As a result, many children do not experience the dignity, fairness and equality highlighted in these policies (Molepo, 2014; Ndonga, 2012; Sayed & Jansen, 2001).

1.3 Research topic and problem

Wagner et al. (20120, establish that the topic of a research project needs to be both concise and informative, capturing the essence of what the project will be about as well as where and with whom it will be conducted. The topic of this research is “Orphans, vulnerable children and access to basic education with reference to the Convention on the Rights of the Child: The case of Eastern Cape Province, South Africa”. Polit and Beck (2004) describe a problem statement as an expression of the dilemma or

[18] The research findings in Chapter 5 explore further on the barriers to basic education in the Eastern Cape province

[19] Which is also referred to as the Jomtien Declaration in this research

disturbing situation that needs investigation to provide understanding and direction. It identifies the nature, context, and significance of the problem being addressed. The study observes the challenges facing OVC to successfully obtain access to basic education in the Eastern Cape province.

Some scholars have argued that children rights continue to be ignored and/or violated in Africa (See, for example, Simbine & le Roux, 2021). Against this background, the research problem is the translation of international instruments (notably the CRC) at the country level. The study focuses on OVCs and their access to basic education, assessing the level of compliance with human rights treaties (predominantly, the CRC). This is critically important because the success or failure of any international human rights treaty should be evaluated by its impact on human rights practices at the domestic level (Odhiambo, 2005).

1.4 Research questions

The research questions help to narrow the purpose statement to specific questions that the researcher seeks to answer (Creswell, 2008). The main research question to be answered in this study is, “how does the Convention on the Rights of the Child finds expression at the domestic level in South Africa with regard to OVC access to basic education in the Eastern Cape province”.

The study further attempts to answer the following subsidiary procedural and substantive questions:

- Which policies regulate basic education in South Africa?
- To what extent do the policies on basic education in South Africa align with the Convention on the Rights of the Child?
- What is the state of access to basic education for orphans and vulnerable children in the Eastern Cape province?

1.5 Research aim and objectives

This study focusing on OVC, aims to investigate how the CRC is translated into domestic policy in the Eastern Cape province, South Africa. The research aim is accompanied by a set of sub-objectives, which are concise, declarative statements expressed in the present

tense to clarify on the research questions above (Burns & Grove, 2003). To realise the purpose of this study, the following research objectives will be addressed:

- To identify the basic education policies in South Africa.
- To examine areas of convergence between South African policies on basic education and the Convention on the Rights of the Child.
- To assess the extent to which orphans and vulnerable children have access to basic education in the Eastern Cape province.

1.6 Significance and contribution of the study

This study contributes to the body of knowledge in the area of OVC and access to basic education, through an updated analysis of the Eastern Cape province. The context of the CRC is critically vital as it helps to evaluate the progress made on the United Nations SDG 4, to achieve the 2030 goal of access to basic education. Therefore, it is important to promote the harmonisation of national legislation with the CRC and other international human rights instruments relevant to children's rights. The study reflects on how the CRC has been domesticated in South Africa; and how aspects of domestic education policies on the provision of basic education for OVC are being implemented within the Eastern Cape province of South Africa. The research provides a link between international relations and domestic politics, and contributes to the understanding of how international relations are reworked at the national and local level.

Policymakers, donors, and government institutions can make use of the findings of this study to assess the effectiveness of their partnership with the government and non-governmental organisation (NGOs) in achieving development goals; such as the National Development Plan: Vision 2030, the United Nations 2030 Agenda for Sustainable Development Goal, Africa's Agenda on Children 2040, and African Union 2063 Goals. Equally important, the study will discuss the role of the state, NGOs, and community in access to basic education. The contribution of NGOs and international organizations; such as, UNICEF, UNESCO, Equal Education and Inclusive Education and Save the Children will be reflected in this research. Other researchers have supported the importance of NGOs contributing towards education, and this research will validate some of their findings (Brophy, 2020; Volmink & van der Elst, 2017;

Myende, 2011).

Scholars have acknowledged the lack of qualitative research on the challenges of OVC, the thesis provides rich information on South Africa's policies regarding access to basic education (Bridgman, 2020; Shibuya, 2016; Mbatha, 2014). The study also demonstrates a good grasps and understanding of the relevant literature. There is also detailed discussion and presentation of implementation process of policies on access to basic education in Eastern Cape Province of South Africa. The policy documents have been complemented with data from field research, thus the study provides a rich and original contribution to research and scholarship.

Lastly, the findings of the research will lead to the implementation of effective measures, programmes and policies to formulate provincial plan of action for OVC. The recommendations in this study will contribute to the body of knowledge on policy implementation, to aid researchers and the Department of Basic Education in the Eastern Cape province on the implementation of basic education policies for OVC. This is critical as they are specific areas of concern highlighted in the study; such as, the discrimination of OVCs at school and the lack of psychosocial support in the Eastern Cape province.

1.7 Rights based approach to basic education

The research is inclined towards a rights-based approach to basic education theoretical framework, which is established on international children rights standards, to protect and promote basic education for OVC. The rights-based approach integrates the principles of international children rights into the policies and programmes (OHCHR, 2002). The rights-based approach is established on the 4 key principles of the CRC, namely, non-discrimination,[20] best interests of the child,[21] the right to survival and

[20] Article 2 reads : "States parties shall respect and ensure the rights set forth in the present convention to each child within their jurisdiction without discrimination of any kind, irrespective of the child's parents or legal guardian, race, color, sex, language, religion, political or other opinion, national, ethnic or social origin, poverty, disability, birth or other status" (CRC, 1989)

[21] Article 3(1) reads: "In all actions concerning children whether undertaken by public or private social welfare institution, courts of law, administrative authorities or legislative bodies, the best interest of the child shall be a primary consideration" (CRC, 1989)
Article 6(2) reads: "State parties shall ensure to the maximum extend possible the survival and development of the child" (CRC, 1989)

development and the views of the child.[22] The application of a rights-based approach provides a multi-dimensional and non-discrimination view on basic education (UNESCO, 2007). In this study, the focus is on the CRC: Article 2 protects all children from all forms of discrimination, Article 23 recognises the rights of children with special needs, Article 28 advocates for access to basic education for all children and Article 29 which acknowledges the importance of other values; including, culture, religion and language in education (CRC, 1990).

Research has shown an increasing emphasis on the rights-based approach in education (UNICEF, 2007). The approach is based on seven foundational principles. The first principle is universal nature which supports that all children are entitled to children rights. This is reflected in various statutes of the CRC; specifically, Article 28(1)(a) and Article 2(2) which give reference to “all children” with no form of discrimination of any kind (CRC, 1989).

Furthermore, Article 1 of the Universal Declaration of Human Rights (UDHR) indicates that all children are equal in dignity and rights (UNICEF, 2007). Secondly, the approach argues that children rights are indivisible; therefore, whether cultural, civil, political, economic or social rights, they cannot be ranked in any form of hierarchy. Despite the indivisible nature, this does not undermine their interdependence and interrelatedness. For example, the study also examines the right to basic education in relation to certain cultural practices; for instance, *Ukuthwala* in the Eastern Cape province. As noted in Section 31(2) of the Constitution of South Africa, cultural rights should not be exercised to violate any rights included in the Bill of Rights[23] (Republic of South Africa, 1996).

The third and fourth principles focus on equality and non-discrimination respectively, in this case, all children, including OVC have the right to basic education without being subject to any form of discrimination. Access to basic education must be guaranteed free from any form of discrimination. UNICEF (2007) summarising the fifth principle states that all people are entitled to free, active, and meaningful participation in their rights. This is also linked to the sixth principle of the approach with seeks the importance

[22] Article 12(1) reads: "States parties shall assure to the child who is capable of forming his or her own views the rights to express those views freely in all matters affecting the child, the view of the child being given due weight in accordance with the age and maturity of the child” (CRC, 1989)
[23] Act No. 108 of 1996

of empowerment. This is aimed to help grow and give people capabilities to improve their communities (UNICEF, 2007). Lastly, the seventh principle is based on accountability, and in the process improving the governance of the basic education sector.

1.8 Research ethical clearance

Creswell (2007) advocates that the researcher must strive to produce an accurate and honest account of the findings. Interaction with the participants involved some ethical issues which included; sensitive topics, the right to privacy, and the right to answer questions. The researcher is responsible to protect the participant from putting themselves at risk and to decide whether, or when to intervene when a participant is indeed at risk (Barrow et al., 2022; McKibbin et al., 2021).

In this study, the researcher ensured ethical guidelines were adhered to as indicated in Appendix B of the study. The ethical issues at the core of this study are detailed in Chapter 2 of the research, these include; informed consent, the right to withdraw, protection of participants from harm, the right to participants' privacy, and the honesty of the researcher (Thomas, 2011; Gallagher, 2009; Trussell, 2008; Creswell, 2009). The researcher obtained ethical clearance from the Research and Ethics Committee at the University of Pretoria (See Appendix A for details). Following the ethical clearance, the researcher confirms the following; no participant personal details were published in the research, the participants were not coerced or forced at any stage of the interview, and they were allowed to withdraw from the interview at any time with no negative consequences and any data collected will be destroyed. The researcher appreciates that in this research, no issues of participant withdrawal were encountered.

1.9 Problems and limitations/delimitation

The main challenge during the research was that the data collection process was conducted at the peak of the Covid 19 pandemic. The Government of South Africa introduced lockdown restrictions, through the Disaster Management Act, 57 of 2002 to contain and mitigate the virus. As a result, rather than conducting face-to-face interviews, alternative data collection methods through online and telephonic interviews were used. Several interviews had to be rescheduled based on the participants

availability, interned connection problems and unforeseen challenges. As a result, the research took longer than anticipated to complete. As result of the primary and special school closers during the same period, no children were interviewed. These issues will be elaborated in the next chapter which focuses on the research methodology of the study.

The lack of a clear definition of OVC presented challenges in terms of the scope and parameters of the study. Conceptual clarity establishes the foundation of the research, and helps to collect and analyse reliable data (Flake & Fried, 2020; Scheel et al., 2021, Wilshire et al., 2021; Bringmann et al., 2022). Therefore, the study adopted an operational definition which conceptualises OVC as children between 0 to 18 years, who lost either or both parents, and are made vulnerable due to poverty, discrimination, disability, domestic violence, HIV/AIDS and harmful cultural practices and Chapter 3 outlines explores the concepts and context of OVC the research.

1.10 The layout of the study

The presentation of the dissertation is structured into 6 complementary chapters. This section provides the layout and summary of each chapter.

Chapter 1: Introduction and background

The first chapter provides an overview of the study. This includes the research problem, questions, objectives and the significance of the research. The chapter is supported by the literature review and the theoretical framework which positions the research.

Chapter 2: Research methodology

This chapter outlines the research methodology applied in the study, focusing on the Eastern Cape province. The section explores the Eastern Cape province, provides a description of the study area and presents the population of OVC in the focus area. The research design, data collection methods, and analysis are discussed in the chapter. Furthermore, the chapter reveals the ethical principles incorporated in the research.

Chapter 3: An exploration of concepts: Orphans, vulnerable children, and basic education

The chapter is supported by recent scholarship and accredited journals, legislative and

policy documents on basic education in South Africa as well as key concepts such as orphans and vulnerable children and basic education. The chapter contextualises OVCs by reflecting on challenges facing OVCs including poverty, domestic violence, and HIV/AIDS. CRC Committee, General Comment 13 is adopted as the basic education framework for the research. Moreover, it provides a timeline trajectory of basic education from the Jomtien declaration to the United Nations SDGs.

Chapter 4: Domestication of treaties on the child's right to basic education

The chapter introduces the concept of domestication by highlighting the relationship between domestic policy and international treaties. The discussion reflects on the processes and challenges involved in the implementation of policy in South Africa. The chapter focuses on regional and international treaties focusing on the rights of the child and basic education; namely the CRC, ACRWC, CESCR, and UDHR. As the focus of the study, the chapter examines the scope and implementation mechanisms of the CRC, including the progress made on reporting the treaty and the outstanding issues related to access to basic education for OVC in the Eastern Cape province. The chapter explores on the states obligation to respect, protect and fulfil the rights of the child. In conclusion the process of domestication is outlined, focusing on the system of domestication applicable in South Africa.

Chapter 5: Data presentation and analysis

In this chapter, the collected data is presented using various forms; such as, graphs, tables and maps. The presentation also includes direct quotations from the participants' responses, supported by a qualitative analysis of the data collected. The chapter assesses the progress, initiatives challenges and proposed solutions by NGOs, the community, and the government of South Africa to promote access to basic education in the Eastern Cape province.

Chapter 6: Recommendations and conclusions

The last chapter presents a summary of the main findings based on the research questions outlined in Chapter 1 of the study, and presents the recommendations on efforts to support access to basic education for OVC in the Eastern Cape province. Lastly, I reflect on the recommendations and areas for future research.

CHAPTER 2

RESEARCH METHODOLOGY

2.1 Introduction

This chapter presents the methodology used in this study, by giving a more detailed outline of the research design, data collection and process applied. The research method explicates the kind of researchable problems identified, designs and procedures of appropriate means of collecting data, organising and analysing data (Teddlie & Tashakkori, 2007; Polit & Hunger, 2004). A qualitative research design was used, presenting findings in the form of written descriptions, which outlines the responses of the participants during the online interviews (Creswell, 2007).

The chapter shows a descriptive view of the study area, including the respective population of children and OVC in the Eastern Cape province. Then elaborates on aspects of qualitative research design guiding the collection and analysis data; these include, sampling, selection of data collection instruments, limitations of research instruments, data analysis the ethical aspects encountered during the research study, all which will provide insight for future researchers.

2.2 Description of the study area

South Africa has a three-tier system of government, made up of the national, provincial and local levels of government (Republic of South Africa, 1996; Mudau, 2020). The research was conducted in the Eastern Cape province, which is divided into metropolitan districts and municipalities. These include 2 metropolitan municipalities; namely, the Nelson Mandela Bay and Buffalo City municipalities. The study area includes district municipalities; including, Amathole, Sarah Baartman, Chris Hani and OR Tambo districts and areas; such as; Gqeberha,[24] East London, Qonce,[25] Dikeni,[26]Middeldrift, Mthatha,[27] Port Alfred, Komani,[28] Seymour and Fort Beaufort.

[24] Formerly known as Port Elizabeth
[25] Formerly known as King Williams Town
[26] Formerly known as Alice
[27] Formerly known as Umtata
[28] Formerly known as Queenstown

Figure 2.1: Map of the Eastern Cape province

Source: Rooms of Africa, 2022

Figure 2.1 above shows a map of the Eastern Cape province,[29] with the main towns and cities included. The research area also included rural communities; for example, Zwide, Nkwenkwezi, Nqanqarhu, Ikhwezi, Kwazakhele, Ndevana and Chinsta East. The primary factors determining the selection include the OVC prevalence and overall basic education barriers as supported scholarly research (Ndayi, 2020; Hall, 2016; Ndonga, 2012).

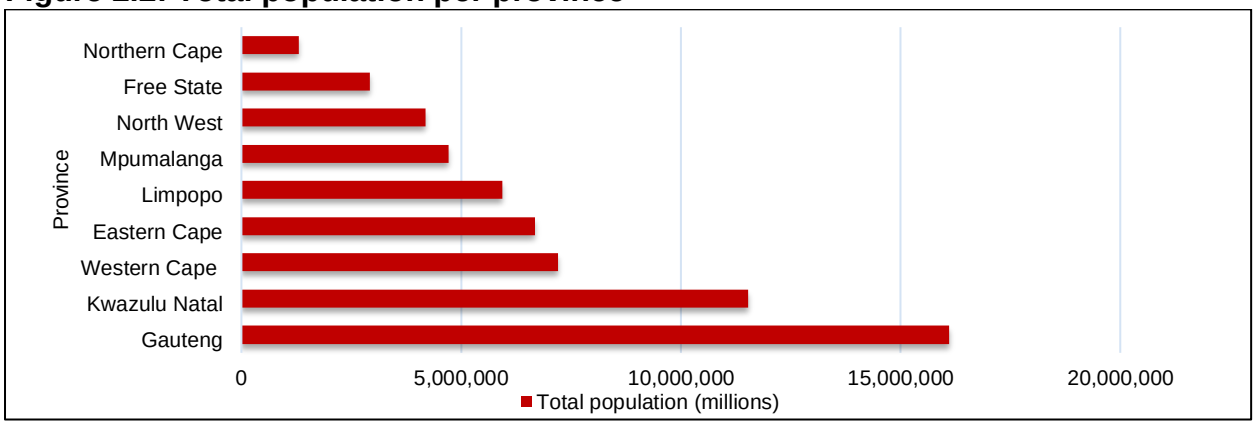
The Eastern Cape province was created in 1994, as a merger of two former Xhosa Bantustans, the Transkei and Ciskei, both of which were very negatively affected by the legacy of apartheid and segregation. Since then, especially in the former Transkei, there have been failed social and welfare policy reforms resulting in poverty, unemployment, lack of education, poor infrastructure and health system (Ngumbela, Khalema & Nzimakwe, 2020). In support of this view, Westaway (2008) highlights that the poverty in these areas since 1994 is arguably worse now than it was at the dawn of liberal democracy. As shown in this research, some of these post-apartheid legacy issues have created barriers to education for OVC.

[29] Map does not show the town name changes in the Eastern Cape province

2.2.1 The population of the Eastern Cape province

The Eastern Cape is a populous province, with the second highest rate of child poverty at 79%, the state of basic education in the province is described by Equal Education as an "education crisis" (Ngumbela, 2021; Stats SA, 2020; Equal Education, 2016; Westaway, 2012). Figure 2.2 shows the population breakdown per province.

Figure 2.2: Total population per province



Source: Stats SA, 2022

Figure 2.2 shows the Eastern Cape province as the fourth largest population with a population of approximately 6.7 million people. This represents 11% of the total population in South Africa (Stats SA, 2022). In a specific view on children, Osei-Agyakwa (2012), indicates the Eastern Cape province has a high dependency represented by the increasing population of children under the age of 15 years, this finding is supported by Stats SA (2022) which estimates 33% of children in this age group.

2.2.2 Population of orphans per province

Orphaning rates are particularly high in provinces that contain the former homelands,[30] as these areas bear a large burden of care for orphaned children (Hall, 2018). In support of this view, Ngumbela et al. (2020) highlight that the overwhelming finding is that after two decades of democracy, the Eastern Cape province remains trapped in structural poverty.

[30] The South African homelands were created during the apartheid era, as instruments of racial segregation on the African population.

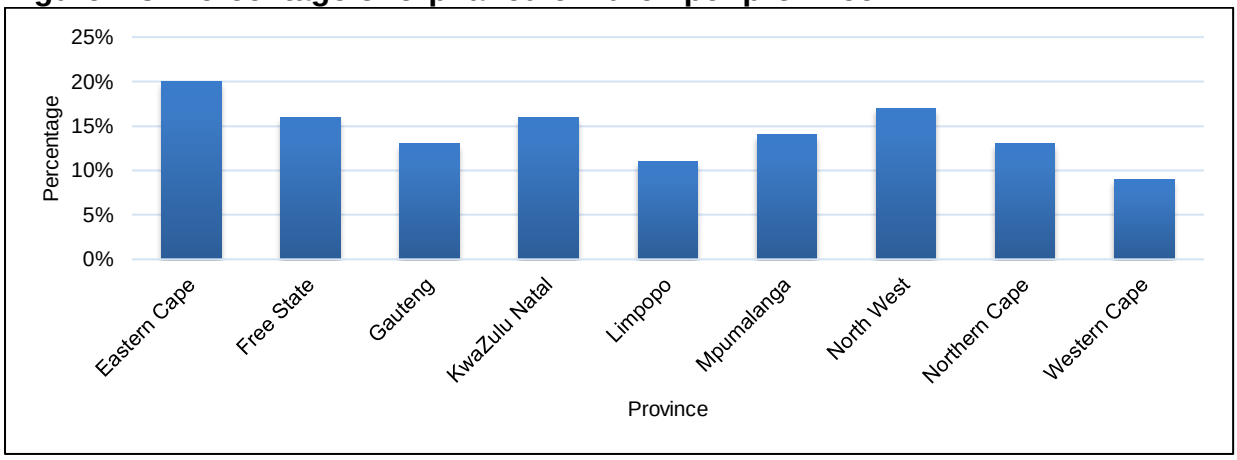
Table 2.1: Distribution of children population by province

Province	Number of children
Gauteng	4 417 000
KwaZulu Natal	4 302 000
Eastern Cape	2 554 000
Limpopo	2 472 000
Western Cape	2 092 000
Mpumalanga	1 722 000
North West	1 439 000
Northern Cape	440 000
Free State	105 000
Total	20 496 000

Source: Stats SA, 2021

Table 2.1 shows the distribution of children in South Africa by province. Gauteng province has the highest population of children of 4 417 000, followed by KwaZulu Natal with 4 302 000. The Eastern Cape province, the focus area for the research has the 3rd highest children population of 2 554 000. The data presented above helps to determine the orphan rate, which are calculated based on the specific child population in the province.

Figure 2.3: Percentage of orphaned children per province



Source: Stats SA, 2021

The diagram above shows the percentage of children orphaned per province. The Eastern Cape province with 20% has the highest orphan percentage in South Africa. Followed by the North West and KwaZulu-Natal provinces, with 17% and 16% respectively. The lowest orphan rate, 9% is recorded in the Western Cape province. The validity of the statistics of the orphan population has been an area of concern due to differences in the definition and scope of orphans. Therefore, the researcher made every effort possible to provide the most updated sources from the national statistics

service, Statistics South Africa.[31]

The orphaning rates, which are particularly high in Eastern Cape province is calculated based on the population of children in the area. For example, KwaZulu-Natal has the largest child and orphan population of approximately 4.3 million and 630 000 respectively, which equates to an orphan rate of 16%. The Eastern Cape province with a child population of 2.5 million has the orphan rate of 20%, which is the highest in South Africa. Households in the province carry a large burden to care for orphans, with highest concentration of double orphans in South Africa.

The lack of a concise definition for vulnerable children (See Chapter 3 for details) makes the provision of statistical data impossible, because the factors determine the vulnerability of children are different. As such, on the case of South Africa, the Committee on the Rights of the Child[32] reflects on the need provide data on children who are victims of GBV, sexual exploitation and children disadvantaged from vulnerable situations; including, children with disabilities (United Nations, 2021). Thus, the decision to conduct research in the Eastern Cape province was not only based on OVC statistics but also on the basic education challenges faced by OVC in the Eastern Cape province (Ndayi, 2020; Amnesty International, 2020; Hall, 2022). Having established a descriptive background, the next section explores aspects of the methodology; including, the research design, data collection and analysis and ethical considerations.

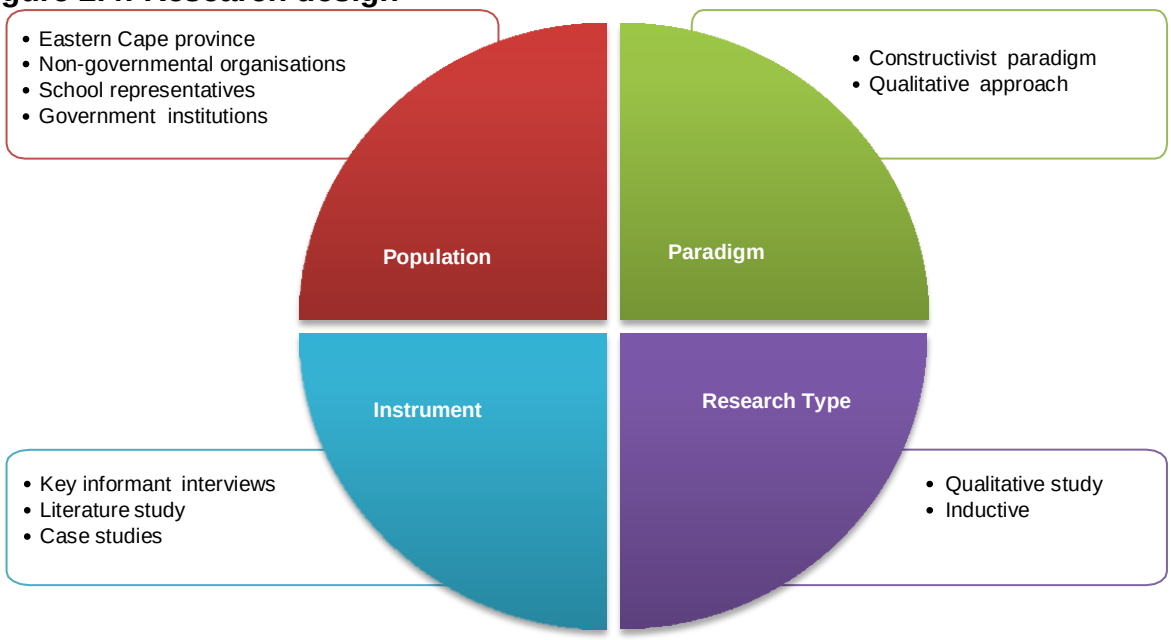
2.3 Research design

Welman et al. (2005), collectively define a research design as a plan which outlines the process of collecting data from the research participants. The research design can further be defined as the conceptual structure or blueprint that is followed to conduct the study (Kothari & Garg, 2019; Creswell, 2014). As a result, the research design is a strategic framework for action that serves as a bridge between research questions and the execution, or implementation of the research strategy (Durrheim, 2004).

The researcher applied a research design to provide the best answer or solution to the identified problem. The research design for this study is illustrated in Figure 2.4

[31] The national statistics agency for the official statistics of South Africa, referenced as Statistics, SA
[32] Also referred as CRC Committee monitors the implementation of the CRC, consists of 18 members elected by the UN, with 9 seats becoming available every 2 years (Sahovic, Doek & Zermatten, 2013)

Figure 2.4: Research design



Source: Compiled by the researcher

This study views the world from a constructivist point of view, using a qualitative approach. Qualitative research is used within the context of a case study. Complementary data collection instruments in the form of key informant interviews and literature studies were used. Bryman (2012) notes that a case study involves an in-depth exploration of data collection, involving multiple sources of information to provide a well-informed analysis of the research.

The study is motivated by literature and first-hand experiences on the challenges of basic education in the Eastern Cape province. Moreover, this is a comprehensive follow-up on a Master's research previously conducted by the researcher[33] that focused on the role of NGOs in education in the Eastern Cape province. Furthermore, the researchers' internship experience at United Nations, OHCHR inspired the focus on children's rights in South Africa.

The study implemented a qualitative research design; specifically, the case study was used to obtain a more holistic assessment of the challenges of OVC to access basic education in the Eastern Cape province. Gubrium and Sanker (2005) advocate that this

[33] The changing role of non-state actors 'relations in post-apartheid South Africa: A case study of two Eastern Cape non-governmental organisations (Chirowamhangu, 2016)

method is instrumental as it reinforces an understanding of social phenomena within a social and situational context without imposing pre-existing expectations upon the setting. Table 2.2 below, shows the key characteristics of a qualitative research design.

Table 2.2: Qualities of a qualitative research

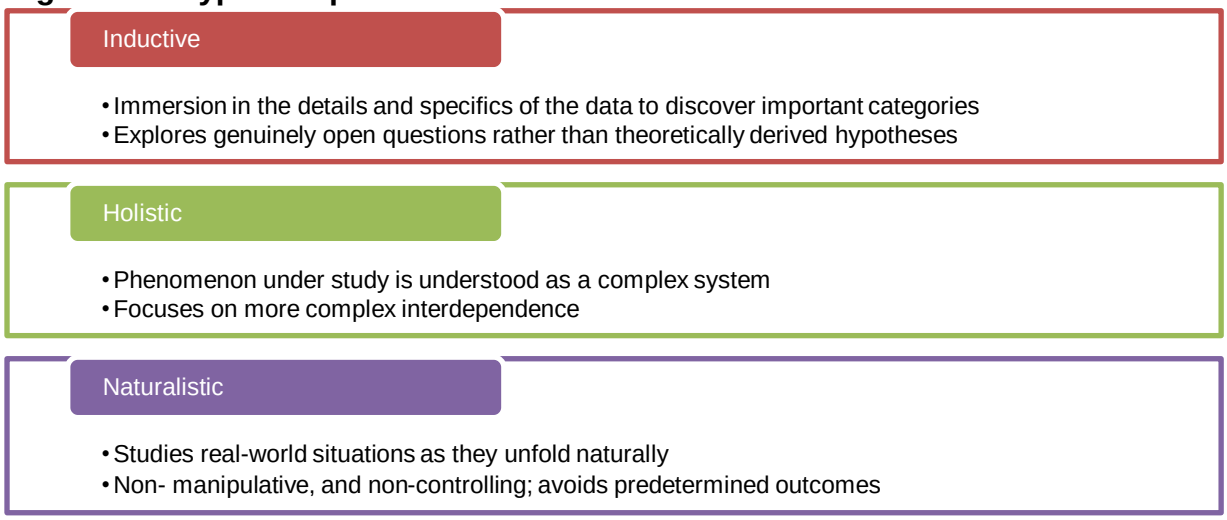
Key characteristic	Explanation
Conducted in a natural setting	Direct contact between the participants and me in a natural setting
The researcher is a key instrument	Researchers become key instruments for collecting data
Inductive nature	Words, patterns, categories and themes are generated
Use of multiple sources of data	Qualitative researchers use multiple sources of data
Participants' frame of reference	Meanings assigned by participants to
Use of a theoretical lens	Qualitative researchers use a theoretical lens
Emergent design	Unpredictable and allows for flexibility during data collection
Interpretive nature of the inquiry	Acknowledges the researchers' own experiences, and context
Every detail counts	Qualitative researchers identify the complex interaction of factors

Source: Compiled by the researcher

Kumar (2019) supports that qualitative research is characterised by manifold interpretations rather than an imposed dominant interpretation. The involvement of participants from different areas; including, basic education, social welfare, policymakers and children rights brought together a panel of participants that is well informed and experienced on basic education and OVC in the Eastern Cape province.

Therefore, for this study, the qualitative research design is located within the constructivist paradigm. In this way, the perspective of this study is constructed, interpreted, and experienced by the participants in their interactions (Maxwell, 2012). This paradigm is more flexible and allows participants to express their views on the subject matter and are inductive in nature. The research reflects on three main types of qualitative research: inductive, holistic and naturalistic.

Figure 2.5: Types of qualitative research



Source: Berg, 2012; Terre-Blanche & Durrheim, 2002; Compiled by the researcher

Figure 2.5 above provides a summary of the main characteristics of qualitative research including the use of descriptive data, emphasis on the process rather than on the product, use of inductive logic, effort to fully understand the evidence and use of natural settings (Bogdan & Biklen, 2007; Creswell et al., 2019). As a result, this becomes more evaluative in that as the researcher gathers evidence, informed judgement can be made on the effectiveness of policy and practices related to access to basic education.

The inductive research strategy aimed to establish limited generalisations about the distribution of, and patterns of association amongst, observed or measured characteristics of individuals and social phenomena (Wagner et al., 2012). The researcher followed the recommendation of Blaike (2010) which suggest that the strategy is effectively applied by starting with the collection of data and then proceeding to derive generalisations using some kind of inductive logic. Blaike (2010) states that this will help to produce unbiased conclusions as the researcher will take a detached observer position and avoid allowing personal values or political commitments to contaminate the research.

2.3.1 Study population

A study population is the aggregation of elements from which the sample is selected, individuals or groups which conform to specific criteria, to obtain a generalised set of results. (Mellenbergh, 2019; McMillan & Schumacher, 2010; Welman et al., 2012). The study population was comprised of representatives from schools, NGOs and

government departments. Though the study did not include legal experts on the CRC, the participation of educators from primary schools was important as they have direct interaction with the affected children. In addition, they had a central role in their engagement with NGOs and government departments on basic education and the welfare of children.

Importantly, as indicated in Chapter 1 of the study, though OVC make up the focus of the research, due to lockdown measures no children were interviewed; thus, the role of educators as participants is key. For this study, the research population includes participants from; NGOs, primary schools and government departments which have the primary mandate of providing basic education in the Eastern Cape province. Consequently, the sample was drawn from the Amathole, Buffalo City and the Nelson Mandela Bay Metropolitan Municipality.

2.3.2 Sampling

Sampling refers to the process of selecting observations required for a specific subset of a population to make inferences about the nature of the total population (Kumar, 2019; Gall et al., 2007; Neuman, 2011). Thus, without sampling (or correct sampling method), the population in its totality can be impractical and unnecessary. Warner (2018) recommends that an effective sampling method helps to reduce the cost of conducting research, and the time used to collect data and analyse data.

The non-probability sampling method was used to select the participants for the interviews, whereby the probability of selecting is known by the researcher (Kumar, 2019). The participants contribute by providing relevant information on the research area (Henning, 2004). The study employed the non-probability snowball sampling technique to select knowledgeable and experienced participants. Therefore, every participant is regarded as a key informant because they provide the information required to identify other participants who provide additional information. This is regarded as the saturation principle of diminishing returns in which each additional unit of information would supply less new information than the preceding one until new information dwindles to nothing (Thiétart, 2007).

2.4 Research and data collection instruments

Data collection is a process of gathering data to answer the research questions or to meet the research objectives (Saunders et al., 2012). The researcher used both primary and secondary methods in the form of online interviews and literature study respectively. Scholars have supported the use of multiple methods when collecting data (Mahlala, 2019; Collins & Hussey, 2009).

The proposed method of data collection was through key informant, face-to-face interviews from participants. Before the inception of the data collection process, there was an outbreak of the Covid 19 virus,[34] halted all efforts of conducting key informant, face-to-face interviews. This was mainly due to the lockdown measures, introduced by the Government of South Africa to reduce transmission (Republic of South Africa, 2020). The researcher opted for the use of electronic and telephonic methods to collect data from participants from the Eastern Cape province. The use of electronic methods to collect data is a validate alternative in cases where the traditional face-to-face method is not possible due circumstances beyond the researcher (Bless et al., 2006).

Consequently, the interviews were conducted using online platforms; such as Microsoft Teams, Skype, and Zoom. Access to the internet was a major challenge for some participants, and in such cases, telephonic interviews were used as an alternative. A total of 50 interviews with NGOs, primary schools, and government departments were scheduled to complete the data collection process. Some participants had working, and health constraints caused by Covid 19, internet, and network challenges; as a result, 44 participants were available for the interviews. The list of participants is attached in Appendix C for details, no personal details were included on the list, in line with the research ethical .principles.

The findings in the interviews were supported by secondary data from policies, government and treaty reports on the study area. The use of secondary data in research has been supported by scholars (Collins & Hussey, 2009; Saunders et al,, 2012). The researcher used literature from the United Nations, Office of the High

[34] Caused by a novel severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2) (Hapan et al., 2020).

Commissioner for Human Rights (OHCHR), which is the Secretariat organ of the United Nations responsible for providing reports on treaties and progress made by state parties. Hofstee (2006), adds that the use of secondary literature helps to remove doubt and establish credibility on important facts.

2.4.1 Key informant interviews

The key informant interviews allowed the researcher to have direct interaction with the respondent, through in-person question and answer sessions. The interviews helped the researcher to construct a detailed picture of access to basic education in the Eastern Cape province. The researcher had a pivotal role to ensure that the allocated time for each interview was used effectively, whilst avoiding interference with the participant during the interview process. Therefore, the researcher focused on the key questions outlined in the interview schedule (See Appendix D for details), but also used the participant's responses to questions to expand further. This guide made it possible for the researcher to conduct follow-up questions on areas of interest and helped the participant to prepare in advance, which is one of the key reasons, which contributed to the success in completing interviews within the allocated time.

Mabila (2014) highlights that the use of an interview schedule allows for flexibility and a better flow of information during the interview. This also helped the participant to schedule the meeting with an estimated duration for scheduling and planning purposes. The interview session in this study was scheduled for 30 minutes per participant; there was room for flexibility in cases where more time was required to fully explore the various concepts of the research study. The researcher applied the standard time of 30 minutes per interview for two main reasons; firstly, most organisations were overburdened during the Covid-19 pandemic, thus a much shorter interview period was favourable; secondly, to save on data costs both for the participant and researcher.

The digital recordings were used to have an accurate account of the interview. Often during an interview, the researcher had a multifaceted role, which includes, asking the questions, recording the responses and keeping the interview session interactive. This necessitated a more flexible environment between the researcher and the participant. Bryman (2012) reflects on the advantages of using digital recordings and states that the recordings can easily be played back repeatedly without risking losing the

information. The data collected were transcribed and analysed using the Atlas.ti 9 data analysis software. In some cases, the researcher used the Otter.ai software to transcribe data collected from telephonic interviews.

2.4.2 Preparation of interview schedule

The interview schedule helped the researcher to focus on the research questions and the participant to prepare for the interviews. The researcher used the main research question, aims, and objectives to design the interview schedule. Greef (2011) recommends that the interview schedule assists to maintain the interconnection of questions so that they remain focused on the area of study, and arrange questions from simple to complex, or broad to specific. Though, some questions could not be scripted as they resulted from the participants' responses, to provide clarity on certain areas of the research. The interview schedule created a conducive research environment during interviews.

2.4.3 Pre-testing of research instrument

The pre-testing process of the research instrument involved conducting pilot interviews before the research interviews. Silverman (2010) emphasizes the importance of pre-testing an interview schedule as this allows the researcher to experiment with different styles of questioning and learn from early mistakes, to improve their interviewing skills. Bryman (2004) reports that the pre-testing process helps the researcher to identify the expressions, phrases and language interpretations which can make the participant uncomfortable. The researcher completed the pre-testing process with 10 participants who met the participant inclusion criteria, their responses were not included in the data analysed, since this was a preparatory exercise.

The researcher conducted the pre-testing interviews using an open-ended format to encourage participant interaction. Greef (2011) suggests that the interviews should be short, and precise and not include any complicated jargon. Therefore, to build and ensure that the participants are at ease, the interviews started with general questions focusing on the background of the organisation, school, or government department (Du Plooy-Cilliers et al., 2014; Brinkmann & Kvale, 2015). The use of background questions at the beginning of the interview, prompted the participants to freely engage in a discussion.

2.4.4 Conduct during the interview

Despite Xhosa being the predominant language in the Eastern Cape province, all participants during the interview preparation stage, indicated that they were comfortable conducting the interviews in English. This established a standard of communication for all the interviews, enhanced the transcription process since no translation would be required, and the data would be accessible for future reference studies. Thus, it was possible to maintain the synergy between questions during interviews. This also helped the participants to remain focused on the study area. Scholars advocate that the researcher should focus on a clear sequence of questions one at a time and avoid double-barred questions (Du Plooy-Cilliers et al., 2014).

The interview questions were used as a guideline, and participants were not limited by the interview questions. Though, in some instances, the participants were not well informed on some aspects and required clarity. This required paraphrasing, probing and reflection to ensure that the participant understood the interview question (Silverman, 2014; Gray, 2014; Tracy, 2013). The most common method used during the interviews was paraphrasing in which the researcher used alternative words or expressions of the same meaning. The well-being of the participant was considered of paramount importance during the interviews.

2.4.5 Sound recordings and notes

During the interviews, some of the audio were recorded and notes taken for further analysis. The Atlas.ti 9 data collection software recorded audio and provided notes for each interview, the researcher also took handwritten notes for reference. The use of such instruments enhanced the credibility of the study (Creswell, 2014; Greef, 2011). This was all conducted with the consent of the participants as articulated in the letter of consent attached (See Appendix B for details).

Notes were taken during the interviews to maintain and comment on expressions, phrases and nonverbal cues which might not be adequately captured during the audio (Sutton & Austin, 2015). The use of notes also reminds the researcher of situational factors which might be overlooked in the recordings and necessary for transcription. The researcher preferred the use of handwritten notes for two main reasons; firstly, the method was much faster; secondly, the notes could be rephrased using creative connotations or references. As prescribed by Gray (2014), the notes also included

observations on the participants' emphasis, tone and important cues when responding to questions. Therefore, some recordings from meetings conducted on Microsoft Teams, Zoom, Skype and Google Meet had recorded visual meetings, which the researcher used when analysing data. In all the interviews, the researcher followed ethical principles by informing and consenting the participants on the recording process.

2.4.6 Familiarisation

As indicated earlier the researcher used constructed themes obtained during the interviews to carefully analyse the data. Javadi and Zarea (2016) recommend identifying similarities and patterns of data during interviews in qualitative research. As a result, through familiarisation, the researcher developed a deeper understanding of the basic education challenges of OVC in the Eastern Cape province, by identifying patterns of responses from the participants.

2.4.7 Research data processing and analysis

Data processing involves “breaking up” the data into manageable themes, patterns, trends, and relationships (Mahlala, 2019). The use of primary data is meaningless if there is no clear analysis, interpretation, or deduction made. The application of secondary data in the form of a literature study involved the use of already used existing documentary evidence, of which the interpretation of the researcher is of great importance in the context of the study. Such data can be voluminous considering several researchers can use the same data for their interpretation. The study implemented a qualitative content analysis.

Researchers have supported the use of qualitative content analysis to identify and categorise data into themes (Bengtsson, 2016; Bryman, 2012; Terre-Blanche & Durrheim, 2002). The research data was divided into different themes, with a more detailed descriptive analysis. In some instances, interview participants provided responses that were used as interview excerpts, using direct words and quotations to maintain the originality of the data. The themes which emerged from the analysis helped the researcher to establish the relationship between concepts, actual data collected, and the research questions. This is an effective method of data analysis as in some cases the participants provide a large volume of data that might not be relevant

to the research problem.

The qualitative approach was more favourable because of the nature of the study and would limit the participants' expression focus areas in the context of the Eastern Cape province. Maree et al. (2007) assert qualitative data analysis is based on an interpretative philosophy that is aimed at examining the meaningful and symbolic content of qualitative data. When the analysis is made any form of detail is relevant to come up with conclusive findings. Mahlala (2019), recommends that the process of qualitative content analysis should be implemented during the early stages of data collection. Despite, the rigorous process of selecting the appropriate participants for the researcher, there are always some participants who fail to respond to the research questions. In such instances, the researcher rephrased some questions to provide clarity. All the data was converted into written text before the data analysis process.

2.4.8 Reliability of findings

Reliability is the proof of consistency on a research instrument (Bless & Higson-Smith, 2000). The question of the reliability of findings is of vital importance, as this study provides information that is relevant for future research projects. Reliability is regarded as the extent to which results are consistent over time with an accurate representation of the total population under study (Kumar, 2019; Golafshani, 2003). The use of multiple sources of information helped to increase the reliability of the findings to support the findings. As a result, the findings of a study can be reproduced under a similar methodology, the reproduction of results is not applicable in qualitative research because researchers can interpret data differently (Majova, 2018). Conflicting results can also help to raise critical questions which make future research more valuable.

Consequently, taking the complexities mentioned above into question, the researcher revised the interview transcripts to ensure that the original voices of the participants were captured and analysed. Majova (2018) states that the sources of data in qualitative research should be credible, trustworthy and unbiased. The researcher provided credible and updated literature relevant to the study; furthermore, the sources were fully referenced using the Harvard Referencing style.

2.5 Data analysis

The study used computer-aided data analysis software program, Atlas.ti 9 to assist in coding, analysing, and managing data (See details in Appendix F). Krueger and Casey (2000), state that data should be coded thematically based on the findings and conclusions of the study. The large volume of data was more favourable for content analysis as an analysis method. This involves producing thick or thorough descriptions of the phenomenon being studied, and then creating categories to the data (Wagner et al., 2012; Blaike, 2010; Welman et al., 2005). As a result, the researcher highlighted and discussed common thematic areas identified during the research.

Furthermore, several studies have alluded to the advantages of qualitative content analysis; for example, the use of content analysis allowed the researcher to analyse data using content and textual data; which assists in coherently structuring the findings from the data (Macnamara, 2006; Marshall & Rossman, 2011). Conversely, this systematic procedure also carries some disadvantages. Ehnert (2011), states that when the research design is not clearly articulated this can lead to an excessive interpretation of the research, leading to biased outcomes. As a result, to successfully implement a content analysis-based study, Zhang and Wildenmuth (2009) maintain that the researchers must identify the important themes or categories within the research, and provide an in-depth analysis of the social reality created by these themes and categories. The researcher considered the reflections above to provide a well-structured analysis.

2.6 Limitations of research instruments

Limitations are those events or circumstances that exceed the researcher's control and further place restrictions on the accomplishment of the study, analysis and reliability of the findings (Price & Murnan, 2004). The use online and telephonic technology to conduct interviews presented some limitations. The most common challenge was poor network connectivity in the Eastern Cape province. Consequently, some interviews had to be rescheduled or alternatively telephonic interviews were conducted. Also, linked to poor network connectivity, the internet speed was slow in some instances. As a result, some online interviews had to be restarted in instances of buffering.

During the data collection period, some participants had an intensive workload to accommodate the interviews. Some interviews were conducted late at night or early in

the morning depending on the request of the participants. Ball and Smith (2001), add that qualitative research is a dynamic component of research, and the researcher needs to invest time in awareness of the situation and the participants. Even though most of the participants were in South Africa during the research, the researcher had to adapt to the availability of the participant during international visits, even in different time zones.

The quality of interviews depends on the skill of the researcher to listen carefully to the participants' responses and navigate the responses focusing on the research questions. Greef (2011) highlights that poor interviewing skills, the phrasing of questions, or inadequate knowledge of the participants' background contribute to a lack of sufficient data during the interview process.

During the research interviews, some questions were restructured to the understanding of the participant. As indicated earlier the use of themes helped to maintain the coherent relationship between the question asked and the research problem. Also depending on the interview, the researcher collected supplementary information, which was used in interpreting results (Azeh, 2015; Tracy, 2013). These were in the form of follow-up questions. The order of questions on the interview schedule was changed depending on the responses from the participants. This helped to save time, as some participants were well informed on the focus area of the study such that they provided all-inclusive responses which addressed other questions.

2.7 Ethical considerations

Research requires a high level of accountability to prevent the violation of the participant's rights. The credibility of the research outcome can only be approved when ethical considerations are clearly outlined and maintained. The study observed these ethical requirements as highlighted in the discussion below.

2.7.1 Ethical clearance documentation

Steffen (2016), presents that it is with uttermost importance that in any research there should be an awareness of the ethical consideration and an agreement to conduct the research according to ethical procedures. This clearly shows that the participant should be fully aware of the ethical obligations which must be followed during research. As such, research institutions have made it mandatory that the researcher should apply

for ethical clearance before the data collection process. This study was ethically cleared by the University of Pretoria, Research and Ethics Committee on the 3rd of February 2021 for an initial period of five years (See Appendix A for details).

2.7.2 Informed consent

Informed consent provides background knowledge about the study, the research process, and the objective of the study. This information helps the participants to make informed decisions on whether or not to be involved in the study (Mathipa & Gumbo, 2015). In addition, La Rossa and Bennett (2018) state that it is unprincipled to collect information without the prior information of the participant. Liamputtong (2013) advocates that the participant has to indicate their commitment to participate in the research. The researcher sent a participation invitation email and the ethical consent document to all prospective participants. Once the participants indicated their willingness to participate, an interview link was sent based on their availability date, time and online platform of preference.

The participants have full autonomy, which means freedom to participate in the research project. There were allowed to withdraw from the research project at any point if they wish to do so. As a standard, the participants in this study were asked to sign the consent form for reference. This will be evidence to show that the study was not conducted in an environment of cohesion or intimidation. The letter of informed consent provides the background of the study and emphasis their right to wilfully participate in the research. Liamputtong (2013) states that informed consent is grounded on the ethical principles of respect for dignity and freedom of expression.

2.7.3 Voluntary participation or autonomy

This aspect refers to the will and freedom to contribute to the research. La Rossa and Bennett (2018), add that the participant should have the legal capacity to give consent. All participants in this research were above the age of consent, as prescribed by the South African Constitution. The research is well summarised by Kilinc and Firat (2017), in which participation was voluntary and nobody was coerced into participating in the research. As indicated earlier, qualitative research is process oriented; therefore, following ethical precepts, the participants had the liberty to withdraw from the study at any time. The principle of voluntary participation reaffirms that participants were free to decline participation without providing a reason, and they were also free to withdraw

from the study even after they indicated that they were willing to participate (Mathipa & Gumbo, 2015).

2.7.4 Avoidance of harm

In qualitative social research, participants might encounter physical, psychological, or emotional pain and it would be total negligence if the researcher undertakes research without forecasting the possibility of such encounters (Dixon & Quirke, 2018). The researcher planned and took all precautionary measures as any form of harm would not only affect the credibility of the study but could potentially damage the research reputation of University of Pretoria, as the host institution. The researcher was careful not to use any language with racial or discriminatory sentiments. In addition, harm was minimised by taking into cognizance the importance of human rights in research. Also, as a precaution, the researcher withheld the personal details of the participants. The consent form only included the participants' signatures to prevent the release of personal details which could lead to incidents of victimisation.

2.7.5 Confidentiality

Confidentiality entails that data which includes identifiable information about the participants cannot be disclosed to others without the explicit signed consent of the participants (Mathipa & Gumbo, 2015). The principles of anonymity or confidentiality are used to protect the right to privacy (Beardsley, 2017). It is important to note that the two concepts are often mistakenly used synonymously, but the application of the principle is not the same. The application of ethical principles in this study makes the difference clear to the participant. The participant is labelled as anonymous when the researcher cannot identify a given response by the participant. As such a participant cannot be anonymous as the researcher requires the participant's information when planning the interview schedule.

In contrast, in the case of confidentiality, the researcher can identify the participants' responses, but an agreement is made not to withhold personal detail (Beardsley, 2017). This researcher ensured that the confidentiality rights and the privacy of the participants were not violated, as such the publication of the thesis will not violate the participant's confidentiality. Moreover, this principle was upheld by ensuring that no personal questions were asked during the interviews.

2.8 Conclusion

The chapter provided in-depth exposure to the research methodology by discussing various concepts; including, the research design, description of the study area, population, sampling techniques, data collection methods and analysis. A demographic presentation on the study area is presented, including details on the population of OVC and learners in the Eastern Cape province, and the status of education and funding in the province. The researcher applied a qualitative research methodology because the approach presented first-hand data from participants on their experiences with the domestication of the CRC in their communities. The qualitative methodology is well supported by scholars, researchers and experts in research.

Furthermore, in documenting the research methodology, the chapter highlighted the benefits and challenges encountered using the qualitative methodology. As a qualitative study, the Eastern Cape province was the elected case study due to various factors including the current state of education, the population and the poor livelihood of orphans and vulnerable children in the province.

The use of online interviews and officially documented literature were the main methods of data collection. The former involved online interviews with school representatives, NGOs and community and government departments. The specific use of online interviews was motivated by the then-prevailing Covid 19 restrictions, which did not permit face-to-face interviews. The latter allowed the researcher to use documented literature on human rights treaties, declarations, reports from the Department of Basic Education on the state of education in the Eastern Cape province and supporting literature from NGOs; such as the compiled reports from Equal Education with comments and recommendations on the state of basic education.

In conclusion, the chapter inspects measures employed to promote reliability and trustworthiness in the data collection and analysis process. Ethical protocols were maintained during the process. The next chapter will explore the fundamental concepts of OVC and basic education in South Africa.

CHAPTER 3

AN EXPLORATION OF CONCEPTS AND CONTEXTS: ORPHANS, VULNERABLE CHILDREN, AND BASIC EDUCATION

3.1 Introduction

The fulcrum of this chapter is to establish the context and concept of OVC; as well as, basic education in this research. This will be supported by recent articles from scholarship and accredited journals, domestic, regional and international policy documents on OVC, basic education and the rights of the child. As established in the previous chapter, there is a penumbra on the concept of OVC, as there is no concise definition of “vulnerable children”. Therefore, the chapter establishes an operational definition of OVC adopted for this research, based on the findings in Chapter 5. The chapter discuses key factors which have contributed towards the increase of OVC including HIV/AIDS and poverty. The vulnerability of children as a result of disability is explored in this section, using the White Paper 6, ACRWC, CRPD and declarations on inclusive education.

The researcher is cognisant of the importance of concepts and context. In this case it is paramount to provide the meaning of basic education before examining the states obligation to uphold the right. As a variety of classifications and interpretations exist, it is necessary to provide meaning to basic education within the specific context of South Africa before the examination of the child’s right to basic education can be undertaken. Joubert (2014) shows that the term basic education is not explicitly defined in the Constitution of South Africa; therefore, the contribution of regional and international engagements on basic education are recognised in this research.

The chapter presents a timeline reflection of basic education. Starting with the Jomtien Conference, where the term basic education was first introduced, and the framework adopted in this research. The Salamanca recognised access to education for leaners with special needs, the Dakar Framework for Action, which recognised the need to governments and related stakeholders to adopt and implement education policies. The chapter concludes with the transition between the United Nations, Millennium Development Goals (MDGs) and Sustainable Development Goals (SDGs).

3.2 Definition of OVC

Hall (2019) defines an orphan as a child under the age of 18 years whose maternal, paternal, or biological parents have died. The Department of Social Development[35] (2005) confirms that an orphan is a child who has no surviving parent caring for him or her. A double orphan is a child who has either lost or has been abandoned by both biological parents (Hall, 2021; Case et al., 2004). As indicated in Chapter 1, the reference to a "child" in the context of South Africa is supported in Section 28(3) of the Constitution of South Africa which establishes that a child is a person below the age of 18 years.

Due to the escalating global population of children affected by the AIDS epidemic, the recognition of vulnerable children was inevitable (Monasch & Boerma, 2004). In the latest records UNICEF (2021) estimate that 15.4 million children have either lost a parent or both due to AIDS. In South Africa, during the year 2021, approximately 270 000 children acquired the virus, with 960 000 orphans due to AIDS (UNAIDS, 2022). The former UN Secretary-General, Kofi Annan observed:

> *the pandemic is leaving too many children to grow up alone, grow up too fast or not grow up at all. Simply put, AIDS is wreaking havoc on children (United Nations, 2005)*

As such orphans remain the focus of assistance in the category of children affected by HIV/AIDS, as a result, researchers Dawes et al. (2007), advocated for a broader linguistic view, which incorporates the effects of the epidemic on households and children. Thereby, helping to streamline resources through funding and legislature on vulnerable children, who include but are not limited to; children with special needs, exposed to domestic violence, conflict and abuse (Byenkya et al., 2008; Skinner et al., 2004).

Unfortunately, the lack of clarity on a concise definition of OVC hampers efforts to provide assistance to help the children in need. Access to accurate data, to monitor and evaluate on the progress made becomes impractical. Thus, scholars recommend that policymakers, agencies and research institutions have an appropriate understanding of vulnerability in the context of their focus area (Clark, 2007; Cardona, 2003; Massesa, 2004). For example, in developing countries, vulnerability may be the result of socio-

[35] Government Department responsible for social welfare, development and protection

political instability, economic setbacks, and lack of access to basic education. In this study, the scope of vulnerable children as supported by the operational definition used in this research; includes children with special needs and those exposed to abuse as a result of harmful cultural practices; for example, *Ukuthwala*[36] and involuntary circumcision at illegal initiation schools in the Eastern Cape province (See Chapter 5 for details). In the case of involuntary circumcision, Commission for Gender Equality (2021) depicts vulnerable children as exposed to the spread of Sexually Transmitted Diseases (STDs) through the use of unsterilised instruments at illegal initiation schools.[37]

Dawes et al. (2007) reveal that the term OVC, poses two main conceptual challenges, particularly in the exact meaning of "vulnerable". Firstly, if the vulnerable children are only defined in the context of HIV/AIDS does it then exclude children who are vulnerable as a result of other risks which are not related to HIV/AIDS? Secondly, as argued by scholars limiting the definition of OVC to the parameters of HIV/AIDS is complicated because the HIV/AIDS status of children in most settings is withheld due to stereotypes about those infected or due to cultural beliefs (Doctrow, 2016; Rich et al., 2022; Airhihenbuwa et al., 2009).

The term "vulnerable" is intricate, elusive and it has become extremely complex, to have a streamlined working definition (Obrien et al., 2007; Walker & Smithgall, 2009; McEntire, 2011). "Vulnerability" is conceptualised as a state in which a specific population is likely to be adversely impacted by an occurrence (Eloff et al., 2007). Significantly, Skinner et al. (2006), explore that the concept of vulnerable children is centered on the method used in identifying the neediest children in diverse societies.[38] Consequently, this shows that the concept of vulnerability does not necessarily have a single definition and often depends on the purpose of the study.

McEntire (2011) concurs with this conceptualisation of vulnerability as being the result of different physical, social, economic and demographic factors. Researchers highlight that vulnerability is based on adverse physical and social trends in an individual or group (Eriksen et al., 2005; Kelly & Adger, 2000). Given the different types of definitions

[36] Cultural practise involves abducting young girls (below the age of consent) into forced marriages
[37] This encompasses physical, mental and psychological development
[38] The criteria includes, children whose caregiver is ill, dying or deceased; and children living with very old and frail caregivers (World Vision, 2002).

highlighted in this section, it is evident that vulnerability cannot be pinned down to a single and holistic definition or conceptual idea. The common thread in varying definitions of vulnerability is that a person becomes vulnerable when exposed to situations with risk factors that create negative outcomes for those involved (Case et al., 2004).

Smart (2003) highlights that not all vulnerable children are orphaned and not all orphaned children are vulnerable. UNICEF (2005) recognizes that “establishing a measurable definition of vulnerable is a bigger challenge” than defining orphanhood. The operationalisation of the term vulnerable is more complicated, as it includes a wide range of populations; such as children who are abused, trafficked, neglected, and homeless children (Kelly, 2001). The next section explores the objective and subjective factors which contribute to the conceptualisation of OVC.

3.3 Objective and subjective definitions of OVC

There has been progressive research to institute the use of objective and subjective definitions of OVCs. The objective approach divorces the subject from its context, by attempting to control for, rather than include contextual influences (Gasson, 2003). In terms of research, the objective approach focuses on a quantitative methodology, with objective measurements to define an orphan as a child under the age of 18 years whose mother, father, or both parents have died from any cause (Yanagisawa et al., 2010; Ostergard & Guest, 2003).

The OVC category is conceptually problematic as it raises critical questions of who should be included or excluded in this category; based on age or the cause of death (Skinner et al., 2004; UNICEF, 2005). Studies have suggested the use of objective and subjective measures to define OVC. The objective measures focus on specific details including, the age and relation to the deceased and their cause of death (Yanagisawa et al., 2010). As reflected in the objective measures the cause of death is not limited to HIV/AIDS[39], but may also include; cancer, political conflicts and the Covid 19 pandemic. Therefore, research has supported the implementation of subjective measures which focus on the social-economic background of the child; including factors; such as

[39] Due to the success of anti-viral treatment over the years (Van de Water et al., 2022; Van Schalkwyk et al., 2021)

disability, poverty, and exposure to abuse (Manyonganise, 2013; Stefanidou & Skordoulis, 2014; Ajaegbu, 2010; Burkley, 1993).

The other challenges that have confronted an exact definition of OVC are the plurality of ways used to conceptualise childhood in international and regional instruments. The use of a subjective definition is concerned with the influence of social background and personal commitments on the process of knowledge acquisition (Stefanidou & Skordoulis, 2014). While an objective definition is often applied to orphans; by contrast, a much more subjective view is used concerning vulnerable children (Manyonganise, 2013). Therefore, the operational term “orphans and vulnerable children” was coined to embrace not only children who have lost either or both parents but also considers children under threatening health, economic, cultural and psychosocial circumstances (Brown et al., 2010).

Furthermore, Elegbeleye (2013) highlights that while some orphans can be considered as “vulnerable”, there are also situations where children with a parent or both parents can also be considered as vulnerable. This is because socioeconomic challenges such as stigmatization, discrimination, poverty, and limited access to education are not only limited to orphans. Even children with parents and caregivers might be experiencing these and worse challenges. Thus, considering all the above factors, Elegbeleye (2013) provides a more applicable definition of vulnerable children which includes the following: children who have either lost one or both parents; live with terminally or chronically ill parents; are neglected or abandoned; are living with HIV and or with special challenges or disabilities; or those whose parents have disabilities.

However, certain aspects of the definition remain unclear; for example, the scope of terminal or chronic illness, and excludes children exposed to harmful cultural practices and poverty, which are critical challenges experienced by children in the Eastern Cape province. As a result, this study supports what has been termed an “operational terminology” which integrates both objective and subjective standards (Mbata, 2015; Brown et al., 2010). The next section provides the operational definition adopted for the purposes of this study.

3.4 Contextualising OVC

The South African *Policy Framework for OVC* highlights that a child is vulnerable when the protection and development of the child are imperilled due to the environment or background (Government of South Africa, 2005). The operational definition of OVC for this research refers to children between 0 to 18 years, who lost either or both parents, and are made vulnerable due to poverty, discrimination, disability, domestic violence, HIV/AIDS and harmful cultural practices. These vulnerabilities are elaborated further in this section.

3.4.1 Relative poverty and vulnerability of children

The concept of poverty can be both vague and complex and is not easily defined. This section will focus on relative poverty. Devas et al. (2004) states that relative poverty is judged through the poor's position concerning society, and so is an indicator of the degree of inequality.[40] Hulme and Shepherd (2003) confirm that the definition of poverty has an element of subjectivity, as it is often interpreted through the lens of the researcher. Thus, in this research lack of access to basic education for OVC is regarded as relative poverty. As demonstrated further in Chapter 5 of this research, OVC encounter several challenges compared to other children. Orphanhood and vulnerability are variables found to be positively correlated to relative poverty (Ganga & Chinyoka, 2020). The extent of this problem destroys the social fabric of society and exposes children to various forms of abuse, human trafficking and exploitation; resulting often in forced school dropouts at an early age.

Research on the challenges of OVCs in sub-Saharan Africa highlights contributing factors; including, poverty, stigma, lack of family and community support, trauma, HIV/AIDS, conflict and abuse (Birdthistle et al., 2019; Boler & Carroll, 2003; Case et al., 2004; Deininger et al., 2001). In addition, Chirwa (2002) concludes that relative poverty among other factors has contributed significantlyto the challenges facing OVC. UNICEF (2010) is of the agreement that many OVC slip further into poverty once the family's main breadwinner stops working or dies. Consequently, losing a parent or a caregiver has a tremendous negative impact as it often equates to losing access to financial aid

[40] On the other hand, absolute poverty, denotes poverty as a state of severe scarcity of basic needs; resulting in, food insecurity, premature death, poor health, illiteracy and destitution (Ikejiaku, 2009; Mowafi & Khawaja, 2005)

and social support. Campbell (2003) concludes that poverty prevents the enjoyment of basic human rights, security, and well-being.

Furthermore, lack of basic education, limits long-term economic prospects; especially, in countries that require the completion of primary school education as a prerequisite for employment (Serey et al., 2011; Boler & Caroll, 2003). In a review conducted by Polus et al. (2020), South Africa is identified as one of the most unequal countries in Africa, and a child in the poorest home in South Africa is 17 times more likely to be hungry and lacks resources to further education. The Eastern Cape province in particular, with 78.7% has the second highest population of children under 17 years experiencing relative poverty (Statistics SA, 2020). In most of these cases, OVC is the worst affected. Poverty is complex because there is no “one-way solution” but rather requires a multi-stakeholder approach, which involves the role of the state, NGOs and the community. This is relevant in this study which has incorporated a research population that involves representatives from both NGOs and the community.

3.4.2 Domestic violence and vulnerability of children

Domestic violence is a pattern of physical, sexual, emotional, psychological abuse, or controlling behaviour by one partner against another in an intimate relationship (Chhikara et al., 2013). While women are usually the immediate victims of domestic violence, the consequences of domestic violence extend beyond the victim to society as a whole; including, the children in particular (Kanuri, 2009). It is important to note that domestic violence not only affects the abused but has an extensive effect on the family members too. Consequently, children who grow up exposed to domestic violence are more likely to encounter physical, emotional and sexual abuse (Rodriguez & Venzor, 2022; Ryan, 2013; Chander et al., 2017; Callaghan et al., 2015).

Unfortunately, domestic violence has been limited within the paradigm of gender, and children who are often directly affected are often overlooked. Domestic violence is not a single event but can result in more frequent attacks over time (Khan, 2011). The severity of these attacks is worth reflecting on. This form of abuse can take place even at the workplace or in public places with friends or family. In such cases, those involved routinely deny that abuse occurred, minimize its severity or blame the victim for the abuse. Many factors contribute to domestic violent behaviour; namely, abusive family

background, rejection, and stress (Mahlangu et al., 2022; WHO, 2021).

Keesbury and Askew (2010) argue that drunkenness may intensify prevailing aggressive actions; resulting in domestic violence. Regardless of the causal factors, the batterer should be responsible for his or her actions,[41] not the victim or the witnesses. Carrillo (2002) explains that gender-based violence (GBV) is "largely perpetuated by men, silenced by custom, institutionalized in laws and state systems, and passed from one generation to the next".[42]

3.4.3 Relationship between school dropout and AIDS orphans

Former UN secretary General Kofi Annan highlighted the importance of education on the girl child and the impact of HIV/AIDS during the World Conference on Education in 2001 saying that;

> *"Study after study has taught us there is no tool for development more effective than the education of girls. No other policy is as likely to raise economic productivity, lower infant and maternal mortality, improve nutrition, and promote health, including the prevention of HIV/AIDS than that of educating girls. No other policy is as powerful in increasing the chances of education for the next generation" (United Nations, 2004)*

Dropping out of school exposes orphans to a lifelong cycle of poverty and abuse. Cohen et al. (2005) mention that surveys in highly AIDS-affected areas in numerous countries have found that orphans are less likely to attend school than non-orphans, and more likely to have their schooling interrupted and drop out of school. Allemano (2003) shows that even if orphaned children have access to basic education, the chances of them completing their education are slim, due to extent of discrimination based on their socio-economic status. Ishola (2012) concurs that orphaned children are ostracized and suffer from stigma.

Consequently, leading to the growing role of national and international specialised organisations; for instance, UNICEF and UNAIDS (Gulaid, 2008; UNICEF, 2013). Though, Fleming (2015) and Gulaid (2008) reflect that despite significant external funding from bilateral and multilateral donors, many African countries have unsuccessfully implemented an education system which caters for the needs of OVC.

The prevalence across countries and regions also influences how countries prioritise or

[41] Even if the abused has provoked such a reaction. There is no excuse for domestic violence

[42] Though largely perpetuated by men as indicated by Carrillo (2002), research has also acknowledged gender-based violence against man, which breeds a cycle of domestic violence in society (Thobejane et al., 2018; Oparinde et al., 2021; Malik & Nadda, 2019)

localise their efforts to provide education for OVC. The greatest concentrations of AIDS-related deaths and children living with HIV/AIDS internationally is clustered in Sub-Saharan Africa. Osborn (2007) reported that increased emotional strain, common amongst OVC, may lead to risky behaviour, including exchanging sex for food or shelter and using drugs and alcohol. These are ingredients that proximate school dropout among AIDS orphans.[43] Many children living in poverty report being denied access to basic education because they cannot afford to pay school fees or purchase school uniforms (Giese et al., 2002).

The South African report, *Dropout and Learner Retention Strategy to Portfolio Committee on Education*, reveals that dropping out, "is not a single event but is usually the result of a combination of inter-related factors that lead up to a child eventually dropping out of school" (Department of Basic Education, 2011). Consequently, Gumede (2013) shows that the challenges of AIDS orphans cannot be considered in isolation, for it is interwoven with the complexities of fragmented social and economic structures. For this reason, rural communities such as in the Eastern Cape province are harshly affected as welfare and social services in these regions are predominantly underdeveloped.

3.5 Inclusive education

UNESCO (2002), highlights that inclusive education is concerned with removing all barriers to learning and promoting the participation of all students including those vulnerable to exclusion and marginalisation. Murungi (2015) states that the term is mainly applied in the context of persons with disabilities to promote access to education in society. Therefore, inclusive education necessitates that the framework within which education is delivered accommodates the needs and circumstances of all children in the society. This is equivalent to the United Nations SDG Goal 4, to ensure inclusive and equitable quality education and promotelife-long learning opportunities for all (United Nations, 2015). This includes enabling all young people to complete a basic education cycle; and access educational opportunities based on equity, flexibility and adaptability.

The Universal Declaration of Human rights adopted in 1948 declares in Article 26 that

[43] The term AIDS orphan is used in this study for research purposes. The researcher acknowledges UNAIDS (2004) view, that the term is stigmatising, by defining the child based on a health condition.

"Everyone has the right to education" (United Nations, 1948).[44] The provisions of Article 2(2);[45] 23(1) [46] of the CRC, and Article 13(1)[47] of the ACRWC highlight that all children with special needs have the right to education without discrimination on any grounds (CRC,1989; ACRWC, 1990). The focus on inclusive education is elaborated, further in Article 24(2)(a) of the CRPD,[48] which calls for state parties to ensure a non-discriminatory, inclusive education system in which:

> *Persons with disabilities are not excluded from the general education system based on disability, and, children with disabilities are not excluded from free and compulsory primary education, or secondary education, based on disability (CRPD, 2008; United Nations, 2008)*

Although most countries seem to share the same ideology and commitment toward education for learners with special needs, the implementation of inclusive education has not been successful (Dyson, 2001; Swart & Pettipher, 2005; Kilkelly 2002, Balescut & Eklindh 2005). For example, the CRPD gives specific guidelines to promote inclusive education; such as, using braille, alternative script, and augmentative and alternative modes of teaching but this has not been the reality, especially in rural schools in South Africa. Ransom (2008) in a study of inclusive education states that the "*National Plans of Action for Children*" sometimes refer to inclusive education or learners with special needs but suggests no actions to meet their needs. Balescut and Eklindh (2005) highlight that the high level of exclusion is a culmination of several factors; including, limitations in policy, no strategies of delivery, and the erroneous assumption that inclusive education is expensive to implement.

The historical context of South Africa is of significant importance, in which the education system during apartheid was discriminative, not only based on race but also for children

[44] The UDHR as a legal instrument did not recognize disability as a form of discrimination. Herr (1980) argues that the omission was a portrayal of the prevailing ignorance and unawareness concerning disability at the time.
[45] Article 2(2) states as follows: "States Parties shall take all appropriate measures to ensure that the child is protected against all forms of discrimination or punishment on the basis of the status, activities, expressed opinions, or beliefs of the child's parents, legal guardians, or family members" (CRC, 1989)
[46] Article 23(1) states as follows: "States Parties recognize that a mentally or physically disabled child should enjoy a full and decent life, in conditions which ensure dignity, promote self-reliance and facilitate the child's active participation in the community (CRC, 1989)
[47] Article 13(1) states as follows: "1. Every child who is mentally or physically disabled shall have the right to special measures of protection in keeping with his physical and moral needs and under conditions which ensure his dignity, promote his self-reliance and active participation in the community" (ACRWC, 1990)
[48] The first legally binding international instrument to deal with the rights of persons with disabilities, adopted in 2006

with disabilities (Deghaye, 2021; Daniels, 2010; Engelbrecht, 2006). Scholarly research in South Africa has explored the lack of inclusive education for learners with disabilities; especially in the rural areas, due to the scarcity of resources (Donohue & Bornman, 2014; Pather, 2011; Lomofsky & Lazarus, 2001, Muthukrishna & Shoeman, 2010).

UNESCO (2005), acknowledges that the rights of children with special needs are violated when they are excluded from the learning process. In the same vain, ACERWC (2022) reveals that especially in the rural areas in Africa, there are disparities in school enrolment and attendance for children with special needs.[49] Therefore, inclusive education seeks to confront exclusionary policies which violate human rights and result in excessive discrimination. Several other key UN Declarations and Conventions have cited and advocated for inclusive education as reflected in the following table:

Table 3.1: United Nations Conventions and Declarations on inclusive education

Year	Convention/Declaration
1948	Universal Declaration of Human Rights
1989	UN Convention on the Rights of the Child
1990	World Declaration on Education for All (Jomtien Declaration), Education for All (EFA)
1993	UN Standard Rule on Equalisation of Opportunities for Persons with Disabilities, which affirms the equal rights of all children with disabilities to education
1994	Salamanca Statement and Framework of Action on Special Needs Education, which requires schools to accommodate all children
2000	World Education Forum Framework for Action, Dakar, EFA, and MDGs
2001	EFA Flagship on the Right to Education for Persons with Disabilities: Towards Inclusion
2005	UN Disability Convention which promotes the rights of persons with disabilities and mainstreaming disability in development.

Source: UNESCO, 2005

Table 3.1 outlines supporting United Nations, Conventions and Declarations on inclusive education. Achieving inclusive and equitable quality education for all requires increasing efforts, especially in sub-Saharan Africa for vulnerable populations, including persons with disabilities and poor children in rural areas.

3.6 The right to education

Sofradzija et al. (2021) reveal that education is a process, without an exact definition.

[49] African Union (2022), Second Continental Report on the Implementation of Agenda 2063

Consequently, Article I (4)[50] of the World Declaration on Education for All and Article 29(1)(a)[51] of the CRC define education as a process towards development. Keet (2007) contends that despite the definitive challenges, education has been formally recognized as a human right since the adoption of the Universal Declaration of Human Rights (UDHR) in 1948. The implication of this recognition escalates the right to education as an essential requirement for all. Education is a crucial means of unlocking and safeguarding other human rights (Offorma, 2009; United Nations, 1999). This involves respecting and ensuring the rights of all children regardless of background, ability, sex, or any other factor that might distinguish one child from another (Lee, 2013).

In the article titled, "*Education as a Human Right in the 21st Century*", Lee (2013) highlights that the state is obligated to protect every individual's right to education. The Education for All Report, Country Report for 2013 shows South Africa's involvement in the international community through forums such as the World Education Forum which adopted that EFA has been instrumental (Department of Basic Education, 2013). This also includes the contribution from National legislation; specifically, the Constitution of the Republic of South Africa, and policy frameworks; including, the South African Schools Act of 1996, Children's Act of 2005, Freedom Charter (1995), White Paper for Social Welfare (1997) and Education White Paper on ECD (2000).

3.7 Context of basic education

The term "basic education" originated in the World Declaration on Education for All in 1990 in Jomtien (Thailand), which states that basic education comprises the following.

> *Both essential learning tools (such as literacy, oral expression, numeracy, and problem-solving) and the basic learning content (such as knowledge, skills, values, and attitudes) required by human beings to be able to survive, develop their full capacities, to live and work in dignity, to participate fully in the development, to improve the quality of their lives, to make informed decisions,and to continue learning. The scope of basic learning needs varies withindividual countries and cultures, and inevitably, changes over time (UNESCO, 1990).*

The World Declaration on Education for All espouses two key components which are the necessary learning tools and content of basic education. Basic education is not only

[50] Article I(4) states the following: Basic education is more than an end in itself. It is the foundation for lifelong learning and human development on which countries may build, systematically, further levels and types of education and training (UNESCO, 1990)

[51] In reference to basic education for all children, Article 29(1)(a) states the following: The development of the child's personality, talents and mental and physical abilities to their fullest potential; (CRC, 1989)

limited to the curriculum; which supports the role of play education to cement the learning process (See Chapter 5 for details). Coomans (2002) supports that the differentiating aspect of basic education is that it focuses on the content of education, and the learning outcomes rather than the form in which it is conducted. Basic education is often equated to primary education because there are points of convergence. It must be noted that there are not synonymous, primary education is defined as a specific period of compulsory schooling, whilst basic education focuses on the substantive content (Verheyde, 2006). As a result, primary education is the main delivery channel for basic education.

Veriawa and Coomans (2005) note that to measure the state's effectiveness to ensure the right to basic education, it is important to determine the scope and content of the right. In the context of South Africa, basic education is recognised as a right as guaranteed in Section 29 of the Constitution of South Africa, but no clear definition of basic education is outlined. McConnachie et al. (2016) argue that there is no legal clarity on the context of basic education with regards to school attendance and education quality. Even without a clear definition, the right to basic education should be considered a priority to make the right to education a reality for all children. The implementation of the right to basic education as set out in Section 29 (1)(a)[52] of the Constitution of South Africa is compulsory for all and not subject to resource availability.

Thus, Section 29 equates that the right to basic education has to be directly and immediately implemented. Thereby, this raises the debate on the supremacy of other rights compared to others, yet all rights are regarded as equal. However, commentators on the right to basic education as ascribed in Section 29 support that the right to basic education is of higher priority relative to other rights (Franklin & McLaren, 2015; Roithmayr, 2003; Churr, 2015).

Woolman and Bishop (2010) highlight a dual perspective view of basic education in South Africa; firstly, basic education as a level of education is time bound, usually a time frame of five years; secondly, the content which is mostly elementary reading and arithmetic skill (Seleoane, 2004). Also, Woolman and Fleisch (2009) adopt the latter view in which basic education is prioritised with adequacy rather than the level of

[52] Section 29(1)(a) states that 1. Everyone has the right to a basic education

education. This definition is in sync with the World Declaration on Education for All (1990) with focuses on minimum levels of literacy, numeracy, and essential life skills.

The attainment of basic learning needs is essential for a child to participate in various aspects of the community. These learning needs are made up of what Simbo (2012) refers to as quality "essential learning tools and the basic learning content". It is significant to note that the World Declaration on Education for All, acknowledges that the learning needs of OVC require special attention to ensure that they have equal access to education. Despite such recognition, the reality seems blurred in South Africa; especially in the case of the Eastern Cape province (See Chapter 5 for details).

3.8 Basic education framework: General Comment No.13 (4-A Scheme)

The CRC Committee and Committee on Economic, Social and Cultural Rights provide a child centred framework on basic education, often referred as the 4-A Scheme. The framework included 4 key elements of basic education; namely, availability, accessibility, acceptability and adaptability. According to Joubert (2014), the framework outlines the minimum requirements of the state for the realisation of basic education. The strength of the framework on basic education is one of the key reasons of the focus of CRC in this research.

The state has a primary responsibility to ensure that basic education is available for all children (Tomaševski, 2006; Joubert, 2014; Veriava & Coomans, 2019). The realisation of the right to basic education is limited when functioning education institutions are not available. In specific reference, Joubert (2014) adds that the infrastructure and provision educational resources are vital aspects of basic education. As shown in Chapter 5, through secondary research, some schools in the Eastern Cape province have inappropriate structures, with poor sanitation facilities.

The accessibility aspect recognises that the school environment should not promote discrimination, abuse and inequalities on children (Kalantry et al., 2010; Arendse, 2011; Joubert, 2014; Pendlebury et al. 2009). As established CESCR *General Comment No 13*. OHCHR (1999) accessibility is has is divided into 3 main dimensions:

- Non-discrimination – this ensures that basic education is accessible to all, with

special focus on the most vulnerable children, without any form of discrimination (Courtis & Tobin, 2019).

- Physical accessibility – the school should be within a safe physical reach. This includes both geographical location and e-learning for distance learning. Courtis & Tobin (2019) reflecting states that special attention is required in the rural areas, as established in this study the Eastern Cape province has limited e-learning access and OVC have had to travel long distances to the nearest school, especially in the case of leaners with disabilities.
- Economic accessibility – access to basic education has to be affordable for all children. Several legal cases in South Africa have shown the state has a responsibility to cover even additional costs in the form of leaning material and transportation.[53] The CRC unequivocally advocates for free basic education for all children but unfortunately it is not the reality in South Africa (Strohwald, 2021). Based on the findings presented in Chapter 5, OVC are exposed to discrimination, geographic limitations, lack of online, e-learning resources and access to basic education has not been "free for all".

Acceptability, advocates that the schooling environment has to be safe, non-discriminatory, culturally appropriate and educators have to be both qualified and professional (Tomaševski, 2001; Pendlebury et al., 2009; Joubert, 2014; Kalantry et al., 2010). This helps to ensure that the equality of basic education is not compromised; regardless of the social, economic, cultural and political environment. Therefore, whether OVC or non-OVC the quality of education should never be compromised. The quality of education is standardised in line with other international instruments; including, the Dakar Framework for Action and the Jomtien Declaration.

Tomaševski (2006) establishes that basic education should be receptive to the context of the community and flexible to the global view to develop learners who easily adapt to the needs of the society. This is achieved through child friendly teaching methods and learning curriculum which reflects on other aspects of the community; including language, culture and disparities. For example, as reflected in the research, the use of

[53] For example: *Tripartite Steering Committee v Minister of Basic Education* 2015 3 All SA 718 (ECG) (25 June 2015); *Section 27 v Minister of Education* 2013 2 SA 40 (GNP); *Minister of Basic Education v Basic Education for All* 2016 1 All SA 369 (SCA).

play learning methods in teaching, creating an open learning environment with less discrimination. Amongst other challenges, the research showed progress being made to promote adaptability in the Eastern Cape province.

3.9 The dilemma: OVC and access to basic education

Ebersohn and Eloff (2002) maintain that due to HIV/AIDS the traditional structure of households is changing in affected communities, leaving vulnerable children to adapt to non-traditional families and poverty. In extreme cases, orphans are burdened with domestic and economic responsibilities, forced labour, and early marriages for their welfare. The increase in the number of OVC should not be a justification for the lack of access to basic education; rather, effective governance is required to ensure that legislation, policies, and treaties are full to make access to basic education a reality for all OVC, including in the Eastern Cape province.

Fleming (2015) highlighted that OVC in countries with high HIV/AIDS prevalence experienced discrimination in accessing basic education due to the misconception that orphanhood is associated with HIV/AIDS. Case et al. (2004) added that it is regrettable that orphans are more discriminated against in accessing education compared to other children. Haushofer and Shapiro (2013) support that OVC interventions lead to a larger impact on the socioeconomic welfare of the affected children. Consequently, leading to the success of other interventions; including, school feeding programmes and subsidized fees (Adato & Bassett, 2012). However, as presented in Chapter 5 of this study, these education initiatives are currently have not been successful; largely due to administrative, financial and policy implementation constraints.

3.10 The trajectory of Education for All

The following section provides the transition of Education for All through the Jomtien declaration, Salamanca Statement, Dakar Framework for Action and the United Nations, MDGs and SDGs. This analysis is relevant as each stage reflects on the objectives, achievements, and challenges of Education for All.

3.10.1 The Jomtien Declaration

The World Conference on Education for All (WCEFA),[54] Thailand in 1990, adopted the

[54] Also referred as the Jomtien Conference

World Declaration on Education for All which was accompanied by a framework of action known as the *Framework for Action to Meet Basic Learning Needs*; to renew a commitment to the right of education for all (Inter-Agency Commission, 1990). The WCEFA unified government representatives from over 155 countries, including South Africa and international agencies; such as, the World Bank, UNESCO, UNDP, professional partners, and NGOs in the field of education from around the world (Vedaste, 2013).

The Declaration on Education for All (EFA) goes beyond identifying the education problems but provides a framework for the design and implementation of education policies. Alikor (2014) states that South Africa and the 154 countries which signed the Jomtien Declaration on EFA are bound to the following agreements:

- to fulfil the right to basic education by ensuring that education is available to all children and that positive measures are taken to support children;
- to respect the right to basic education by avoiding any action that would serve to prevent children from accessing education; for example, legislation that categorises groups of children with disabilities as uneducable; and
- to protect the right to basic education by taking the necessary measures to removethe barriers to education posed by individuals or communities, such as cultural barriers or violence and abuse in the school environment.

The agreements in the Jomtien Declaration emphasize the role of the state to fulfil, respect, and protect all children to guaranteed access to basic education. The framework is comprised of four core elements that constitute the purpose of EFA in meeting basic education needs. The first core element is the definitive foundation of basic education, as articulated in Article I(1) of the Jomtien Declaration, every child has the right to education, supported by the essential tools and content for the development of the child (Inter-Agency Commission, 1990; Wagner et al., 2012).

The second element of EFA underscores the emphasis on basic education through “humanistic values and human rights”, including the enhancement of peace and solidarity (Inter-Agency Commission, 1990). Therefore, basic education is a channel to educate children on critical social issues by fostering communication and social action.

This is reflected in Chapter 5 of the research, as play education is used as a tool to stimulate children to be aware of their rights.

Even though countries have differences in their interpretation of basic education, they share in the transmission and enrichment of common cultural and moral values (Alikor, 2014). This proves that basic education is not an end, but rather a channel to foster community development and nation-building. Lastly, the EFA underscores basic education as the foundation of learning and human development (Inter-Agency Commission, 1990). In summary, the commitment in the Jomtien Declaration can not only be interpreted as a worldwide commitment to universal access to primary education, but rather a genuine attempt to attain access to basic education for all for every child (Colclough & Lewin, 1993).

3.10.2 The Salamanca Statement

The Jomtien Conference was followed up by the World Conference on Special Needs Education in 1994 by the Government of Spain in cooperation with UNESCO representatives (Bennett, 1994). The Conference brought together 25 international organisations and 92 governments; including, South Africa, with the main objective to formulate policies to promote inclusive education. (UNESCO, 1994; Hunt, 2011). The result of the Conference was the adoption of the Salamanca statement on principles, policy, practice and a framework for action.

The World Conference on Special Needs Education adopted inclusive education as a right for all children and committed to policy changes to promote access to education for children with special needs. However, Magnússon (2019) states that the Salamanca Statement was an “amalgam of deals” due to a lack of conceptual clarity of the nature and scope of inclusive education at a national level, the misconception that inclusive education is expensive and the lack of representation in policy making on children with disabilities (Amor et al., 2018; Göransson & Nilholm, 2014; Nilholm & Göransson, 2017).

3.10.3 The Dakar Framework for Action

The World Conference on Education for All, held in April 2000, gathered 176 countries (including South Africa) in Dakar Senegal, to review the progress made towards achieving the goal of EFA. Despite the bold targets set in Jomtien Conference, some targets were not met in the year 2000. UNESCO et al. (2000) highlighted the following

challenges, the conceptualisation of basic education, the exclusion of children with special needs, the exclusion of the girl child in primary education, and barriers to education for children affected or infected with HIV/AIDS. The Dakar Framework for Action made the following observations:

> *The EFA 2000 Assessment demonstrates that there has been significant progress in many countries. But it is unacceptable in the year 2000 that more than 113 million children have no access to primary education, 880 million adults are illiterate, gender discrimination continues to permeate education systems, and the quality of learning and the acquisition of human values and skills fall far short of the aspirations and needs of individuals and societies… Without accelerated progress toward education for all, national and internationally agreed targets for poverty reduction will be missed, and inequalities between countries and within societies will widen (UNESCO, Barry & Brun, 2000:8).*

As demonstrated above, the extent of the challenges towards basic education was still evident, especially in developing countries. Fleming (2015), argues that the adoption of the abovementioned *Dakar Framework of Action* has been slow, with governments in sub-Saharan Africa, taking on average 3 to 5 years to initiate supporting policies. Osttveit (2000) in his article *"Education for All: Ten years after Jomtien"* notes that nearly two-thirds of children who were denied their right to education were girls. Various factors have been attributed to the gross state of gender inequality. Especially in the context of South Africa, in the Eastern Cape province the damning effect of forced child marriages, results in sexual abuse and an increasing school dropout rate of young girls (See Chapter 5 for details). This shows that the scope of vulnerable children is not limited to children with special needs but includes children exposed to sexual abuse and cultural practices which violate children's rights.

South Africa, being a signatory to the Dakar Framework for Action of 2000, established an international commitment to access to education for all. Fleming (2015) states that Education for All created an impetus for improved national and regional coordinated responses to the educational needs of all children. The outcome of the Dakar Framework for Action embraced that all children of primary school age would be eligible for free schooling, and the gender inequalities were eliminated. Consequently, this promoted access to basic education for all children, particularly those from difficult circumstances including OVC. This also reaffirms the commitment towards access to free and compulsory basic education.

Mwanza (2013) stipulates that the Dakar Framework of Action was initiated to reaffirm the right to free basic education for all children. The Dakar Framework of Action also recognized that many low-income countries lack the financial resources to meet this goal within a reasonable timeframe; and included an unequivocal commitment to support national economic reforms. Nevertheless, there were also challenges faced in achieving these goals. Mwanza (2013) states that the EFA goals appear to be too broad and ambitious as they exceed the financial, material and human resources of many countries. The next section provides a preview of the United Nations Development Goals, which have called for governments to promote the right to basic education for all children.

3.10.4 The United Nations Development Goals

Access to basic education is critical to enable a meaningful and sustainable application of children's rights. Supported by the United Nations Development Goals; specifically, MDGs[55] and SDGs.[56] This section shows how these goals are complementary in nature to the mandate of access to basic education. Fleming (2015) states that before the year 2000 there was a lack of focus on access to basic education. The MDGs in the context of education was adopted in 2000 as a commitment towards universal primary education and to eliminate gender disparities. Considerable momentum has built up across many countries of the world in support of the commitments expressed in the MDGs (Aikman & Unterhalter, 2005). In their assessment, Casely-Hayford and Hartwell (2010) note that from 2000 to 2004, there was “significant’’ progress in expanding access to primary schooling by increasing enrolment rates, particularly in developing countries; including South Africa. UNDP (2005) on the progress of MDGs in South Africa highlighted structural challenges in historically disadvantaged schools, malnutrition, and persistent inequalities (Stats SA, 2015; Udjo & Lalthapersad-Pillay, 2015). In later discussions, this study will show that these issues are still rampant in South Africa; specifically, in the Eastern Cape province.

The commitment to EFA was reiterated in the 8 MDGs after a series of World Summits

[55] Adopted by United Nations Members; including South Africa, at the Millennium Summit of 2000. Consisted of 8 development goals; including achieving universal primary education to be achieved by 2015.

[56] Adopted by United Nations Member states; including South Africa, at the UN Sustainable Development Summit in September 2015 in New York. Consist of 17 development goals; including quality education, zero hunger, clean water and sanitation to be achieved by 2030.

and global conferences to achieve the right to education for all. It is important to note that the MDGs were adopted in the same year as The Dakar Framework for Action. As a result, out of the 8 goals endorsed in the MDGs to be achieved by 2015; specifically, MDG Goal 2 is of importance for this study as it focuses on education. Consequently, states resolved to ensure that, by the year 2015:

> *Children everywhere, boys and girls alike, will be able to complete a full course of primary schooling and, girls and boys will have equal access to all levels of education (United Nations, 2000)*

In the case of South Africa, the goal to adopt an inclusive education system aligned to the MDGs encountered several challenges concerning school infrastructure, inclusive education, and supporting policies such as school feeding programmes. The researcher notes the trend of under-reporting the state of education in South Africa; for example, the report reflects that sanitation facilities in primary schools increased to 98% but not even once does it acknowledge the existence of pit latrine toilets in primary schools in South Africa (Stats SA, 2015).

United Nations (2015) when reflecting on the MDGs indicates that despite the progress achieved, there is a lack of consistency in the implementation of the goals in the development process. Critics on the MDGs highlight insufficient justification on the inclusion or exclusion of the goals, and tracking the progress of set targets was difficult as indicator definitions were not clear (Deneulin & Shahani, 2010; Kabeer, 2010). As a result, the SDGs were developed in 2015, to provide a roadmap toward the elimination of poverty by 2030. Unlike the MDGs, which were explicitly crafted by developing countries, the SDGs are more universal with a holistic and integrated approach to development (Mitter, 2016). It has to be stated from the onset, that progress on the education SDGs in Africa has been slow, African Union (2022) shows that progress in implementing Agenda 2063 which is instrumental in the domestication of SDG 4, reflects limitations in primary school enrolment and completion.[57] In a complementary report[58] on SDGs in Africa, UNDP (2022) reflects that coverage on quality of education and the attainment of universal primary education targets is inadequate and is still inadequate.

Concerning basic education, SDG 4 aims at ensuring inclusive and equitable education and to promote access to basic education for all children. This is relevant in this study

[57] African Union (2022), Second Continental Report on the Implementation of Agenda 2063
[58] UNDP, Africa Sustainable Development Report (2022): Building Back Better from the Coronavirus Disease, While Advancing the Full Implementation of the 2030 Agenda for Sustainable Development

as the goal ensures that all children; including, OVC, and children with special needs have access to basic education. The SDG on education also provides context for other issues relating to gender inequalities in the basic education sector (Baten et al., 2020; Psaki et al., 2018; UNESCO, 2010; Donn, 2005).

The education gender gap is significant in sub-Saharan Africa. In support, Egbo (2000) provides a more political context on this matter and states that girls do not have equal access to basic education due to education systems introduced by the colonialists which promoted various forms of gender-related discrimination, modelled to support male education. Hartwell (1998) provides a more socioeconomic context in which he articulates challenges of poor, rural families on school expenses. Mwanza (2013) and Oleke et al. (2006) expose education for the girl child is undervalued and less appreciated in the rural African communities.

3.11 Conclusion

The chapter establishes, through scholarly literature that there are conceptual challenges in streamlining a specific definition of OVC. Therefore, the use of an operational definition of OVC is encouraged, which is not limited to the age range and HIV/AIDS but includes, contextual and subjective factors; such as poverty, challenges facing children with special needs, domestic violence and cultural initiations in the Eastern Cape province.

The chapter outlined the basic education framework for this study, CRC General Comment 13 (4-A Scheme), which includes availability, accessibility, adaptability and acceptable principles. As presented in the next chapter, the framework founded on Articles 28 and 29 of the CRC has been adopted in South African policy and applied in the legislation on cases related to the welfare of OVC and access to basic education.

The chapter discussed further commitments on basic education from the Jomtien declaration, Salamanca Statement, Dakar Framework for Action and the United Nations, MDGs and SDGs. The Jomtien declaration is the interpretive guideline of basic education in South Africa and in this research. The chapter shows that the SDGs have inspired accountability, in support of the Dakar Framework for Action. The next chapter details the domestication of children rights treaties.

CHAPTER 4

DOMESTICATION OF TREATIES ON THE CHILD'S RIGHT TO BASIC EDUCATION

4.1 Introduction

This study focuses on various domestic policies on access to basic education in South Africa to establish the relationship between policy and treaties by outlining the context, process and challenges involved in the implementation of policy. The chapter outlines children rights, focusing on the right to basic education as presented by the Constitution of South Africa. Consequently, the chapter presents key policies which have impacted on the right to basic education in the Eastern Cape province; these include the Children's Act of 2005,[59] South African Schools Act of 1996, Regulations Relating to the Minimum Uniform Norms and Standards for Public School Infrastructure, Regulations Relating to the Minimum Uniform Norms and Standards for Public School Infrastructure. The research further shows how the policies have been applied as a legal framework on basic education, with reference to the Eastern Cape province.

The role of regional and international treaties on basic education noteworthy. As reflected in the previous chapter, having adopted the term "basic education" the CESR instituted the framework of basic education used in this study, the CRPD provides the context of inclusive education for children with disabilities, the ACRWC highlights an African perspective of upholding children rights through access to basic education and Article 26 of UDHR prominently presents the historical view of the right to education.

Specific reference is made to the CRC, on the mechanism and scope of implementing the treaty to support the rights of the child. providing an update on South Africa's reporting progress to the Committee on the Rights of the Child, reflecting on the role of the state and the outstanding issues OVC related issues on access to basic education. The chapter seeks to provide a background on the obligations of the state, domestication of children rights treaties, and highlights the system favourable in the South African context.

[59] The reference to the Children's Act is positioned on the Section 7 which focuses on the best interest of the child whenever interpreting any policy

4.2 The contextual framework of policymaking

Policymaking is presented as a dynamic, consistent and value-laden process through which a political system handles challenges and allocates resources in society (Fowler, 2004). The balance of power is significant in the processes and activities of a policy, as this determines control and control of resources within a social group. Ball (1994) adds that policymaking involves a change in power relations between the relationship of policy intentions, texts interpretations and reactions. On the same trajectory, Fowler (2000) highlights that policies are mediated through minor or major adjustments within the context in which they are assessed and implemented. Therefore, Walenius (2020) recommends that the policy implementation process should recognize the power balance, which can influence and contribute to the relevant policy.

Beyond the balance of power, there are various complexities involved in policymaking; including, the purpose of the policy, target population, responsibilities of the policymakers and timeline to reach policy objectives. As reflected in Chapter 1, this supports, the need for a provincial plan of action for OVC for the Eastern Cape province to effectively account for the failures and progress made in policy implementation.

Sookal (2005) states that policy formulation is usually the responsibility of politicians and undertaken by those near the top of the political system, while implementation, on the other hand, is put into practice close to the grassroots level and perceived to be a rational, technical and administrative activity. This analogy gives a more top to down view in which policymakers use their authority to manipulate the most vulnerable in society.

In the case of South Africa, the provincial departments are Constitutionally mandated to implement and translate policy into action (Sookal, 2005). It is for this reason that sufficient time must be invested in planning the implementation stages which follow policy initiation. The intergovernmental nature of the South African education system shows that implementation occurs at the provincial and institutional level, while the formulation of policy is primarily at the national level. This calls for commitment from both the policy implementers and target population of the policy (Mkhize, 2015; Bayeni & Bhengu, 2018). The next section is a discussion on the implementation process of policy.

4.3 Implementation of policy

Implementation is the outcome of a policy; which commonly contains a goal and means for achieving that goal (Mugwagwa et al., 2015). Section 321 of the Constitution of South Africa recognizes the application of international law, when implementing policies on basic education and other rights of the child. Flekkoy (1991) states that policy outcomes depend on effectiveness of the implementation and follow up processes. The implementation process is one of the major elements that demonstrate the effectiveness of international agreements and commitments. This has been necessitated through procedures for monitoring and reviewing reports. The CRC for example established a mechanism for monitoring and enforcement under Article 44 which states that:

> *States parties…undertake to submit…reports on the measures they have adopted which give effect to the rights recognized [in the Convention] and on the progress made in the enjoyment of those rights… Reports made under the present article shall indicate factors and difficulties, if any, affecting the degree of fulfilment of the obligations under the present Convention. Reports shall also contain sufficient information to provide the Committee with a comprehensive understanding of the implementation of the Convention in the country concerned (United Nations, 2002)*[60]

These reports are to be submitted within two years of signing the CRC; thereafter, the State must submit reports every five years. Supporting the above measures, Hodgwin and Newell (2002) acknowledge that policy implementation goes beyond the stated legal regulations but requires sufficient proof that the state is compliant with the stipulated requirements. The above scenario is exemplified in Costa Rica, Second Report Concluding Observations in 2000, the Committee concluded:

> *the Committee notes with appreciation that the State Party's domestic legislation has integrated provisions guaranteeing the participatory rights of the child. However, the Committee remained concerned that in practice these rights are not sufficiently implemented (OHCHR, 2000)*

This has been the case in Africa, whereby the challenges of OVC have been overlooked (Tanga et al., 2017; Mbata, 2015 & Mwoma & Pillay, 2016). State parties have a crucial role to play in the advancement and protection of children's rights at the national level. The implementation of children rights treaties requires a multi-faceted approach that is conducive to the political environment in context. This is prescribed by Michael (1997) who defines implementation as a negotiated process that must be interactive, ongoing,

[60] Also, Article 43(1) of the ACRWC states that:
Every State Party to the present Charter shall undertake to submit to the Committee through the Secretary-General of the Organization of African Unity, reports on the measures they have adopted which give effect to the provisions of this Charter and on the progress made in the enjoyment of these rights (ACRWC, 1990)

and essentially collaborative to give meaning to the policy objective. This explains the use of the reporting mechanism under the CRC, in which the state has a responsibility to the Committee on the Rights of the Child, the progress made, and the challenges faced in implementing the respective human rights treaties. The process is highly collaborative as it involves the community, and civil society to provide input.

The implementation of human rights obligations is instituted at the international, regional, and national levels. In this context, implementation is generally understood as the process that carries out policy decisions and translates them into action to accomplish the objectives those decisions specify (Hupe & Hill 2006). Therefore, domestication operates as a mechanism of effective implementation at the domestic level. This requires international cooperation, especially in matters of the scope of children rights. Arendse (2011) outlines three main forms of obligation; namely, to respect, protect and fulfil. These obligations will be discussed later in this chapter.

Moreover, reflecting on the case of the CRC, Jonas (2006) there various implementation measures which include among others, law reform on children's rights, national plans of action, and allocation and monitoring of resources for children. As stipulated under Articles 4[61], 42[62], and 44(6)[63] of the CRC, implementation will also involve awareness raising and advocacy; and measurement of the involvement of civil society, including children, on the realization of children's rights (CRC, 1990).

In contrast, the implementation mechanisms are not all equal in terms of their impact on children; the role of the CRC Committee of independent experts is critical in guiding member states with recommendations and updating progress reports. Jonas (2006) mentions that the Committee requests governments to pay particular attention to the full implementation of Article 4 in the context of general principles of the CRC; which include, the prohibition of discrimination, best interests of the child, right to life, survival, and development. Abrahams and Matthews (2011) lament that states are required to

[61] Article 4 highlights that: States Parties shall undertake all appropriate legislative, administrative, and other measures for the implementation of the rights recognized in the present Convention. With regard to economic, social and cultural rights, States Parties shall undertake such measures to the maximum extent of their available resources and, where needed, within the framework of international co-operation (CRC, 1990).
[62] States Parties undertake to make the principles and provisions of the Convention widely known, by appropriate and active means, to adults and children alike (CRC, 1990).
[63] States Parties shall make their reports widely available to the public in their own countries (CRC, 1990).

provide information in initial reports on existing or planned mechanisms at the national or local level for coordinating policies relating to all children.

The CRC Committee's view is to the effect that, states are under the obligation to enact legislation at the national level (Umozurike, 1997). This is reflected in Article 12[64] of CRC which indicates the degree to which a state party recognizes a child as a right holder and also lays the foundation for the implementation of other rights (CRC, 1990). About Article 12 above, Doek (2006) highlights that the implementation of international instruments is a critical process that should also involve the participation of children, to express their views freely. The central focus of the CRC is established on the principle that a child is a recognized human being with rights. Jonas (2006) supports the view that every child is a right holder. This is an all-inclusive process, in which children should be provided with education opportunities at a very young age (Doek, 2006).

4.3.1 Provisions of implementation

The CRC outlines and details the provisions for the implementation of the right to education. The implementation of the CRC is governed by the guidelines in Article 2 which focus on non-discrimination and the best interest of the child, which state that:

> *States Parties shall respect and ensure the rights outlined in the present Convention to each child within their jurisdiction without discrimination of any kind…States Parties shall take all appropriate measures to ensure that the child is protected against all forms of discrimination (CRC, 1990)*

These provisions form the central framework of policies and treaties to promote the rights of the child.[65] The provisions are more specific; for example, the provisions of Article 7(2)[66] on the child's right to registration after birth and Article 24(1)[67] on the right

[64] 1. States Parties shall assure to the child who is capable of forming his or her own views the right to express those views freely in all matters affecting the child, the views of the child being given due weight in accordance with the age and maturity of the child (CRC, 1990).
2. For this purpose, the child shall in particular be provided the opportunity to be heard in any judicial and administrative proceedings affecting the child, either directly, or through a representative or an appropriate body, in a manner consistent with the procedural rules of national law (CRC,1990).

[65] Though Article 4(1) of the ACRWC "In all actions concerning the child undertaken by any person or authority the best interests of the child shall be the primary consideration," can be used to expand on the "best interest of child" it can be argued that the expression in above in the ACRWC is vague, as it fails to define the concept (supported by Sillah, 2023)

[66] Article 7(2) of the CRC states that:
2. States Parties shall ensure the implementation of these rights in accordance with their national law and their obligations under the relevant international instruments in this field, in particular where the child would otherwise be stateless (CRC, 1990).

[67] Article 24(1) of the CRC states that: States Parties recognize the right of the child to the enjoyment of the highest attainable standard of health and to facilities for the treatment of illness and rehabilitation of health. States Parties shall strive to ensure that no child is deprived of his or her right of access to such health care services (CRC, 1990).

to health (CRC, 1990). Though, in both cases, the provisions are formulated using a conceptual framework which relates to the exact rights. Mandlate (2012) elaborates on this imperative aspect, that when the word implementation is not explicitly incorporated within the text of its provisions, the CRC uses other terms; for example, *"States Parties undertake to"* or *"States Parties shall ensure"* and *"States shall assure"* point to the existence of an underlying obligation to implement the CRC or a specific human right treaty. This wording not only highlights that implementation is a duty but shows the content and context of the duty involved in implementing the CRC; thus, the CRC Committee provides a guideline for implementing the Convention (Doek, 2006; Weissbrodt et al., 2011).

4.3.2 Models of implementation

Savio (2010) supports the use of Easton's model of implementation,[68] which provides a detailed analysis of policy, categorized in stages which include initiation, deliberation, implementation, and assessment. Scholars argue that the segmented approach might not always be visible in practice and can obscure the process (Wihlborg, 2010; Hill, 2007). The focus of this study concerning policy is the implementation phase, which reflects on how international treaties are executed at the domestic level. It is of paramount importance to note that no fruitful analysis can be conducted, if the policy is not effectively implemented.

Wihlborg (2010), shows that the implementation stage, when assessed, often leads to continuous decision-making in the form of evaluation and recommendation. This explains the use of several mechanisms; such as, reporting applied by the CRC involving state party reports and responses from the CRC Committee. It is only through such mechanisms that the implementation stage is effective, both from the policymaker and participant perspective. Consequently, this creates a "no-win-or-lose result" so that all parties involved can benefit. Hill (2007) argue that the involvement of the multistage approach is complex and has a higher frequency of distorted or inconsistent results. The need for researchers to be constantly conscious of the realities in the field is reinforced, as every small detail gained during research is critical in the final analysis

[68] Also known as Easton's model of political system

(Santini, 2018 & Wihlborg, 2010). The researcher adopts the monitoring and evaluation model suggested by Wihlborg,[69] applied in the next section on OVC interventions.

4.3.3 Monitoring and evaluation of OVC interventions

Chapman et al. (2014), defines monitoring and evaluation as the routine and systematic collection of information on the intended results of programme interventions. In the discussion on *Community Interventions Providing Care and Support to Orphans and Vulnerable Children: A review of evaluation evidence*, Schenk et al. (2010) assert that without monitoring and evaluation procedures, donors and policymakers risk making decisions without proper analysis. It is a serious decision-making error to simply assume that any well-intentioned intervention will be beneficial without making a critical analysis. The conceptual challenges in defining OVC have inadvertent, detrimental effects because they might target only orphaned children and overlook other vulnerable children in dire need. Schenk (2009) recommends a critical evaluation of programmes to protect children's rights.

Chapman et al. (2014) developed the MEASURE evaluation tool kit for OVC-funded programmes in Africa. The OVC tool kit focuses on key areas when monitoring and evaluating OVC interventions; including, the impact of the programme on the education of OVC, the effect of the basic education status of OVC and seeks to update statistics on the population of OVC within an area. As a result, the tool kit helps to apply standardized measures and processes when evaluating OVC interventions.

In a similar case, a study was conducted in Mozambique to generate empirical evidence on the situation of OVC in Mozambique to improve the effectiveness of OVC programmes and policies (Biemba et al., 2012). The findings provide additional information on the nature and context of the OVC research in the districts of Marracuene, Katembe, Dondo and Natikire. The study involved 5 726 children aged 0-17 years and examined whether OVCs were receiving adequate support services, the types and frequency of services received, and how organizations implement OVC programmes (Biemba et al., 2012). The research in Mozambique concluded that OVC living in poor households have worse outcomes in terms of food security, nutritional status, health and education than non-OVC and children living in non-poor households. In their prospective reflections, Biemba et al. (2012), highlight that while there was

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numeric evidence of OVC support by organisations in Mozambique but lack of consistency in OVC provision was the major challenge. Sloth-Nielsen and Kruuse (2013) suggest the use of the reporting system to overcome the inconsistency in implementing OVC programmes, as recommended in Article 44(1) of the CRC which states that:

> *States Parties undertake to submit to the Committee, through the Secretary-General of the United Nations, reports on the measures they have adopted which give effect to the rights recognized herein and on the progress made on the enjoyment of those rights (CRC, 1989)*

The CRC has elicited the most State party reports, on a more consistent basis compared to other UN treaties and reduces reporting backlog through frequent planned sessions. It is important to note that even though it is a state report, the role of NGOs, community leaders, schools and government departments is paramount because they provide some of the information required to support the extent of policy implementation.

4.4 The policy and legislative environment in South Africa

The international conventions, charters, treaties and instruments mentioned in this study provide a universal conceptualisation of children's rights and can be applied as a standard for measuring the realization of the rights of children. The absence of domestic measures, it is highly likely to fail to achieve the required objectives. Thus, the adage that says "think globally, act locally" is very relevant here (Dawes et al., 2007). The policy frameworks for OVC in South Africa are multi-dimensional because they focus on a range of children's needs. Furthermore, another salient motif in policy frameworks, relevant to the education sector, is that schools are not only sites of care and support, but also act as conduits for accessing a range of other services, including health care and nutrition service (Department of Basic Education, 2012).

Significantly, in response to the extent of the challenges of OVC, the DSD established the Policy Framework for Orphans and other Children made Vulnerable by HIV and AIDS[70] (Sebastian et al., 2008). The policy which is founded upon Section 28 of the Constitution of South Africa and aligned with the rights of the child in the CRC and ACWRC, is committed to promoting access to basic education and protecting OVC from all forms of abuse, violence, exploitation, discrimination and trafficking (United Nations,

[70] The policy framework is the result of the 2002, New York; United Nations General Assembly Special Session (UNGASS) on children

2002). These frameworks are illustrated in Table 4.1 below:

Table 4.1: Policy frameworks guiding South Africa's response to OVC

Year(s)	Policy Framework
1997	White Paper for Social Welfare, 1997 (Department of Welfare, 1997)
1999	National Policy on HIV and AIDS for Students and Educators in Public Schools, and Students and Educators in Further Education (Department of Education,1999);
2000	The National Integrated Plan for Children and Youth Infected and Affected by HIV/ AIDS, 2000 (Departments of Health, Education and Social Development, 2000);
2001	Education White Paper 5: Early Childhood Education: Meeting the Challenge of Early Childhood Development in South Africa (Department on Education, 2001)
2001	Education White Paper 6: Special Needs Education – Building an Inclusive Education and Training System (Department of Education, 2001);
2002	National Guidelines for Social Services to Children infected and affected by HIV and AIDS
2003	School Health Policy and Implementation Guidelines (Department of Health, 2003);
2005	Children's Act, 38 of 2005
2005	Guidelines on Antiretroviral therapy in children, 2005
2005	Policy Framework on Orphans and other Children made Vulnerable by HIV and AIDS, South Africa (2005) (DSD, 2005);
2005	South African Schools Act, 2005
2005 – 2010	The National Integrated Plan for Early Childhood Development in South Africa, 2005-2010 (Republic of South Africa and UNICEF, 2005);
2007 – 2011	HIV & AIDS and STI National Strategic Plan, 2007–2011 (South African National AIDS Council, 2007)
2008	Child Justice Act, 75 of 2008
2009 – 2012	The National Action Plan for Orphans and Other Children Made Vulnerable by HIV and AIDS South Africa, 2009–2012 (DSD, 2009);

Source: de Bruin Cardoso, 2010; Compiled by the researcher

The policy frameworks presented above respond to the challenges of OVCs in South Africa. This reflects on the commitment of state parties and non-state institutions in addressing the challenges of OVC, not only limited to basic education but also including other areas; such as, HIV/AIDS and social welfare. In South Africa, there are various policies established to address the challenges of OVC.

There have been many contributions by the DSD; including, the National Action Plan for Orphans and other Children Made Vulnerable by HIV and AIDS South Africa, White Paper 1 on Education and Training, White Paper 5 on Early Childhood Education and Education White Paper 6 on Special needs education and the Integrated Plan for Early Childhood Development in South Africa, which has made valuable contribution relevant to this research by outlining clear guidelines to address the social impacts of OVC (Rossiter et al., 2007).

In dispute, researchers have argued that the majority of the pro-poor policies seek to

reach all poor children rather than selecting specific groups of vulnerable children (Martin, 2010; Dawes et al., 2007). For instance, using the above-listed policies as examples, the reference to children with special needs is only outlined in detail in White Paper 6 (published in 2001), and the rest of the policies barely address the needs of children with disabilities.

The nature of the challenges facing OVC also determines the core elements of the policy. For example, UNICEF (2014) and JournAIDS (2014) note that OVC particularly in rural areas do not have access to basic education and financial assistance to complete education because they do not have the necessary documentation and birth certificates. This is particularly important, because OVC even if assistance is made available for their education, the administrative aspect of their lives is crucial; such as names, place of birth, or family details; are important to plan for life after basic education. No school or organisation should be prompted to assist OVC simply based on their circumstances, if they do not have proper documentation; this is to ensure accountability in the event of sickness, psychological assistance and death. Consequently, to assist OVC, the DBE instituted the National Admission Policy and Schools Act (1996) to ensure that OVC who fail to acquire the required documents during the admission process may be accepted whilst necessary steps are taken to access the required records.

4.4.1 South Africa's Constitution

Owosuyi (2016), states that the constitution of a state is the *grundnorm*[71] from which all national laws, policies derive their validity and establishes the relationship between the government and the people within that jurisdiction. Mzikamanda (2011), adds that the constitution breathes life into juridical existence, lays down the governance framework, enumerates and limits powers and declares certain fundamental rights and principles to be inviolable. The reflections on the Constitution of South Africa are significant, as Ogendo (2003) alludes that constitutionalism is not guaranteed, and many countries have a constitution on paper, which is not necessarily applied in action. This section evaluates the to which access to basic education is upheld as a constitutional right for all children in South Africa.

[71] Applies to the basic norm of the law, adopted from the Pure Theory of Law by Hans Kelsen

The Bill of Rights as outlined in the Constitution of South Africa; specifically, Sections 28 and 29 which establish the foundation of children rights. Devenish (2017), on the constitutional rights of OVC emphasize that:

> *Children need very special protection because of their acute vulnerability to the violations of human rights arising out of, inter alia, socio-economic malaise, and/or orphanage*

The Government of South Africa has adopted the UN approach to children's rights which stipulates that the state should ensure that OVC has access to essential needs and be developed within a supportive environment (UNAIDS, 2005). A review of the legislation in South Africa, including the Constitution and policy frameworks demonstrates that children's rights are highly recognized. For example, Section 28(1)(c)[72] of the Constitution of South Africa stipulates that every child has basic rights to nutrition, health care services and social services (Republic of South Africa, 1996).

Abrahams and Matthews (2011) reinforce that children's rights are not abstract concepts and they are free of any internal limitations. The rights of children, including the right to education are prerequisites to ensuring children develop to their full potential. As a result, the government is committed to ensuring that basic education is progressively available and accessible (Republic of South Africa, 1996). As discussed before, the attributes of this commitment are outlined in Section 29(1)(a)[73] of the Constitution of South Africa (1996) which states that everyone has the right to basic education, and Section 29(1)(b)[74] which states that everyone has the right to further basic education.

The context of South African political and social history has been a major contributing factor leading to the constitutional dispensation. The pre-1994 period was marred with excessive racial discrimination and African children were subjected to inferior education, having limited access to basic education. Van der Vyver (1997) mentions that during this period school-going children of colour fell victim to an unequal and racially defined distribution of resources. The Constitution not only recognises the injustices of the past but also depicts post-apartheid South Africa as an open and democratic society based

[72] Section 28(1) (c) of the Constitution of South Africa states that: Every child has the right - to basic nutrition, shelter, basic health care services and social services;
[73] Section 29(1)(a) of the Constitution of South Africa states that: Everyone has the right to a basic education, including adult basic education
[74] Section 29(1)(b) of the Constitution of South Africa states that: Everyone has the right to further education, which the state, through reasonable measures, must make progressively available and accessible

on human dignity, equality and freedom (Robinson, 2003). This background is essential because it uniquely contextualises the Constitution of South Africa which is not limited to a legislative document of governance but rather shows how access to basic education for all children has been a primary objective.

Roithmayr (2003) argues that the implementation of the right to basic education under Section 28 has a higher priority relative to other rights. The term “basic education” has two main meanings ascribed to it, based on South African education policy. Seleoane (2004), highlights that “basic” represents a level of education computed based on time; for example, 5 years of primary education, and “education” focuses on the content of education; such as arithmetic reading and skills. The above view has been the foundational definitional view adopted in Chapter 7[75] of the White Paper 1 on Education and Training[76], which was adopted at the dawn of democratic governance in South Africa. Furthermore, this is aligned with international standards endorsed by the World Education for All, which appropriates the age and experience of the learner.

As emphasized in Chapter 1, children rights as underpinned in Section 28 of the South African Constitution, are established on four major principles (Republic of South Africa, 1996). Firstly, the right of the child to development and protection from maltreatment or abuse and neglect or degradation; secondly, the right to have a voice and be listened to; thirdly, the best interests of the child[77] should be of primary concern and lastly the right to freedom from discrimination. These principles form the basis of the policies on basic education in the next section.

4.4.2 Selected Policy Framework on Basic Education

In response to the common needs of children in South Africa and in keeping with the supreme law of the country and international obligations, myriad other legislative instruments have been developed. These include the amended Children’s Act of 2005, to improve the protection of children. The justice system has significantly improved its

[75] Since the term "basic education" is not defined in the Constitution, it must be settled by policy in such a way that the intention of the Constitution is affirmed…basic education should be defined in terms of learning needs and outcomes, or qualification levels, or school grades, and whether the content of basic education needs to be the same for children…

[76] Policy documents which outlines the preliminary stages of basic education policy formulation in South Africa

[77] UNCRC “List of issues prior to submission of the combined third to sixth periodic reports of South Africa” (2021) UN Doc CRC/C/ZAF/QPR/3-6 para 11.

performance in promoting rights and processing issues relating to children. The Presidency (2009), highlighted that more promotion and protection are required to assist families and communities (The Presidency, 2009). The Children's Act of 2005, which was promulgated in 2010, is a key piece of legislation that outlines how children should be cared for and protected (Abrahams & Matthews, 2011; Hall, 2016). Though the Childrens Act gives reference to vulnerable children, it does not address orphaned children or the challenges affecting them. The rights of the child should be all-inclusive, especially for legislation which focuses specifically on children.

The South African Schools Act of 1996 is the first port of call in the inquiry on the meaning of basic education because it gives practical guidelines; namely, that access to basic education is compulsory for all children from the age of 7 to 15 years or Grade 9, whichever comes first (Republic of South Africa, 1996; Simbo, 2012; Ndonga, 2012). The legal instrument is an architect of making basic education available and accessible by making the state responsible for providing enough primary schools in provinces and ensuring that basic education is accessible and affordable for every child, including OVC. The prerequisite for the state to provide primary schools in all provinces to ensure every child attends school, and the state is required to implement measures that make basic education accessible and affordable for all children. In relation with this study the policy prescribes that all children, including OVC who fail to acquire the required documents during the admission process may be accepted whilst necessary steps are taken to access the required records. As reflected in Chapter 5, this policy helps children who would have been deserted and abandoned children.

This legal instrument is aligned with other international conventions; for instance, the CRC acknowledges the importance of basic education to children. Significantly, the South African Schools Act authorizes the Minister of Education in line with Section 29 of the Constitution of South Africa to pronounce regulations on the minimum uniform norms and standards for school infrastructure (Republic of South Africa, 1996).[78]

The National Policy for an Equitable Provision of an Enabling School Physical Teaching and Learning Environment[79] adopted in 2010, provides the fundamental requirements

[78] Section 5A (1) (a)-(c) of the South African Schools Act 84 of 1996
[79] Also referred as The National Policy in this research

for a school to accommodate children to learn.[80] As indicated in Chapter 3, indicate that access to basic education incorporates the availability of adequate and functioning learning inftrasture. Though, the findings of the study in Chapter 5 show a contrast picture on the implementation of this policy in the Eastern Cape province. It is important to note the vague nature of the policy because it does not provide any timelines to address these gross infrastructural imbalances, due to historic inequalities prevalent in the Eastern Cape province.

The Regulations Relating to the Minimum Uniform Norms and Standards for Public School Infrastructure, outline the acceptable and adequate measures for access to education.[81] Which unlike the National Policy attempts provide a timeline to eradicate school infrastructure backlogs. It is an attempt because in some areas, the deadlines are generalised. For example, Section 12(4) Plain pit and bucket latrine toilets are not allowed at schools, Section 18(13) Schools must not be constructed with mud or asbestos material or any other inappropriate material (Republic of South Africa, 2013). Despite the few generalised areas, the publication of the regulations is significant because as it provides legal binding standards for provincial education governments to be held accountable (Equal Education, 2018; Murungi, 2015).

The reference to mud schools above in Section 18(13)[82] is an area of concern in the Eastern Cape province, which has been described as “extremely serious” and the failure of the government to budget and implement policy (Ndayi, 2020). The “mud school case”[83] presented in the next section, clearly articulates the failure of the government to this effect. Furthermore, Damba-Hendrik (2020), highlights that the Government of South Africa, pledged that by 2016 all primary schools built by mud and inappropriate material will be replaced, unfortunately this is not the case. Similarly in the Eastern Cape province has the highest number of pit latrine toilets; thus, the argument of Section 18(13) the Minimum Uniform Norms and Standards, that in critical areas it identifies the problem

[80] National Policy for an Equitable Provision of an Enabling School Physical Teaching and Learning Environment (GN 515/2010).
[81] Regulations Relating to Minimum Uniform Norms and Standards for Public School Infrastructure (GN R920/2013
[82] Regulations Relating to Minimum Uniform Norms and Standards for Public School Infrastructure (GN R920/2013
[83] Centre for Child Law v Government of the Eastern Cape Province Eastern Cape High Court, Bhisho, case no. 504/10

without a timeline.

4.4.3 Legal interpretation of basic education and policy

Sloth-Nielsen and Kruuse (2013) state that the right to basic education in South Africa can be viewed from a legislative background, they give preference to the Musjid case[84], which was the first time the Constitutional Court[85] of South Africa considered the content of the right to basic education in light of the best interests of the child. The principle of "best interests of the child" in this study is established from United Nations (2013), the child's best interests is the primary consideration of the CRC in all actions or decisions that concern the child, to ensure full and effective enjoyment of children rights.[86] In Musjid case the Constitutional Court concluded that:

> *Unlike some of the other socio-economic rights, this right is immediately realisable. There is no internal limitation requiring that the right be 'progressively realised' within 'available resources' subject to 'reasonable legislative measures'. The right to a basic education in section 29(1)(a) may be limited only in terms of a law of general application which is 'reasonable and justifiable in an open and democratic society based on human dignity, equality and freedom'. This right is therefore distinct from the right to 'further education' provided for in section 29(1)(b). The state is, in terms of that right, obliged, through reasonable measures, to make further education 'progressively available and accessible'*[87]

The Constitutional Court adopted the aims of basic education in Article 29(1)(a)[88] of the CRC in the interpretation of Section 29(1)(a) of the Constitution, which was important as an entry point for the international jurisprudence on the aims of education (Murungi, 2015). The Musjid case concluded that "access to a school" is a necessity for achieving the right to basic education. The CRC Committee acknowledged the important role of the judiciary in South Africa, the Constitutional Court in this case upheld that the right to basic education is immediately realizable.[89]

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[84] The 2011 case in South Africa between Juma Musjid Primary school and Others (including Department of Education). The Constitutional Court concluded that the state failed to fulfil its constitutional to provide basic education.

[85] The highest court in South Africa, focusing exclusively on Constitutional cases, related to the interpretation and protection of the Constitution of South Africa

[86] General comment No. 14 (2013) The right of the child to have his or her best interests taken as a primary consideration (CRC/C/GC/14)

[87] Governing Body of the Juma Musjid Primary School v Essa NO (Juma Musjid)

[88] In reference to basic education for all children, Article 29(1)(a) of the CRC states the following: The development of the child's personality, talents and mental and physical abilities to their fullest potential; (CRC, 1989)

[89] Annex II Supplementary information section B SA Department of Women, Children and People with Disabilities "South Africa's periodic country report on the United Nations Convention on the Rights of

Then in the Eastern Cape province the Legal Resources Centre (LRC) representing the Centre for Child Law and several schools in the Eastern Cape successfully won the "Mud schools case".[90] As established in this research based on the 4-A Scheme the infrastructure of the school is an important component of access to basic education. Mud schools are built using mud, in most cases these are dilapidated structures and in some cases without proper roofing (Skelton, 2017). The case was established on several broken promises by the government on the issue of mud schools. For example, in the 2008 Budget Speech, Minister of Education in the Eastern Cape province stated that "All mud schools have been declared unsafe and are required to be replaced in 2008/09" (Sunday Times, 2010).

However, it is only absurd to imagine that after 14 years from the above legal case, the Eastern Cape province has the highest number of mud schools and pit latrine toilets in South Africa (See Chapter 5 for details). The "mud schools case" exposed the government on the "gerrymandering" of financial resources which were initially allocated for building schools. The case had two key outcomes; firstly, the R8.2 billion settlement by the Department of Basic Education to eliminate mud schools in the province.[91] Secondly, developing the Accelerated Schools Infrastructure Development Initiative (ASIDI) to eradicate the school infrastructure backlogs in line with the Basic Safety Norms.[92] Though the findings in Chapter 5 show that ASIDI has not fully yielded results in the Eastern Cape province. Moving from the legal perspective, the next section further illustrates the impact of cultural practices on basic education in the Eastern Cape province.

4.4.4 Impact of cultural practices on basic education

Culture is broadly defined as the beliefs, value systems, norms, myths, behaviour and structural elements of a group or society (Hugo, 2002, Onibere et al., 2001; Parsons, 1999). The Eastern Cape province has a rich cultural background, but in the context of basic education some harmful traditional practices have been identified, from scholarly research, reports, and legislation; these include early and forced marriages known as

the Child: Reporting period: January 1998-April 2013" (2014) (UN Doc CRC/C/ZAF/2) 91.

[90] Centre for Child Law v Government of the Eastern Cape Province Eastern Cape High Court, Bhisho, case no. 504/10

[91] Centre for Child Law v Government of the Eastern Cape Province Eastern Cape High Court, Bhisho, case no. 504/10

[92] https://www.education.gov.za/Programmes/ASIDI.aspx

Ukuthwala. The custom which results in the violation of children's rights involves forcing girls as young as 12 years into arranged marriages, without their consent (Kugara et al., 2017; Gaffney-Rhys, 2011; Mwambene & Sloth-Nielsen, 2011; Nkosi & Wassermann, 2014).

Ngcukana (2009) labels the practice as a form of human trafficking and the perpetrators of such actions as rapists. The consequences of violating the rights of children are the contributing factors to low levels of schooling and an increasing dropout rate (De Silva-de-Alwis, 2008). The research has discussed the impact of HIV/AIDS on OVC in detail (See Chapter 3 for details). OVC is either they are exposed to HIV/AIDS by birth or in this case they are exposed to HIV/AIDS through abuse, and sex at a young age, without their consent. These issues have been echoed by areas of concern by the CRC Committee, as highlighted below:

> *The Committee is concerned at the high prevalence of harmful practices in the State party, which include child and forced marriage, virginity testing, witchcraft, female genital mutilation, polygamy, violent or harmful initiation rites and intersex genital mutilation. The Committee is also concerned that, although the practice of ukuthwala involving children is considered an "abuse of ukuthwala" and is a crime, as the State party noted during the dialogue, this practice still exists (CRC, 2016)*

Unfortunately, it is deplorable to note that the issues reflected above have not been addressed as reflected in the recently published report by the CRC Committee (CRC, 2021).[93] This includes the violation of children's rights of young boys through Initiation schools is reported in the Eastern Cape province. Makama (2018) describes the act of forced initiation of children under the age of consent as an atrocity that violates the rights of the child as reflected in Section 28(1)(d) of the Constitution of South Africa. Nqeketo (2008) contends that participating in initiation ceremonies harms education, as boys below the age of 18 years are exposed to abuse, and violence and become sexually active at an increasingly young age; resulting in a higher prevalence of STDs and HIV/AIDS. The Eastern Cape province has an alarming number of deaths and hospital admissions of young boys during the initiation process, through the use of unsterilized

[93] UNCRC "List of issues prior to submission of the combined third to sixth periodic reports of South Africa" (2021) UN Doc CRC/C/ZAF/QPR/3-6
With reference to the Committee's previous concluding observations (CRC/C/ZAF/CO/2, para. 40), please provide information on the legislative and practical steps taken to prohibit and eradicate all forms of harmful practices carried out on children in the State party, including the abduction of girls for the purpose of forced marriage (*ukuthwala*), child and forced marriage, so-called "virginity testing", witchcraft, female genital mutilation, polygamy, violent or harmful initiation rites and intersex genital mutilation (UNCRC, 2021).

equipment (The AIDS Foundation, 2012 & Morei, 2017).

The Constitution of South Africa establishes the foundation concerning any cultural practices which violate the rights of the child. In the case of *Ukuthwala*, Section 28(1) of the Constitution states that every child has the right to be protected from maltreatment, neglect, abuse, or degradation (Republic of South Africa, 1996). Also, Section 12(1),[94] 2(a),[95] 3,[96] and 8[97] of the Children's Act 38 of 2005 (Republic of South Africa, 2005), focuses on the interests of the child in the application of any rights, so that freedom of expression through culture is not used to violate the rights of the child. As a result, no child, no girl should be made vulnerable due to traumatic cultural practices or rituals which violate their rights. United Nations, CRC (2021) calls for the Government of South Africa to criminalize these acts and expeditiously sanction the perpetrators.

Nomngcoyiya and Kang'ethe (2017), states that the impetus of basic education for vulnerable children has been eroded by the inability to enforce laws in line with the Bill of Rights. For example, progress to provide a legislative framework on culture was only assented to in June 2021, in the form of the Customary Initiation Act[98]. In the process, this has ignited the debate on the role of traditional leaders in the domestication of treaties.

Section 211 of the Constitution of South Africa, provisions the role and status of traditional leaders; specifically in customary law but does not detail legislative responsibilities required in the domestication of treaties (Republic of South Africa, 1996). The application of treaties cannot be achieved when there is a vacuum in power between the state and traditional leaders. The Eastern Cape province is the classic example where culture is a significant component of the community, and traditional leaders have a critical role to address various cultural practices which violate the rights of the child; through *Ukuthwala* and underage initiation practices.

[94] (1) Every child has the right not to be subjected to social, cultural and religious practices which are detrimental to his or her well-being.
[95] A child below the minimum age set by law for a valid marriage may not be given out in marriage or engagement
[96] Genital mutilation or the circumcision of female children is prohibited
[97] Circumcision of male children under the age of 16 is prohibited, except when performed in prescribed manner and recommended by medical practitioner
[98] The South African legislation regulates customary initiation practices; and outlines the roles and functions of the various role players involved during the initiation process.

The argument on culture above is critical, as not all cultural values violate the rights of the child. Article 31(2)[99] of the CRC supports engaging in cultural activities as long as the right of the child is upheld. The findings of the research, demonstrate the role of the community in addressing the challenges facing OVC in the Eastern Cape province. The values of *Ubuntu* translate to “I am what I am because of who we all are” (Msengana, 2006). In support, Ng’weshemi (2002) states that in African communities an individual is not a human being simply by birth, as the community is a fundamental building block.

In the case of OVC, children without a surviving mother, father, or both parents can be supported by the community. As shall be reflected in this, some children have been abandoned and abused but the community has played a valuable role through access to basic education, nutrition programmes, and community projects. The concept of *Ubuntu i*s a humanistic way of life, which values people as a community, rather than as individuals (Maluleke, 2012). These cultural values have filled the void where the state has failed to address the basic education needs of OVC. The next section explores various global instruments which promote children's rights and access to basic education.

4.5 Global instruments on children's rights and basic education

The instruments in this section have been developed to focus on specific children's rights violations focusing on OVC and basic education. South Africa has ratified and domesticated several treaties; including, the CRC, ACRWC, CESCR and UDHR. As interpreted in Section 233 of the Constitution of South Africa the role of international treaties is critical in interpreting children rights (Tawana, 2021; Heyns & Viljoen, 2002).

It is important to establish from the onset that treaties do not function in isolation but rather provide a legal framework for children's rights, which is adopted in other treaties, policies and government constitution; such as the Constitution of South Africa. Especially with regards to the CRC and the ACRWC, the treaties have a complementary relationship, and none is automatically superior at face value. The CRC through Article 3 establishes the founding principle of the “best interests of the child” which have been adopted other treaties and government legislations. The ACRWC through Article 21

[99] Article 31(2) of the CRC states that: States Parties shall respect and promote the right of the child to participate fully in cultural and artistic life and shall encourage the provision of appropriate and equal opportunities for cultural, artistic, recreational and leisure activity (CRC, 1990).

addresses the protection of children from harmful cultural, which hinder access to basic education. Thus, the superiority of any of these treaty is dependent on the progressive nature of the right it protects.

4.5.1 Convention on the Rights of the Child

The CRC is the first binding United Nations treaty that is dedicated exclusively to the protection, promotion, and recognition of children's rights (Fottrell, 2000). The unprecedented acceptance and ratification treaty, which is not only the most widely ratified human rights instrument but as shown earlier in Figure 4.1 member states in Africa demonstrated their commitment to children's rights through ratification (Mauras, 2011; Holzscheiter, 2010; Buck, 2014; Fottrell, 2000 & McCarney, 2008). The following sections focus on the role of the CRC in implementing children's rights.

4.5.1.1 Mechanisms on the implementation of the children rights

The mechanisms on the implementation of the CRC are highlighted in General Comment No.5 of the CRC Committee,[100] as will be reflected further in this section. This is the key instrument setting out the role of domestic mechanisms for the coordination of the implementation of children's rights. Consequently, this helps to make children more visible in matters that relate to human rights and promotes the translation of those rights into action.

When applied, the process of implementation undertakes a multispectral approach through all sectors of society and government as reflected in the comments of the CRC Committee below:

> *[t]he purpose of coordination is to ensure respect for all of the Convention's principles and standards for all children within the State jurisdiction; to ensure that the obligations inherent in the ratification of or accession to the Convention are not only recognized by those large departments which have a substantial impact on children education, health or welfare and so on but right across Government, including for example departments concerned with finance, planning, employment and defence, and at all levels (CRC, 2003)*

In their analytical dissection of the note above, Kiersey and Hayes (2010) highlight that the General Comment does not provide clear details about the composition and structure of domestic coordination mechanisms for the implementation of children's

[100] UNCRC " General Comment No.5 General measures of implementation of the Convention on the Rights of the Child" (2003) UN Doc CRC/GC/2003/5

rights. Thus, the role of the state is critical to structurally composing the implementation mechanisms. Mandlate (2012), supports the notion that coordination institutions are pivotal in ensuring the visibility of children's rights in all areas. This is highly successful when coordination mechanisms are positioned closer to the decision-making bodies and authorities, making them accessible at the domestic level.

4.5.1.2 Delineating the scope of implementing the CRC

The extent of implementation, which defines the substantive limits of the duty to implement, is highlighted in Articles 4 and 41 of the CRC. The former, Article 4 elaborates on the duties of the state through legislation and administration to implement the CRC. This is reflected below:

> *States Parties shall undertake all appropriate legislative, administrative, and other measures for the implementation of the rights recognized in the present Convention. Concerning economic, social, and cultural rights, States Parties shall undertake such measures to the maximum extent of their available resources and, where needed, within the framework of international cooperation (CRC, 1989)*

The above statement indicates that all state parties that have successfully ratified the CRC are expected to observe all the rights stipulated in the Convention unless in cases there are reservations. The supporting reference in Article 41 elaborates further:

> *Nothing in the present Convention shall affect any provisions which are more conducive to the realization of the rights of the child and which may be contained in (a) The law of a State party; or (b) International law in force for that State (CRC, 1989)*

Mandlate (2012) mentions that the above legal statute widens the material limits of the states' duty to implement children's rights by expanding the scope of this duty to include the obligation to implement provisions of other instruments which are more conducive for the realization of children's rights.

4.5.1.3 South Africa progress in reporting and outstanding issues

The state reports to treaty monitoring bodies provide information on implementation, progress and compliance with treaty provisions (Leblanc et al., 2010; Fraser, 2018). Significantly, the NGO sector, government departments and relevant community stakeholders have a critical role in the preparation state reports (Tawana, 2021; Chenwi, 2010). At the compiling this research, the Government of South African had an outstanding report, due on the 15th of February 2022,[101] responding to the concluding

[101] Overdue report III-VI https://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/LateReporting.aspx

observations (CRC/C/ZAF/CO/2) as adopted in 2016.

To provide an update on the domestic efforts made at implementing the CRC. The specific recommendations with regards to basic education and OVC include:

- The need for child rights-based approach to achieve SDG 4.1[102]
- To provide access to free and quality basic education for all children, prioritizing access to education for children facing multiple forms of discrimination;
- To develop a comprehensive law and policy children rights-based model for children with disabilities. To adopt a community support plan of action to support vulnerable children in the rural areas.
- The provision of statistical information and disaggregated data on children. For example, basic education and OVC
- The legislative and practical measures taken to eradicate harmful cultural practices on children; including, *Ukuthwala*, so-called "virgin testing" and genital mutilation

Specifically in the South African case, Tawana (2021) highlights that the national parliament has played a remote role (lack of political will) on state reporting and there has been .disconnect between domestic role players and the state. These are some of the challenges revealed in Chapter 5 of the research. The next section explores the ACRWC, trend in ratification and contribution of the treaty on children rights.

4.5.2 African Charter on the Rights and Welfare of the Child

The ACRWC was adopted by African countries (including South Africa)[103] in July 1990, and 50 out of 54 countries have ratified the treaty as of February 2023 (ACERWC, 2023). ACRWC has been described as an authoritative tool for the awareness, protection and development the rights of all children in Africa (Mezmur, 2020; Olowu, 2002; Van Bueren, 1995). Essentially, the treaty is a key instrument to address the effects of war, famine, colonialism, apartheid and harmful cultural practices on the

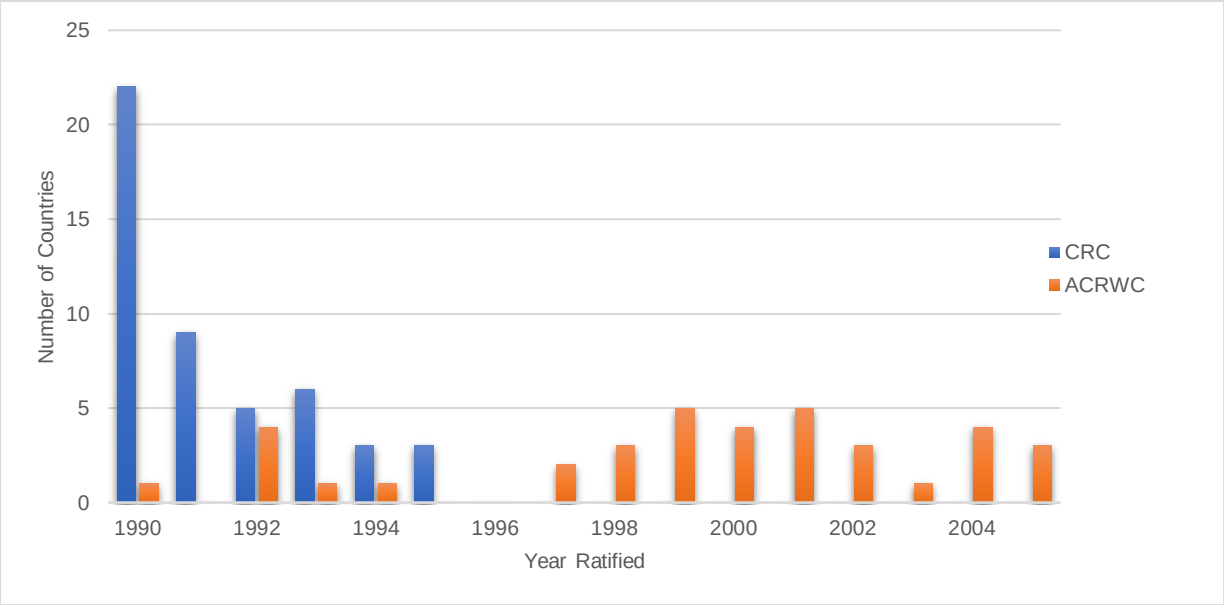
[102] By 2030, ensure that all girls and boys complete free, equitable and quality primary and secondary education leading to relevant and effective learning outcomes
[103] South Africa ratified the ACRWC on the 10 of October 1997 (ACERWC, 2022)

children in Africa.

4.5.2.1 Trend of ratification treaty ratification: African perspective

Begum (2016), states that depending on constitutional order of the state, ratification may automatically result in the incorporation of the treaty into domestic legislation, or initiate the administrative process to implement the treaty. This section is critical as it shows gap in the rate of ratification between the ACRWC and the CRC. The following diagram, Figure 4.1 shows the comparison of the rate of ratification between the CRC and the ACRWC:

Figure 4.1: African countries, ratification of CRC and ACRWC (1990 – 2005)



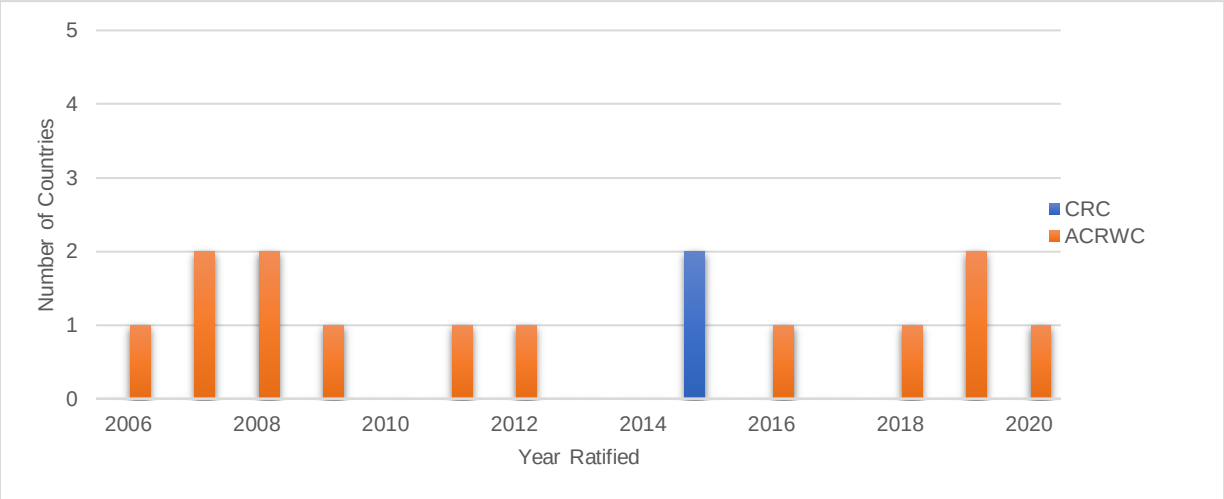
Source: ACERWC, 2023;OHCHR, 2023; Compiled by the researcher

The data presented illustrates an African comparison of the rate of ratification between the CRC and ACRWC. The analysis primarily shows the year in which the treaty was ratified. Due to the large volume of data, the presentation was divided into two main periods 1990 to 2005 and 2006 to 2020. Figure 4.1 shows a significant trend, in which between the period of 1990 to 2005, African countries quickly ratified the CRC but procrastinated in the case of the ACRWC. Whilst it took only 5 years (1990 – 1995) for 52 African countries to ratify the CRC, during the same period only 7 African countries had ratified the ACRWC.[104]

[104] Up to date only 47 African countries have ratified the ACRWC (ACERWC, 2023)

Mbise (2017, confirms that when adopted, African countries quickly ratified the CRC, but the same bandwagon effect was not applied in the case of the ACRWC, with African governments slowly or not adopting the treaty and hardly discussed policy forums in Africa. Thereby raising critical questions; such as, are African governments confident in ratifying and being accountable to African conventions and agreements on promoting children rights? If not what are some of reasons contributing towards the slow ratification process? Similarly, Figure 4.2 reflects on a slower ratification rate from 2006 to 2020.

Figure 4.2: African countries, ratification of CRC and ACRWC (2006 – 2020)



Source: ACERWC, 2023; OHCHR, 2023, Compiled by the researcher

As shown above, the post 2006 period dominated with the ratification of the ACRWC, with only two countries[105] ratifying the CRC in 2015. It is also worth taking note that all countries which have ratified the ACRWC have also ratified the CRC, but in contrast some countries; including, Morocco, Somalia, South Sudan and Tunisia, have ratified the CRC but not the ACRWC (ACERWC, 2023; OHCHR, 2023). Despite the procrastinated rate by African countries in adopting the ACRWC, literature supports that the treaty has had a pivotal role in promoting the rights of children in Africa.

4.5.2.2 Contribution of the African Charter on Children Rights

Chirwa (2002) highlights that the ACRWC is a binding international law instrument that identifies the child as a possessor of certain rights and makes it possible for a child to assert those rights in domestic judicial or administrative proceedings. Lloyd (2002) notes that:

[105] Both South Sudan and Somalia ratified the CRC in 2015 (OHCHR, 2023)

> *The African children's charter prides itself on its African perspective on rights yet was inspired by the trends evident in the UN system. It was intended to be a complementary mechanism to that of the UN to enhance the enjoyment of the rights of children in Africa.*

As shown above, the adoption of the ACRWC is in tandem with the United Nation's call for regional dialogue on the protection and promotion of children's rights (Mezmur, 2020; Meix-Cereceda, 2020; Adu-Gyamfi & Keating, 2013). For example, the similarities between Article 28 of the CRC and Article 11 of the ACRWC on the provisions of basic education. This is interpreted in several constitutions in Africa; including Article 20[106] of Namibia, and Article 30[107] of Uganda, which all give reference to basic education.

The Government of South Africa in the initial ACRWC Country Report for the period 2000 to 2013,[108] acknowledged that despite legal developments[109] to develop customary law in line with the Bill of Rights, but the trend of abuse on young girls continues, through forced marriages and the traditional practices of *ukuthwala* (ACERWC, 2013). In response the ACERWC in the second Country Report for the period 2013 to 2016,[110] called upon the Government of South Africa to take all necessary measures to protect children from harmful cultural practices and child marriages. Similar remarks are included in the concluding recommendations by the ACERWC, which vocally exposes the cultural vulnerabilities on children in South Africa:

> *The Committee calls upon the Government of South Africa to take all the necessary measures to combat the practice of ukuthwala which subject girls to forced marriage. Further, the Committee recommends the State Party to address the issue of death and mutilation of boys as a result of botched circumcision. In addition, the State Party shall ban virginity testing of children (ACERWC, 2022)*

Moreover, the increased vulnerability of children to HIV/AIDS; as a result of, forced marriages and cultural practices; for instance, *Ukuthwala* in sub-Saharan Africa has made children primary victims of discrimination and abuse. Article 21[111] of the ACRWC

[106] Article 20 of the Constitution of Namibia states that: Primary education shall be compulsory, and the State shall provide reasonable facilities to render effective this right for every resident within Namibia, by establishing and maintaining State schools at which primary education will be provided free of charge.(Republic of Namibia, 1990)
[107] Article 30 states that: All persons have a right to education (Republic of Uganda, 1995)
[108] South Africa's Initial Country Report on the African Charter on the Rights and Welfare of the Child (2000 – 2013)
[109] These include the; Council of Traditional Leaders Act (1997), Traditional Leadership and Governance, Framework Act (2003), and the Traditional Leadership and Governance Framework, Amendment Act (2003)
[110] South Africa's second Country Report on the African Committee of Experts on the Rights and Welfare of the Child on the African Charter on the Rights and Welfare of the Child (2013 – 2016)
[111] Article 21 of the ACRWC states that: 1. States Parties to the present Charter shall take all

calls on governments to review their commitment to children's rights by addressing harmful cultural practices which violate their rights; including, child marriages. Viljoen (2000) points out that:

> *In many respects, children are more likely to be victims of human rights violations than adults, and African children are more likely to be victims than children on other continents. Causes of human rights violations in Africa, such as poverty, HIV/AIDS, warfare, famine and harmful cultural practices have a disproportionate impact on the continent's children.*

As reflected above the rights of the child have often been overlooked and viewed as alien in Africa. This has been attributed to the lack of what is termed "Africanness" in the children rights discourse (Aidoo, 1993). In which children rights have been rejected in highly traditional societies, due to the historical influence, culture and colonial rule (Rafudeen, 2016; Lloyd, 2002).

Mezmur (2008) argues that children's rights are not a new phenomenon, as traditional societies have always and continue to respect the rights children. In post-colonial Africa, some writers erroneously assume that the CRC was the instrument that brought children's rights to Africa (Adu-Gyamfi & Keating, 2013; Njungwe, 2009). In support, Kaime (2009), amplified the concerns of African children:

> *the situation of children living under apartheid; the disadvantages facing the African girl child; the African conception of the community's responsibilities and duties; and the role of the extended family in the upbringing of children*

This was mainly because of the inadequacy[112] of the CRC to address concerns prevalent in the African states. Some of these concerns were regarded as having been overlooked, but their effects are still rampant in the present generation and can affect future generations if not addressed.

In response to the above critics, Adegbola (2007) recommends the need to take an unambiguous stance on the applicability of the CRC on children by considering the socioeconomic and developmental diversities of African children. Ankut (2007),

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appropriate measures to eliminate harmful social and cultural practices affecting the welfare, dignity, normal growth and development of the child and in particular:
(a) those customs and practices prejudicial to the health or life of the child; and
(b) those customs and practices discriminatory to the child on the grounds of sex or other status.
2. Child marriage and the betrothal of girls and boys shall be prohibited and effective action, including legislation, shall be taken to specify the minimum age of marriage to be 18 years and make registration of all marriages in an official registry compulsory.

[112] The CRC has been criticised as aid-oriented, using children's rights as a road to access aid (Reynolds et al., 2006; Quennerstedt et al., 2018; Fairhall & Woods, 2021).

supports that it is unavoidable to support the CRC without the contribution of an African counterpart. The ACRWC is grounded on an African perspective key principles of non-discrimination, the best interests of the child, children's participation and the survival, culture and development of the child. Thus, the application of the ACRWC to promote and protect children's rights in Africa is justifiable.

4.5.3 The Universal Declaration of Human Rights

The UDHR is the only non-binding instrument, which has a universal status that is critical in shaping the content of human rights treaties (Simmons, 2009; Jackson, 2007). The Preamble of the UDHR reflects on how the implementation of the Declaration pledges for the full realization, recognition and observance of human rights. The content of the declaration provides important detail on the role and effectiveness of supporting treaties and is worth examining because it was the first global non-binding instrument to express the importance of basic education for children. Significant to this research, Article 26 of the UDHR states that:

> *Everyone has the right to education. Education shall be free, at least in the elementary and fundamental stages. Elementary education shall be compulsory*

Even though Article 26 does not give direct reference to the term "basic education" the interpretation of this statement to include primary education for children[113] has been supported by various scholars (Beiter, 2006; McCowan, 2010; Murungi, 2015; Offor & Badru, 2014). The respective Articles 6[114] and 7[115] of the UDHR advocate that everyone has the right to be recognized before the law without any form of discrimination. In addition, the case of domestication of policy is captured in Article 22 of the UDHR, which states that:

> *everyone…has the right to social security through national and international cooperation and in accordance with the organisation and resources of each State of the economic, social and cultural rights indispensable for his dignity and the free development of his personality (UDHR,1948)*

As captured in the UDHR, national and international cooperation among nations is encouraged to ensure the realization of human rights. Regassa (2009) concludes that

[113] However, basic education is not limited to children but includes elementary education for youths, adults and the elderly.
[114] Article 6 of UDHR states that: Everyone has the right to recognition everywhere as a person before the law (UDHR, 1948)
[115] Article 7 of UDHR states that: All are equal before the law and are entitled without any discrimination to equal protection of the law. All are entitled to equal protection against any discrimination in violation of this Declaration and against any incitement to such discrimination (UDHR, 1948)

the implementation of the UDHR should be acknowledged by analysing its relationship with other treaty instruments. The next section elaborates on the CESCR.

4.5.4 Covenant on Economic, Social and Cultural Rights

The CESCR is a treaty representing a global international commitment to advance socio economic and cultural rights, including the right to education (Jackson, 2007; Olowu, 2009). This is articulated in Article 13[116] of the CESCR, which recognizes the contribution of the treaty in promoting the right to basic education through significant global efforts; such as the Salamanca statement, Dakar Framework of Action, the Constitution of South Africa and policies on basic education. In practise, the CESCR calls for the state to account towards legislative measures to promote basic education, Article 2 of the CESCR states that:

> *[e]ach State party to the Covenant undertakes to take steps, individually and through international assistance and co-operation to achieve progressively the realization of the rights recognized in the Covenant, by all appropriate means, including particularly the adoption of legislative measures (CESCR, 1976).*

The treaty is monitored by the Committee on Economic Social and Cultural Rights[117] which focuses on the provision and implementation of education as a human right. Consequently, this involves the adoption of legislation and policy documents to achieve the rights in consideration, in this case, the right to basic education for OVC (Mandlate, 2012). The CESCR in Article 2(1)[118] envisages the need for states to collaborate in the form of "international assistance" and "cooperation". This initiates the need for progressive policy and programmes to implement the rights entrenched in the Convention and cohesion at all structures at the domestic level.

4.6 State's obligation on children rights

The primary responsibility of the state is to promote, protect and fulfil human rights

[116] Article 13 of the CECSR states that:
1. The States Parties to the present Covenant recognize the right of everyone to education.
2. The States Parties to the present Covenant recognize that, with a view to achieving the full realization of this right: (a) Primary education shall be compulsory and available free to all (CESCR, 1976)

[117] The Committee is entrusted with the implementation of the CESCR

[118] Article 2(1) of the CESCR states: Each State Party to the present Covenant undertakes to take steps, individually and through international assistance and co-operation, especially economic and technical, to the maximum of its available resources, with a view to achieving progressively the full realization of the rights recognized in the present Covenant by all appropriate means, including particularly the adoption of legislative measures.

(International Service for Human Rights, 2022). The first paragraph of Article 4[119] of the CRC provides that the state should adopt legislative measures to ensure full compliance with the CRC, and delegate resources to implement the rights of the child (CRC, 1990; Doek, 2007). There are several policy technicalities included in Article 4; firstly, Rishmawi (2006) shows that the use of "other measures" in the CRC is meant to ensure consistency of the CRC with other international children rights instruments which include additional measures beyond the legislation. Secondly, academic commentators indicate that the reference to "appropriate measures" in other provisions of the CRC is intended to include the role of the constitution of the participating state (Detrick, 1999). The strict and rigid nature of some obligations often makes it difficult for other states to implement them. In compensation, the CRC is structured to allow for measures to be adopted in any way that the national system requires, as long as it fulfils the requirements of Article 4 of the CRC (Rishmawi, 2006).

The second paragraph of Article 4 of the CRC promotes the framework of international cooperation, which is similar to Article 2(1)[120] of the CESCR that requires states to take steps to the maximum their available resources to progressively achieve the full realisation of the rights (CRC, 1990; CESCR, 1966). The state's obligation can be defined in different terms depending on the nature of the right under consideration. The context of economic, social, and cultural rights is often prescribed as problematic because of the difficulty to delineate the specific nature of these rights. As a result, undertaking all appropriate measures will ensure that all effort is made to encompass all the rights.

In this context, it is instructive to always bear in mind the CRC Committee recommendations[121] concerning states' obligations on children's rights, which in

[119]Article 4 of the CRC states that: States Parties shall undertake all appropriate legislative, administrative, and other measures for the implementation of the rights recognized in the present Convention. With regard to economic, social and cultural rights, States Parties shall undertake such measures to the maximum extent of their available resources and, where needed, within the framework of international co-operation (CRC, 1990)

[120] Article 4(1) of the CESCR states that: Each State Party to the present Covenant undertakes to take steps, individually and through international assistance and co-operation, especially economic and technical, to the maximum of its available resources, with a view to achieving progressively the full realization of the rights recognized in the present Covenant by all appropriate means, including particularly the adoption of legislative measures (CESCR, 1966).

[121] "Even where the available resources are demonstrably inadequate, the obligation remains for a state party to strive to ensure the widest possible enjoyment of the relevant rights under the prevailing circumstances "Convention against Discrimination in Education (adopted by the General Conference of the United Nations Educational, Scientific and Cultural Organisation in Paris on 14 December 1960).

appropriate circumstances, can be deemed to be both social and economic rights (Jonas, 2006). Conversely, the state is also encouraged to ensure effective, child-sensitive procedures for children through independent complaints procedures and legislative institutions, to address cases of children's rights violations.

The reporting system is weakened by the failure of states to adhere to the treaty body reporting requirements, observations and recommendations by the supervisory bodies (Woll, 2000). Various factors have been suggested as possible causes for reporting failure, for example, Adegbola (2007) mentions the lack of understanding of the purpose and significance of reporting. In such cases, reporting has been viewed as a waste of time and resources. It is worth taking note that the objective of reporting is not to build a negative picture of the state, but it forms an adequate communication system to address children rights violations.

There are several factors that contribute to delays in reporting, as the process involves the participation of various stakeholders; such as NGOs and civil society who participate through the submission of Shadow Reports.[122] Chirwa (2002) attributes financial difficulties as one of the factors that have negatively affected the functioning of the reporting system. Pillay (2014) recommends the reporting system under the ACRWC which incorporates a complaints system to encourage the participation of the local community and interpretation of the relevant children rights statutes. This is critical because it educates communities on the application of children rights on various matters in society.

Researchers indicate that even though every treaty sets forth general obligations for states to assume upon ratification, it is universally acknowledged today in both doctrine and jurisprudence that children rights guarantee three broad obligations (Ssenyonjo, 2010; Koch, 2005; Sepúlveda, 2003; Hassanli, 2014; Krieger, 2006). This tripartite typology of obligations; includes the obligation to respect, protect and fulfil the children rights of all persons without discrimination. Children's rights are also considered to be children rights and must be respected, protected, promoted and fulfilled as any other children right (Chürr, 2015). The tripartite typology of state obligations is discussed in

[122] Shadow reports are a method used by NGOs and civil society organisation to supplement or present alternative detail to governments reports on human rights treaties.

the next section.

4.6.1 Obligation to respect

Kalin and Kunzli (2009) highlight that the state is encouraged to abstain from performing or tolerating any practice which might violate children rights. This means avoiding any action that would serve to prevent children from accessing education; for example, legislation that categorizes OVC as “uneducable” due to the costs involved in addressing it (Florian et al., 2006). When a state ratifies the CRC, it commits to respecting the rights articulated in the CRC and undertakes all measures and recommendations to ensure that the right to basic education is a reality for all children.

The obligation to respect requires the state and all its organs and agents, to refrain directly or indirectly from interfering with or impairing the enjoyment of children rights (Nowak, 2000 & Milanovic, 2011). Scholars on the right of the child have stated that the obligation to respect has been described as a “negative obligation” in the sense of being a “hands-off duty” (Alston et al., 2013; Doswald-Beck, 2011). The negative obligation does not demand excessive state expenditure, management and allocation of resources compared to the more onerous obligations to protect and fulfil (Sepúlveda, 2003 & Koch, 2005). As a result, more effort is required to amplify the role of the community through training, disseminating information and awareness of children rights.

4.6.2 Obligation to protect

The obligation to protect requires the state to protect individuals against any form of abuse and its effects (Santarelli, 2008). Obligations to protect entail states to restrain third parties from committing abuse. This is achieved by taking the necessary measures to remove the barriers to basic education posed by individuals or communities; for example, cultural barriers to basic education, violence and abuse in the school environment and the community (UNICEF, 2007; Hakimi, 2010; Weiss, 2002; Schefer, 2013; Wilde, 2013).

Furthermore, the state is required to adopt and enforce the necessary measures to prevent and protect children from any children rights violations (Doswald-Beck, 2011; Milanovic, 2011; Hassanli, 2014; Skogly, 2006). Unlike the obligation to respect, the obligation to protect will require positive steps and adjustments. Consequently, leading

to the misconception that “children rights are expensive” because it requires the allocation of funds and resources to fully implement measures to protect those who are vulnerable and promote children rights education. This misconception should not be used as an excuse for the failure to provide basic education for OVC.

4.6.3 Obligation to fulfil

This requires the state to fulfil children rights by ensuring that in reality they are practised within the communities. The state also fundamentally has to warrant the facilitation, provision and promotion of access to rights. Mubangizi (2015) mentions that when governmental measures for children rights are insufficient then the obligation to fulfil is not achieved. In the context of access to basic education, this means the state guarantees that all children have the right to basic education as supported in the Constitution of South Africa.

The effectiveness of state obligations is limited when there is an unsupportive legal environment. Liebenberg and Pillay (2000) suggest that international law enforcement needs to strengthen relations with domestic courts to enforce international law on socioeconomic rights. This is because courts have the power to use all the materials issued by the supervisory bodies, including the country reports, the concluding observations and the General Comments, in their judgments (Rosa & Dutschke, 2006; Byrnes & Jane, 2017). Thus, bridging the gap between interpretations of international treaty obligations and that of the constitution of the respective country.

The obligation to fulfil requires the state to ensure the achievement of maintaining the minimum standards of children rights implementation, without any discrimination. Eide (1989), postulates that the state must be able to go beyond the frameworks of intervention and focus on facilitating opportunities for the enjoyment of those rights. Cuotula and Vidar (2002) add that the obligation to fulfil requires the state to take positive measures aimed at enabling, assisting and strengthening people’s access to resources. The obligation to fulfil is considered the final level of children rights obligations. This is primarily because it goes beyond the obligations to respect and protect and is aimed at the full realisation of children rights. The research, in the following discussion, examines the process of domesticating children rights in international treaties.

4.7 Domestication of children rights treaties

Mendes and Lalonde-Rousssy (2003) state that international law does not regulate the implementation of international children rights treaties; as a result, states have had to rely on their domestic and constitutional law. Lusanjo (2013) highlights that this is achieved either through incorporation or transformation of the domestic law. The principle of domesticating policy strengthens the protection, promotion, and re-enforce of human rights in a country. Domesticating policy involves translating international commitments into action at the national level (Underdal & Hanf, 2000). This process is vitally critical as it involves grass root communities to create policies, goals, objectives and programmes that align with international standards. The success of the domestication process helps to establish the provisions of the treaty with more visible and measurable results at the country level. Munzhedzi (2016) and Salomon (2014), recommend that domestication should not be limited to administrative and resource allocation measures but must include measures on governance, accountability, transparency and full-fledged participation by the citizens and civil society; as a result, improving the synthesis and dialogue with communities on children rights issues.

Van Sant (2000) demonstrates that autonomous local control will achieve more benefits than the mere assignment of figurative responsibility to local government, while substantive programme and resource control remain with the central government. The proximity of the local government to the affected OVC would be an advantage as those affected can easily participate in the decision and policy-making process. As reflected in Chapter 5 of this research, OVC located in rural areas, distant from the local government offices received little or no assistance at all.

The local community synergy is required to implement national and international treaties; for example, the commitment of the CRC is not matched by such proclamation in intensively rural communities (Phiri & Webb, 2002). The state has to ensure that the rights contained in regional and international treaties, become part of or are recognized by the national legal system (OHCHR, 2010). The domestication of treaties principally requires that constitutional and other legal provisions be enacted at the national level to give effect to the ratified treaties, and align national laws to reflect the commitment in the treaties (Viljoen & Precious, 2007; Achilihu, 2010).

Domestication has been evident through integrating regional and international treaties into national policies and plans of action; for instance, the National Plan of Action for

Orphans and Vulnerable Children and White Paper 6 in response to the CRC, ACRWC, and CRPD. Olowu (2009) reiterates that the non-domestication of treaties has perpetuated children rights violations.

The effectiveness of the CRC varies greatly depending upon the system of implementation in a given country. Veerman and Gross (1995) correctly assert that the impact of the CRC depends on the system applicable to the domestication of international treaties in every country. The principle of domesticating policy strengthens the protection and promotion of children's rights by aligning national policies with key regional and international policy frameworks. Despite a comprehensive set of laws and policies to give effect to rights, in and through basic education, as shown in Chapter 5, OVCs in South Africa are not enjoying these rights in practice.

It is important to note that every country needs to consider their national realities, there is no "one size fits all" approach when it comes to domestication because it is a mainstreaming process. This flexibility allows the state to approach the process in a way that is compatible with its political system. Thus, there is no excuse for failure in the treaty domestication process. Rosa and Dutschke (2006), assert that the position of international children rights instruments vary with the legal systems and constitutional structures of different countries. The ratification of any international agreement, treaty or convention may automatically result in the provisions of that instrument being incorporated directly into domestic legislation and being immediately and fully justifiable (Rosa & Dutschke, 2006; Hans, 2015). This is because the treaty has no legal force domestically unless and until special enabling legislation is adopted. In some cases, a constitutional amendment will be applied, whilst in some cases, the state can choose to incorporatethe instrument into a single legislation.

Nundy (2004) establishes that the political landscape in South Africa can provoke a wide-ranging review of national legislation; therefore, legislation relating to children's rights is a matter of course. Unfortunately, despite the rhetoric in the international community about the importance of children's rights, monitoring of the CRC shows that the rights, norms, and principles involved are regularly ignored and seriously violated virtually throughout the world on a scale unmatched (OHCHR, 2022; Lautensach & Lautensach, 2020). Against this background, the extent to which basic education

policies comply with international children rights treaties, specifically the CRC.

Odhiambo (2005) predicates that the success or failure of any treaty should be evaluated according to its impact on children rights practices at the domestic level. Reflecting on the CRC, Veerman and Gross (1995) assert that the impact of the CRC depends on the respective system of domestication per country. This also includes national strategy; for example, the National Plan of Action for Children (NPAC), National Plan of Action for Orphans and Vulnerable Children (NPAOVC), independent human rights institutions, children's ombudspersons, national human rights commissions and the local cooperation with the active participation of the civil society. Thereby, after discussing domestication as a concept, the next section explores the system used to apply domestication to treaties.

4.8 System of domestication

The CRC establishes that ratifying state parties are entitled to support legal reform. This is reflected in the clause in Article 4 of the CRC which highlights that:

> *[s]tate parties shall undertake all appropriate legislative, administrative and other measures for the implementation of the rights recognized in the Convention (CRC, 1990)*

Supporting the above, Doek (2006), outlines that all designated plans by the state have to certify that domestic laws and activities of the government are in full acquiescence with the CRC. It has to be noted that this is a continuous, ongoing process to check whether the state is operating in compliance and fully compatible with the proposed legislation.

The state can implement additional measures which include monitoring institutions and policy reforms. Domestication in the context of the CRC is advantageous because the obligation to legislate the convention rests on all levels of the government. Concerning this study, the right to basic education for all children including OVCs is frequently mentioned in African Constitutions. The main provisions to free and basic education are constitutionally entrenched in Article 28(1)(a)[123] of the CRC and Article 11(3)(a)[124] of the

[123] Article 28(1)(a) of the CRC states that: States Parties recognize the right of the child to education, and with a view to achieving this right progressively and on the basis of equal opportunity, they shall, in particular: (a) Make primary education compulsory and available free to all

[124] Article 11(3)(a) of the ACRWC states that: States Parties to the present Charter shall take all appropriate measures with a view to achieving the full realization of this right and shall in particular: (a) provide free and compulsory basic education

ACRWC can be found in several Constitutions, thus demonstrating more commitment towards protecting this right at the domestic level.

Action Aid (2007) supports that education is an entitlement that is sanctioned by states, through legislation and national Constitutions, as a result, more countries in Africa have a constitutional guarantee of free basic education for all children. Churr (2015) gives several examples to support this view; firstly, the case of Namibia in which Article 20[125] of the Constitution provides that all people should have access to education and basic education shall be free and compulsory; secondly, Article 13(1)(a)[126] of the Constitution of Southern Sudan provides that the state is obliged to provide free primary education (Republic of the Sudan, 2015). Other African countries; such as Uganda, Mali, Ghana and Nigeria place the entitlements of basic education as the responsibility of the government.

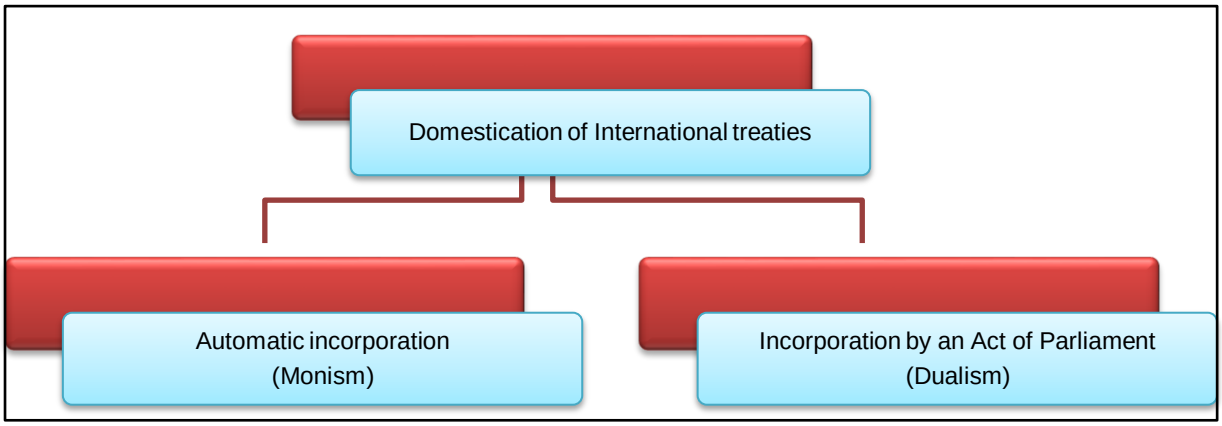
Viljoen (2000) states that African children are more likely to be victims of human rights violations than children on other continents due to the extent of due to poverty, HIV/AIDS, warfare, famine and harmful cultural practices. South Africa is reputed to have the highest incidence of child and baby rape in the world (SAPS, 2020). This is a continuous trend in sub-Saharan Africa in which lifetime exposure to sexual violence was reported by an average of 23% of school children between 13 to 15 years from Namibia, Swaziland, Uganda, Zambia and Zimbabwe (Brown et al., 2009). The effects of such extreme levels of child rights violation have been evident in Central and West Africa; O'Flaherty (2005) highlights that up to 40% of girls below the age of 19 years have been in child marriages. The Population Reference Bureau (2010) reveals that high child marriage rates; such as, 72% in Chad and 78.4% in Niger were recorded. The statistics presented above reflect the extent of human rights violations exposed through child marriages in Africa.

Therefore, the challenge is not the ratification of treaties, but rather the implementation

[125] Article 20 of the Constitution of Namibia states that:
(1) All persons shall have the right to education.
(2) Primary education shall be compulsory, and the State shall provide reasonable facilities to render effective this right for every resident within Namibia, by establishing and maintaining State schools at which primary education will be provided free of charge.
[126] Article 13(1)(a) of the Constitution of Southern Sudan states that: The State shall promote education at all levels all over the Sudan and shall ensure free and compulsory education at the primary level and in illiteracy eradication programmes.

of the treaties based on the legislative and political environment country. Lloyd (2002) and Viljoen (2000) identify the monist and dualist approaches as the preferred methods of domestication.[127] Mutumbwa (2019) highlights that the two systems present opposed prepositions on the observance of international treaties. These are illustrated in the diagram below:

Figure 4.3: Systems to domesticate international treaties



Source: Compiled by the researcher

Figure 4.3 above shows the interaction between international treaties and domestic laws, through two main systems; namely, monism and dualism. The section below provides the critical discourse for the interpretation of Section 231(1)[128] of the South African Constitution which outlines the preferred system of domestication. The section below will explore in detail the context of each system.

4.8.1 Monism

In this system, international conventions are directly incorporated into law. This school of thought regards international and national law as parts of the same system, a single or universal legal order or concept of law. The monist school argues that both international and domestic law are part of one all-encompassing legal system, and automatically included into the domestic law (Wafula, 2012).

This means that domestic law must correspond with international law and must defer to the principles of the one all-encompassing legal system which is founded on natural

[127] In some cases, based on the legislative and political framework a mixed approach of which exhibits traits or tendencies of both the monist and dualist is adopted. See, Mutubwa, 2019
[128] Section 231(1) of the Constitution of South Africa states that: The negotiating and signing of all international agreements is the responsibility of the national executive (Republic of South Africa, 1996).

law. Brownlie (1995) argues that not only do international legal rules and various domestic legal orders comprise a single global system, but in cases of conflict, domestic legal orders take a subsidiary position.

In monist countries, for which the CRC became enforceable in law as a direct result of ratification or accession, there is still a need to ensure that other, pre-existing legislation is in harmony with the provisions of the CRC. Goonesekere (2007), mentions that the monist approach acknowledges that a treaty is a legislative act, which automatically becomes a part ofthe domestic law after it is ratified by the state. This means the state must take the necessary steps to avoid contradictions between the CRC and the legislation. If legislation is not in accord with the CRC, the State is obliged to take the steps necessary to rectify the situation, to avoid contradictions between the CRC and the legislation. This approach has been applied in several countries; including, Ethiopia, Syria, Belgium, Cameroon, Mali and Togo.

Kelsen (1997), when supporting the Monist system advocates that all law forms part of one unitary entity. The most important question relating to international law is whether it constitutes actual law. Acceptance of the monist position means that international law does not require to be translated into national law since the act of ratification of a treaty, automatically incorporates it into the domestic law

4.8.2 Dualism

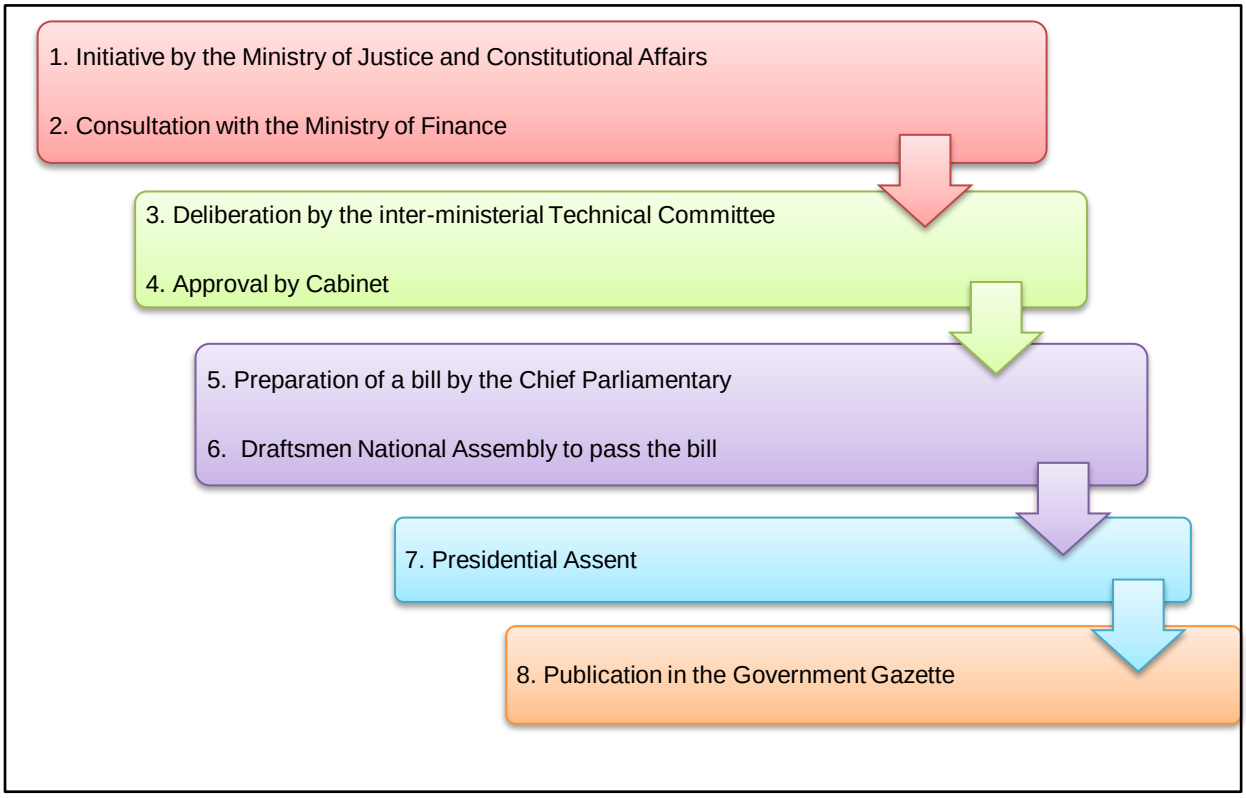
The CRC has followed a different path concerning the issue of incorporation, particularly in light of evidence pointing to the enactment of enabling legislation. Dualists regard international and domestic law as completely separate with different legal systems and characteristics; conversely, an exemption is given to the Head of State who is the only state organ to represent the state both in domestic and international law (Wangari, 2013). The system can only be incorporated into national law by domestic statute, each state can choose which one of the two systems is more applicable to them.

In contrast, in dualist countries; such as, Jamaica, Ghana, Nigeria, India and Tanzania which do not automatically adopt international instruments into national law, the existing legislation needs to be reviewed to see the extent to which the state’s obligations under the CRC (Nundy, 2004). In the event of legislative contradictions, new legislation will need to be adopted to establish the full legal implementation of the CRC's provisions in

the country's courts.

For any human rights instrument to have an effect in a dualist country, it must be transformed or incorporated into the national law following specific procedures. In the case study of Tanzania, Yusuf (1998) elaborates on the process by which an international legal rule may become part and parcel of the law of the land, involving the following institutions and procedures.

Figure 4.4: Process of domesticating an international treaty



Source: Odongo, 2005; Compiled by the researcher

The procedure shown in Figure 4.4 can be challenging as it will require full compliance by the government and the citizens at large. The conditions of full compliance advocate that the entire process is not motivated by coercion and self-interest. As a result, the implementation can become slow because the drafting and subsequent passing of implementing legislation is inherently a time-consuming process that may sometimes depend on the prevailing political will (Lusanjo, 2013).

Murungi and Biegon (2011) reveals the complexities in drafting and implementing legislation slow down domestication because of the prevailing political environment,

scarce resources and the expertise required. There is also the danger that the national and the international legal situation might drift apart due to national-centric interpretation, unincorporated treaties and the latitude of the national legislator in the sense of their willingness to incorporate the treaties (Long, 2010).

It can also be argued that reliance on domestication is also on the notion of sovereignty because as an independent state it gives priority to its own decisions rather than that of the international community. Buergenthal et al. (2002) purport that the dualist approach provides the opportunity for states to establish a legal regime that suits the state's unique circumstances. The practical disadvantages of dualism are diverse because there is always the danger that the national and the international legal situation drift apart due to national-centric interpretation, unincorporated treaties and the latitude of the national legislator in the sense of their willingness to incorporate the treaties (Lusanjo, 2013). For example, in the case of Tanzania, the state could easily ratify any treaty but domesticating it can be problematic since it is an independent state, and its own decisions have priority. Kijo-Bisimba and Peter (2005) illustrated that if domestic incorporation had not occurred then the courts in Tanzania were not obliged to apply international norms.

Researchers, Hovell (2022) and Park et al. (2020) instigate that the main proponents of dualism are the positivists whose consensual views around international law naturally led to their conceiving of domestic law as a distinct system. Dualism, backed by legal positivists, states that the two systems of law are diverse systems of law, each proficient in its jurisdiction (Wafula, 2012). Positivist proponents argue that state sovereignty is supreme and international law only operates with the consent of the state (Shaw, 2008).

This is aligned with the most common practice of incorporation among states within the Commonwealth; the dualist system has been the pre-dominant norm in most common law countries (Brownlie, 1995). This requires the enactment of domestic legislation to give effect to the rights of the child in the CRC. UNICEF (2004) records a general survey on the impact of the CRC in 62 state parties, which indicates that the Convention has been incorporated into the national legal framework of most countries. The survey compiled in the report titled *Summary Report on the Study on the Impact of the Implementation of the Convention on the Rights of the Child* shows that a dualist system of incorporating international law treaties has necessitated the adoption of specific

national law (UNICEF, 2004).

It is the responsibility of every state to identify the best criteria to meet their international obligations, whether to be monist or dualist or to coordinate the two systems of law. The system implemented elaborates on the priority given to domestic and international law in a nation. For instance, Wangari (2013) states that the monists'international law has a primary place over domestic law, whilst for dualists when the two systems of law conflict, courts use domestic law.

Therefore, states must have treaty provisions at the domestic level. The establishment and implementation of development and national plans of action provide a much clearer passage of action on how goals and targets of international conventions can be achieved. Himes and Saltarell (1996) mention that most international systems have some capability to develop concrete plans or programs for action to achieve agreed goals. Mechanisms should be established at national and local levels to coordinate policies related to conventions and to monitor their implementation (Wangari, 2013).

In the specific context of South Africa, the state follows a dualistic approach (Phooko, 2018 & Schlemmer, 2004). As elaborated earlier in the case of dualism, treaties are not automatically adopted but rather follow a dual process involving the role of the legislation. As such treaties are not directly implemented within the state without parliamentary approval as stated in the national law under Section 231(4) of the Constitution of the Republic of South Africa states:

> *Any international agreement becomes law in the Republic when it is enacted into law by national legislation but a self-executing provision of an agreement that has been approved by Parliament is law in the Republic unless it is inconsistent with the Constitution or an Act of Parliament (Republic of South Africa, 1996)*

As reflected above the domestication of international treaties is finalised by the approval of the parliament. The statutory enactment of international law in domestic law is the final step in the procedure triggering the applicability of international law in national law (Phooko, 2018; Mutubwa, 2019).

4.9 Conclusion

In this chapter, the domestication of treaties in South Africa was discussed. The foundation of the domestication process was reflected in the conceptual framework of policy. The process and models of policy implementation were discussed to reflect on the impact and role of basic education policies in South Africa.

The analysis in the chapter includes policies on basic education. The Regulations Relating to the Minimum Uniform Norms and Standards for Public School Infrastructure, shows minimum compliance and National Policy for an Equitable Provision of an Enabling School Physical Teaching and Learning Environment with the 4-A Scheme. In terms of availability and accessibility the Centre for Child Law case with the Government of the Eastern Cape province showed the existence of mud schools and poor sanitation.

The chapter highlighted on the implementation of the CRC and other treaties through the monist and dualist systems, and in the South African context recommends the use of the dualist system of domestication, which promotes a constitutional process. The approach is centralised on Section 231(4) of the Constitution of South Africa, which is the principal tool for the domestication of treaties. The dualist is a more democratic process, whereby the state does not automatically rectify the treaty without the approval of the parliament.

CHAPTER 5

DATA PRESENTATION & ANALYSIS

5.1 Introduction

This chapter presents and provides an analysis of the data collected. The data was collected from a total of 44 participants from NGOs, schools, government departments, focusing on OVC and basic education in the Eastern Cape province (See Appendix C for details). The presentation of data seeks to answer the research question of the study. The focus is on the participants' experiences, views and responses concerning access to basic education for OVC[129] in the Eastern Cape province.

The data provides a visual presentation of the data collected from the online and telephonic interviews using charts and tables. The qualitative data collected was analysed using the Atlas.ti 9 software.[130] The themes were derived from the research questions and interview data to establish a relationship between the data and the research discussion. Furthermore, the rights-based approach on basic education and 4-A Scheme framework were applied to analyse and contextualise the data.

5.2 Demographic information

The demographic information provides the definitive characteristics of the area of study. These include the location of the participant;[131] the rural or urban divide and the participant focus area. The section below elaborates further on these characteristics:

5.2.1 Location of participant

As stated, the research study focused on the Eastern Cape province, and participants included NGOs, schools and government departments (See Appendix C for more details). The scope of the schools included ECD centres, primary and special needs schools[132] in the province.

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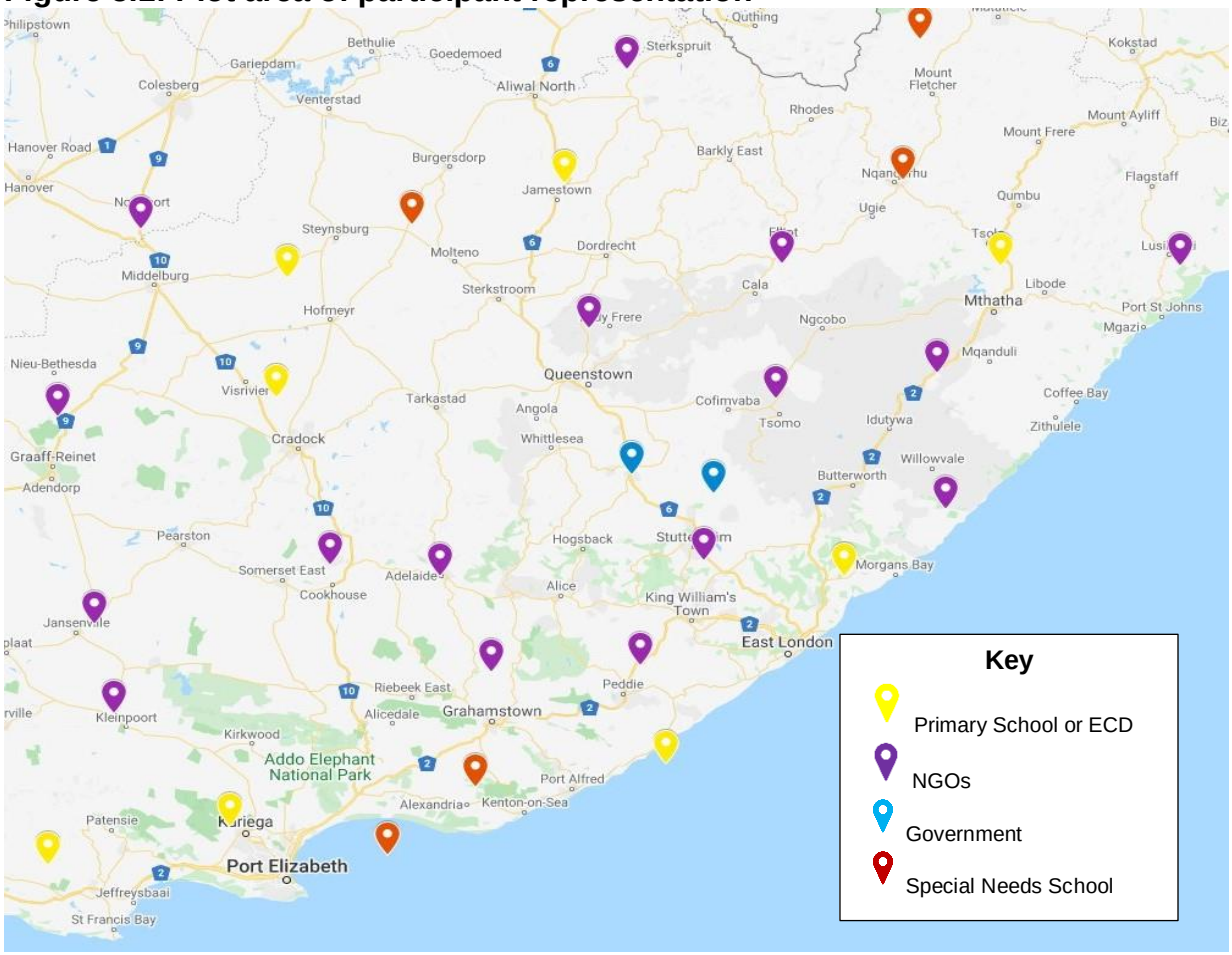
[129] The operational definition of OVC for this research refers to children between 0 to 18 years, who lost either or both parents, and are made vulnerable due to poverty, discrimination, disability, domestic violence, HIV/AIDS and harmful cultural practices.

[130] As indicated in Chapter 1, this is a computer-aided data analysis software programs used to assist in coding, analysing and managing data, particularly video, audio, or other non-text sources of data. Source www.atlasti.com

[131] Participant in this research refers to a representative from an NGO, school and government department on issues related to OVC and access to basic education in the Eastern Cape province

[132] The researcher included the special needs school category distinctively to provide a point of

Figure 5.1: Plot area of participant representation



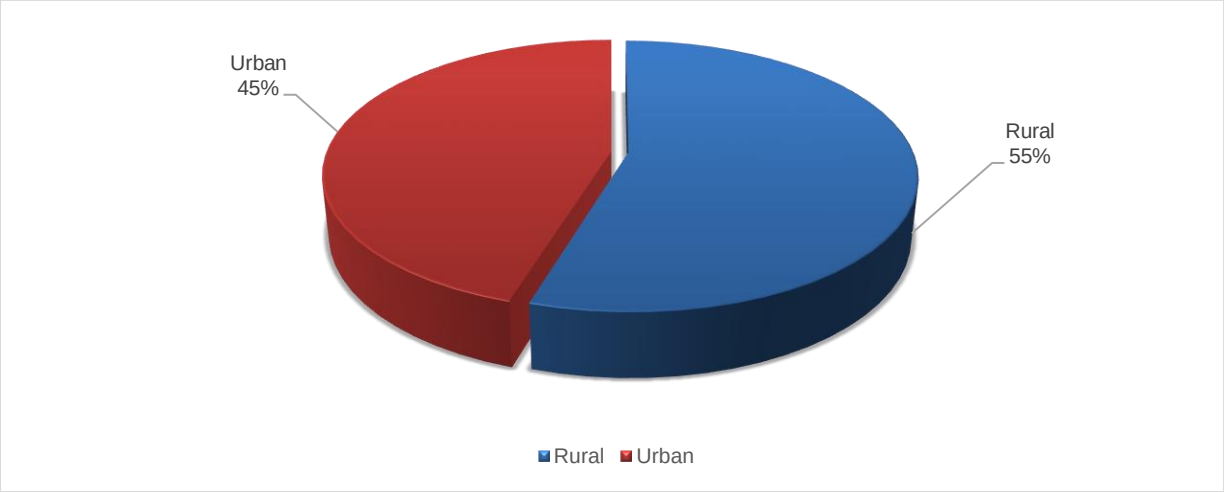
Source: Compiled by the researcher

The map in Figure 5.1 above shows the plot map of the participants in the research.[133] As reflected in Figures 5.1 and 5.2 the interview representation considered the rural-urban divide in the Eastern Cape province to provide obtain more conclusive responses. The Eastern Cape province has more than 60% of its populace residing in rural areas (Ndlovu, 2013). As such the researcher aimed to provide a balanced rural and urban ratio, during the planning process of the interviews.

reference to support the findings of the research in relation to the number of schools and distance from closest town (See Chapter 2 for details).

[133] Online software was used to plot the positions, in some cases there is a variance of 5cm to the actual position.

Figure 5.2: Rural/Urban divide



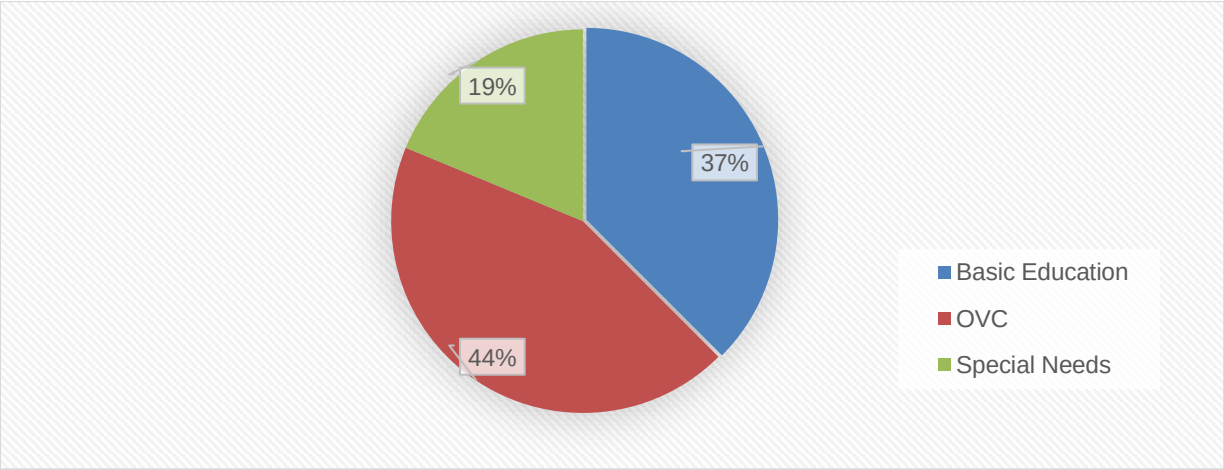
Source: Compiled by the researcher

Figure 5.2 above shows that 55% of participants represented a rural ratio including areas; such as Chintsa East, Lingelethu, Zwelitsha, Matatiele, Nqanqarhu, Nkwenkwezi, Missionvale and Peddie. In addition, 45% were from the urban population, representing areas that include, East London, Gqeberha, Qonce, Bisho and Komani.

5.2.2 Participant focus area

The section presents data on the main focus area of the participant. This information is critical because it provides an overview of the field of expertise concerning the rights of the child. Figure 5.3 indicates the main focus areas highlighted by the participants:

Figure 5.3: Participant focus area



Source: Compiled by the researcher

Figure 5.3 shows three main focus areas which arose from the participants' responses. These are basic education, OVC and special needs. The largest focus area,

represented by 44% of the responses was OVC. These participants indicated that their main focus as an organisation was an awareness of the challenges of OVCs in the Eastern Cape province. This also included protecting OVCs and working with schools, government and communities to prioritise the needs of OVCs. Furthermore, the second largest represented focus area was on basic education, 37% of the participants indicated that their primary mandate was providing basic education, especially in the rural communities of the Eastern Cape province. This includes organisations; such as *African Angels,*[134] *Axium Education,*[135] and *Khululeka.*[136]

The last focus area was on special needs, represented by 19% of the participant's responses. The challenges of children with special needs, including physical, psychological, and neurological disabilities are extensive. Several organisations indicated their commitment to children with disabilities. This contribution is significant as supported by Article 23(1) of the CRC, [137] which advocates for the mental and physical wellbeing of children. For example, participants from *Merryvale school*[138] stated that:

> *Merryvale School for Specialised Education caters for the needs of severely intellectually disabled (SID) students. Many of our students also present with comorbidities such as physical, psychological, and neurological disabilities. We are a multicultural, multi-racial, public school accommodating 340 students. Many of our students are from very financially impoverished families.*

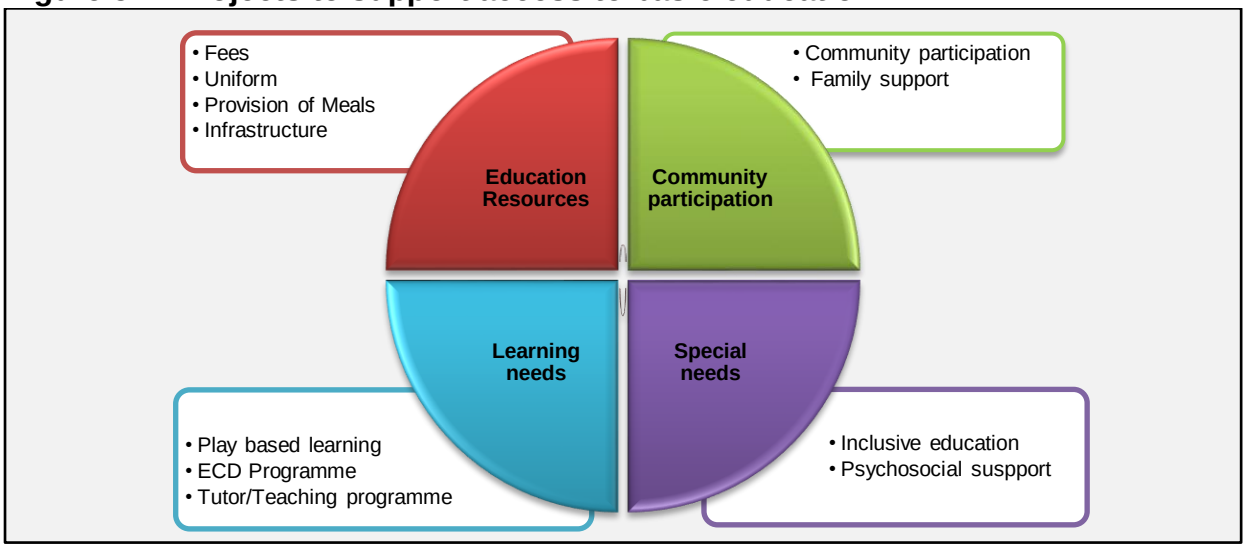
As reflected above, access to education cannot be fully addressed without recognising the need to ensure that inclusive education is a reality for all children, regardless of race, economic status and geography. Some of the participants in the research included the *Special Needs Community Centre,*[139] *Nemato Foundation,*[140] *Enkuthazweni Special Needs Center*[141] and *Inclusive Education,*[142] which all focused-on education barriers for children with special needs.

[134] Primary school providing basic education for children in rural farm areas, located in Chintsa East
[135] Local community run school organisation, located in Zithulele
[136] NGO focuses on Early Childhood Development, located in Komani
[137] States Parties recognize that a mentally or physically disabled child should enjoy a full and decent life, in conditions which ensure dignity, promote self-reliance and facilitate the child's active participation in the community.
[138] School offers specialised care for children with special needs, located in Gqeberha
[139] Care centre for children with special needs located in Nqanqarhu
[140] NGO assists children in disadvantaged communities with education resources, located in Nemato
[141] Grass root NGO working with children with special needs, located in Nkwenkwezi
[142] NGO committed to promoting and supporting inclusive education

5.3 Projects to support access to basic education

This section provides a preview of the projects or initiatives implemented to support access to basic education in the Eastern Cape province. The responses were grouped into four main sections using the Atlas.ti 9 software, as reflected below:

Figure 5.4: Projects to support access to basic education



Source: Compiled by the researcher

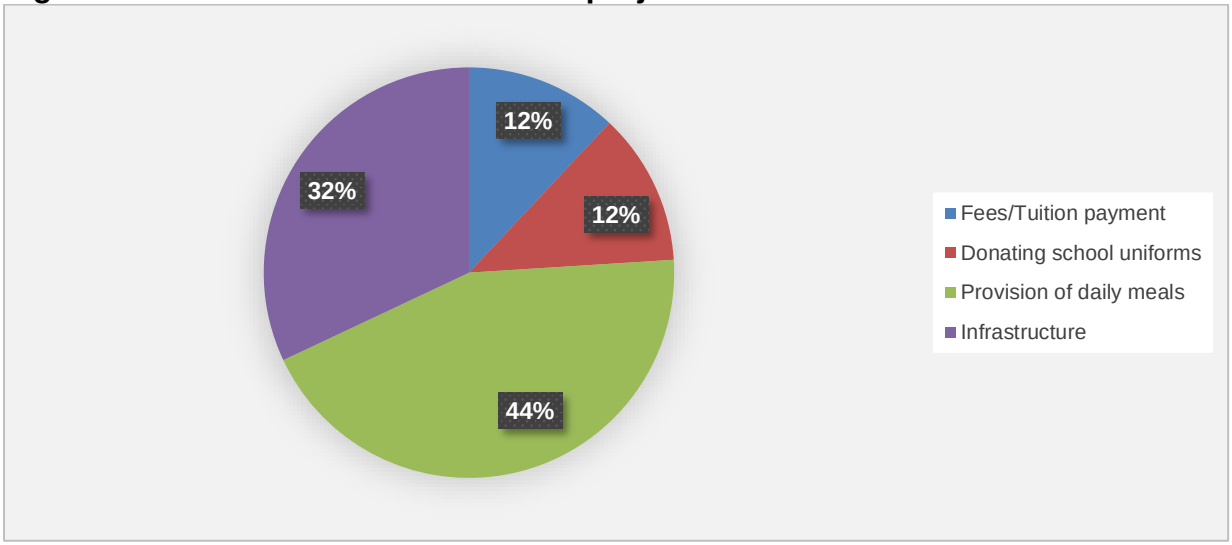
The diagram represented in Figure 5.4 shows the four main categories of projects implemented to support access to basic education in the Eastern Cape province; namely, education resources, community participation, learning needs and special needs. As such, each project is supported with sub-sections of the specific projects implemented. The researcher acknowledged all the responses from the participants irrespective of the stage or success of each project. This section will focus on two main areas education resources and learning needs to support basic education in the Eastern Cape province.

5.3.1 Education resources

These projects involve the provision of learning materials and the provision of basic education support in the form of nutrition projects. The Eastern Cape province is still trapped in structural poverty and the highest level of poverty is shown in areas such as Alfred Nzo at 57.7%, followed by OR Tambo at 53.9%; lastly, Joe Gqabi at 49.8% (Eastern Cape Planning Commission, 2014). In addition, UNICEF (2020) reveals that

multidimensionally poor[143] children are overwhelmingly located in rural areas in the traditionally poor province of the Eastern Cape. This is presented in the Figure 5.5 on education resource-related projects.

Figure 5.5: Education resource-based projects



Source: Compiled by the researcher

The response from the participants is presented in Figure 5.5 which shows the four different resource-based projects that fall within the category of "educational resources", namely, these include; fees or tuition payment, donating school uniforms, provision of daily meals and infrastructure projects. As stated previously, the right to basic education cannot be implemented in isolation, ignoring other fundamental rights; such as the right to food and the right to shelter. This is significant as noted earlier in the research that basic education is a right available to all, availability also includes education resources and learning infrastructure (Tomaševski, 2006; Joubert, 2014; Veriava & Coomans, 2019). As in this case, the majority of the participants, 44%, indicated their commitment towards ensuring that daily meals are provided for all children. In response to this, *Rise Against Hunger*[144] responded that:

> *We are driven by a vision to eradicate hunger in Africa. Rise against hunger is about creating a movement of people that will rise against hunger. And to that end, what we've done is, align ourselves with the United Nations, Sustainable Development Goals (SDGs). Basically, to end hunger by 2030. That is our set deadline in that regard. But I'm sure you appreciate it when we talk about hunger. I mean it's a huge problem, the*

[143] Multidimensional refers to a state of poverty that is more complex than that defined by unidimensional measure of poverty, but encompasses child material needs and human rights, in a holistic way (Carraro & Ferrone, 2020)
[144] NGO which packages and distributes food packages to children in vulnerable communities

demographics, the ethnicities.

As indicated, the right to education is aligned with SDG 2 on Zero hunger to end hunger by 2030. Thus, with the 2030 deadline for SDG 2, it can be appreciated why organisations; such as, *Rise Against Hunger* operate with an extensive team of volunteers and donors to provide daily meals for children in primary schools. Consequently, Article 24(2)(c)[145] of the CRC supports the provision of adequate nutritious foods and clean drinking water for children (CRC, 1990). It is worrying to note that the relevant participants from the government did not mention the role of the National School Nutrition Programme (NSNP),[146] which is recognised in the National Policy for an Equitable Provision of an Enabling School Physical Teaching and Learning Environment, and when requested for response could not provide an update on government-initiated nutrition programmes in the Eastern Cape province.

The infrastructure projects had the second highest representation with 32% of the responses; specifically concerning addressing the issue of pit latrine toilets in the Eastern Cape province. This will be discussed further in this chapter. Furthermore, 12% of the participants reflected on projects to assist OVC with financial support for school fees and the provision of school uniforms. This is critically important as proven during the data collection, OVCs within some communities are discriminated against by other peers in schools because due to financial challenges, some students might have old or incomplete uniforms. Several orphanages and children's care centres; such as *SOS Gqeberha,*[147] *Bethany Care*, and *Oosterland Youth Centre* highlighted projects to support the physical well-being of OVCs. *Hope Warriors*[148] provided a much more elaborate response:

> *In our focus, we look at the child holistically, to provide material assistance, that is clothing for those who don't have the clothes uniform and sanitary towels for the young girls. As a solution, we have worked to overcome OVC stigma, by making sure they are well dressed and resourced with school stationery. As a result, we have become the*

[145] Article 24(2)(c) of CRC states that: States Parties shall pursue full implementation of this right and, in particular, shall take appropriate measures:
(c) To combat disease and malnutrition, including within the framework of primary health care, through, inter alia, the application of readily available technology and through the provision of adequate nutritious foods and clean drinking-water, taking into consideration the dangers and risks of environmental pollution;

[146] The NSNP is a government programme that provides one nutritious meal to all learners in poorer primary and secondary schools

[147] Provides a safe home for abused, orphaned and vulnerable children, located in Gqeberha

[148] Established to care for orphaned and vulnerable children and youth in the community, located in Mdantsane

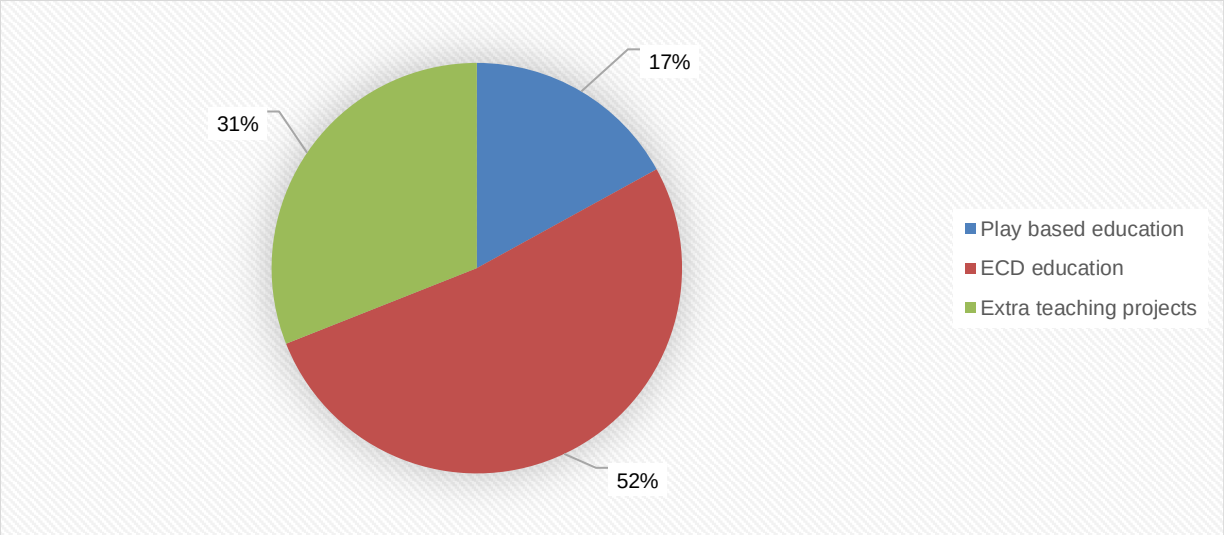
envy of the community. Such that other children who might not be vulnerable, the parents envy sending their children to care centres.

As noted above, the school uniform is more than a piece of clothing. Ruto et al. (2009) contend that when a child without a school uniform in any school is discriminated against.[149] As reflected by the participant from *Missionvale*, to ensure the dignity of all children is upheld, they have established a clothing factory with the main objective of ensuring that OVC in the local community has a complete uniform for school. Such initiatives are critical because they involve the participation of community members in promoting basic education. The next section reflects on the learning needs of the children.

5.3.2 Children learning needs

The learning needs in this section refer to the needs comprising both essential learning tools and basic learning content (UNESCO, 1990). The projects supporting children learning needs; include play-based education, ECD education and extra teaching projects.

Figure 5.6: Children's learning needs



Source: Compiled by the researcher

Figure 5.6 above shows the three main projects indicated by the participants. The main

[149] Article 2(2) of the CRC states that: States Parties shall take all appropriate measures to ensure that the child is protected against all forms of discrimination or punishment on the basis of the status, activities, expressed opinions, or beliefs of the child's parents, legal guardians, or family members (CRC,1990)

project supported by 52% of the participants was ECD education. As such, Article 29(1)(a)[150] of the CRC commits States Parties to support education programmes; for instance, ECD and play-based education, which assist to develop the child's personality and mental abilities (CRC, 1990). The nature and scope of ECD education focus on the development of the child from birth to 9 years. *Khululeka*, one of the oldest ECD institutions established in 1989 responded:

> *Our work is mainly in rural areas, and we promote and establish programs and facilities, training, and support resources, and also help people to provide services in their communities. Okay, so our key objectives, include ECD practitioner training, and we focus mainly on in-service people, because in the rural areas, what we found over the years is that they are not many people in the rural areas who are willing to look after the children.*

Though the ECD is located in the impoverished region of *Komani*, their successful ECD model can be recommended as a model of use in the Eastern Cape province. This is because their focus is not only on providing quality ECD education for OVC but also training and equipping ECD practitioners in the province, especially in rural areas. In terms of language use, the Eastern Cape province is predominantly Xhosa speaking.[151]

Consequently, *Khululeka* used the local languages in the communities, as a tool of communication in the multicultural context. As shall be presented below, there remain significant challenges for both the students and educators concerning the use of local languages:

> *Another thing about access to basic education, a big challenge, particularly in the Eastern Cape, I have found is the question of the language of learning and teaching. Many times, you'll find the child's home language is Xhosa but the school teaches some classes or subjects in English or Afrikaans. The language of learning and teaching is a big challenge. And it is a challenge for teachers to teach.*

The process of learning a new language might not be easy for some children, especially OVC, who will not have access to additional teaching resources. Thus, in such cases OVC might require remedial education with the assistance of tutors which might be costly:

> *And then there, then there's a process of translation to English. Typically, our experience has been that most children don't make that transition for their first children acquire their kind of being able to read in their home language very much later than we'd like them to do tons of research on that. Secondly, the transition to English doesn't happen in a*

[150] Article 29(1)(a) of the CRC states . 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

[151] The Department of Basic Education's Language in Education Policy (1997) requires learners to be taught in their home language in the foundation phase.

> *meaningful way many children right the way through high school still struggle with English. Most classes are still taught in English. Our approach in some of our after-school programs is to use the mother tongue to make sure there's a good transition to English using the mother tongue as the kind of bridging tool so a lot of interplay between costs in English and the typical classroom.*

The submissions above recognise how language; specifically, the use of English in more remote communities can be a barrier to education. A much more applicable approach is implemented whereby the use of the mother tongue is used as a bridging tool in the transition to English. In the end, the students can easily converse in more than one language; including English. This is not an easy process as it will require; firstly, the expertise of the teacher and; secondly, after-school learning programs through tutoring. The challenge is that all these require extra costs, and due to financial hindrances, OVCs from poor communities do not have access to such services. Stein (2017) recommends that the state has to take into account equity, practicability and the need to remedy the injustices of racially discriminatory laws, as such a multilinguistic learning environment is necessary to cater for all learning needs such as sign language.[152]

The second recognised project referred by 31% of the participants was the extra teaching project. This involves remedial work and tutorial projects to support OVCs. The barriers to education include the language of communication. The Eastern Cape province predominantly uses Xhosa[153] as the mother language, and many children still have challenges reading and writing in English. As a result, most children will require the commitment of teachers and volunteers to sacrifice their time to assist the children. This was exemplified by the responses from *African Angels*, which showed that their extra teaching projects were appreciated:

> *When we interviewed parents, "Why do you want your children to come here?" And they say because we want them to learn English. After all, we had two English-speaking teachers. The students progressed and made them qualify for bursaries (sic).*

Therefore, the teaching projects have been effective in providing teaching to OVCs who might be facing learning challenges. This is not limited to teaching English but education as a holistic concept. For example, in Port Alfred, volunteers from Stenden University[154] would provide extra teaching lessons to OVCs, free of charge. This is very commendable, and one of the very few initiatives mentioned by participants of tertiary

[152] In reference to sign language, Section 6(4) of the Constitution of South Africa states: all official languages must enjoy parity of esteem and must be treated equitably
[153] Also referred as isiXhosa, one of the official languages in South Africa and Zimbabwe
[154] Higher Education Institution located in Port Alfred, South Africa. Source https://stenden.ac.za/

education institutions assisting OVC in their learning.

The research demonstrated that other than the language of instruction used, the different methods used for learning contributed to the students' outcomes. This valuable input reflected that some NGOs and schools appreciated that OVCs encounter several challenges and that a tailor-made method of teaching is instrumental in promoting access to education. Consequently, the play-based teaching approach was supported by 17% of participants. In the context of OVCs, some would have experienced an unbearable past due to trauma and abuse. Play and learning are inextricably intertwined because play is a vital component of learning (Hirsh-Pasek & Golinkoff, 2008). As a result, play-based education can be used to reconstruct the experiences children are involved in in the community (Spodek & Saracho, 2003). The next section reflects on the participant's responses on the role of the community and NGO in basic education.

5.4 The role of the community and NGO in basic education

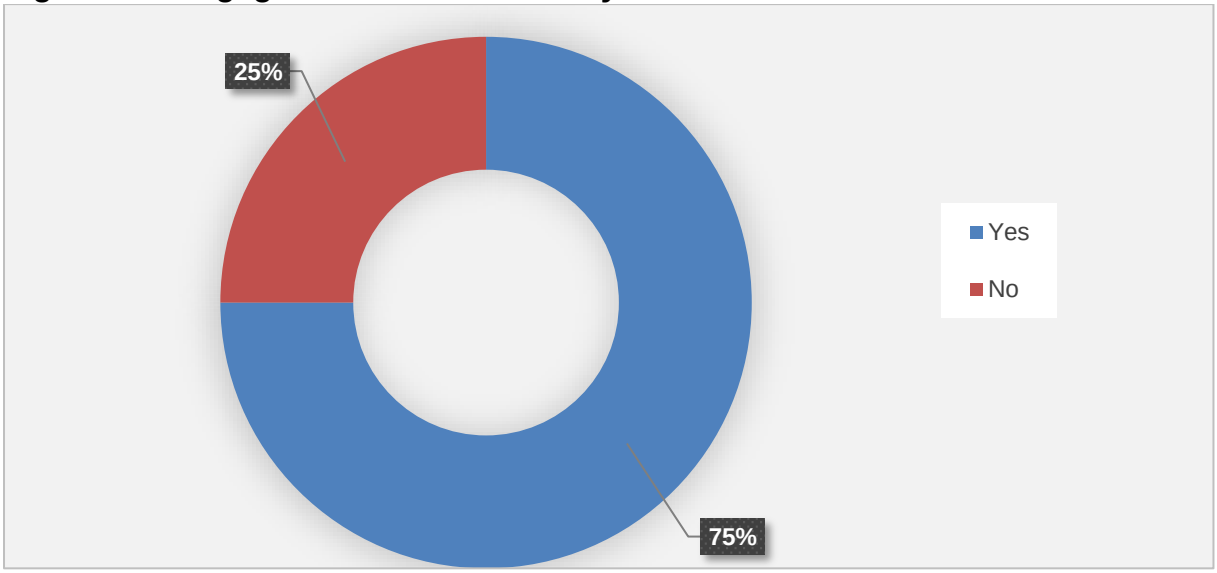
This section explores the extent of engagement between NGOs, the community and the government on access to basic education for OVC. Engagement refers to a reciprocal process of working collaboratively and sharing knowledge, information and expertise (Jones & Wells, 2007). The nature of the engagement will also be analysed and lastly concerning the outcome of engagement with the Department of Basic Education, Social Development and other government entities.

5.4.1 Scope of community and NGO engagement

The other critical aspect of the research considers the engagement of the participants with NGOs or the community, this is in synch with the responses indicated earlier on the importance of community engagement. Helliker (2006), contends the role of NGOs includes empowering and capacitating grassroots communities. This section clinically evaluates their participation in promoting access to basic education for OVC in the Eastern Cape province.

The presentation below indicates the participants responses on that matter:

Figure 5.7: Engagement with community and NGO



Source: Compiled by the researcher

Figure 5.7 above indicates that 75% of the participants indicated that they engage with the community and NGOs on basic education initiatives for OVC. As stated by Roodt (2001), that participation denotes an active connection between NGOs and the community on outcomes which affect their lives. The dynamics of community in this research included the involvement of family members, guardians, community leaders, traditional leaders, and community members at large. This also involved the school and governing bodies which were instrumental in establishing forums for dialogue; with guardians, parents and respective community leaders. The role of NGOs in implementing the CRC is critical, as the treaty became the first international treaty to include non-state actors; such as NGOs and civil society in its legal provisions. These are supported by Article 45[155] of the CRC.

[155] In order to foster the effective implementation of the Convention and to encourage international co-operation in the field covered by the Convention:
(a) The specialized agencies, the United Nations Children's Fund, and other United Nations organs shall be entitled to be represented at the consideration of the implementation of such provisions of the present Convention as fall within the scope of their mandate. The Committee may invite the specialized agencies, the United Nations Children's Fund and other competent bodies as it may consider appropriate to provide expert advice on the implementation of the Convention in areas falling within the scope of their respective mandates. The Committee may invite the specialized agencies, the United Nations Children's Fund, and other United Nations organs to submit reports on the implementation of the Convention in areas falling within the scope of their activities;
(b) The Committee shall transmit, as it may consider appropriate, to the specialized agencies, the

In contrast, only 25% responded that they do not have direct contact with either the community or NGOs. These were in most cases communities in the most rural communities of the Eastern Cape province; for example, Matatiele, Nqanqarhu, and Nkwenkwezi, which had limited access to any NGOs working to support OVCs in their area.

An area of concern was the role of NHRIs on issues related to basic education for OVC. According to United Nations (1995) and Human Rights Watch (2001), NHRIs are constitutionally established institutions to promote and protect human rights. These institutions are established specifically for the promotion and protection of human rights domestically, in essence they are a bridge between international human rights commitments and domestic implementation (OHCHR, 2010; Goodman & Pegram, 2012). The Constitution of South Africa, Section 181(1) outlines examples of NHRIs[156] in South Africa; which include, the South African Human Rights Commission (SAHRC), the Commission for Gender Equality[157] and the Office of the Public Protector.[158] Unfortunately, all efforts to schedule an appointment with a representative from SAHRC were unsuccessful. Furthermore, none of the participants gave reference to any form of dialogue with the NHRIs to address issues related to the basic education challenges facing OVC in the Eastern Cape province.

5.4.2 Nature of community and NGO engagement

McGee (2009) establishes that engagement refers more to public participation, which includes different ways that individuals engage in social activities with a capacity to take part in the decision-making process. This critical process promotes the active participation of community members. Furthermore, allowing institutions to plan better and collaborate in the decision-making process to provide quality service (Stanton, 2008; Schlake, 2015). The participants reflected on the nature of engagement with NGO or community, as illustrated in the diagram Figure 5.8:

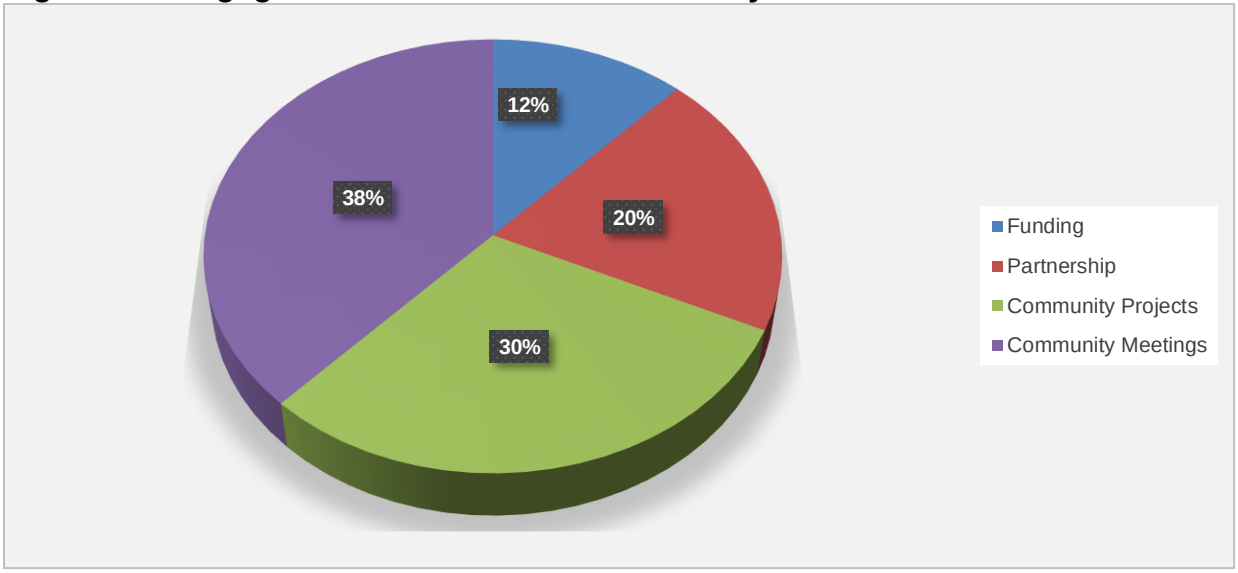
United Nations Children's Fund and other competent bodies, any reports from States parties that contain a request, or indicate a need, for technical advice or assistance, along with the Committee's observations and suggestions, if any, on these requests or indications.

[156] Also referred to as Chapter Nine Institutions

[157] Also referred to as the Gender Commission

[158] Not all Chapter Nine institutions fall under the definition of the NHRIs

Figure 5.8: Engagement with NGO and community



Source: Compiled by the researcher

Figure 5.8 above shows the four main methods of engagement between NGOs and the community; namely, funding, partnership, community projects and meetings. The most prominent form of engagement, was in the form of community meetings, constituting 38% of responses. This was referenced by a participant from *City of Light school*[159]:

> *Sometimes we have, even through churches, parents hosting some workshops and information sessions about inclusive education about disabilities. So, we have different avenues of trying to reach our target audience.*

As indicated above these meetings have a diverse approach which includes stakeholders from churches and families. Other responses included traditional chiefs, community leaders and teachers who also form part of the community. Researchers have suggested that there is a rising demand for community leaders in decision-making and government accountability (Barbaro, 2006; Herriman, 2011). *Inclusive Education*, elaborates on the aspect of educators are critical members of the community:

> *We have obviously, yes meetings. If you talk about with parents through the school governing body (SGB), we have some meetings with parents, we have workshops with educators, we do on-site support visits at the school in the classroom, supporting teachers with actually implementing these strategies.*

As reflected above, this was because of engagement on matters relating to students with special needs. This engagement included workshops with educators to reflect and discuss practical challenges facing children with special needs in the Eastern Cape province. The participants reflected that 20% of their engagement was in the form of

[159] School committed towards access to education, located in Dikeni

partnerships with NGOs and funders.

The engagement process should create a shared vision between the community and partners to benefit the community equitably (Baciu et al., 2017). The objective of partnerships is not central to monetary assistance but rather the use of other resources, knowledge and skills to promote access to education. This strategy provides an operational framework, which involves role players from all sectors of the community. In support of this view, *African Angel* indicated that:

> *Then in January 2020, we facilitated the donation and installation of 160 streetlights in the township. So, the first time they had light, that was a very significant project for people living in the township, because they now see and night and feel safer. We collaborate with our local collaborators; they guide me on the projects to implement. So, yeah, the school, the hub, the lights, and now we've created a social enterprise and sanitary pads because, during the lockdown, most people in our area are employed in tourism. So, imagine that there's been a huge amount of job loss. We have created a social enterprise. And we have all women employed sewing washable sanitary pads.*

The participant in the *African Angel* project showed in the response above the community contributed towards the installation of 160 streetlights, which helped to build a secure community for the learner to travel to and from school. This involved the contribution of local collaborators and created employment in the area. In addition, the other partnership contributed towards women's empowerment to provide washing sanitary pads, which helped to support vulnerable girls in the Eastern Cape community. This helps to overcome period poverty, which is the lack of sanitary products menstrual hygiene education, toilets, and waste management facilities as a result of a lack of money (Tull, 2019). The initiative by *African Angel* aimed to overcome such challenges so that all the girls in the community can attend school without any discrimination due to period poverty.

The other form of community engagement was in the form of community projects as indicated by 30% of the responses. These came in various forms including; vegetable projects for child nutrition, community safety, transport and tutoring volunteer projects to support OVC. For example, the participant from *Bethany Care*[160] noted that:

> *And then we work with the community to support the children with a healthy snack or first bread. And then every child gets a hot lunch. So, there's like a stew with soy. And there are always veggies in it. There's always protein in it. So yeah, they all get a hot lunch. And then in the hostel, kids get food.*

[160] NGO provides home for orphans and vulnerable children, located in Ikhwezi township

The example above demonstrates engagement with the community. The response showed how the organisation is continuously working with the community to support the OVC at their organisation to provide a meal for each child. These efforts are significant as Hall and Sambu (2017) indicate that 60% of children below 6 years, experience poverty, and half of them are exposed to food poverty. Similarly, indicated that *Rise Against Hunger* noted that:

> *When that is done the organisation sends volunteers who volunteer their time and we set up an operating station and they pack those meals. And you see where your funding went? Alternatively, they can identify volunteers in the community who can assist in that role.*

The above illustration not only involved the community but the organisation which works primarily with volunteers engages with organisations in the Eastern Cape province to provide packed meals. Even though malnutrition is the third highest cause of death for children below 5 years, the efforts of such NGOs and communities are commendable, but still shows that more needs to assist vulnerable children in the province. Furthermore, *Caring for Orphans in Rural Areas* noted that[161]:

> *At the end of the day, the whole idea is just too conscientious of people and communities that there are people without food. We also invite them to help us visit the schools to have first-hand experience with some of the challenges children face in schools. So that maybe they can help in other ways as well.*

Also above, the organisation specializes in working with orphans in rural areas, they reflected on how in some of the communities they work in, no government assistance has been received to assist orphans. They have a multi-faceted approach which aims to obtain first-hand experiences of the challenges of OVC in basic education.

Lastly, concerning the nature of partnerships, only 12% indicated that the nature of their engagement is focused on funding. This includes both initial fundings for projects or supplementary funding where government financial subsidies have been terminated or delayed. This was stipulated by *Bethany Care*:

> *So, we have that type of regular contact with them. We have also the one, it's a season for application because the funding doesn't come (sic) automatically, you have to apply for it. And they have to study your application, approve it and then issue an agreement that you will sign together, and it is against that agreement that the funds will be given and located to you, then you report accordingly as well. On their side, they have to serve to also offer some sort of ongoing support, where they do it the best, they can through site monitoring. Sometimes if they can call for meetings, some workshops when they*

[161] NGO working in the rural areas to support pre-school education, located in East London

can and yes, so they do that.

As postulated in the response, funding from the government from government departments, in this case, the Department of Social Development can be delayed due to various reasons. During the 2020/2021 period, the main reasons for the delay were due to Covid 19 related reasons; such as the limited number of staff in the field and limited resources to support OVC.

The relationship between access to education and the CRC is of significant importance as mentioned in Article 28 of the CRC stipulates that children have the right to education: regardless of disability, gender or race (CRC, 1990). The diagram Figure 5.9 presents the findings on programmes implemented.

Figure 5.9: Programmes to assist the implementation of CRC

Source: Compiled by the researcher

The four main programmes implemented to support the CRC. These include children's rights awareness, family visit programmes, expert assistance and training workshops. As indicated above 15 participating organisations indicated that children's rights awareness was their pivotal programme. This was reflected in the work at *Think Equal* as quoted in their input[162]:

> *So that we see the child as a holistic person and only looking at natural development versus just ticking boxes and then making things move. One of the things that critical programs have done, there's one called "Bridges of Peace". The outcome of it was that we're trying to get children from an early age to understand like, the concepts of empathy, Ubuntu and diversity. Also, how to interact, especially in a diverse society,*

[162] NGO advocating for a non-discriminatory education system

> *even in South Africa is such a very diverse community to engage with other people who may not be from where they're from or may not you'd like them to understand that like, important part of Ubuntu and empathy.*

The response presents one of the key programmes which helps to deal with the issues of discrimination in the Eastern Cape province. Mahaye (2018) asserts in *The Philosophy of Ubuntu in Education*, that "Education must create a consciousness among children to encourage and enable them to think positively". The concepts of empathy, Ubuntu and diversity are taught at a young age through the use of play-based programmes. In another case stated by *Play Africa*[163] below:

> *There was another programme called "Children's Voices", which provides awareness and education on children's rights. Also, to get exposed to concepts of democracy, elections and how they can participate in a democratic state even when they are little. This also involved some elements such as the "Mockup" court and voting stations so that they can experience voting in a child-friendly manner where they can understand what the older people do in the system. This is beautiful because you get to realize how much kids understand their rights in terms of like, generic, what they mean by this is the power of their rights or the power of Democracy in a Constitution. They start realizing, oh this is why we do this because sometimes being in South Africa may be exposed to the concept of like protests, like something that gets done and people are frustrated and make them understand why these processes are there in Constitution and how it works. This helps them to become active citizens who understand their role and contribution to society.*

The response above acknowledged that not all schools or ECD Centres can have a "Mockup" court but children irrespective of their age should be made aware of their rights and how they can participate in the community. This supports the adaptable view of basic education which advocates for focuses on open curriculum of education which advocates for children rights, diversity and awareness of inequalities. The findings indicate that Children's Rights awareness can be achieved using different types of media. *Play Africa* continued in their contribution to highlight that:

> *Then the Rights project is an online program. We could see from our readers that stories can touch and educate in a way that factsheets or information can't. For example, issues on xenophobia. But if you read a story and empathize with somebody who faces xenophobia, it kind of ignites compassion that the fact sheet can't. The use of stories helps to educate about other children's rights.*

The importance of such efforts helps to assist OVC in access to basic education, by promoting an awareness of children's rights amongst the students. This aligns with the theory of child cognitive development suggesting that children construct meaning by interacting with their surroundings, through expressions and creative learning (Mooney,

[163] NGO offers a play-based approach towards children rights

2000; Christie & Roskos, 2006; Hall, 2000). In this case, simplified stories were used to build awareness of children's rights.

The other programmes established to support the CRC, include workshops with teachers and caregivers for training and children's rights advocacy. There were 14 responses which indicated that this was their primary programme focused on advocating for children's rights. An example of such programmes is presented below:

> *We are giving Think Equal to every single 5-year-old in the whole Eastern Cape over the next two years. That is approximately 94,000 children. We have already trained 800 ECD Heads. There are 2350 classrooms in the Eastern Cape. We have already trained 1000 this year. In the next month or so the other 400 will be trained and they will start to implement it in their classrooms. Next year. We're going to treat the other 1350 because we have created a pretty program that is replicable*

The mandate of *Think Equal* seeks to provide education to eliminate discrimination in local societies. Their goal is well inscribed as they seek to promote workshops with teachers and ECD practitioners on the implementation of the CRC in the Eastern Cape province. As indicated in their response they have conducted workshops to train 800 ECD practitioners. Another example was presented by *Hamana People to People*[164] as reflected below:

> *But we do have one programme called "Family Strength". Now our Family Strengthening Programme is where we provide support and training to families that are in a disadvantaged community, to prevent them from reaching the point where the children need to be removed and placed with us. So, we try and strengthen those families before it gets to the point where social workers need to step in. In that sense, the field workers that are working in the community, have parenting groups, and youth skills, and help children to connect with families to get children to tutor so that they remain in school. Specifically, with the youth on obviously all topics, gender-based violence, drugs, alcohol, remaining in school, studying reading, that type of thing. And yeah, support parents.*

The response above shows that the workshops are not limited to the teachers but more importantly involve the contribution of the family. The "Family Strength Programme" above advocates for the rights of the child by addressing issues such as gender-based violence. Despite the access to basic education challenges in the Eastern Cape province, it can be appreciated that organisations have made great strides by advocating for human rights and educating communities on the Constitution and Bill of Rights. About the "Human rights discourse program", a participant from *Missionvale*

[164] NGO addresses humanitarian and developmental challenges in rural communities in Eastern Cape province

Care Centre[165] stated:

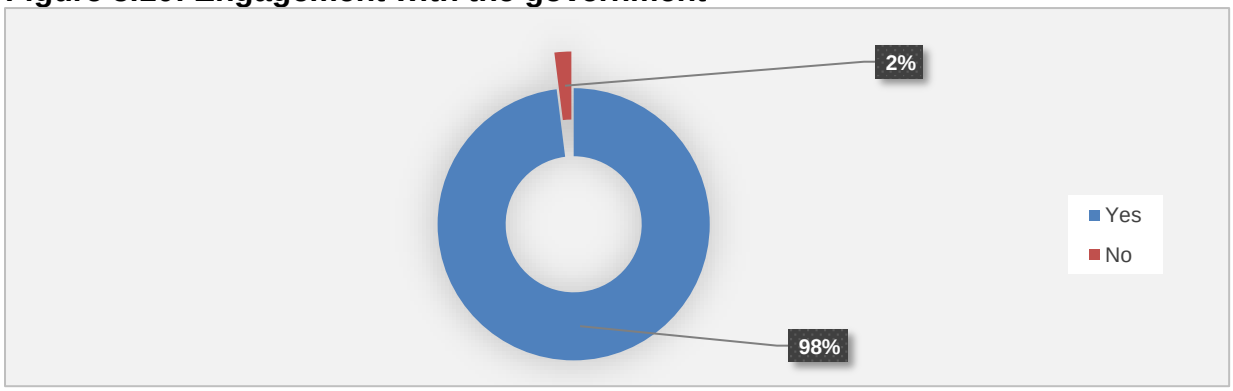
> *We have a human rights approach which is a reciprocal process of knowledge gaining, you know, from the ground up, very transformative. This approach is one of the most transformative approaches towards education. Also called popular education. It's a beautiful philosophy or approach towards information gain. We also work frequently with the local communities. So, that program aims to inculcate critical thinking and agency in the children who come from a community, which is so displaced to an extent that the children are voiceless. So, we focus on different chapters of the Constitution, like the Bill of Rights, unpacking all those rights, and making sure that they understand the rights and responsibilities in a child-friendly manner.*

The comments expressed above show a commitment to educating children about their rights as enshrined in the South African Constitution, and treaties; including, the CRC and ACRWC. The efforts expressed by *Missionvale Care Centre*, show that implementation of the CRC is an all-inclusive process which also involves educating children about these rights; for example, such awareness helps to fight discrimination of OVC in schools, and the child-friendly approach helps to establish a conducive learning environment.

5.5 The role of the government in access to basic education

The aspect of engagement with the state, through provincial government institutions is critical to this research as the nature of engagement helps to express the extent of domestication of a treaty. It is paramount to consider whether there is any engagement between the NGO or community and the government.

Figure 5.10: Engagement with the government



Source: Compiled by the researcher

Figure 5.10 shows that 98% of the participants indicated that they have had an engagement with the government, including, Department of Basic Education and Social

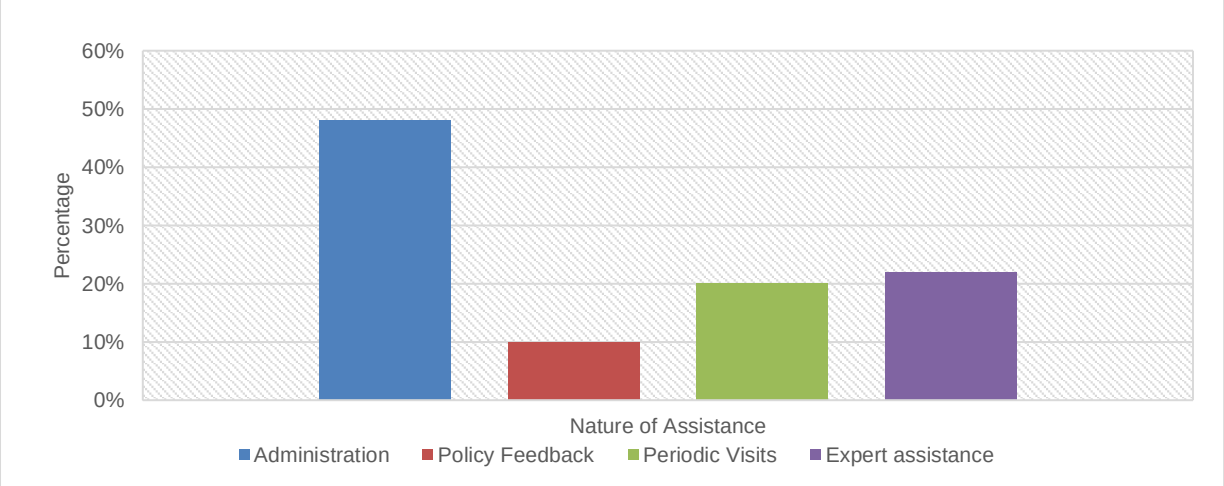
[165] NGO provides education resources for the vulnerable children and those living with HIV/AIDS, located in Missionvale

Department, but as reflected in this research, the efforts have not translated to access to basic education. Significantly, the guidelines on periodic reports encourage the governments to work closely with NGOs and the community in implementing the CRC, as articulated in Article 44(1)[166] of the CRC and the guidelines from the CRC Committee.[167] This is in the form of various forms such as policy feedback, administration, government agents and financial assistance. Only 2% of responses reflected no engagement with the government, these were either organisations which claimed do not require government assistance or some which have claimed have given up working with the government as there is no progress. Schmitz and Gabel (2022), conclude that unfortunately, governments are often the very actors that violate, and fail to protect the rights of vulnerable children.

5.5.1 Nature of government engagement with community and NGO

This engagement denotes the main roles of the government working with either the community or NGO to support OVC. In this section the challenges and progress are detailed. The diagram below reflects these roles; namely, administration, policy feedback, periodic visits and expert assistance.

Figure 5.11: Nature of government engagement



Source: Compiled by the researcher

[166] Article 44(1) of the CRC states: States Parties undertake to submit to the Committee, through the Secretary-General of the United Nations, reports on the measures they have adopted which give effect to the rights recognized herein and, on the progress, made on the enjoyment of those rights
[167] OHCHR (2005) states that "[t]he States Parties should provide information on cooperation with CSOs, including non-governmental organizations and children's and youth groups, with regard to implementation of all aspects of the Convention".

The responses from the participants indicated that 48% of primary engagement with the government was for administrative purposes. This involves either registration of organisations or the registration of schools with the Department of Education. This also includes constant communication on plans, programmes and activities. In some instances, approval should be requested from the established government institutions' implementation:

> *Also, we engage with city parks on some programs when we need to use public space. In summary, we do try to engage them at different stages and levels as well.*

The example above was reflected by *Play Africa* which requires public spaces for their play-based educational programmes, which also include OVC. All ethical protocols have to be approved including safety to ensure that children are not in a harmful environment. This requires government intervention and approval. Furthermore, the role of ECDs in educating OVC has been of great importance. The administrative involves engagement with the Department of Social Development and the Department of Basic Education. This was reflected by *SOS Childrens Home, Mthatha*[168]:

> *where we identify issues with a child that needs to be addressed by the Department. I can say we are successful because when we started, we were working with ECD centres that were not registered with the Department of Social Development. We had identified 42 of them when we started and currently have 18 ECD centres successfully registered. Others are still going through the validation process. And once they are getting registered, the opportunity for them to get funding from the Department opens up. They have access to more pedagogical materials and materials that the children can use to learn.*

The response shows that engagement with the government was successful in registering and validating the ECDs. This is also important because donors and partners will require ECDs with an authentic track record which involves complete registration. This was also indicated by *Hamana People to People*:

> *For example, Global Fund, we have worked with them because of the interaction that we have with the Government, starting from the National to Provincial and District levels. Our centres are always open, and even some of the programs that we implement, are from some Government Departments.*

This showed that they have enjoyed success with their partner Global Fund because they had established and completed all administrative requirements with the government. The fact that the administrative function is highlighted as the primary role cannot be overlooked. Good administration between the government and organisations

[168] Provides a safe home for abused, orphaned and vulnerable children, located in Mthatha

plays a pivotal role in the operations of the organisations. As mentioned by *Jerusalem Hope Centre*[169]:

> *And they've been very supportive of the Government Departments in helping them especially, the DSD around registration processes and things like that, and helping them put in processes that they could work. So, we also have a good relationship with them. And they also expect us as funders in the sector, they also expect us as NGOs to be building those relationships with the Government Departments.*

The administrative function is not limited to registration but also involves obtaining permission to conduct several activities; including, establishing a platform of communication with the community. The community is made up of community and traditional leaders who are subject to all government protocols before engaging with organisations, donors and partners. This is echoed by a participant from *Child and Youth Care*[170] below:

> *we identify the leaders in those communities. We get the permission, and they buy in first, and we do what we call a participatory rural appraisal, where they would find out exactly what exactly that community wants to see for their children…That is the mandate of the external social workers who place the child. They deliver reunification services, should the child be placed back. Our mandate is to work with the child in the community.*

There 22% of responses showed that their nature of engagement with the government was in the form of expert assistance. This was in the form of social workers, government legal representatives, teachers and special needs practitioners; through, visits, meetings and reports is considered an engagement with the government.

In most cases especially in rural areas, the challenges of OVC require expert assistance to provide child-friendly solutions to all the needs of the child. This was mentioned by *Ubuntu Pathways*:[171]

> *We have also a third program, which is this psychosocial support program rendered by social workers. So, we have two social workers who do that. Separation from family separation from a parent does traumatize a child. And the caregivers we ask them to love a child of their own. So, those realities need some sort of psychosocial support. Social workers offer different approaches to this program, care to care where they have a weekly briefing with the caregivers, and they will have annual workshops with caregivers. The aim is to offer them a platform where they share their, challenges their struggle and develop some strategies on how to care for such a large group.*

The formulation, monitoring and implementation of policy are considered as engagement with the government. This was mentioned by 10% of the participants, in which they highlighted the importance of scrutinising education policies and providing

[169] Focuses on the development of orphaned children, located in Gqeberha
[170] NGO, safe home for orphans and vulnerable children, located in Qonce
[171] NGO provides educational support for vulnerable children, located in Zwide

feasible solutions. The participants from *Inclusive Education* elaborated below:

> *There are instances where our engagement with the Department of Basic Education is successful. So, when we work with schools, I mean, the Department is responsible for schools, no organization can come in and take that responsibility. And where we've been successful is when we work at a school, we try and get the responsible district, the district officials that are responsible for our area of work, particularly inclusive education. But also, you know, some of your circuit managers, some of your curriculum advisors, we have been successful and partnered with them. I can talk about the Eastern Cape, most definitely, with some of the Districts, definitely Gqeberha, Makhanda District, where we've been working hand in hand with those officials at the school level, where they are in the sessions with us in the workshop, that is our preferred model so that as an organization, when we withdraw from the schools, the relationship between the District and the school is strengthened, that is a challenge*

The narration above shows that dialogue on policy can be used to engage with the Department of Basic Education. These are multi-level discussions from the district, community and school levels. They penetrate all levels of society. This is an issue which shall be discussed further; one of the major challenges in the implementation of policy is not the lack of a platform for dialogue but rather the lack of community participation.

Access to basic education cannot be limited simply to the enrolments or access to learning resources. Rather a holistic approach which includes all essential needs such as nutrition and safety should be considered imperative. Participants from *Seyisi School*[172] reflected on the following:

> *We received the draft of the transport policy I believe last year, and we commented on it now we are trying to campaign to ensure that the final draft is published. So, I think that is one of the concrete examples, because when this policy is published, it will create systematic change in the case and because we still get working cases, whereby the schools request access to transport, and we believe that policy will assist us, assist us in making our work easier.*

In the case above dialogue was established on the school scholar transport policy to create a safe network of transport for all children and overcome barriers to education. Several examples were provided by the participants on policy feedback. The response from *Equal Education, National Office*[173] provided a concise review of the nature of engagement between the government and NGOs:

> *So, we hold our stakeholder engagements that will sometimes invite government officials to have a very developed now and Parliament-free program, we'll be going sit in on portfolio committee meetings and monitor what's happening in that space. We've also developed what we call an education monitoring brief that gets released monthly. And that provides updates and highlights from parliament. In the parliamentary space, we also direct questions to government officials when they come and report on access to*

[172] Public primary school, located in Kwazakhele
[173] NGO committed to quality and equality in South African Education system

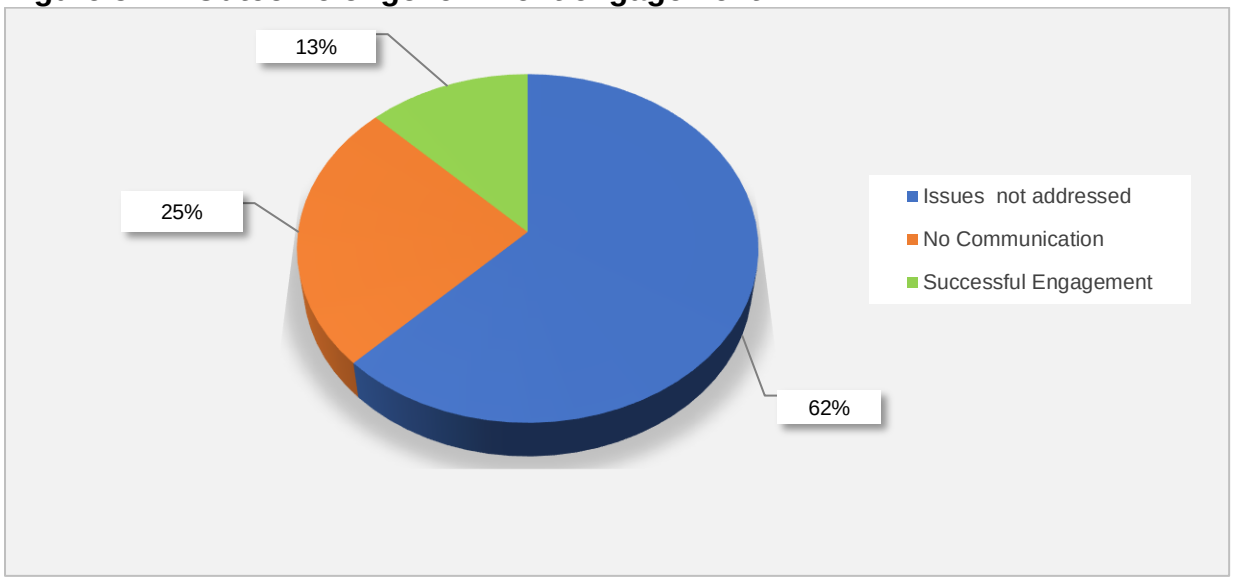
education and you know, the various aspects of it. So, we engage them in that way. We also have a direct line with governments.

The response from *Equal Education, National Office* reflects a well-structured form of feedback which is pro-active, the organisation does not wait for the government to initiate dialogue, but they are actively involved through the submission of reports and high-level meetings. The challenge is that not all organisations have an opportunity to participate in portfolio committee meetings and submit parliamentary reports.

5.5.2 The outcome of government engagement

The aspect of government engagement postulates that there is continuous interaction between the government and NGOs or the community. As a result, the various government institutions no longer have the power to make decisions as a sole entity but rather involves a much more consultative approach. This is a vital aspect of policy implementation and domestication treaties; including, the CRC, ACRWC and CRPD. The mention of the CRPD is specific as reflected by the prevalence of the challenges facing children with special needs in the Eastern Cape province. The diagram below reflects on the outcome of government engagement:

Figure 5.12: Outcome of government engagement



Source: Compiled by the researcher

As indicated in Figure 5.12 above, 62% of the participants indicated that there was a backlog of issues not addressed from 2019 to 2021, all of which were primarily addressed towards the government departments; namely, Basic Education and Social

Development in the Eastern Cape province. Notably, the backlogs in 2019 were not a result of the Covid 19 in South Africa, as the first case of Covid 19 in South Africa was only recorded on the 5th of March in 2020 (Giandhari et al., 2021). This background is critical so that the Covid 19 pandemic is not used as a pedestal excuse for the poor state of basic education in the Eastern Cape province, as shall be revealed further in this research. The following were some of the key responses from the participants:

Ntlemeza School[174] noted that:

> *I cannot say we do not get any support. What I can say is yes, we spoke with them, whatever we talked to them about did not come to fruition because we have been given so many promises, but those promises are not putting anything on the table. Because even the students come to school and can be hungry and we have to find something for them to eat in the morning. But imagine if the student has to be with us till 3 pm or 4 pm, they will still need something to eat.*

Transkei Primary School[175] noted that:

> *They are supposed to sort of support schools, but sometimes, you know, they have their challenges, they don't have resources posts are not full.*

UVIWE[176] noted that:

> *That is a big concern. I mean, funding remains a big concern. So, then these challenges that we identify can be addressed.*

AXIUM noted that:

> *We had one success story in the Eastern Cape in the Makhanda. the district within which the school, I've applied to the department to change the law to learn the language of learning and teaching. Because the majority of the children were not being accommodated. Yeah, not all schools are, you know, active and progressive in that way. But they have been silent.*

Moreover, the issue of no communication was expressed by 25% of the participants. This mainly included instances of submitted reports with no feedback, no follow-up visits and continuously rescheduling meetings with no attendance. The outcome of the successful engagement was expressed by only 13% of the participants. These highlighted that to some extent the issues raised have been or are being addressed.

The nature of government engagement through policy feedback involves dialogue and feedback with the government on critical issues relating to education policy. A rights-

[174] Public primary school, located in Uitenhage
[175] Provides primary education, located in Mthatha
[176] Registered childcare organisation, located in Gqeberha

based approach seeks to raise levels of accountability of “duty bearers” in this case government departments have a responsibility to benchmark progress and accountability to the community (UNICEF, 2007). The data collected showed a lack of accountability from the Government in various aspects. As reflected by *Equal Education*, Eastern Cape province below:

> *But in terms of our agreement with the Department, we are supposed to meet Quarterly, where we can raise issues that some of the schools are having. And this year (2021), we haven't had those Quarterly meetings. They have always been postponed. Concerning the Norms and Standards law, we are supposed to produce a yearly report of progress around infrastructure. So, we analyse reports. And if there are discrepancies, for example, in 2019, the Department did a copy and paste of the report. It is the same as the one they sent last year. And also, there is a lot of analysis of the reports, and there are a lot of discrepancies between what is sent to Parliament and what is the in the Department reports.*

The remarks above provide a bleak picture of the lack of policy engagement and implementation. The participant indicates that dialogue meetings are continuously postponed and parliamentary portfolio responses contain copy-and-paste responses, which fail to reflect the issues on the ground. The “copy-and-paste” culture of reporting from government departments has been noted in several United Nations, CRC reports which continuously indicate in their recommendations that these issues have to be attended to.

> *So, if you dig deep into your reports, even something as simple as sanitation, you will get different numbers across the different reports. One of the biggest or saddest things, I guess, for me is how, you know, if you look at social media, you know, all the schools that are highlighted are the ones that are in good form and everything looks all nice in 10 years, you'd never say that we have schools that have pit latrine toilets. So, for me, it's just a little sad that we were fixated on optics and not producing tangible results in education in the province.*

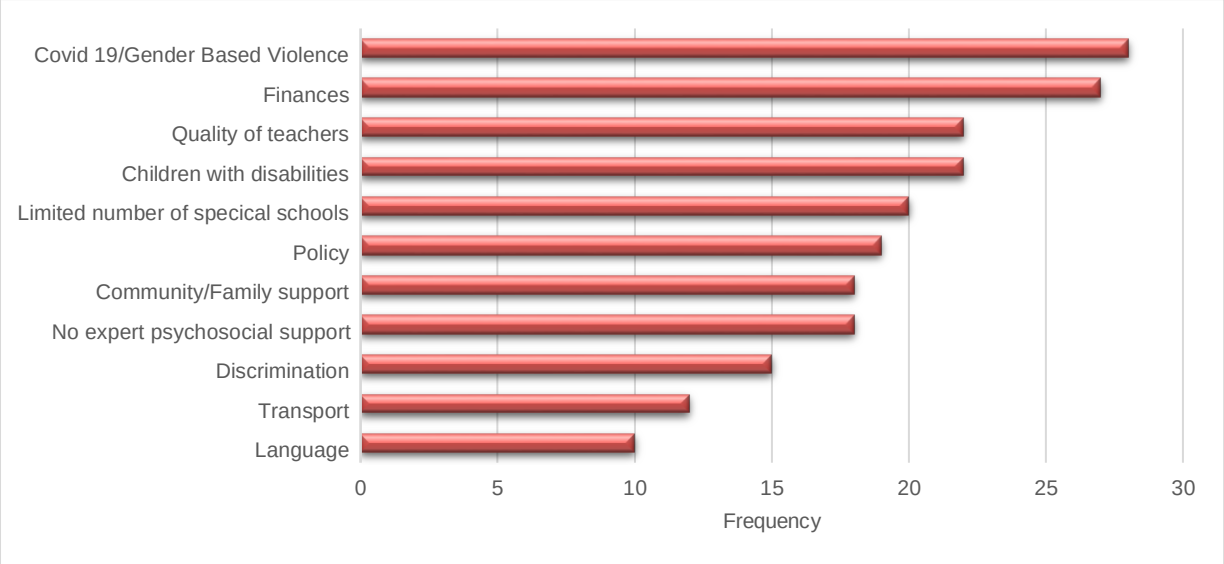
As reflected above, there is a misrepresentation of the state of basic education in the Eastern Cape province. In which there is a state of “an absence of the normal and presence of the abnormal.” Significantly, social media was used to create a false image of the schools represented, especially in the context of the dilapidated pit latrine toilets.

5.6 Challenges on access to basic education

As noted previously, Du Plessis (2014) states that schools in the Eastern Cape province are isolated and typically underdeveloped, and are characterised by widespread poverty, poor infrastructure for sanitation and lack of electricity. In their report titled *“Energy Racism”*, Maggott et al. (2022) refer to a systematic lack of electricity in the rural areas in the Eastern Cape province. The responses from the interviews reflected

on some of the challenges in the Eastern Cape province.

Figure 5.13: Challenges on access to basic education



Source: Compiled by the researcher

The responses from participants highlighted several challenges on access to education in the Eastern Cape province. As indicated in Figure 5.13, the challenges were not limited to financial or resource limitations but included too few special needs schools, lack of expert assistance, community support, discrimination and language. In the context of the current Covid 19 pandemic, which was a common reference for challenges; such as the lack of available technology to support hybrid learning styles. It is worth taking note, as will be explored in the next section, the link between Covid 19 and the influx GBV related cases, psychological impact of GBV on learners.[177] The interview question prompted each respondent to highlight their main challenges concerning access to education in the Eastern Cape province. The data collected reflects the frequency of the challenge in response to a question. The section below provides a more elaborate thematic representation.

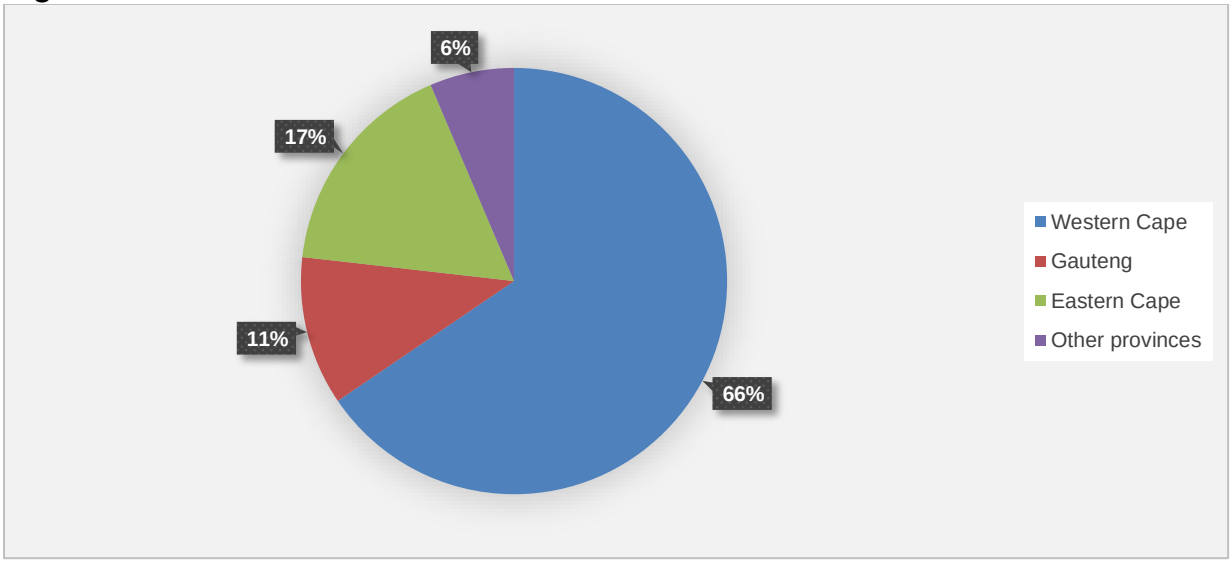
5.6.1 The impact of Covid 19 pandemic and Gender-Based Violence

In his remarks to the nation, on an update on the Covid 19 infections, President Ramaphosa[178] said that. “gender based-violence in South Africa should be considered as a second pandemic in the country” (Republic of South Africa, 2020). The researcher's findings in the Eastern Cape province, supported this view as reflected in the responses.

[177] This is a critical area recommended for future research
[178] President of the Republic of South Africa

The Covid 19 pandemic was cited as a major challenge to access basic education by 28 participants, representing approximately 64% of the responses. Several responses indicated that the effects of the virus have been catastrophic as reflected in the provincial breakdown of deaths below:

Figure 5.14: Provincial distribution of Covid 19 deaths



Source: Pillay van Wyk et al, 2020; Compiled by the researcher

Figure 5.14 above shows that the Eastern Cape province with 17% had the second-highest percentage of deaths, due to Covid 19 (Pillay-van Wyk et al., 2020). Consequently, South Africa entered a full lockdown, and all schools were closed due to the Covid 19 pandemic. The extent of damage caused by the pandemic also meant that more financial and human resources were delegated towards saving lives. *Seyisi School* referenced the effects of Covid 19 below:

> *Because of such challenges, we are left behind, and with physical learning, due to COVID, they're only allowed to attend classes once or twice depending on the lockdown restrictions. In some cases, students have gone months without access to learning material.*

As referenced above, the lockdown restrictions that learners in rural schools would not have access to learning materials. The education model limited students to physical contact. The introduction of online education was disadvantageous, though not limited to OVC, due to lack of online learning resources. Such as laptops, computers, cell phones and mobile data or internet access. As such, the *UNESCO*[179] participant

[179] United Nations, specialised agency on promoting access to education

expressed the following sentiments:

> *Currently, we are working in a climate that uses the hybrid model which also physical and virtual learning. The challenge is that working with learners from previously disadvantaged backgrounds means their economic status does not necessarily allow them to participate in virtual learning because of various reasons such as, they might not have cell phones or laptops where we could connect via WhatsApp. Some do have cell phones but do not have the means to buy data.*

In the context of the Covid 19 pandemic, the issue of lack of access to education was not limited to resources but more structural issues; for instance, an online network in rural areas. Dube (2020) remarks that to this end, rural learners and teachers are seemingly helpless on how to approach online learning during the Covid-19 lockdown measures; therefore, the chasm between the "haves and the have-nots" gets deeper; especially when considering the socio-economic inequalities in South Africa. These challenges were reiterated by *FunDza*[180] below:

> *There were too many constraints around data and digital access. Periodically, last year, we were sending data out to a lot of students and students were connecting, but it just it's not as effective as teaching in person…attend, and not one of them was set up for online schooling. So, for the month that we were in lockdown, there were there was no schooling going on at all. Other than the things that we were able to provide as the village little worksheets and things that we were able to find on the internet. Yes, right. On the school side, there was absolutely nothing. So, our children have lost a year of school.*

The challenges presented above question the feasibility of online education, yet there is no functional online network to support online learning. The issue of the network is an extension of the key issues concerning online learning, key issues include the fact that there is a lack of resources to provide laptops and other gadgets for learners. This has become a challenge for OVC with limited resources to make online learning a reality. The research commends the contribution of the participants, because extensive the impact of the Covid 19 pandemic was not used as an excuse to justify the challenges facing OVC on access to basic education.

As reflected earlier, especially in the case of South Africa, Uzobo and Ayinmoro (2021) state that Covid 19 and gender-based violence (GBV) are a "double pandemic". Research shows that South Africa has one of the highest rates of GBV in the world, for example, every three hours on average, every three hours a woman is murdered; either, through assault or rape (Sibanda-Moyo & Khonje Brobbey, 2017). On a global scale, WHO (2020) estimates that annually, 12.1 in every 100 000 women are victims of GBV

[180] NGO focuses on basic education, located in East London

in South Africa, which is five times the global average. Concerning OVC this shows that many children are suffering, unnoticed, as they are exposed to trauma and abuse at home. This finding is important as it supports scholarly research as indicated in Chapter 3 of this study, that a more operational definition of OVC, which recognizes that children exposed to domestic violence are vulnerable. Especially in the context of this study conducted during the peak of the Covid 19 pandemic. As such, *Education Africa* stated that:

> *That's why we interview the parents, we don't interview them, because we want to see how what their house is like we interview the parents because we want to understand the environment the child is coming from. For example, in one case the child's parents owned a shebeen, and at the house, the child was surrounded by drunk people. They might have disagreed before the interview, so whilst we were talking with them, the father hit the mother when she responded. We later took the child for counselling at school and realised this frequently happened at home.*

The response above is an example in which the school, engages with the community to ensure that the parents or guardian provide a conducive learning environment for the child. These efforts ensure the application of the provisions in Articles 2, 3, 6 and 12 of the CRC with a focus on non-discrimination, the best interests of the child, the right to life and the views of the children respectively (CRC, 1990). In some cases, this will have to involve specialist experts such as social workers and psychologists, as stated by *Education Africa* below:

> *we work with children addicted to drugs and realised that they are caught in a cycle of violence from home…when we met the guardians and saw we needed assistance to dialogue on issues at home, the mother was a victim of violence… there are other similar cases as these…*

The illustration above shows the extent of domestic violence, whereby children end up participating in drug activities, as they are traumatized by the violence at home. Meltzer et al. (2009) highlight that children exposed to domestic violence is more vulnerable than those that have not experienced any form of domestic violence and sexual abuse. Consequently, the impact of these societal ills has contributed towards the increase in child vulnerability due to teenage pregnancy. Studies have shown that the Eastern Cape province has the second highest number of teenage pregnancies in South Africa (Barron, et al. 2022; Department of Social Development, 2022; Risenga & Mboweni, 2023). Though, the issues of teenage pregnancy were not explored by the participants during the research, it would be myopic to overlook the negative impact of teenage pregnancies and the possible health complications they present on young children. Barron et al. (2022) add that teenage pregnancies can lead stigmatisation, rejection,

school dropout, disability and forced marriages for girls. Especially in the context of basic education, studies show that early childbearing on teenager, particularly by teenagers and young women who have not completed school, has a significant impact on the education outcomes of both the underage mother and child (Branson, et al., 2015).

5.6.2 Quality of teachers

According to Wolhuter (2006), any education stands and falls by the quality of its teaching profession, and thereby the quality of its training programs. The challenges concerning the quality of education, concerning quality teachers, were noted by 22 participants, and supported by the findings of the CRC Committee.[181] In their response, Covid 19 was also referenced as the main issue that impacted educators during this period. *Oosterland Youth Care*[182] expressed that:

> *So, I know Covid is out there, when we got out of our school results from our learners for the first term, Grade average, we were completely shocked at the Grade average of all grades. It's just not acceptable for me, and neither is it for my team members. And then ask yourself, is this type of school the only school that is available to send our kids to? And it's mostly the primary schools, and one high school also, and it also, because the child cannot be placed in a special school setting because none are available.*

In the response above the quality of education was questioned because of the lack of commitment from the educators, contributing to poor academic grades. ACERWC (2022), adds structural difficulties, were exacerbated by the impact of the COVID-19 pandemic on the education sector.[183] The quality of teaching at the classroom level is the most important variable affecting student teaching and the quality of an education system cannot exceed the quality of its teachers (Chong & Ho, 2009). In response, *Measure and Evaluation*[184] articulated the challenges for educators:

> *I have to say recruitment of quality teachers in our area is always difficult because we don't just take anyone, we are very specific. Because if you're going to deliver the best education you need the best teachers. And finding teachers who are from positive backgrounds is also very important because I want the children to be able to relate to the person in the front of the classroom. But the level of education in our area is adequate, but it is not what I consider good enough for many of our children.*

The participant above reflected that well-equipped teachers help to deliver quality education for vulnerable children. In another case, the need to invest time and resources

[181] UNCRC "Concluding Observations on the second periodic report of South Africa" (2016) UN Doc CRC/C/ZAF/CO/2 para 59.
[182] NGO offers a safe home for orphaned and vulnerable children, located in Despatch
[183] African Union (2022), Second Continental Report on the Implementation of Agenda 2063
[184] NGO advocates children rights through research and aid

for educators in the Eastern Cape province was also below:

> *We see a lot of investment also in getting the teachers or the educators or in the lives of these children empowered because sometimes in the past, you could be trained as a teacher, but maybe you are exploring other creative ways of doing this work.*

As reflected in the response, the role of the educator in promoting quality education is vital, contributing towards the growth of the student. The issue of quality education cannot be over-emphasized, if a child attends school from 8 am to 4 pm, the educator can impact the development of the child at school and even at home depending on the content and quality of teaching. Educators engage through workshops and training on effective methods of teaching especially when reflecting on vulnerable children who are easily susceptible to discrimination, as indicated in this research.

5.6.3 Implementation of basic education policy

The education policies were cited by 19 participants during the interviews. The responses indicated there are areas of concern concerning policy and more has to be done to address such issues. Several suggestions were presented from the interviews, including the response below from *Play Africa*:

> *But I feel like there's still a lot to be done. Because for this to work to create fruition, we need to see being mainstream and even like the government saying, "actually, we see this work that's being done, how can we make this part a part of the curriculum or system, to make sure that it gets ingrained in the mainstream education" that way, we don't just see amazing organisations like Play Africa being pockets of a party, this becomes a mainstream thing as one.*

The call to reform policy to promote access to basic education for all has been expressed during the research to domesticate the education policy in South Africa to complement the CRC on the rights of the child. This is to achieve a more holistic approach to education, which considers the needs of all children as presented by *Equal Education,* Eastern Cape province.[185]

> *The main challenge is accessing, so unlike a school where kids come every day, we more like playing the space where we supplement or offer an additional resource to the education that kids get at a school because they'll be guided by the normal Curriculum, like your CAPS[186] and other curriculums prescribed by the Department of Education. And then on the other side, we are focusing on this new kind of slightly different approach that focuses on play. And really, it's borderline informal, but linked to some of the concepts they're trying to teach at school. The challenge is trying to make a case to teachers from Grade R to Grade 3, about how important the work we do is to the development of the child, in those ages. It has been proven again and again, that*

[185] NGO committed to quality and equality in the Eastern Cape province
[186] A National Curriculum and Assessment Policy Statement (CAPS) a policy document introduced by the Department of Basic Education

actually, in the early development of the child is very important to use play, as a tool to stimulate them and make sure they understand all these concepts. So, just mostly advocating for this and making sure that their parents at home, but also the teachers at school buy into this and realize how much it's important and can also support their work in the school set-up.

The response above replicates the need to establish a dialogue between policymakers the educators; including, the role of the community. The interpretation by the respondent indicated that the curriculums; for instance, CAPS and others prescribed by the government have deficiencies. Thus, on policy input the contribution of the community is acknowledged, as presented by *Education Africa*[187] below:

Sometimes if you look at the education policy and try to go down in the community. Some of the things if you share anything with the government official. They will tell you, "No, that is not here in South Africa".

Therefore, the contribution of the community in policy implementation, monitoring and evaluation are key. The conversations above show that lack of government awareness on education policy issues in the local community.

5.6.4 A limited number of special needs schools

The study includes children with special needs as vulnerable children, as supported by Article 23(1)[188] of the CRC which advocates that state parties should recognize the needs of disabled children. Elegbeleye (2013) states that the term OVC includes children with special challenges or disabilities, or whose parents have disabilities. In response to the number of special needs schools in the Eastern Cape province; several participants highlighted that there are a limited number of schools available for children with disabilities. In their reflections, *Inclusive Education* expressed their views:

But, where we are failing the children. The compulsory school-going age for learners with disabilities is not determined. That is where we have failed, that has exacerbated the issue and then in South Africa, yes, we have an Inclusive Education system and the White Paper but I think implementation on the ground is still not happening.

The response above recognizes that some policies; for example, the White Paper 6 has been instituted to promote access to education for children with special needs, and designed to transform the South African educational system by building an integrated system for all learners (Muthukrishna & Schoeman, 2010). Though, the implementation of such policies has presented the greatest challenge. The support from school

[187] NGO assists to provide basic education to vulnerable children in South Africa
[188] Article 23(1) states as follows: "States Parties recognize that a mentally or physically disabled child should enjoy a full and decent life, in conditions which ensure dignity, promote self-reliance and facilitate the child's active participation in the community.

management, teachers and the community is valuable. These policies have to be scrutinised and recommendations have to be implemented because vulnerable children with disabilities have to travel long distances to get access to education. Representatives from *Enkuthazweni Special Needs Center* elaborated further:

> *We don't have enough schools, very minimal, especially for children with disabilities. Since we are here in Port Alfred, you will find that the nearest centre is far away.*

The contribution above reflects on the situation in Port Alfred, whereby there are few special needs schools available, and in most cases, these children have to travel further to the nearest school. As such these barriers to education were mentioned by 20 participants who stated that the major issue is that there are few special needs schools and, in most cases, the children have to travel long distances to the nearest school. Furthermore, at *Missionvale Care Centre* a similar trend was highlighted:

> *For special schooling here, we only have 2 Government special schools in Gqeberha. Therefore, you can understand there's a massive waiting list or sometimes, you know a child is on a waiting list. And obviously, there are specific criteria which you need to perform to be placed in a special school. Most children or you know, are on waiting lists in stages. Not enough special schools to accommodate all our learner's needs. The waiting list of up to 550 learners per annum. Over 2500 children are still at home because they are intellectually challenged.*

As quoted above, the participants indicated that there are only two schools for children with special needs in Gqeberha. In this case, other issues were indicated which include an excessively long waiting list of 550 learners per annum, with over 2500 children with special needs reported to have no access to education. This similar trend was noticed in other rural areas; such as Matatiele and Nqanqarhu. Responding to the issues reflected above, *Amnesty International*[189] stated that:

> *The policy says we should have an inclusive education, but on the ground, they cannot accommodate even a child with a wheelchair, let alone a child with an intellectual disability.*

It is very unfortunate to note that the example provided above was a reality throughout the research with organisations; including, *Special Needs Community Centre* and *Enkuthazweni Special Needs Center* located in rural communities approximately 320 km from the nearest city. Similarly, children with special needs from *Oosterland Youth Care*, have to travel 60 km daily to the nearest school. They have limited access to any resources for children with special needs. This is the crux of the research, if these international treaties are domesticated properly, the communities in the rural areas of

[189] NGO advocating for human rights

South Africa should then have access to the rights and resources endowed in the treaties. Apart from the limited number of special schools; the other area of contention during the research was the criteria used to enrol learners with special needs. *Oosterland Youth Care* notes that:

> *But the specialized school takes children from specific ages from the age of 14, which is a school of skills basically, and that child needs to be on a Grade 5 level academically to be able to do those things. But some children do not fall on that level or fall above the percentile or below. And because of such a system they end up placed at schools that don't have an emphasis on academics, which kind of just exacerbates their motivation.*

The response shows the criteria used is the age of the child, unfortunately in this case this would mean that children with disabilities above 14 years might struggle to get access to a special needs school. Other than age, the criteria used to distinguish disability were also mentioned by participants during the research. *World Vision*[190], expressed their disagreement on the other criteria of school entry, the type of disability, as noted below:

> *And that is an enormous problem class because there are no remedial (sic). There is only one special school in East London, Parklands, but it's full of kids who are significantly disabled. So, they're either significantly intellectually disabled or physically disabled. And these kids are not they are just "slow" if you want to use that term. So, they function. And the sadness for me is that the local Public School with less than a half kids will not give the kids the right standard of examination so that they get more than 50%. But in fact, they're not achieving. They do it so that they can make themselves look better. And those kids will proceed; whereas our kids who will be performing at the correct level will not be accepted. It's a huge issue because the local public schools just take everything in terms of the primary schools.*

The frustrations expressed above show various inequalities in the criteria used for the acceptance of children with special needs. The researcher was astonished by the use of the term "slow" to describe children with special needs from public schools, who during standard examinations were awarded free marks to proceed to the next level. 50% less compared. to the bias used to assess children with special needs. In terms of assessment, the participant indicated that intellectually and physically disabled children are not assessed with the National standard of examination.

5.6.5 Discrimination

Children that have lost their primary caretakers are more vulnerable to health risks, violence, exploitation and discrimination (UNICEF, UNAIDS & USAID, 2004). In the research, 15 participants indicated that OVC encounters discrimination in their

[190] NGO helps to provide aid for vulnerable children through humanitarian efforts

communities in the Eastern Cape province. The response from *Empilisweni HIV/AIDS Orphan Care*[191] presented that:

> *The other thing I would like to say, in the area that orphans from the children's homes are mostly stigmatized, because of their behaviour challenges and so on. So, most of the time, not a lot of schools, the former Model C schools, you know, which are better functioning in a way, are hesitant to take our children because they are exempted from paying school fees because we are a government organization that deliver welfare services to children. So, based on economics, and social queues, most schools are unwilling to accept our children, so acceptance registration is one challenge. So, we are forced to schools (sic) in a way because of lower standards. This affects the behaviour and motivation of our children, because if you're in a school that doesn't care about, and children bringing knives to school or something like that.*

As reflected above, OVC in the Eastern Cape province still encounters discrimination from schools in which they have limited chances of admission because they are expected to be exempted from paying school fees and sometimes due to behavioural challenges. The transition from an environment of abuse or loss of a parent to a children's home and then a school is set up is not easy and often it takes time for OVC to adapt. The greatest challenge was highlighted toward the end of the response, indicating that discrimination if not addressed can result in violent behaviour such as the use of knives and weapons in schools. As reflected earlier in the study basic education has to be accessible to all children, without any form of discrimination, with emphasis on vulnerable children (Courtis & Tobin, 2019). The research findings reflected on cases of discrimination on OVC based on race and their status. Significantly, Article 29 of the CRC mentions several elements that are key to the implementation of a comprehensive and meaningful right to education; such as, cultural identity, languages and religion. The research shows that these issues cannot be overlooked, *Ubuntu Pathways* stated:

> *I believe that we need to be less racially conscious in the township schools. In black-dominant communities, you will hardly find any special need facility; yet in white dominant, there seems to be more effort and schools to cater for children with special needs. I don't know it might not be now maybe our history has a role to play in the current state. I think that teachers that have proved their worth in other (even non-township) schools need to be employed.*

The response shows that a racial divide is still prevalent even in issues related to access to education for OVC. Engelbrecht (2006) states that the central feature which distinguishes South Africa in terms of education provision is the extent to which racially entrenched attitudes and discriminatory practices led to extreme disparities.[192] This

[191] Promotes access to basic for children affected by HIV/AIDS, located in Ndevana
[192] UNCRC "List of issues prior to submission of the combined third to sixth periodic reports of South

relates to both the availability of schools and special needs facilities in the Eastern Cape province.

5.6.6 Scholar transport

Concerning transport (as noted previously), at times OVCs have to travel long distances to the school. As a result, the child might not be able to walk every day to school or have additional money for a taxi. *Hope Warriors* expressed the sentiments below:

> *So, to go to school, they either have to walk or take transport, and it's far, and they don't have easy access to schooling. If you don't have money for a taxi to get to school, you don't have money for the school uniform, you don't have food, it's easy just to keep your child at home:*

Thus, children have to struggle, to walk to school, and this does not consider other factors such as the weather, travel routes and safety. For example, girls can easily be abused when walking through the bushes on their way to school. The children with special needs are severely disadvantaged when they have to walk long distances to school, as reflected by *Education Africa* below:

> *Some of the children can easily walk. But some of the special schools are in Uitenhage, Sunshine, Moakley and Besa, so we have to go abroad. We have to drive them every day usually two loads to transport all the children. Then on rainy days the rest of the staff just have to pull in and get in a car and drive the kids. It's just one of the that's how we do. We are a non-profit organisation*

This shows that some children had to walk to special needs schools, and other than their health, they will require assistance to make sure they reach the school safely. This is alluded to by *Save the Children*[193] below:

> *There was also a documentary on Cutting Edge in which children had to cross the river to get to school. The parents reported that there was an increase in the dropout rate and they were continuously exhausted. When considering the opportunity cost, the parents would conclude that it would be better for the children to stop going to school, rather than face the risk of drowning in the river. There are no bridges constructed so that the children have better roads or better access to schools. These delays have had a big impact on the dropout rates. These communities cannot afford scholar transport.*

The response acknowledges that the challenges facing OVC have been documented and children have experienced several transport obstacles such as having to swim across rivers and crossing dilapidated bridges to travel to school. Corruption Watch (2013) documents the transport challenges in the Eastern Cape province, which include, backlogs in transport provision, and unroadworthy vehicles and roads. Machard (2014)

Africa" (2021) UN Doc CRC/C/ZAF/QPR/3-6 para 11.

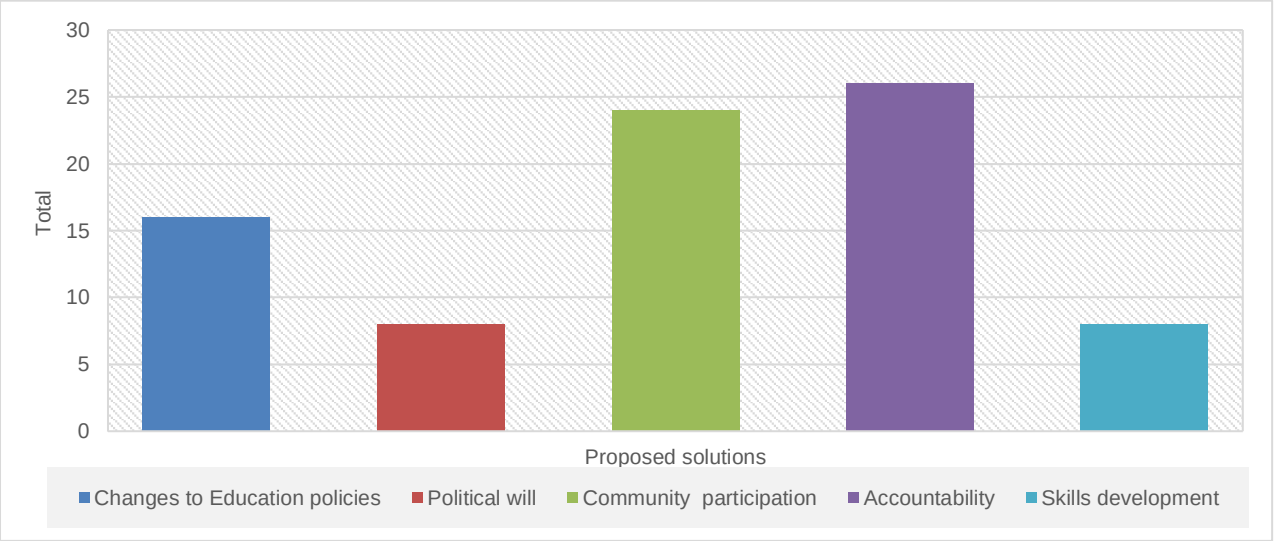
[193] NGO devoted to the rights of the child

and Mahlaba (2014) reflect on severe scholar transport issues with require immediate attention.

5.7 Solutions to the challenges of access to basic education

The issues of access to education are so dynamic that the proposed solutions have to consider the context of the study area, as the solutions in one area might be the problem in another area. The suggestions from the participants were highly appreciated and reflected below. These were categorized into 5 main areas; namely, accountability, community participation, changes to education policies, skills development and political will.

Figure 5.15: Proposed solutions to basic education challenges



Source: Compiled by the researcher

5.7.1 Accountability

The highest representation of 26 participants suggests that one of the key solutions to the lack of access to basic education involves improving accountability in all sectors, education, social development, NGOs and community. In the response below, the role of the NGOs is outlined in monitoring government policy, as indicated in response from *UNICEF*[194] below:

> *But I think what you need to understand clearly is that we very much see ourselves as part of civil society as not the not only role players in civil society, we must acknowledge that. And the role of civil society as a whole is to hold our government accountable. responsibility for delivering on the right and ensuring and upholding the right to educate basic education, the right to education as a whole rest with the government. It's the*

[194] United Nations agency working to promote the rights of the child

> *government's obligation that's very clearly set out in the Constitution that's very clearly set out in international obligations that we've ratified as a country. So, we here in a capacity to monitor to hold the government accountable, to assist when needed, and government obtains the core responsibility to uphold the right basic education.*

In the response above the need to hold the government accountable for education programs to support education for all children is established. These institutions are expected to work with other structures in the community and governance structure to implement the set targets. In instances where there is a shortfall, these issues should be "red-flagged" before the issues are prolonged. Lack of accountability is aggravated by non-functioning monitoring structures or mechanisms such as a database. The *Department of Social Development*[195] reflected below:

> *We have a national database. So, all our information gets loaded onto the national database, we have two separate ones, one for the village. So, there are placed with us in the village, and then one for the community where we sort of in and out those cases, we won't keep long term, we go in with our support, we will link them with necessary resources. And then we leave, we offer a program, and then yeah, we don't have any further communication with it. So, that one is more evolving, we do have several families that we support every month for a certain amount of match. So, cases are all loaded onto the database.*

This is critical for all children, including OVC as in this case, because their education needs a paramount. For example, in rural areas where at times resources can be limited, it is important to keep statistics on the number of children in the community and their special needs requirements. *Equal Education, Eastern Cape province* provided a conclusive evaluation on accountability:

> *We work, closely with the circuit manager to ensure that there are strong lines of accountability with the school principals. There's also increased accountability, because as the operator of the school every day that our teams are there. As I mentioned on infrastructure issues that there is no due diligence. Lack of accountability to be precise. For example, on the water tanks, there was no follow-up to access if clean water was provided to the students. As for the provision of food, it was a mess. Some students sent pictures of boiled cabbage and poorly prepared rice. For me, it's like, you're implementing the school nutrition program, but you're not even checking the quality of the food. How's the quality of the food?*

The response above shows that a lack of accountability has contributed to the lack of clean water and well-cooked food for the nutrition program in the Eastern Cape province. The example given in the response of having a nutrition program without checking the quality is equivalent to having basic education policies which do not cater for quality education for children with special needs.

[195] Government institution responsible for providing social development, protection and welfare

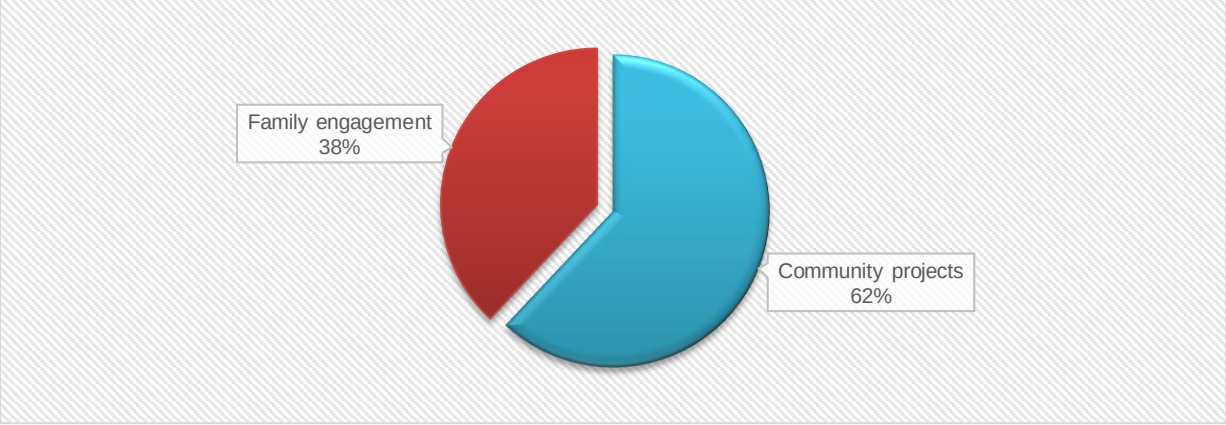
5.7.2 Community participation

A predominant theme throughout the interviews was the principle that “it takes a community to build a child”, as supported earlier reflecting on cultural values such as *Ubuntu*. Participants acknowledged that issues related to access to basic education cannot be restricted to the role of the government as the community can contribute through volunteering, donations and mentoring to assist OVC.

The central basis of access to basic education lies in the community working together as one (Swingler, 2013; Davis, 2009).The child comes from the home, and in the case of OVCs, there are caregivers, at school, the teachers play a pivotal role because more often than not they spend more time with the child during the learning process and the community has a role to play in promoting access to basic education.

Anokye (2004) defines community participation as the involvement and support that parents, the collective body of parents and teachers, local leadership and residents in a school neighbourhood offer to the enhancement of learning and teaching. The diagram in Figure 5.16 shows two main projects used to support community participation

Figure 5.16: Community participation



Source: Compiled by the researcher

Figure 5.16 shows that 62% of responses indicated community projects were used as the main vehicle of community participation. In this study, community projects were not limited to a specific framework but rather the focus was on the contribution towards basic education. In most cases, this did not require any financial resources but rather

practical steps to assist vulnerable children. For example, *Ingubo Children*[196] in Port Alfred revealed that:

> *We realised that there was a need for the community to get involved in it. Making sure that we have to remove the kids from the dumping site. We met as a committee, member of the community to say, "what can we do with this?" Research (sic) was done, or an assessment was done together with Child Welfare, Social Development, Rotary, International and other stakeholders, and it was concluded that we need to remove the kids from school. We established a place of safety for the children while the parents are either working or wherever they may be at the dumping site.*

The case above shows how the community was involved in helping to provide education to vulnerable children in the area. This involved various stakeholders from the government, NGOs and the local community. In other cases, the community would contribute through initiatives such as vegetable gardens to provide food for the children, which has been a common trend among the majority of the participants. This was reflected by *Africare*[197] below:

> *The gist of it though is that we find communities that are willing to farm; as well as schools that have got space within the premises. To be able to plant vegetables there, some herbs, or tomatoes. Just to complement our meals, as well as to promote urban agriculture. We have some pilot projects, in Mdantsane, East London and other communities in the Eastern Cape. But the idea behind it, though, is to number that we are partnering with a community that wants to farm. And number two, we are giving them the expertise. We offer training, set up a vertical garden for them and teach them how to look after it.*

As noted above community involved vegetable gardens to supplement the nutrition programs in rural schools. Other than simply providing vegetables such projects helped to empower the participating communities through training. Notably, community participation has not easily been a success in all communities, as in some areas the plight of OVCs has been overlooked and ignored by the misconception that only the government and NGOs can contribute towards the welfare of OVC.

During the interviews, 38% of participants indicated that they work directly with family members or guardians at home. A respondent from *Human Dignity Centre*[198] below:

> *remember, we have regular interactions with the social workers and our monitoring officers on that side as well. We have provincial meetings with the child and youth case into for. Well, the last one. We are online now because of COVID. But normally, we would have to have at least one thing twice a year, to be sure. And we are going to speak with, and the children and we get together, or the challenge is in with the province*.

[196] NGO in partnership with Stenden University is a haven for vulnerable children, located in Port Alfred
[197] NGO exclusively focused on providing development aid to the African continent
[198] Established pre-school for orphans and vulnerable children, located in Walmer Township Gqeberha

The feedback above indicates that interaction with social workers and monitoring officers is regarded as engagement. Consequently, Prochner et al. (2008) support that caregivers play a critical role in educating OVC.

5.7.3 The political will to support basic education

The research highlights that there is need for political will from policymakers. This refers to the sincerity of government representatives to a commitment or policy, in this case, access to basic education for OVC. Abdulai (2009) and Transparency International (2015), this refers to the sincerity of government representatives to a commitment or policy, in this case, access to basic education for OVC in the Eastern Cape province. Mathenjwa (2017) adds that lack of political will has further manifested itself in various ways; for example, shortage of learning material and lack of infrastructure. These are issues that have been highlighted by 8 participants during the research. Kosak (2009) and Wangari (2013) highlight that the success of a basic education depends on the continuous support of political leaders through the provision of good policies and programs focused on child development.

When lack of political will is the barrier to good policy decisions the outcome can be disastrous for vulnerable children This is a critical issue discussed during the research, as expressed with frustration, *Ubuntu Pathways* stated:

> *I was so angered, when I saw last week the government of the Eastern Cape celebrating the fact that we (Eastern Cape province) are the only province that had vaccinated over 1 million people and I'm like can we please use the same energy on the mud schools and improve access to education?*

The frustrations expressed above reflect the efficiency of the government in providing Covid 19 assistance, but issues remain on access to education, which has been tabled for years up to now have not yet been responded to. These include poor infrastructure and a lack of proper sanitation for learners.

Ali (2006) also argues that policy implementation in South Africa has been futile due to the lack of political commitment; weak governance and monopolisation of power. This is the debate of domestication of policy to encourage an assessment of policy through dialogue with local communities. This means before the government and UNICEF present reports on the progress towards their commitment to the CRC, there should be dialogue and feedback from the local communities, unfortunately, this has not been the case in the Eastern Cape province. *Equal Education* mentioned that:

> *We are constantly advocating for the Department of Education to be able to meet its deadlines. They have already missed two of them, the first deadline had stipulated that there should be no school with pit latrine toilets at all. But we're still sitting with over 1000 schools with pit latrines. The second timeline was on school infrastructure, we still have hundreds of schools with improper infrastructure, with poor quality materials from zinc, asbestos, and all those things.*

The above response shows a lack of political commitment to meet the deadlines as indicated in the South African Schools Act: Minimum uniform norms and standards for public school infrastructure. Khosa (2003), reflects on the failure to continuously implement basic education policy in South Africa. World Bank (2010) highlights poor education policy implementation in South Africa due to a lack of political will. In the final remarks on the situation in the Eastern Cape province, Kota et al (2018) in the book titled *The Politics and Governance of Basic Education* reveal that the Eastern Cape Department of Education is characterised by chronic leadership instability and politicization, in the wake of intra-party conflicts in the African National Congress (ANC). Unfortunately, the Department of Education representative was not keen to respond to this question, but it is unfortunate that children, in this regard OVC access to education challenges due to a lack of political will from elected representatives.

5.7.4 Skills development

In their responses participants reflected on skills development l as the major solutions to access to education. Concerning skills development, researchers note that to successfully implement inclusion anywhere in the world, educators must have adequate training, sufficient support, and positive attitudes (Frankel et al., 2010). This was elaborated by the participant from *Khululeka*, with practical examples below:

> *So, we also train one teacher from each ECD centre, from entry to level 4, which is the full qualification so that at the end of the day, we have teachers at the ECD that can provide quality education. So that is also the part that we play, with a mentorship program, to train and work with educators. For example, the ECD Experimental College is training teachers in Early Childhood Development. That's how big we are into education. We currently work with 43 ECD centres that are selected, not registered with the Department of Social Development and not getting a quality education. We assist them to meet all the required demands to register with the Department of Social Development and at the same time, give them quality education.*

The response above shows the need to provide training for all ECD practitioners so that they have a complete understanding of the rights of the child as they teach. Consequently, Khululeka impacted over 43 ECD centres and continuously provides workshops to equip the practitioners. There is a huge development in the area of

teaching in which the professionals not only have to be equipped with the skills but should also have an awareness of the rights of the child. Therefore, quantity should be accompanied by quality as supported by *Khululeka* below:

> *And then we will also identify who are the ECD practitioners. Who are the ones that are on the ECD sites? Are they needing training? What type of training do they need? Where are they standing right now? So, that's why we say it's an integrated approach because it's offering training for ECD practitioners. Then we have the Clifton strengths assessment, which is a Gallup-based survey to identify their strengths. And then they got individual coaching, one on one coaching, to interpret the results and work out how some of these strengths might impact someone else's strengths. So, we do they're sort of being changed based on the teachers' personal growth. And then we've also had, teachers have had an experience of visiting their kids' homes.*

As indicated skill development comes with asking critical questions to assist the growth of the practitioner. This helps to provide tailor-made training which does not only provide skill development as a broad concept but also assists to identify the areas of weakness and strengths, through assessments.

5.8 Challenges of Implementation

The implementation of mechanisms to promote access to basic education has encountered several challenges, as indicated by the participants. This is often highlighted in CRC Committee reports in the form of comments and recommendations on the right to education. Fokala (2017) notes that culture, religion and tradition also frustrate the implementation of policy. The challenges expressed in this research include; barriers to basic education for learners with special needs, lack of psychosocial support, and poor infrastructure and sanitation. The section below explores further on this area.

5.8.1 Learners with special needs

The responses from the participants revealed issues relating to inclusive education; including, a shortage of special needs schools in the province, geographic restrictions as most schools are located in the cities and lack of funding to support children with special needs; especially, in the rural areas. Section 11(1)(b) of the Childrens Act reinforces the need to prioritise children with disabilities to participate in educational activities (Republic of South Africa, 2005). These concerns have been identified as an area of concern in South Africa by the CRC Committee.[199] Key findings on the

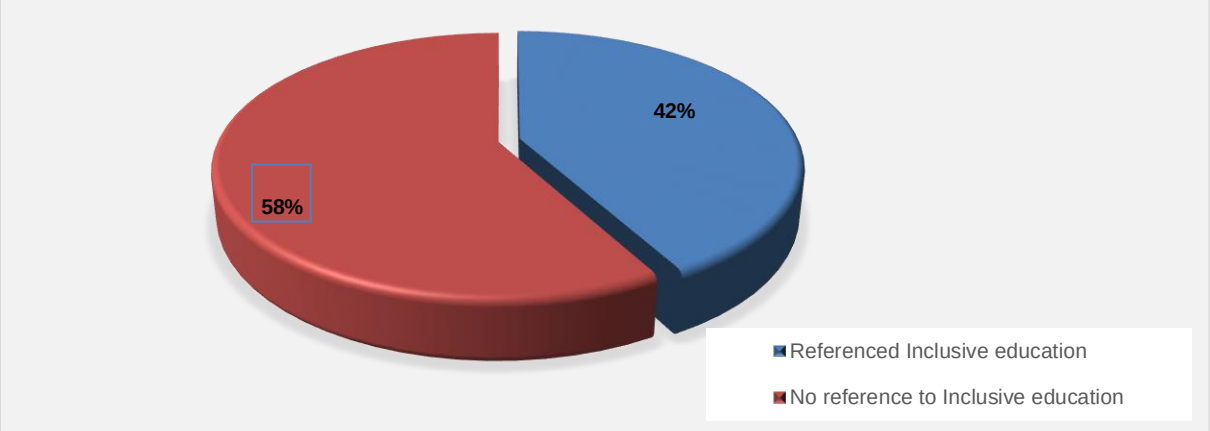
[199] UNCRC "List of issues prior to submission of the combined third to sixth periodic reports of South

continental assessment on the implementation of Aspiration 6[200] of the Agenda on Children 2040 highlight that:

> *The Committee notes with concern the disparities for school enrolment and attendance for children with disabilities, especially those in rural areas, notwithstanding that most African States have ratified and acceded to the CRPD (ACERWC, 2022)*

As such, inclusive education is concerned with removing all barriers to learning and with the participation of all students vulnerable to exclusion and marginalisation (Miles, 2000). Figure 5.17 shows the percentage of participants who gave reference to the issues on learners with special needs:

Figure 5.17: Inclusive education projects



Source: Compiled by the researcher

As presented above 42% of the participants indicated issues related to children with special needs. The response is significant considering that in the discussion focusing on OVCs, participants have reflected on the inclusion of children with special needs. This view has been supported by scholarly literature (Muthukrishna & Schoeman, 2010; Donohue & Bornman, 2014; Dalton et al., 2012).[201] For example, *Inclusive Education*, which promotes awareness of an inclusive education system in South Africa, stated that:

> *We have the inclusive school project. This involved provision of learning needs for learners with disabilities and we continuously host workshops with parents, teachers and the community on inclusive education. And so, we've done several projects in the province, some of our very successful projects have run in the Eastern Cape, run over two to three years independent.*

Some projects have been initiated to support inclusive education in the Eastern Cape

Africa" (2021) UN Doc CRC/C/ZAF/QPR/3-6 para 20.
[200] Advocates that every child benefits fully from quality education
[201] See Chapter 1 for details

province; including, the provision of learning needs and advocating for the rights of children with special needs through workshops. The success of inclusive education requires a holistic approach which involves the community, schools, and NGOs and more important the Government has to commit to the implementation of policies to assist children with special needs. The Education White Paper 6, Special Needs Education: Building an Inclusive Education and Training System is the key framework for supporting an inclusive education system in South Africa. It is worth reinforcing that White Paper 6 is not a law, but rather a policy document which helps the government to account for specific deliverables on inclusive education. The policy provides a broader scope to address the diverse needs of learners who experience learning barriers.

The policy is structured with two main components. Firstly, The National Strategy on Screening, Identification, Assessment and Support (SIAS); guides inclusive education policy by defining the process of identification, assessment, and enrolment of learners in special schools, and it curbs the unnecessary placement of learners in special schools (Department of Education, 2008). This helps to identify learners who require special needs at an early age so that they can receive the required assistance. Secondly, The Guidelines for Responding to Learner Diversity in the Classroom through Curriculum and Assessment Policy Statements, provide practical guidance to school managers and teachers on planning and teaching to meet the needs of a diverse range of learners (Department of Education, 2011). The practical guidance comes in different approaches including changes in curriculum and teaching methods.

Despite the enabling policy described above, the implementation of inclusive education in South Africa is slow and only partial (Wildeman & Nomdo 2007; Sayed & Jansen, 2001). White Paper 6 asserts that to make inclusive education a reality, there needs to be a conceptual shift regarding the provision of support for learners who experience barriers to learning. The scope of this policy is broad as it attempts to address the diverse needs of all learners who experience barriers to learning. Polat (2011) suggests that resources and improved infrastructure are necessary but not sufficient for inclusion and that changing attitudinal barriers among school professionals is an essential aspect. As such the next section reflects on the nature and expertise of psychosocial support required to support OVC in the Eastern Cape province.

5.8.2 Lack of Psychosocial support/Expert Support

Smart et al. (2007) cautioned that in a school setting, orphaned learners needed different kinds of support, which includes provides sufficient psychosocial support. The close link between psychosocial activities and education is highlighted by Nicolai and Triplehorn (2003) who recommend that for many children in conflict-affected areas, schooling, whether formal or non-formal, is the main means through which support can be provided. In addition, concerning psychosocial support teachers become important role players as they can easily identify any psychosocial challenges and refer for assistance.

In response to these challenges, two main initiatives were introduced in conjunction with the Department of Education. Firstly, the Care and Support for Teaching Learning Programme (CSTL) in which schools have become avenues of providing learning, care and support to make the right to education a reality for all children. Department of Basic Education and MIET Africa (2015), expand further highlight that CSTL addresses barriers to teaching and learning experienced by vulnerable learners.

Secondly, the Safe and Caring Child-Friendly Schools programme notably aimed at establishing a conducive learning environment for all children, based on the principles and rights of the CRC (Department of Education & UNICEF, 2008). The study has shown that one of the major barriers to education is the level of discrimination against OVC based on economic and orphan status, also children with special needs have been neglected by communities and have not been afforded equal opportunities to access education.

The research findings show that OVC express anger, frustration, disappointment and disillusionment due to adverse life experiences, largely emanating from poverty and the HIV/AIDS scourge (Donald & Clacherty, 2005; Maqoko & Dreyer, 2007). This leads to the increasing demand for psychosocial support for OVC. For example, children from broken families can be abused at home and this affects their participation at school. OVC are at special risk because of the trauma of past or present events, *Bethany Care*[202] presented a practical example below:

[202] NGO provides home for orphans and vulnerable children, located in Ikhwezi township

> *Separation from family or parents does traumatize a child. And the caregivers we ask them to love a child of their own. So, those realities need some sort of psychosocial support.*

This is the foundational purpose of psychosocial support to assist OVC with trauma experienced due to lack of parental or family care. The provision of psychosocial support involves building children's resilience and providing social welfare assistance to support the child (Van den Berg, 2006). A member of the *Department of Basic Education, Eastern Cape province* stated that:

> *So, psychosocial support is one of those pillars. The Department employ, some social workers and psychologists, registered counsellors, and people that do speech and audiology as well as occupational therapy. In some instances, the needs of the children would need such people to address. So, with certain social support, the specialists that are relevant for us, the psychologists and the social workers (sic).*

In this way, the Department of Basic Education works with specialists including social workers in the Eastern Cape province. The extent of this challenge was acknowledged by the *Department of Basic Education, Psychosocial support*[203] below:

> *Also, in education, we have over 24,000 schools. Let me give you a scenario in the Eastern Cape, we have 61 social workers and 63 psychologists, and we do not have enough people to provide psychosocial support. Even with the Learner Support agents, we have about 300 of them, so can imagine, versus the number of schools that we have. In response, most schools take up a creative approach in which they refer to Social Development, find an NGO, and get it to visit the school from time to time. In some instances, teachers would have been trained in trauma support or basic counselling and looked for these skills.*

The response from the Department of Basic Education above provides a clear picture of the lack of expert assistance concerning the large population of vulnerable children in the Eastern Cape province. The participant indicated that in 2021, only 61 social workers, 63 psychologists and 300 learner support agents are registered with the Department of Basic Education, Psychosocial Support. Expert assistance is not limited to social workers and psychologists but involves a wide range of specialists to assist learners with special needs. The participants from *Enkuthazweni Special Needs Center* expand further:

> *Many of our learners also present with comorbidities such as physical, psychological, and neurological disabilities. We have social workers, a physiotherapist, an occupational therapist, an audiologist, an educational psychologist, and a nursing sister. All these are paid for by the school because of a lack of funding from the government. There is a lack of experts in the department to offer support and guidance to children with special needs.*

The expressions above summarise the challenges experienced in providing expert

[203] Government department responsible for psychosocial support

assistance for children with special needs. The response shows that there is a lack of funding to support such professionals, this is because many of these are not only human resource-related, but quality equipment is also needed to ensure that specialists operate at full capacity. As indicated above many of these end up operating as private specialists supported by school funding due to a lack of government support. The challenges for children with special needs focus on children with specific comorbidities, and the psychosocial needs of all children due to trauma and stigmatisation cannot be ignored.

The research findings reveal that these services are only available in some schools and a large percentage of rural schools do not have access to psychosocial support. In such cases, the schools or organisations implement student engagement projects. For example, a school in Mthatha, reflecting on the "Talk to my box" project stated that:

> *We have what we call the "Talk to my box", in which we engage with the children, and they express their experiences. We work with caregivers and social workers who will go through the information to see how best to assist them. So, we have a referral system, if we pick up that one child with a challenge, then the social worker will come, and then they will interview them.*

The example above shows that even in the absence of social workers or expert practitioners, teachers can play an instrumental role in initiating the process by which OVC can express the challenges that their facing. Nevertheless, this can only be within a limited capacity as they might not have the expertise that social workers have to fully implement such projects. The "talk to my box" initiative is a model which can be implemented to reach out to OVC, to relieve, to some degree, the effects of trauma or depression. Despite such efforts, the next section shows that progress has been limited due to the discrimination and stigma of OVC in the Eastern Cape province.

5.8.3 ECD and migration to the Department of Basic Education

Samuelson and Kaga (2008) advocate that ECD plays a key role in achieving sustainable development in children. The National Integrated Early Childhood Development Policy was instituted to plan, implement and monitor quality ECD services for all children. The policy also promotes the procurement of infrastructure and funding for ECD centres.

Furthermore, the ECD policy was implemented in conjunction with The National School Nutrition Programme (NSNP) to ensure that all children have access to quality food. As prescribed in Section 28(c) of the Constitution of the Republic of South Africa (1996),

every child has the right to basic nutrition, shelter, basic healthcare services and social services. As presented in the rights-based approach to basic education, children rights are indivisible, thus in pursuing the right to basic education, the right to basic nutrition and all other basic rights should not be violated. The importance of providing meals in schools is examined in the research conducted by Jukes et al. (2008), in which their findings conclude that learners tend to focus better when they have had a breakfast meal and concentrate less without having had a meal. This is supported by Bundy et al. (2009) who add that school nutrition programmes encourage and foster learners being present at school, cognitive development and academic accomplishment.

This has been the success story of *Rising Against Hunger* which supports ECD centres in the Eastern Cape province with prepared meals for the children. They have empowered the local communities with garden planting expertise to grow their vegetables to support the ECDs in the community and they can sell the excess for financial input. Their contribution is a clear example of a vision which cuts through barriers as they are guided by the United Nations, SDG Goal 2[204] to end hunger by 2030.

In the second decade of democracy, ECD is characterised by the challenge of providing relevant programmes for OVC (Ebrahim et al., 2011). The local community and civil society have a role to play to promote and implement the right of the child. A society with all functional pillars, community and civil society helps to ensure that the right to education is a reality for all children including OVC. In one of the interviews, the participant from *Anike Foundation*[205] reflected:

> *I think our community has given too much power to the Government. We have a mentality that the Government must fix everything. We have organizations like Equal Education, which fight for the rights of children.*

This realisation is critical in understanding to what extent policy has been domesticated in South Africa. The findings revealed in some instances the community cared less about the needs of the child. As exposed by *African Angel*, the school has had to go to the extent of interviewing the parents to have a better reflection of the environment the child is exposed to at home or by caregivers. This pragmatic approach shows that the

[204] End hunger, achieve food security and improved nutrition and promote sustainable agriculture https://sdgs.un.org/goals/goal2
[205] NGO works with grass root organisation to promote access to education

right to education for all children cannot be made a reality by a single entity but rather by a continuous engagement with all parties. These grassroots linkages have strengthened communities, enabling them to design services and programs using innovative and experimental approaches centred around community participation (Bebbington et al., 2008).

The research findings have identified the various policies and constitutional frameworks in South Africa which support access to education for all children, this includes OVC and children with special needs. Policy implementation focuses on how policies can be put into practice (Winter, 2006). Unfortunately, the challenges and areas of concern concerning access to basic education in the Eastern Cape province indicate poor policy implementation. Policy implementation is related to the concept of governance, involving collaboration with multiple actors at different levels of government (Hill & Hupe, 2003; 2014). This is the notion of domestication, in which international policies are integrated at the national and domestic levels. As a result, implementation is not a rigid or monotonous process but rather requires active and continuous integrated policy objectives (Greenhalgh et al., 2004).

The analysis of data collected goes further to examine the extent to which policies are aligned with international standards to promote access to education. As explained, in this case, the principal standard is the CRC. As reflected in the previous section several policies and legal frameworks have been initiated to support the objectives of the CRC; these include but are not limited to:

Table 5.1: Policies and legal frameworks supporting CRC objectives

Policy	Function
Constitution of the Republic of South Africa	All children have the right to education
The Promotion of Equality and Prevention of Unfair Discrimination Act No. 4 of 2000	Prohibits unfair discrimination on all grounds, including race, gender and disability
The South African Schools Act and the Admissions Policy for Ordinary Public Schools	The right to education for all children and the prohibition of discrimination in admission policies and practices
The Department of Basic Education's Language in Education Policy, 1997.	Requires learners to be taught in their home language in the foundation phase
The Language in Education Policy, 2006	Protects the rights of all children to be taught in their home language
The Inclusive Education Policy – Education White Paper 6: Special Needs Education, 2001	Protects marginalised children from unlawful discrimination and ensures schools are equipped with the necessary infrastructure
The DBE's Integrated Strategy on HIV, STIs and TB 2012–2016	Assists learners affected by HIV/AIDS.
The DBE's Peer Education Programmes (Girl and Boy Education Movement)	Promote inclusive, cohesive and supportive behaviour

Source: Department of Basic Education & MIET Africa, 2015

Table 5.1 shows policies and legal frameworks aligned with the CRC, which have also been referenced by some participants during the interviews. Brynand (2005), argues that policy implementation approaches are built on assumptions, recommendations, guidelines and the geographic context based on exclusive historical, economic, social and political situational factors. In this way, the rural context of the Eastern Cape province is of valuable input.

The reforms are not only limited to policies and legal frameworks but also include reforms in state institutions to align with the provisions in international treaties. The most recent case has been the transfer of ECDs from the Department of Social Development (DSD) to the Department of Basic Education (DBE). Furthermore, Banda (2022) indicates that from the 1st of April, 2022, the transition of ECD to DBE has taken effect. Some restrain was reflected during the research, as indicated below:

> *And what's happening nationally is that there is a shift happening, where they're moving from DSD and ECD is now going to fall under the Department of Basic Education. This is all in light of professionalizing the sector, and that is the idea that it would work better the under the Department of Basic Education. Also, this means that down the line, which I think they're giving it until 2030 to be operational down the line, it means that the ECD Centers are going to be absorbed into the Primary schools, but they do not understand that the Primary schools don't have the facilities and enough resources to cope with all the children.*

In the context of the Eastern Cape province, the response above has some challenges ahead of this transition. Firstly, the ECDs have already made great strides to build relations with the Department of Social Development, which is responsible for the operations of social workers in South Africa. It can be acknowledged that the role of social workers is critical, especially when working with OVCs. This does not undermine the role of educators but as indicated earlier, OVCs encounter severe psychosocial challenges due to discrimination and abuse; therefore, social workers are more equipped in such cases. Secondly, the section below on infrastructure exposes the poor state of primary schools in the Eastern Cape province. In the Eastern Cape province, it would be questionable to incorporate ECDs with primary schools rather than allowing children to continue attending ECDs with better infrastructure and resources.

On the migration process of the ECDs to the Department of Basic Education, Madyibi (2021) states that the migration process might have positive financial benefits for ECDs;

as a result of increased funding available for ECDs under the DBE as compared to the DSD. This is supported by the funds' allocation in the 2019 Budget Review in which, approximately R260 billion was made available to the DBE, as compared to R22 billion allocated to the provincial DSDs (National Treasury, 2019). The expected outcome of the positive financial benefit is that it would exert more pressure on the government to improve the state of schools. especially the eradication of pit latrines and mud schools in the Eastern Cape province, but progress has been slow as highlighted by the participants and updated reports.

Lastly, on the migration of the ECD, this research has shown that the learning process of children requires a focused approach to other components; such as nutrition and emotional development. The learning structure for ECDs is less formal and play education is a major aspect of the success of the ECDs, this was supported by participants in this research; including, *Play Africa*, *Bethany Care*, *Missionvale Care Centre* and *Think Equal*. Madyibi (2021) concludes that the migration of ECD to DBE will affect the creativity, play and imaginary elements which have cemented ECD education. ECD expert, Professor Eric Atmore (cited in Okonye, 2019) in his criticism states that the migration is unseasoned, lacks supporting research and has no clear road map of action considering the socioeconomic dynamics of South Africa. Tshikululu (2019) provides a hypothetical assessment of the migration process; whereby, the key issues of access to basic education are not addressed, rather a shift of poor education services from one department to another.

5.8.4 Infrastructure

The research had approximately 55% of participants from a rural set-up.[206] Hall (2019), reported that South Africa had 11 252 schools specifically in rural areas and the Eastern Cape province has the second highest population of rural schools. In South Africa, rural areas mostly lack the social and economic viability needed to sustain technological improvement (Cristobal-Fransi et al., 2020). These have been some of the main challenges reflected in the research. The issues of poor infrastructure were commonly portrayed in the research, and supported by the findings of the CRC Committee.[207]

[206] Section supported by secondary data from participant reports and policy documents
[207] UNCRC "Concluding Observations on the second periodic report of South Africa" (2016) UN Doc CRC/C/ZAF/CO/2 para 59.

Unfortunately, 6 years after this report, the case of the Eastern Cape province, school infrastructure is still of grave concern. This shows a lack of successful implementation of the standards for school infrastructure, often referred to as "*Norms and Standards*". In their report titled, *Planning to fail: A report on Equal Education's Eastern Cape School Visits November,* Equal Education (2016) concluded that:

> *In terms of the Norms and Standards, by 29 November 2016, all schools must have access to some form of power supply, water supply and sanitation. Schools entirely made of inappropriate materials, such as mud, metal, asbestos or wood, must be replaced with new schools. In the Eastern Cape province, a lot of our work has been around creating accountability that's linked, to the law of norms and standards.*

In terms of the Section 18(13) of the Regulations Relating to the Minimum Uniform Norms and Standards for Public School Infrastructure, schools must not be constructed with mud or asbestos material or any other inappropriate material (Republic of South Africa, 2013). In this way the right to basic education is entitled to all children, this includes providing appropriate school infrastructure which is safe and does not endanger the life of both children and teachers. The remarks above provide a summary of the infrastructural challenges concerning access to basic education in the province.

Figure 5.18: Evidence of inappropriate learning structures

However, the Committee is concerned at: (a) The persistence of wide disparities in access to quality education, according to economic status, race and geography; (c) The persistence of poor school infrastructure, the shortage of educational materials and the insufficient numbers and low capacity of teaching staff (UNCRC, 2016).

Source: Equal Education, 2016; New Frame, 2023

The image in Figure 5.18 shows the appalling state of a primary school, near Mbizana in the Eastern Cape province. Such structures present a deadly hazard, and children with disabilities experience as there are difficulties to navigate through the classrooms. Amnesty International (2020) and Chirowamhangu (2022) state that poor infrastructure continues to be a major problem in Eastern Cape province. Du Plessis and Mestry (2019) suggest that the Government of South Africa finds it more difficult to provide education services in rural areas but, this seems to be a justification for the failure to provide education for all children.

Poor infrastructure presents a challenge for children with disabilities. The Inclusive Education Policy, Education White Paper 6: Special Needs Education, is the policy document committed towards inclusive education for all children, providing support and infrastructure to support vulnerable children. Nevertheless, the situation in the Eastern Cape province requires increased focus, as there is a limited number of special schools in the province, most of them only located in the urban towns of East London and Gqeberha. As a result, many children with special needs have to be transported long distances to obtain access to education. But before that happens, the few schools are overburdened, and the waiting list is excessively long.

Chukwuemeka and Ikechukwu (2013) cited the influence of prehistoric burdens and ethics on government procedures as other reasons for failure in policy implementation. The data showed reflected 98% engagement with the government for several reasons; such as administration, periodic visits, expert assistance and policy feedback. In this case, administration and periodic visits are compulsory responsibilities of the government to ensure that all schools are registered with the Department of Basic Education and operate based on the guiding principles.

Figure 5.19: Evidence of poor infrastructure, mud and asbestos structures

Source: Equal Education, 2016; New Frame, 2023

In their audit report, Equal Education (2016), a total of 46 out of the 60 surveyed schools visited had at least one inappropriate structure. This raises a lot of questions about the effectiveness of these periodic visits in achieving the set goals. Thus, it seems the Education Department in the Eastern Cape province is in a damage control mode, in which they only respond to issues after an outcry. Yet, the Department must monitor, assess and address these issues before they are explored in the public domain.

5.8.5 Sanitation and hygiene

Access to basic education takes into consideration the state of sanitation and hygiene the students are exposed to; which includes, the availability of toilets in schools, provision of water and hygiene.[208] Equal Education (2018) in their assessment state that:

> *In the Eastern Cape province, issues of concern included a lack of sufficient toilets for the number of pupils in line with the learner-to-toilet ratio of 1:30; lack of an adequate and/or reliable water supply often requiring the use of a borehole; poor hygiene with associated health problems among students; leaking septic tanks; broken sanitation infrastructure that could not be repaired owing to lack of funds and an inability to remedy vandalism or theft in sanitation facilities*

[208] Section supported by secondary data from participant reports and policy documents

The summary above is critical as it provides a clear picture of the state of sanitation in the Eastern Cape province, but a toilet ratio of 1:30 is unjustifiable in the post-apartheid era. Whether in a rural or urban set-up, when it pertains to access to basic education both students and educators have the right to proper sanitation and hygiene.

Table 5.2: Number of schools with pit latrine toilets

Province	Schools with pit latrines
Eastern Cape	1585
Free State	156
Gauteng	0
KwaZulu Natal	1365
Limpopo	507
Mpumalanga	127
North West	145
Northern Cape	0
Western Cape	0
Total	3885

Source: Amnesty International, 2020; Compiled by the researcher

The detail presented in Table 5.2 above highlights one of the major challenges in the schools in the Eastern Cape province, with over 1585 schools which still have pit latrines. The research interviews contain first-hand information on the health and safety challenges of pit latrines. These issues are at the core of children's rights in South Africa, as articulated by the Minimum Norms and Standards binding rules, all pit latrines were to be replaced with safe and adequate sanitation by 2013, to date, this has not been a reality in the Eastern Cape province. It would be worth taking note that no pit latrine toilets were recorded in Gauteng, Northern Cape and Western Cape provinces. The extent of the inequalities demonstrated in Table 5.2 is extreme, as access to basic education is informed by a much more holistic approach which includes sanitation and hygiene for the children and gender-responsive sanitation facilities.[209]

During the interviews, *Equal education*[210] expressed frustration:

> *But we're still sitting with over 1000 schools with pit latrines[211]. The second timeline was on school infrastructure, we still have hundreds of schools with improper infrastructure, with poor quality materials from zinc, asbestos, and all those things.*

These are the common challenges in the Eastern Cape province. The issue of pit latrine toiles in the post-democratic era should be regarded as an issue of concern, considering

[209] The need for gender responsive sanitation findings is a key recommendation on Aspiration 6 in the African Union (2022), Second Continental Report on the Implementation of Agenda 2063
[210] NGO committed to quality and equality in the Eastern Cape province
[211] Type of toilet which uses a ground water system, whereby human waste enter a hole in the ground that collects human faeces into a pit or hole in the ground (See images in Photograph 5.1 for details)

the safety implications involved. These issues have been documented in various publications, including the *Planning to Fail: Summary of Findings from Equal Education's Eastern Cape School Visits* report of 60 schools in the Eastern Cape province. The findings show that the toilets were filthy and only 15% of the schools had flush toilets installed, 52% of the schools had 30 students per toilet, and in some cases, the schools were depending on only two or three working toilets (Equal Education, 2016). The report commissioned by *Equal Education* reflects on the education challenges in the Eastern Cape province by providing statistical and visual evidence of the dilapidated state of the education infrastructure in the Eastern Cape province. The images below from the *Equal Education* report, show the poor state of sanitation in Lugxogxo and Lutholi Junior schools respectively:

Figure 5.20: Evidence of pit latrine toilets in the Eastern Cape province

Source: Equal Education, 2016; New Frame, 2023

The images above show a derelict latrine and open pits which are still used as toilets. These are extremely dangerous, for any child, including OVC, with special reference to children with special needs. Human Rights Watch (2021) criticises the Government of South Africa for its failure to implement safety measures for children with disabilities. This finding is supported in the Human Rights Watch report titled *Scared at school: sexual violence against girls in South African schools and forgotten schools: Right to basic education for children on farms in South Africa*, which reflects on the increasing rate of rape offences, especially for girls below the age of 18 years (Human Rights Watch, 2021; Smit & Notermans, 2015; Beel, 2008).

5.8.6 The HIV/AIDS conundrum

The research literature before this chapter was supported by the view that HIV/AIDS has contributed significantly towards the challenges facing OVC (Boler & Carroll, 2003; Manyonganise, 2013; Bundy; 2002; Chereni & Mahati, 2013). During the research interviews, there was very little mention or reference to HIV/AIDS. Only two participants out of the allocated 44 participants gave direct reference to HIV/AIDS. As a result, there is a lack of awareness of the impact or challenges facing orphans due to the impact of HIV/AIDS. This would be an area I would propose for future research.

5.9 Limitations and opportunities

Lastly, this section focuses on the limitations and opportunities of the state in promoting the right to basic education by OVC in South Africa. The attention to the state in this regard is based on the principle of ratification of international treaties in which children's rights are not subject to internal limitation but are unqualified and immediately enforceable (Republic of South Africa, 1996). The South African context is grounded upon several policy frameworks to support the right to education for all children. These include primarily include the Constitution of South Africa, ratification of the CRC and supporting basic education policy framework.

Having presented such opportunities, it is unfortunate to note that the rights of education for OVC continue to be violated extensively in the Eastern Cape province. Policy frameworks have been established but there is a lack of implementation. It would be an understatement to say there is no awareness, most of the participants referenced several policies in their responses but no concrete results on the ground. This is supplemented by previous reflections on the failure to provide a periodic visit to assess and provide feedback on the state of education in the Eastern Cape province. Thus, such policies end up being theoretical exercises with no substantial results.

The limited number of special schools in the Eastern Cape province is a matter which requires a more comprehensive assessment, followed by measures to alleviate the challenges of children with special needs. Considering the rural context of the Eastern Cape province children with disabilities face discrimination and exclusion of varying degrees, children in rural areas with disabilities face double discrimination based on disability (Tesemma, 2012). It would be a complete oversight to fail to acknowledge this

based on the state of the Eastern Cape province. The majority of the participants, located in rural communities reflected on the challenges related to access to education. There is no justification at all why a province with the fourth largest population in South Africa has very few special needs facilities, especially in rural areas. The research findings showed how in most cases caregivers had to travel children with special needs to either East London or Gqeberha. This is not sustainable at all considering the cost implications involved.

5.10 Conclusion

The central theme in this area reinforces that there is no lack of basic education policy in South Africa, but there is poor implementation of policy as aligned with the CRC. The chapter further evinced children's rights violations as a result of some cultural practices such as *Ukuthwala* and initiations; which are common in the Eastern Cape province. These critical issues are stipulated in Section 12 of the Children's Act of South Africa. The chapter revealed that these are still outstanding issues as reported by United Nations (CRC, 2021). The findings are established on the rights-based approach stated in Chapter 1 of this research. As embraced through the thematic presentation and analysis of the data, the realisation of the right to basic education for OVC is impossible if other children rights are violated.

The findings obtained from the online interviews were presented exposing significant challenges in the basic education sector; including, overcrowding, poor education structures, sanitation and hygiene in schools. The researcher used a thematic approach supported by the use of the Atlas.ti 9 software to analyse the responses from the interviews conducted. The impact of the Covid 19 pandemic predominantly affected schooling during this period, as more resources were needed to support online schooling and after-school lessons for OVC. Though, the findings revealed that the Covid 19 pandemic, should not and never be used as an excuse for lack of access to basic education for OVC as the study reflected on the lack of political will and engagement by the government to advocate and promote children's rights, especially in the rural areas in the Eastern Cape province.

In conclusion, to provide a balanced analysis, the chapter reflects on the limitations and opportunities of promoting access to basic education for OVC. This is highly appreciated as the role of NGOs and the community was significant through various efforts;

including, nutrition programmes, community development, psychosocial support and inclusive education initiatives. This complements the rights-based approach as presented in Chapter 1 of the thesis.

CHAPTER 6

RECOMMENDATIONS AND CONCLUSIONS

6.1 Introduction

Denscombe (2012) comments that research conclusions are crucial as they provide a pivotal foundation for future research in related areas of study. This is the main objective of this chapter. As such, the previous chapters have pursued the mandate to address the fundamental research question of how the CRC finds expression at the domestic level within the Eastern Cape province, South Africa. The case study on the Eastern Cape province involved NGOs, schools, and government departments working with OVC in the related area of study.

The research study has six complementary chapters, each with specific focus areas on issues related to assess to basic education for OVC in the Eastern Cape province. As such, Chapter 1 provided the general introductory research background with research objectives and questions, the scope of study, contribution of the research, and outline of the research. The chapter includes the theoretical framework of the study, the rights-based approach. Chapter 2 explored the qualitative research methodology applied to collect and analyse the data in this research.

Chapter 3 conceptualised and contextualised the key aspects of OVC and basic education in this research. Using the findings in Chapter 5, the researcher established the operational definition of OVC[212] which can be adopted in other related studies. The chapter presents the basic education framework, inspired by the CRC Committee, General Comment 13 on basic education. In addition, a trajectory timeline of basic education considering the needs of OVC is outlined; including, the Jomtien Declaration, Salamanca statement, Dakar Framework for Action and the United Nations, MDGs and SDGs.

Chapter 4 discussed the domestication of treaties on the child's right to basic education in South Africa. This compact chapter starts with a discussion on policy, monitoring and implementation. These issues a paramount because as established in Chapter 5 on the

[212] The operational definition of OVC for this research refers to children between 0 to 18 years, who lost either or both parents, and are made vulnerable due to poverty, discrimination, disability, domestic violence, HIV/AIDS and harmful cultural practices

violation of the right to basic education on OVC in the Eastern Cape province. The failure to implement policy is a repetitive failure. Selected policies were discussed; namely, Children's Act, South African Schools Act of 1996, National Policy for an Equitable Provision of an Enabling School Physical Teaching and Learning Environment and Regulations Relating to the Minimum Uniform Norms and Standards for Public School Infrastructure. The chapter further discuses domestication of basic education focusing on the CRC and supported by other treaties including, the ACRWC, CESCR and UDHR.

Chapter 5 presented and analysed the data collected from the key informant interviews. The chapter provides various projects to practicalize access to basic education for OVC, revealed the challenges on OVC, solutions to the challenges highlighted and the hindrances on policy implementation. The recommendations, concluding thoughts and areas of further research are presented in this chapter.

6.2 Research Questions

This section focuses on the research conclusions of this study guided by the research questions posed in Chapter 1 of the study.

Main research question: How does the Convention on the Rights of the Child find expression at the domestic level in South Africa with regard to OVC access to basic education in the Eastern Cape province?

The domestication of the CRC is established in General Comment. 5 of the CRC Committee which implores the state fulfils its obligations to protect respect, fulfil and protect the right to basic education for OVC. Specifically, through Article 4 and 41 of the CRC, the Government of South Africa is instructed delegate resources and provisions for the realisation of the right to basic education for OVC. Consequently, the model of domestication in South Africa is the dualist system, which is established in Section 1 and Section 231(4) of the Constitution of South Africa which recognises a democratic legislative process to rectify the CRC. The CRC and Constitution of South Africa give reference to the state, NGOs, Civil Society and NHRIs as the main agents of implementing the CRC.

However, the research revealed that there is a lack of knowledge of the treaty and implementation of policies which support the CRC. The research findings revealed a

much more complex scenario in which a more pragmatic approach is required from the state to empower local communities. This calls for a more realistic, practical approach which involves the role of the community. The multi-cultural and lingual communities in South Africa need to be educated and active in providing an awareness of the rights of the child. Thereby, the researcher supports the implementation of a reporting system, similar to the ACRWC, which engages with the community through a complaints system.

Sub question 1: Which policies regulate basic education in South Africa?

The research reflected on policies regulating basic education in South Africa. These primarily include the Constitution of the Republic of South Africa, the South African Schools Act of 1996, White Paper 1 on Education and Training, White Paper 5 on Early Child Development, and White Paper 6 on Inclusive Education. Specific policies on basic education, South African Schools Act of 1996, National Policy for an Equitable Provision of an Enabling School Physical Teaching and Learning Environment and Regulations Relating to the Minimum Uniform Norms and Standards for Public School Infrastructure. The study established that basic education is an important component of children's rights, as outlined in the Children's Act of 2005 and the Policy Framework on Orphans and Other Children Made Vulnerable by HIV and AIDS. The research through the findings in Chapter 5 reflects on various challenges on lack of policy implementation on basic education, in the form of limited number of special needs schools in the Eastern Cape province, lack of psychosocial support for OVC, and poor infrastructure and sanitation.

Sub question 2: To what extent do the policies on basic education in South Africa align with the Convention on the Rights of the Child?

The study used the rights-based approach and General Comment (4A Scheme) to measure the extent to which the basic education policies are aligned with the CRC. These are supported by Article 28(1)(a) of the CRC and Section 29(1)(a) of the Constitution of South Africa. The research established that basic education is a priority for all children, including learners with special needs as stated in Article 24 of the CRC. This is supported by regional and international treaties; such as the ACRWC, CESCR and the CRPD. Equally, the provision of basic education for learners with special needs is emphasized in the Constitution of South Africa (Sections 28 & 29), and dedicated

policies on children with special needs; such as White Paper 6 on Inclusive Education, South Africa Inclusive Education policy.

The role of the state in the provision of basic education is highlighted in Article 45 of the CRC which recognises the role of the state, NGOs and Civil Society to monitor, and assessing efforts to implement the right to basic education. Article 44 of the CRC advocates that the state is mandated to implement and assess measures to support basic education at the national level. Equally as indicated in the Constitution of South Africa (Section 1), and basic education policies; including, the National Framework for Quality Education in Rural Areas, and Accelerated Schools Infrastructure Delivery Initiative to foster accountability of the state on access to education. Furthermore, the Constitution of South Africa in Article 184 recognises the role of NGOs and the South African Human Rights Commission to promote human rights.

Sub question 3: What is the state of access to basic education for orphans and vulnerable children in the Eastern Cape province?

The research revealed several challenges concerning access to basic education for OVC in the Eastern Cape province. These include a lack of political will to support OVC, a lack of financial resources, a limited number of schools to support learners with special needs, discrimination against OVC, and a limited number of social workers to provide psychosocial support. There were extensive barriers to basic education for learners with special needs, as there are few schools to support learners, and learners in the rural areas had to travel long distances to the nearest available school. The rights of the child have been violated through various cultural practices; such as *Ukuthwala* and illegal initiation; thus, vulnerable to STDs at an early age.

Using the General Comment 13 as the basic education framework. The following aspects were revealed in the study. In terms of availability, through secondary research, the study exposes the school infrastructural challenges. Even through legislation, the prominent “Mud schools case” in the Eastern Cape province reflected on the extent to which the Department of Basic Education had broken promises on improving the state of dilapidated schools in the province. The study shows that the province has both the highest number of pit latrine toilets and mud schools in South Africa, and this has been an ongoing challenge.

Then with regards to accessibility, the primary research shows the extent of discrimination on OVC and the lack of facilities for learners with special needs. The findings show that there few schools for children with disabilities and most of them are located in the urban areas in East London and Gqeberha, and vulnerable children in the rural areas have to be assisted to travel long distances to the nearest school, that is if they are admitted because of a long waiting list.

Linked to the above is the acceptable aspect of access to basic education. There are few specialised workers; social workers and child psychologists in the Eastern Cape province. The nature of the challenges on OVC requires specialised assistance to help the children is they are discriminated, depressed or abused. Though the educators and NGOs in the area have tried to assist the children, the burden remains heavy to help OVC considering the population of OVC in the province. Lastly, access to basic education for OVC has been adaptable. The responses from the research showed the extent to which various efforts; such as, the “Mockup” court and “Talk to my box” which encourage the play education and children rights education in their learning.

6.3 Recommendations

Due to time and resource limits, the research focused only one aspect of children's rights; namely, the right to basic education, but the findings showed a more extensive problem in which the rights of the child have been ignored more widely; for example, excessive discrimination against OVC, lack of protection for children with disabilities and exposure to domestic violence. The researcher also recommends the decentralization of public media,[213] so that access to education for all in rural areas is assured.

Consequently, there should be increased sensitization to the rights of the child holistically. This involves community leaders and NGOs working with OVC. Even in the absence of sophisticated forms of communication; such as, social media, rural communities can make use of other forms of communication such as community radio, and newspapers in local languages and encourage community engagement meetings to discuss the challenges of OVC and children at large. This form of advocacy involves a wide range of individual and collective expressions; such as public education,

[213] To shift and distribute media functions to the local offices; especially in the rural areas. The media distribution in South Africa is centralised on the main cities Cape Town and Johannesburg.

mobilization and policy feedback (Reid, 2001).

The government of South Africa adopt or use lessons learnt from Kenya's SDGs Stakeholders Engagement Framework, by forming an Inter-Agency Technical Working Committee on basic education for OVC.[214] Which involves the participation of grass root organisations, local NGOs, and community representatives to engage with the state on the challenges and possible solutions on access to basic education for OVC. The involvement of NGOs in policy assessment is critical. As expressed in the research findings, government institutions seem to lack "an understanding of the issues on the ground", therefore, NGOs have the opportunity to conduct quality research to identify the challenges facing OVC since they are at the grassroots level and live these challenges daily. The role of NGOs in policy formulation and implementation has to be reinforced. For example, the Schools Rationalisation policy in the Eastern Cape has experienced more challenges than it has solutions as small schools have had a short time frame to plan and fully merge with bigger schools. More critical to this is that every child needs to be treated with the uttermost care and respect.

Johnson (2011) concurs that with large class sizes, a packed curriculum and inadequate staffing, many schools do not provide adequate attention to the special needs of OVC. The issue is not simply a matter of "transferring" vulnerable children to bigger schools, but the state should also fully implement the Accelerated Schools Infrastructure Delivery Initiative (ASIDI), to ensure that OVC in the rural schools have equal opportunities and resources as those in urban areas. It cannot be easy transferring a vulnerable child from one school to another, because they need to adapt to the new learning environment and equally the educators have to develop a learning relationship with OVC. It is in these matters that the communities and relevant NGOs support needs of the OVC and need to be represented on high-level parliamentary, and decision-making platforms. Their ideas and suggestions are critical.

The plight of children with special needs is of significant importance in both policy (procedure) and practice (substance). This researcher supports the commitment by the Department of Education to provide psychosocial support, but in reality, in the rural areas, there is very little assistance available for OVC. The rhetoric of inclusive

[214] Kenya's framework on SDGs, is recommended by UNDP (2022) as an example of good as example of good engagement practise in the implementation of SDGs.

education in South Africa has been rehearsed with insufficient results, especially in economically challenged communities in rural areas, in which there are a limited number of special needs schools, poor infrastructure to support children with disabilities and few trained experts to provide much-needed support.

Researchers, recommend that White Paper 6 should be conceptualised as a comprehensive law to govern inclusive education in South Africa (Proudlock, 2014; Martin, 2014). Considering the nature and extent of children rights violations reported by participants working with learners with special needs in the Eastern Cape province, the researcher supports the need to address the backlog on school construction, to provide more adequate learning resources and, perhaps most importantly, to hold to account those who are responsible for violating the right to basic education on learners with special needs.

This researcher calls for a more fully “all-inclusive” basic education system that includes OVC and children with disabilities. The current education policies seem sound enough on paper, but lack substance in practical application. This has been exposed in this research, in which even in a democratic South Africa (in which the expectation is for the government to do much better than it has been doing), children in the Eastern Cape province still have to be exposed to pit latrines and classes in a dilapidated state with mud and asbestos.

The discrimination towards OVCs is a concern. Ndayi (2020) exposes widespread discrimination which includes children from minority and racially discriminated groups. This researcher recommends that a much more active stance be taken to advocate for children's rights in South Africa, for example, 16 Days of Activism on children's rights, with awareness in the rural communities as a focus. This recommendation is not conclusive in nature, but a starting point that when adopted can lead to follow-up actions resulting from the dialogue.

6.4 Concluding thoughts

The research found that OVCs do not usually experience benefits of access to education for all in the Eastern Cape. They experience what this researcher terms “silent exclusion” whereby, the needs of OVC are highly publicised but not often implemented effectively in particularly rural communities. In 2009, UNICEF stated that for vulnerable

children to reap the full benefits of what a good education has to offer, they had to be more than merely present at schools (UNICEF, 2009). Consequently, access to education for OVC should not be a theoretical concept. Rather they need to be present, to feel safe to contribute, and to be recognised in schools.

The barriers to education for children with disabilities are extreme in the Eastern Cape province. This research has revealed that, actually, psychosocial needs should not be undermined as they are as important as financial and material needs because in the context of OVC many children come from broken families, involving abuse and discrimination from the local community. There are few special needs schools in the Eastern Cape province, and most of them are located in urban areas. Moreover, there are a limited number of resources for special needs schools, and this also applies to the availability of experts who are trained to assist children with special needs. Such schools require well-trained practitioners, including, social workers, occupational therapists, physiotherapists, audiologists, and educational psychologists among others. Due to several factors including worker migration and poor working infrastructure, there are not enough experts to support children with special needs.

The challenges of OVC can only be addressed using a multi-sectoral approach because some of these challenges are insufficiently addressed due to a general lack of children's rights awareness across multiple sectors. For example, child nutrition, HIV/AIDS care, child protection, community engagement[215] and basic education funding. Children with disabilities, from orphanages and with HIV/AIDS are the common targets of discrimination and bullying.

The research findings unequivocally conclude that support from communities and local and international NGOs has helped to initiate programmes and projects to address the needs of vulnerable children. As noted previously, it is proven that strong social support networks provided by relatives, community members, NGOs are critical to alleviating adverse influences on OVC (Naidoo & Muthukrishna, 2016). This contribution has been significant throughout the research and evidence in the form of projects; involving,

[215] This is important as some of the challenges have to be addressed from the grass root level; whereby, communities are educated and have an open dialogue (in their local languages) on the importance of children rights as stipulated in the Constitution of South Africa and the Convention on the Rights of the Child.

student nutrition, construction of computer labs and provision of e-learning equipment, remedial learning, provision of school uniforms and stationery and distribution of sanitary pads for girls.

The research has shown that there is no lack of policy framework in areas relating to OVC and access to basic education, but rather, the major challenge has been the lack of accountability in the practical implementation of the policy. This issue has been reflected in the CRC report on South Africa, which states:

> *(a) To incorporate a child rights approach into the State budgeting process, for example by implementing a tracking system for the allocation and use of resources for children and undertaking assessments of the budget needs of children to ensure the sufficient and equitable allocation of resources for promoting and protecting children's rights in all provinces and for the social and child protection sectors;*
> *(b) To eradicate corruption and ensure a transparent, accountable and participatory budgeting process (CRC, 2021)*

The comments presented above support the findings of the research in which participants highlighted issues of management, the money is either lost through corruption or is not invested to promote access to education for all children. The domestication process of the CRC has faced several challenges in the Eastern Cape province. This view was presented by the Committee on the Rights of the Child on issues of concern in South Africa:

> *(a) To fully incorporate the provisions of the Convention into the domestic legal system, including in national legislation, through such acts as the Children's Amendment Bill;*
> *(b) To conduct an assessment of the extent to which national legislation and practices comply with the Convention (CRC, 2021)*

The comments expressed by the Committee on the Rights of the Child above summarise some of the areas of concern related to the domestication of the CRC. Firstly, the research findings reflect that interaction with the state is more focused on administrative processes and there is less focus on training and awareness of the CRC. As a result, some teachers and education practitioners interact with children, sometimes without a full understanding of the rights of the child themselves, which becomes more problematic when needing to make children aware of their rights in a manner that is easy for children to internalise. In an effort to mitigate against this challenge, an increase in play-based approaches to education is occurring, in which children are made aware of their rights through a continuous, interactive learning environment. Examples from *Play Africa and Learning*, *Bethany Care* and *Hope Warriors* have illustrated the success of this initiative. Secondly, in relation to language barriers, there are few multi-lingual

experts on the ground, especially in rural communities to train and communicate with local communities on the CRC.

6.5 Further research

The research participants reiterated that more data is required to establish the extent of the challenges faced by children with special needs in the Eastern Cape province. There is a lot of data that is inaccessible at the present moment in this regard due to a lack of research in this area. Updated records are needed on the exact number of special needs schools available in the province and their geographical positioning to understand the differences between a rural and urban representation.

An analysis of the implementation of other relevant treaties, such as the CRPD will provide a clearer analysis of the relationship between the treaty itself and domestic policy on children with special needs. Also, such research will help to articulate the extent to which such treaties are enforced at the local level. It is an unfortunate scenario that often treaties are ratified and at the domestic level, there is no education, understanding, awareness and implementation of such important treaties; among government officials, NGOs, teachers and within the local communities. Further research should help analyse whether treaty ratification is now used as a political instrument or tool, as opposed to actually addressing human rights violations.

In conclusion, specific research on African treaties such as the ACRWC with respect to children's rights will be highly beneficial, as it will reflect on the challenges and progress made towards promoting children’s rights. African perspectives will be crucial to reflect on the progress made towards the realisation of the Children’s Act of South Africa on the extent of sexual abuse on children, teenage pregnancies, child marriages and the impact of harmful African cultural practices on the rights of the child.

List of References

Abdulai, A.G. 2009. Political will in combating corruption in developing and transition economies: A comparative study of Singapore, Hong Kong and Ghana. *Journal of Financial Crime,* 16(4): 387 - 417.

Abrahams, K. & Matthews, T. 2011. Child rights manual: Handbook for parliamentarians. Cape Town: Parliament of the Republic of South Africa.

Abrahamson, E. 2000. Change without pain. *Howard Business Reviews*, 78(4): 75 - 79.

ACERWC. 2013. South Africa's Initial Country Report on the African Charter on the Rights and Welfare of the Child. [Online]. Available: https://www.gov.za/sites/default/files/gcis_document/201704/sa-second-country-report-african-committee-acrwc-19-dec-2016.pdf [Accessed 12 January 2022].

ACERWC. 2016. South Africa's second Country Report on the African Committee of Experts on the Rights and Welfare of the Child on the African Charter on the Rights and Welfare of the Child. [Online]. Available: https://www.gov.za/sites/default/files/gcis_document/201704/sa-second-country-report-african-committee-acrwc-19-dec-2016.pdf [Accessed 19 January 2022].

ACERWC. 2022. Report of the African Committee of Experts on the Rights and Welfare of the Child. [Online]. Available: https://www.acerwc.africa/sites/default/files/2022-10/ [Accessed 26 December 2022].

ACERWC. 2022. Concluding recommendations by the African Committee of Experts on the Rights and Welfare of the Child (ACERWC) on the Republic of South Africa Report on the status of implementation of the African Charter on the Rights and Welfare of the Child. [Online]. Available: https://www.acerwc.africa/sites/default/files/2022-06/South-Africa-concluding-Observations.pdf [Accessed 10 January 2022].

ACERWC. 2022. List of countries with have signed, ratified/acceded to the African Charter on the Rights and Welfare of the Child. [Online]. Available: https://www.achpr.org/ratificationtable?id=46 [Accessed 7 July 2022].

Achilihu, S. N. 2010. Do African children have rights? A comparative and legal analysis of the United Nations Convention on the Rights of the Child. Florida: Universal Publishers.

ACPF. 2011. In the best interests of the child: Harmonising laws on children in West and Central Africa Addis Ababa. Addis Ababa: The African Child Policy Forum.

ACRWC. 1990. African Charter on the Rights and Welfare of the Child. [Online]. Available: https://au.int/sites/default/files/treaties/36804-treaty-african_charter_on_rights_welfare_of_the_child.pdf [Accessed 27 April 2021].

ACRWC. 2019. List of countries which have signed, ratified/acceded to the African Charter on the Rights and Welfare of the Child. [Online]. Available: https://au.int/en/treaties/african-charter-rights-and-welfare-child [Accessed 27 April 2021].

Action Aid . 2007. Education in Africa: Responding to a human rights violation. [Online]. Available: https://www.actionaid.org.uk/wps/content/documents/educationinafrica_2003.pdf [Accessed 23 October 2021].

Adato, M. & Bassett, L. 2012. Social protection and cash transfers to strengthen families affected by HIV and AIDS. *International Food Policy Research Institute*. [Online]. Available: https://econpapers.repec.org/bookchap/fprifprib/adato.htm [Accessed 20 May 2020].

Adegbola, R.E. 2007. Children's rights in Africa: An appraisal of the African Committee of Experts on the Rights and Welfare of the Child. Pretoria: University of Pretoria.

Adjiwanou, V., Boco, A. & Yaya, S. 2021. Stepfather families and children's schooling

in sub-Saharan Africa: A cross-national study. *Demographic Research*, 44(27): 627 - 670.

Adu-Gyamfi, J. & Keating, F. 2013. Convergence and divergence between the UN Convention on the Rights of the Children and the African Charter on the Rights and Welfare of the Child. *Sacha Journal of Human Rights*, 3(1): 47- 58.

Airhihenbuwa, C., Okoror, T., Shefer, T., Brown, D., Iwelunmor, J., Smith, E., Adam, M., Simbayi, L., Zungu, N., Dlakulu, R. & Shisana, O. 2009. Stigma, culture, and HIV and AIDS in the Western Cape, South Africa: An application of the PEN-3 Cultural Model for community-based research. *The Journal of Black Psychology*, 35(4): 407 – 432.

Airhihenbuwa, C.O. & Webster, J.D. 2004. Culture and African contexts of HIV/AIDS prevention, care and support. *Journal of Social Aspects of HIV/AIDS Research Alliance*, 1(1): 4 - 13.

African Development Bank. 2000. Policy on population and strategies for implementation. [Online]. Available: https://www.afdb.org/en/documents/document/policy-on-population-and-strategies-for-implementation-11344 [Accessed 10 September 2021].

African Union. 2022. Second Continental Report on the Implementation of Agenda 2063. [Online]. Available: https://au.int/en/documents/20220210/second-continental-report-implementation-agenda-2063 [Accessed 18 June 2022].

Aidoo, A. 1993. Africa: Democracy without human rights? *Human Rights Quarterly*, 15: (2): 703 - 715.

AIDS Foundation. 2012. Culture and health programme, initiation schools: Baseline report. [Online]. Available: https://www.aids.org.za/wp-content/uploads/2018/02/Culture-Health-Programme-final-report.pdf [Accessed 19 June 2021].

Aikman, S. & Unterhalter, E. 2005. Beyond access: Transforming policy and practice for gender equality in education. Oxford: Oxfam GB.

Ajaegbu, O. 2010. Orphans and vulnerable children in Nigeria. Boston University, Centre for Global Health and Development in collaboration with University of Nairobi Institute for development studies, Kenya Research Institutional Analysis on orphans and vulnerable children.

Ali, S. 2006. Why does policy fail? Understanding the problems of policy implementation in Pakistan. A neurocognitive perspective. [Online]. Available: http://ecommons.aku.edu/pakistan_ied_pdck/10 [Accessed 31 July 2021].

Alikor, O. 2014. A critical analysis of the Universal Basic Education Policy in Nigeria: Consequences of the extent of the implementation of free and compulsory education. Bloemfontein. University of Free State.

Allemano, E. 2003. HIV/AIDS: A threat to educational quality in Sub-Saharan Africa: Analytical framework and implication for policy development. Paris: ADEA.

Alston, P., Goodman, R. & Steiner, H.J. 2013. International human rights: Text and materials. Oxford: University Press.

Amnesty International. 2020. Broken and unequal: The state of education in South Africa. London: Amnesty International Ltd.

Amor, A. M., Hagiwara, M. K., Shogren, A., Thompson, J.R., Verdugo, M.A., Burke, K.M. & Aguayo, V. 2018. International perspectives and trends in research on inclusive education: A systematic review. *International Journal of Inclusive Education*, 23(12): 1277 - 1295.

Amury, Z. & Komba, A. 2010. Coping strategies used by street children in the event of illness. Research report. Policy Research for Development. Dar es Salaam: REPOA.

Anangisye, A. L. 2011. Bottlenecks in the access to primary education in Tanzania:

The struggles of vulnerable school children in Makete District. *Korean Journal of Education Planning*, 8(2): 323 - 334.

Anangisye, W.A.L. 2011. Promoting teacher ethics in colleges of teacher education in Tanzania: Practices and challenges. *African Journal of Teacher Education*, 1(1):64 - 77.

Ankut, P. 2007. The African Charter on the rights and welfare of the child: Linking principle with practice. Dakar-Fann: Open Society Initiative of West Africa.

Anokye, B. 2004. Participation in basic education: A study of community participation in primary schools in the Ga District of Ghana. Bergen. University of Bergen.

Archampong, E.A. 2001. The impact of child labour laws in Ghana: A critical assessment. Kingston: Queen's University.

Ardington, C. & Leibrandt, M. 2010. Orphanhood and schooling in South Africa: Trends in the vulnerability of orphans between 1993 and 2005. *Economic Development and Cultural Change*, 58(3): 507 - 536.

Ardington, C. 2008. Orphanhood and schooling in South Africa: Trends in the vulnerability of orphans between 1993 and 2005. SALDRU. Cape Town: University of Cape Town.

Arendse, L. 2011. The obligation to provide free basic education in South Africa: An International Law perspective. *PER*, 14(6):96 - 120.

Aspeling, H.E. 2006. Factors associated with adherence to antiretroviral therapy for the treatment of HIV infected women attending an urban private health care facility. Pretoria: University of Pretoria.

Atkinson, R. & Flint, J. 2001. Accessing hidden and hard to reach populations: Snowball research strategies. *Social Research Update*, 33(1):6 - 14.

Atmore, E. 2019. An Interpretive analysis of the Early Childhood Development Policy trajectory in post-apartheid South Africa. Stellenbosch: Stellenbosch University.

Azeh, E.G. 2015. *Fundamentals of research methodology: A holistic guide for research completion, management, validation and ethics*. New York: Nova Science Publishers Inc.

Babbie, E. & Mouton, J. 2003. *The practice of social research*. Oxford: Oxford University Press.

Babbie, E. 2010. *The practice of social research*. California: Wadsworth Publishing.

Baciu, A., Negussie, Y., Geller, A. & Weinstein, J.N. 2017. Communities in action: Pathways to health equity. Committee on Community-Based Solutions to promote Health Equity. Washington: National Academies Press.

Balescut, J. & Eklindh, K. 2005. Literacy and persons with developmental disabilities: Why and how, paper commissioned for the *EFA Global Monitoring Report 2006, Literacy for Life*. [Online]. Available: https://unesdoc.unesco.org/ark:/48223/pf0000145940 [Accessed 13 February 2022].

Ball, S. 1990. *Politics and policy-making in education*. London: Routledge.

Ball, S.J. 1994. *Education reform: A critical and post-structural approach*. Buckingham: Open University Press.

Banda, M. 2022. Early Childhood Development moves from social development to education, but concerns remain. Daily Maverick. [Online]. Available: https://www.dailymaverick.co.za/article/2022-03-29-early-childhood-development-moves-from-social-development-to-education-but-concerns-remain/ [Accessed 10 April 2022].

Barbaro, G. 2006. Defining realities: Why community consultation needs to start with the problem, not the solution. *Journal of Communication Management*, 10(1): 44 - 54.

Barrow, J.M., Brannan, G.D. & Khandhar, P.B. 2022. Research Ethics. StatPearls.

Barron, P., Subedar, H., Letsoko, M., Makua, M. & Pillay, Y. 2022. Teenage births and pregnancies in South Africa, 2017–2021—A reflection of a troubled country: Analysis of public sector data. *SAMJ*, 112(2): 252–258.

Baten, J., de Haas, M., Kempter, E. & Meier zu Selhausen, F. 2020. Educational gender inequality in sub-Saharan Africa: A long-term perspective. African Economic History. Working Paper Series No. 54.

Bayeni, S.D. & Bhengu, T.T. 2018. Complexities and contradictions in policy implementation: Lived experiences of three school principals in South Africa. Pretoria: SAGE Open.

Beardsley, E.L. 2017. *Privacy: Autonomy and selective disclosure in privacy and personality*. New York: Routledge.

Beaubien, J. 2018. The country with the world's worst inequality is …. NPR. [Online]. Available: https://www.npr.org/sections/goatsandsoda/2018/04/02/598864666/the-country-with-the-worlds-worst-inequality-is [Accessed 16 May 2021].

Bebbington, A., Hickey, S. & Mitlin, D. 2008. Introduction: Can NGOs make a difference? The challenge of development alternatives. London: Zed.

Beel, B.L. 2008. Trends of rape in Mthatha area, Eastern Cape, South Africa. *South African Family Practice*, 50(1):1 -3.

Beiter, K.D. 2006. The protection of the right to education by international law Martinus. Leiden: Nijhoff Publishers.

Bekink, B. 2006. Principles of South African constitutional law. Pretoria: Lexis Nexis.

Bellamy, A.J. 2003. Humanitarian intervention and the three traditions. *Global Society*,

17(1):3 - 20.

Bengtsson, M. 2016. How to plan and perform a qualitative study using content analysis. *NursingPlus Open*, 2(2016): 8 – 14.

Bennett, J. 1994. Educating young children: A broader vision. [Online]. Available: https://citeseerx.ist.psu.edu/viewdoc/download?doi=10.1.1.532.9619&rep=rep1&type=pdf [Accessed 2 January 2022].

Berg, B. L. 2012. *Qualitative research methods for the social sciences*, 8th ed. Boston, MA: Allyn and Bacon.

Biemba, G., Henry, E., Lucas, M.F.S., Miller, C., Reves, L.A.G., Rizal, A., Simon, J., Stone, J. & Teles, N. 2012. The well-being of OVC and their households in four districts of Mozambique. Washington: USAID.

Birdthistle, I., Tanton, C., Tomita, A., de Graaf., K., Schaffint, S.B. & Tanser, F. 2019. Recent levels and trends in HIV incidence rates among adolescent girls and young women in ten high - prevalence African countries: A systematic review and meta-analysis. *The Lancet. Global health,* 7(11): 1521 - 1540.

Björnsdóttir, Þ. 2011. Children are agents of change*: Participation of children in Ghana.* Doctoral dissertation. University of Iceland.

Blaike, N. 2010. *Designing social research*, 2nd ed. Cambridge: Polity Press.

Bless, C. & Higson-Smith, C. 2000. Fundamentals of social research: An African perspective. Cape Town: Juta & Co.

Bless, C., Higson-Smith, C. & Kagee, C. 2006. *Fundamentals of social research methods: An African Perspective*. Cape Town: Juta & Co.

Bogdan, R. & Biklen, K. 2007. *Qualitative research for education: An introduction to theories and methods*, 5th ed. New York: Pearson Education, Inc.

Boler, T. & Carroll, K. 2003. Addressing the educational needs of orphans and vulnerable children. Pretoria: Save the Children.

Boote, D.N. & Belle, P. 2005. Scholars before researchers: On the centrality of the dissertation literature review in research preparation. *Educational Researcher*, 34(6): 3 - 15.

Braun, V. & Clarke, V. 2013. *Successful qualitative research: A practical guide for beginners*. London: Sage.

Bridgman, G. 2020. Orphans and stunted growth: Investigating the potential of spatial network effects in service delivery for reducing stunting in orphans. WIDER Working Paper 2020/154. Helsinki: UNU-WIDER.

Bringmann, L.F., Elmber, T. & Eronen, M.I. 2022. Back to basics: The importance of conceptual clarification in psychological science. *Current Directions in Psychological Science*, 31(4): 340 – 346.

Brink, H., Van der Walt, C. & Van Rensburg, G. 2012. *Fundamentals of research methodology for health care professionals*. Cape Town: Juta & Co. Ltd.

Brinkmann, S. & Kvale, S. 2015. *Interviews learning the craft of qualitative research interviewing*. Thousand Oaks: Sage Publications, Inc.

Brophy, M. 2020. The Role of NGOs in Supporting Education in Africa. *Journal of International and Comparative Education*, 9(1): 45 – 56.

Brown, D., Riley, L., Butchart, A., Meddings, R., Kann, L. & Harvey, A. 2009. Exposure to physical and sexual violence and adverse health behaviours in African children: results from the Global School-based Student Health Survey. *Bulletin of the World Health Organisation*, 87(4): 447 - 455.

Brown, L., Michaelis, A., Sapiano, T.N. & Weiss, E. 2010. Improving the lives of

vulnerable children: Implications of horizons Research among orphans and other children affected by AIDS. *Public Health Rep*, 125(2): 325 - 336.

Brownlie, I .1995. *Principles of public international law*, 4th ed. Oxford: Clarendon Press.

Branson, N., Ardington, C. & Leibbrandt, M. 2015. Health outcomes of children born to teen mothers in Cape Town, South Africa. *Econ Dev Cult Change*, 63(3): 589-616.

Bryman, A. 2004. *Social research methods*. Oxford: Oxford University Press.

Bryman, A. 2012. *Social research methods*. New York, NY: Oxford University Press.

Brynand, P.A. 2005. Policy implementation: Lessons for service delivery. African Association for Public Administration and Management. [Online]. Available: http://unpan1.un.org/intradoc/groups/public/documents/AAPAM/UNPAN025756.pdf [Accessed 1 July 2021].

Buck, T. 2014. *International Child Law, 3rd* ed. New York: Routledge.

Buergenthal, T., Dinah, S. & Stewart, D.P. 2002. *International human rights in a nutshell*, 3rd ed. Minnesota: West Publishers.

Bukenya, J. A. 2014. A comparison between South Africa and Uganda, in respect of child labour as a hindrance to the right to education. Hatfield: University of Pretoria

Bulmer, E. 2017. What is a constitution? Principles and concepts: International IDEA Constitution-Building Primer 1. [Online]. Available: https://www.idea.int/sites/default/files/publications/what-is-a-constitution-primer.pdf [Accessed 18 January 2022].

Bundy, D. 2002. Education and HIV/AIDS: Ensuring education access for orphans and vulnerable children: World Bank/UNICEF. [Online]. Available: https://healtheducationresources.unesco.org/sites/default/files/resources/OVC_Trainin

g_Manual_English.pdf [Accessed 30 January 2022].

Bundy, D., Burbano, C., Grosh, M., Jukes, M. & Drake, L. 2009. Rethinking school feeding. Washington, DC: World Bank/ World Food Program.

Burns, N. & Grove, S.K. 2003. *Understanding nursing research*, 3rd ed. Philadelphia: Saunders.

Byenkya, T., Oti, S. & Pillay, S. 2008. Southern African Catholic Bishop's Conference OVC Projects: A Case Study. Johannesburg: Khulisa Management Services.

Byrnes, A. & Jane, C. 2017. Enforcing the human rights of women: A Complaints procedure for the women's convention? *Brooklyn Journal of International Law*, 21(3): 682 - 784.

Callaghan, J. E. M., Alexander, J. H., Sixsmith, J. & Fellin, L.C. 2015. Beyond "witnessing": Children's experiences of coercive control in domestic violence and abuse. *Journal of Interpersonal Violence*, 33(10): 1551-1581.

Campbell, T. 2003. Poverty as a violation of human rights: Inhumanity or injustice? Centre for Applied Philosophy and Public Ethics. [Online]. Available: https://apo.org.au/sites/default/files/resource-files/2003-07/apo-nid8032.pdf [Accessed 23 January 2022].

Cardona, O. D. 2003. *The need for rethinking the concept of vulnerability and risk from a holistic perspective: A necessary review and criticism for effective risk management.* London, UK: Earthscan.

Carlsson, J. 2020. Children's rights in international social work: A critical analysis of a campaign by UNICEF. Linköping: Linköping University.

Carraro, A. & Ferrone, L. 2020. Measurement of multidimensional child poverty. In Leal Filho, W., Azul, A., Brandli, L., Lange Salvia, A., Özuyar P. & Wall T. (eds.) No poverty. Encyclopedia of the UN Sustainable Development Goals. New York:

Springer.

Carrillo, R. 2002. Overview of international human rights standards and other agreements. *International Journal of Gynaecology and Obstetrics*, 78(1): 15 - 20.

Case, A., Paxson, C., Ableidinger, J., Monasch, R. & Boerma, J. T. 2004. Orphans in Africa: Parental death, poverty, and school enrollment. *Demography*, 41(3):483 - 508.

Casely-Hayford, L. & Hartwell, A. 2010. Reaching the underserved with complementary education: Lessons from Ghana's state and non-state sectors. *Development in Practice*, 20(4): 527 - 539.

Centre for Child Law v Government of the Eastern Cape Province Eastern Cape High Court, Bhisho, case no. 504/10.

Centre for Child Law v Minister of Basic Education (1749/2012) [2012] ZAECGHC.

Chapman, J., Nascimento, N. & Parker, L. 2014. Measure evaluation orphans and vulnerable children survey tools: Psychological Well-being Measurement Supplement. Measure Evaluation.

Chartier, M. 2002. HIV/AIDS and human rights. ILO Programme on HIV/AIDS and the world of work Geneva, Working paper 3. Geneva: ILO.

CHE. 2007. Community engagement is higher education. Proceedings of the community engagement in higher education conference, 3 - 5 September 2006. Bantry Bay.

Churr, C. 2015. Realization of a child's right to a basic education in the South African school system: Some lessons from Germany. *PER*, 18(7): 2404 - 2543.

Chenwi, L. 2010. South Africa: State of State Reporting Under International Human Rights Law. *ESC Review*, 11(2): 88 – 109.

Chereni, A. & Mahati, S. 2013. South Africa's response to orphans and vulnerable children. Workshop on OVC in South Africa, July 2013. Pretoria. University of Pretoria.

Chhikara, P., Jakhar, J., Malik, A., Singla, K. & Dhattarwal, S.K. 2013. Domestic violence: The dark truth of our society. Review Research Paper. *Journal of Indian Academy Forensic Medicine*, 35(1):71-75.

Childline SA. 2022. Orphans and vulnerable children. [Online]. Available: https://www.childlinesa.org.za/about/how-we-help/orphans-vulnerable-children/ [Accessed 15 May 2022].

Chirowamhangu, R.F. 2016. The changing role of non-state actors 'relations in post-apartheid South Africa: A case study of two Eastern Cape non-governmental organisations. Thesis. University of Fort Hare.

Chirowamhangu, R.F. 2022. Political cannibalism: The state of basic education in the Eastern Cape province. [Online]. Available: https://upjournals.up.ac.za/index.php/alternate_horizons/article/view/4140 [Accessed 20 November 2022].

Chander, P., Kvalsvig, J., Mellins, C. A., Kauchali, S., Arpadi, S. M., Taylor, M., Knox, J. R. & Davidson, L. L. 2017. Intimate partner violence and child behavioral problems in South Africa. *Pediatrics*, 139(3): 1 – 9.

Chirwa, D.M. 2002. The merits and demerits of the African Charter. *International Journal on Children's Rights*,10(1): 157-177.

Chirwa, W.C. 2002. Social exclusion and inclusion: Challenges to orphan care in Malawi. *Nordic Journal of African Studies*, 11(1): 93 - 113.

Chong, S. & Ho, P. 2009. Quality teaching and learning: A quality assurance framework for initial teacher preparation programmes. *International Journal of Management in Education,* 3(4): 302 - 313.

Christie, J. F. & Roskos, K. A. 2006. Standards, science, and the role of play in early literacy education. In Singer, D.G., Golinkoff, R.M. & Hirsh-Pasek, K. (eds). *Play = learning: How play motivates and enhances children's cognitive and social-emotional growth.* Oxford: Oxford University Press.

Chukwuemeka, E.E.O. & Ikechukwu, U.B. 2013. The obstacles to effective policy implementation by the public bureaucracy in developing nations: The case of Nigeria. *Singaporean Journal of Business Economics and Management*, 1(8): 34 - 43.

Chürr, C. 2015. Realisation of a child's right to basic education in the South African school system: Some lessons from Germany. *PER*, 18 (7): 2405 - 2453.

Clark, C. R. 2007. Understanding vulnerability: From categories to experiences of young Congolese people in Uganda. *Children & Society*, 21(4): 284 - 296.

Cohen, J., Epstein, H. & Tate, T. 2005. *Letting Them Fail: Government Neglect and the Right to Education for Children Affected by AIDS*. Human Rights Watch. [Online]. Available: https://www.hrw.org/reports/2005/africa1005/africa1005.pdf [Accessed 29 July 2021].

Colclough, C. & Lewin, K. 1993. *Education all the children: Strategies for primary schooling in the South*. Oxford: Clarendon Paperbacks.

Collis, J. & Hussey, R. 2009. *Business research: A practical guide for undergraduate & postgraduate students*. Basingstoke: Palgrave Macmillan.

Commission for Gender Equality. 2021. Illegal initiation schools in South Africa: Assessing risks to boys and young men. Commission for Gender Equality. Pretoria

Cooke, E., Hague, S. & McKay, A. 2016. The Ghana poverty and inequality report: Using the 6th Ghana living standards survey. Sussex: University of Sussex.

Coomans, F. 1995. Clarifying the core elements of the right to education in the right to complain about economic, social and cultural rights. The Right to Complain about

Economic, Social and Cultural Rights. SIM Utrecht.

Coomans, F. 2002. In search of the core content of the right to education. *Intersentia Antwerp*: 217- 246.

Coomans, F. 2007. Content and Scope of the Right to Education as a Human Right and Obstacles to its Realization. In Donders, Y & Volodin, V. (eds) *Human Rights in Education, Science and Culture: Legal Developments and Challenges*. Aldershot: Ashgate Publishing.

Courtis, C. & Tobin, J. 2019. Article 28: the Right to Education. In Tobin, J. (ed) *The UN Convention on the Rights of the Child: A Commentary*. Oxford: Oxford University Press.

Corruption Watch. 2013. Eastern Cape school transport deal hits the skids. [Online]. Available: http://www.corruptionwatch.org.za/eastern-cape-school-transport-deal-hits-the-skids [Accessed 20 April 2022].

CRC, 1990. Convention on the Rights of the Child. Adopted and opened for signature, ratification and accession by General Assembly resolution. Office of the United Nations High Commissioner for Human Rights. [Online]. Available: http://www2.ohchr.org/english/law/crc.htm [Accessed 22 December 2021].

CRC. 1989. UN General Assembly, Convention on the Rights of the Child, *United Nations, Treaty Series*, 1577(3). [Online]. Available: http://www.refworld.org/docid/3ae6b38f0.html [Accessed 10 July 2021].

CRC. 2003. Committee on the rights of the child. General measures of implementation of the Convention on the Rights of the Child. [Online]. Available: https://www.chr.up.ac.za/images/researchunits/cru/files/uncrc_general_comments/General-Comment-No-5-of-the-CRC-Committee.pdf [Accessed 15 October 2021].

CRC. 2013. Committee on the Rights of the Child: Consideration of reports submitted by States parties under article 44 of the Convention. United Nations.

CRC. 2016. Committee on the Rights of the Child Concluding observations on the second periodic report of South Africa. United Nations.

CRC. 2021. Committee on the Rights of the Child: List of issues prior to submission of the combined third to sixth periodic reports of South Africa. United Nations.

CRPD. 2006. International Convention on the Rights of Persons with Disabilities. Geneva: United Nations.

Creswell, J. 2014. *Research design: Qualitative, quantitative, and mixed methods approaches*, 4th ed. Thousand Oaks, CA: Sage.

Creswell, J. W. 2008. *Educational research: Planning, conducting, and evaluating quantitative and qualitative research*, 3rd ed. Upper Saddle River, NJ: Pearson Education Inc.

Creswell, J.W. & Tashakkori, A. 2007. Developing publishable mixed methods manuscripts . *Journal of Mixed Methods Research*, 1(1): 107 - 111.

Creswell, J.W. 2007. *First steps in research*. Pretoria: Van Schaik.

Creswell, J.W. 2009. *Research design: Qualitative, quantitative, and mixed methods approaches*, 3rd ed. Los Angeles: SAGE.

Creswell, J.W. 2013. *Research design: Qualitative, quantitative, and mixed methods approaches*, 4th ed. London: SAGE Publications, Inc.

Creswell, J.W. 2014. *Research design: Qualitative, quantitative and mixed methods approach*. London: Sage Publications Inc.

Cristobal-Fransi, E., Montegut-Salla, Y., Ferrer-Rosell, B. & Daries, N. 2020. Rural cooperatives in the digital age: An analysis of the internet presence and degree of maturity of agri-food cooperatives' commerce. *Journal of Rural Studies*, 74(1): 55 - 66.

Cuotula, L. & Vidar, M. 2002. The right to adequate food in emergencies. Geneva: United Nations/FAO.

Daniels, B. 2010. Developing inclusive policy and practice in diverse contexts: A South African experience. *School Psychology International*, 31(6): 631-643.

Damba-Hendrik, N. 2020. Eastern Cape learners walk more than 30 km to a school without teachers for them. [Online]. Available: https://www.groundup.org.za/article/eastern-cape-learners -walk-more- 20km-school-where-there-are-no-teachers-them/ [Accessed 10 January 2022].

Dalton, E. M., Mckenzie, J. A. & Kahonde, C. 2012. The implementation of inclusive education in South Africa: Reflections arising from a workshop for teachers and therapists to introduce universal design for learning. *African Journal of Disability*, 1(1):13 - 15.

David, H. 2002. Law of states, law of peoples: Three models of sovereignty. legal theory. London: Centre for the Study of Global Governance.

Davis, B.G. 2009. *Tools for teaching*. California: John Wiley & Sons.

Dawes, A., van der Merwe, A. & Brandt, R. 2007. A monitoring dilemma: Orphans and learners made vulnerable by HIV/AIDS. Pretoria: HSRC.

Deghaye, N. 2021. Disability support and accessibility in ordinary schools in South Africa. Stellenbosch Economic Working Papers: WP05/2021. Research on Socio-Economic Policy.

Department of Basic Education. 2018. Education statistics in South Africa 2016 Department of Basic Education. [Online].Available:https://www.education.gov.za/Programmes/EMIS/StatisticalPublications.aspx [Accessed 30 May 2021].

Department of Basic Education. 2010. National Policy for an Equitable Provision of an Enabling School Physical Teaching and Learning Environment.GN 515/2010.

Department of Social Development. 2022. Social Development host Teenage Pregnancy Round Table Discussion in Lusikisiki, Eastern Cape. [Online]. Available: https://www.gov.za/speeches/social-development-host-teenage-pregnancy-round-table-discussion-lusikisiki-eastern-cape-24 [Accessed 22 December 2022].

de Bruin Cardoso, I. 2010. National Plan of Action for Orphans and Vulnerable Children. Establishing, reviewing and implementing National Plans of Action for Orphans and Vulnerable Children in Southern and East Africa: Lessons learnt and challenges. London: Save the Children.

De Schutter, O. 2014. *International human rights law*. Cambridge: Cambridge University Press.

De Silva-de-Alwis, R. 2008. *Child marriage and the law*. New York: UNICEF.

De Vos, A.S., Strydom, H., Fouché, C.B. & Delport, C.S.L. 2011. Building a scientific base for the helping professions. In De Vos A.S., Strydom, H., Fouché C.B. & Delport C.S.L. *Research at the grass roots for the social sciences and human service professions*, 4th ed. Pretoria: JL Van Schaik Publishers.

Deininger, K., Garcia, M. & Subbarao, K. 2001. AIDS induced orphanhood as a systemic shock: Magnitude, impact, and program interventions in Africa. International Food Policy Research Institute, and the Inter-American Development Bank, November 13 – 14, Washington, D. C.

Dekkers, H. & Claassen, A. 2001. Dropouts disadvantaged by definition? A study of the perspective of early school leavers. *Studies in Educational Evaluation*, 27(1): 341-354.

Deneulin, S. & Shahani, L. 2010. An introduction to the human development and capability approach: Freedom and agency. Earthscan International Development

Centre: Ontario.

Denscombe, M. 2012. *Research proposals: A practical guide*. London: McGraw Hill.

Denzin, K. & Lincoln, S. 1994. *Handbook of quantitative research*. London: Sage Publications.

Denzin, N. K. & Lincoln Y. S. 2003. *Collecting and interpreting qualitative materials*. Thousand Oaks, CA: Sage.

Department of Basic Education & MIET Africa. 2015.This addendum to the conceptual framework. Durban: MIET Africa.

Department of Basic Education. 2012. *Annual Report 2011/2012*. Pretoria: Department of Basic Education.

Department of Basic Education. 2011. Department of Basic Education Report on Dropout and Learner Retention Strategy to Portfolio Committee on Education 2011. [Online]. Available: http://www.education.gov.za/Resources/Reports.aspx [Accessed 20 March 2022].

Department of Basic Education. 2013. Education for All, Country Report: South Africa. Pretoria: Department of Basic Education

Department of Basic Education. 2013. Inclusive Education: Department Briefing. Parliamentary Monitoring Group. [Online]. Available: http://www.pmg.org.za/report/20130226-department-basic-education-inclusive-education-national-education-eva [Accessed 24 September 2021].

Department of Basic Education. 2015. Report on the implementation of Education White Paper 6 on Inclusive Education. An Overview for the Period: 2013 – 2015. Pretoria: Department of Education.

Department of Education & UNICEF. 2008. Implementation guidelines: Safe and

caring child friendly schools in South Africa. Pretoria.

Department of Education. 2008. National strategy on screening, identification, assessment and support. Pretoria: Government Printer.

Department of Education. 2011. Guidelines for responding to learner diversity in the classroom through curriculum and assessment policy statements. Pretoria: Government Printers.

Department of Education. 2015. Education statistics in South Africa 2013. Pretoria: Department of Education.

Department of Social Development. 2005. Policy Framework for Orphans for Orphans and Other Children Made Vulnerable by HIV and AIDS South Africa.

Deters, L. 2008. Orphans and vulnerable children in Ghana a contextual analysis: ECCD stakeholders adapting the safety net. Columbia University.

Detrick, S. 1999. *A commentary on the United Nations Convention on the Rights of the Child.* The Hague: Martin Nijhoff Publishers.

Devas, N., Amis, P., Beall, J., Grant, U., Mitlin, D., Nunan, F. & Rakodi, C. 2004. *Urban governance voice and poverty in the developing world*. London: Routledge.

Devenish, G. 2017. Some thoughts on socioeconomic rights. *Potchefstroom Electronic Law Journal*, 6(2): 43 - 45.

Dixon, S. & Quirke, L. 2018. What's the harm? The coverage of ethics and harm avoidance in research methods textbooks. *Teaching Sociology*, 46(1):12 - 24.

Doctrow, J. 2016. Stigmatization of HIV/AIDS: A Cross-Cultural Analysis. Honors College Capstone Experience. Thesis: Western Kentucky University.

Doek, J. 2006. Child justice trends and concerns with a reflection on South Africa.

Open Society Foundation for South Africa/Child Justice Alliance.

Doek, J. 2007. Harmonisation of laws on children: Some practical guidance. Addis Ababa: African Child Policy Forum.

Domegan, C. & Fleming, D. 2007. *Marketing research in Ireland: Theory and Practice*, 3rd ed. Dublin: Gill McMillan.

Donald, D. & Clacherty, G. 2005. Developmental vulnerabilities and strengths of children living in child-headed households: A comparison with children in adult headed households in equivalent impoverished communities. *African Journal of AIDS Research*, 4(1): 21 - 28.

Donn, G. 2005. The challenge of researching education in Commonwealth Countries. Centre of African Studies. Edinburgh: University of Edinburgh.

Donohue, D.K. & Bornman, J. 2014. The challenges of realising inclusive education in South Africa. *South African Journal of Education;* 34(2): 1 – 14.

Doswald-Beck, L. 2011. *Human rights in times of conflict and terrorism.* Oxford: Oxford University Press.

Downe- Wamboldt, R.N. 2009. Content analysis: Method, applications, and issues. *Health Care for Women International*, 13(3): 313 - 321.

Du Plessis, P. & Mestry, R. 2019. Teachers for rural schools a challenge for South Africa. *South African Journal of Education*, 39(4): 1 - 9.

Du Plessis, S. 2014. Peer tutoring during language code-switching lectures as a teaching strategy in multilingual classes. *SAJE*, 28(4): 1194 - 1215.

Du Plooy-Cilliers, F., Davis, C. & Bezuidenhout, R. 2014. *Research matters*. Cape Town: Juta & company Ltd.

Dube, B. 2020. Rural online learning in the context of COVID-19 in South Africa: Evoking an inclusive education approach. *Multidisciplinary Journal of Educational Research*, 10(2): 135 -157.

Durrheim, K. 2004. Research design. In Blanche, M. & Durrheim, K. (eds.). Research in practice: Applied methods for the social science. Cape Town: University of Cape Town Press.

Dyson, A. 2001. Special needs education as the way to equity: An alternative approach. *Support for Learning*, 16(3):99 - 104.

Eastern Cape Planning Commission. 2014. Eastern Cape Vision 2030 provincial development plan: Flourishing people in a thriving province. Bisho: Republic of South Africa.

Ebersohn, L. & Eloff, I. 2002. The black, white and grey of rainbow children coping with HIV/AIDS. *Perspectives in Education,* 20(2): 77 - 86.

Ebrahim, H.B., Killian, B. & Rule, P. 2011. Practices of early childhood development practitioners for poor and vulnerable children from birth to four years in South Africa. *Early Child Development and Care*, 181(3):387 – 396.

ECDC. 2017. The Eastern Cape socio economic review and outlook. Gqeberha: ECDC.

Egbo, B. 2000. Gender, literacy and life chances in sub - Saharan Africa. Clevodon: Multilingual Matters.

Ehnert, I. 2011. Sustainability and human resource management: A model and suggestions for future research. In A. Wilkinson, A. & Townsend, K. (eds.). *The future of employment relations*. London: Palgrave.

Eide, A. 1989. Realisation of social and economic rights and the minimum threshold approach. *Human Rights Law Journal,* 10(35): 128 - 139.

Ekundayo, O.S. 2015. Does the African Charter on the Rights and Welfare of the Child only underlines and repeats the Convention on the Rights of the Child Provisions? Examining the similarities and differences between the ACRWC and the CRC. *International Journal of Humanities and Social Science*, 5(7): 143 - 158.

Elegbeleye, A.O. 2013. Predictors of the mental health of orphans and vulnerable children in Nigeria*. Ife Psychologia*, 21(2): 170 - 180.

Elo, S. & Kyngäs, H. 2008. The qualitative content analysis. *Journal of Advanced Nursing*, 62(1): 107 - 115.

Eloff, I., Ebersöhn, L. & Viljoen, J. 2007. Conceptualizing vulnerable children by acknowledging their assets. *African Journal of AIDS Research*, *6*(1): 79 - 86.

Engelbrecht, P. 2006. The implementation of inclusive education in South Africa after ten years of democracy. *European Journal of Psychology of Education*, *21*(3): 253 - 264.

Engle, P. 2008. National plans of action for orphans and vulnerable children in sub-Saharan Africa: Where are the youngest children? Working Paper No. 50. The Hague: Bernard van Leer Foundation.

Engle, P.L., Dunkelberg, E. & Issa, S. 2008. ECD and HIV/AIDS: The newest programming and policy challenge. In Garcia, M., Pence, A. & Evans, J. (eds.). *Africa's future, Africa's challenge: Early childhood care and development in Sub-Saharan Africa.* Washington DC: International Bank for Reconstruction and Development/ World Bank.

Equal Education. 2016. Planning to fail: A report on Equal Educations' visit to Eastern Cape province. Cape Town: Equal Education press.

Equal Education. 2018. Media Statement. [Online]. Available: https://equaleducation.org.za/2019/03/27/statement-provincial-school-infrastructure-

reports-reveal-education-departments-cant-properly-plan-meanwhile-the-2018-reports-are-still-owed/ [Accessed 10 January 2022].

Eriksen, S.H., Brown, K. & Kelly, P. 2005. The dynamics of vulnerability: Locating coping strategies in Kenya and Tanzania. *The Geographical Journal*, 171(4): 287 - 305.

FAO. 2021. Urgent action is needed to stop child labour in Africa, as COVID-19 pushes more children into work. [Online]. Available: https://reliefweb.int/report/world/urgent-action-needed-stop-child-labour-africa-covid-19-pushes-more-children-work [Accessed 20 December 2021].

Fairhall, N. & Woods, K. 2021. Children's Views on Children's Rights: A Systematic Literature Review. *The International Journal of Children's Rights*, 29 (1): 835–871.

Feinstein, L., Sabates, R., Anderson, T. M., Sorhaindo, A. & Hammond, C. 2006. What are the effects of education on health? In measuring the effects of education on health and civic engagement: Proceedings of the Copenhagen symposium. France: OECD.

Ferraro, G. 2010. Domestic implementation of international regimes in developing countries: The case of marine fisheries in China. Katholieke Universiteit Leuven.

Flake, J.K. & Fried, E.I. 2020. Measurement schmeasurement: Questionable measurement practices and how to avoid them. *Advances in Methods and Practices in Psychological Science*, 3(4): 456 – 465.

Flekkoy, M.G. 1991. A voice for children: Speaking out as their ombudsman. London: UNICEF/Jessica Kingsley publishers.

Fleming, E.K. 2015. Improving access to education for orphans and vulnerable children affected by HIV/AIDS. Washington, DC: UNESCO.

Fleming, T. 2008. A secure base for adult learning: Attachment theory and adult education. *The Journal of Adult and Community Education in Ireland*, 25(3): 33-53.

Florian, L., Hollenweger, J., Simeonsson, R.J., Wedell, K., Riddell, S., Terzi, L. & Holland, A. 2006. Cross-cultural perspectives on the classification of children with disabilities: Part 1 issues in the classification of children with disabilities. *The Journal of Special Education,* 40(1): 36 - 45.

Flyvberg, B. 2006. Five misunderstandings about case study research. *Qualitative Inquiry*, 12(2): 219 - 245.

Fokala, E.M. 2017. Implementing children's right to participation decision making process in Africa. Turku: Abo Akademi University Press.

Forman, J. & Damschroder, L. 2008. *Qualitative content analysis*. Oxford: Elsevier.

Fottrell, D. 2000. One step forward or two steps sideways? Assessing the first decade of the Children's Convention on the Rights of the Child. In Fottrell, D. (ed.). *Revisiting Children's Rights: 10 Years after the United Nations Convention on the Rights of the Child.* The Hague: Kluwer Law International.

Fowler, F. 2000. Policy studies for educational leaders: An introduction. Miami: University of Ohio.

Fowler, F.C. 2004. *Policy studies for educational leaders: An introduction*, 2nd ed. Upper Saddle River, NJ: Pearson Education, Inc.

Frankel, E., Gold, S. & Ajodhia-Andrews, A. 2010. International preschool inclusion: Bridging the gap between vision and practices. *Young Exceptional Children*, 13(5): 1 - 15.

Fraser, J. 2018. Exploring the Role of Social Institutions in the Effective Implementation of International Human Rights Law. PhD Thesis: Utrecht University.

Gaffney-Rhys, R. 2011. International law as an instrument to combat child marriage. *The International Journal of Human Rights*, 15(3): 359 - 373.

Gall, M., Gall, J. & Borg, R. 2007. *Educational research: An introduction*, 8th ed. New York, NY: Pearson Education.

Gallagher, M. 2009. *Ethics*. London: Sage Publications.

Ganga, E. & Chinyoka, K. 2020. Exploring psychological disorders caused by poverty amongst orphans and vulnerable children living within child headed households. *Journal on Sustainable Development in Africa*, 12(4): 186 - 197.

Garang, Y.J. 2022. The decline of democracy and the rise of coup d'états in Sub-Saharan Africa: Reflections and lessons. *AfricLaw*. [Online]. Available: https://africlaw.com/2022/02/25/the-decline-of-democracy-and-the-rise-of-coup-detats-in-sub-saharan-africa-reflections-and-lessons/ [Accessed 19 June 2022].

Gasson, S. 2003. Subjectivity, context and perceptions of quality in empirical research. College of Information Science and Technology. Philadelphia: Drexel University.

Giandhari, J., Pillay, S., Wilkinson, E., Tegally, H., Sinayskiy, I., Schuld, M., Lourenco, J., Chimukangara, B., Lessells, R., Moosa, Y., Gazy, I., Fish, M., Singh, L., Khanyile, K. S., Fonseca, V., Giovanetti, M., Alcantara, L. C., Petruccione, F. & de Oliveira, T. 2021. Early transmission of SARS-CoV-2 in South Africa: An epidemiological and phylogenetic report. *International Journal of Infectious Diseases*, 103(2021): 234 - 241.

Giese, S., Meintjes, H. & Proudlock, P. 2002. Children's poll: South African child rights survey. Summary Report.

Golafshani, N. 2003. Understanding reliability and validity in qualitative research. *The Qualitative Report*, 8(4): 597 - 606.

Goodman, R. & Pegram, T. 2012. National Human Rights Institutions, state conformity, and social change. In Goodman, R. & Pegram, T. (eds). *Human rights,*

state compliance and social change. Cambridge: Cambridge University Press.

Goonesekere, S. 2007. *Law reform and children's rights in plural legal systems: Some experiences in sub-Saharan Africa*. New York: Cambridge University Press.

Göransson, K. & Nilholm. C. 2014. Conceptual diversities and empirical shortcomings: A critical analysis of research on inclusive education. *European Journal of Special Needs Education*, 29(3): 265 - 280.

Gottfried, M. A. 2010. Evaluating the relationship between student attendance and achievement in urban elementary and middle schools: An instrumental variables approach. *American Educational Research Journal*, 47(2): 434 - 465.

Governing Body of Juma Musjid Primary School v Essa NO 2011 BCLR 761 (CC).

Grainger, C., Webb, D., Elliott, L. 2001. Children affected by HIV/AIDS: Rights and responses in the developing world. Working Paper 23. London: Save the Children.

Gray, D.E. 2014. *Doing research in the real world*. London: Sage Publications Inc.

Greeff, M. 2011. *Information collection: Interviewing*. Pretoria: Van Schaik Publishers.

Greenhalgh, T., Robert, G., MacFarlane, F., Bate, P. & Kyriakidou. 2004. Diffusion of innovations in service organizations: Systematic review and recommendations. *The Milbank Quarterly*, 82(4):581 - 629.

Gregson, S., Nyamukapa, G.P., Garnett, M., Wambe, J.J.C., Lewis, P.R. Mason, S., Chandiwana, K. & Anderson, M. 2005. HIV infection and reproductive health in teenage women orphaned and made vulnerable by AIDS in Zimbabwe. *AIDS Care,* 17(7): 785 - 794.

Guarcello, L., Scott, L., Rosati, F. A. & Valdivia, C.A. 2004. The influence of orphanhood on children's schooling and labour: Evidence from Sub-Saharan Africa. United Nations Understanding Children's Work. Working Paper.

Gubrium, J.F. & Sanker, A. 2005. *Qualitative Research*. Cambridge. Harvard University Press.

Gulaid, L. 2008. National responses for children affected by AIDS: Review of progress and lessons learned. Report of the Inter-Agency Task Team (IATT) on Children and HIV and AIDS, Working Group on National Plans of Action.

Gumede. V. 2013. *Public sector reforms and policy making: A case of education in an emerging developmental South Africa*. Pretoria: HSRC Press.

Hakimi, M. 2010. State bystander responsibility. *European Journal of International Law*, 21(2): 341 - 385.

Hall, K. & Sambu, W. 2017. Demography of South Africa's children. In Jamieson, L., Berry, L. & Lake, L. (eds.) *South African Child Gauge 2017*. Cape Town, Children's Institute, University of Cape Town.

Hall, K. 2016. Child gauge 2016. Cape Town: University of Cape Town/Children's Institute. In Delany, A., Jehoma, S. & Lake, L. (eds.) South African Child Gauge 2016. Cape Town: Children's Institute, University of Cape Town.

Hall, K. 2019. Child-only households. Statistics on children in South Africa. Cape Town: Children's Institute.

Hall, N. 2000. Literacy, play, and authentic experience. In Roskos, K. & J. Christie, J. (eds.). Play and literacy in early childhood: Research from multiple perspectives. New Jersey: Erlbaum.

Hall, K. 2022. Demography of South Africa's children. In Tomlinson, M., Kleintjes, S. & Lake, L. (eds.). South African Child Gauge 2021/2022. Cape Town: Children's Institute, University of Cape Town.

Hanf, K. 2015. *Implementation of international environmental agreements: Translating*

international intentions into national deeds. Barcelona: Pompeu Fabra University.

Hanushek, E.A. & Wößmann, L. 2010. Education and economic growth. In Dominic, J., Brewer, D.J. & McEwan, P.J. (eds.). *Economics of Education*. Amsterdam: Elsevier.

Hart, C. 1998. *Doing a literature review: Releasing the social science research imagination*. London: Sage.

Hartwell, A. 1998. Enhancing girls' education through community schools: A portfolio of possibilities for girls' education, No.1. USAID.

Hassanli, S. 2014. A proposal for the implementation of human rights treaty obligations in armed conflict. Adelaide: University of Adelaide.

Hatchard, J. 2014. *Combating corruption: Legal approaches to supporting good governance and integrity in Africa*. Cheltenham: Edward Elgar Publishing Limited.

Haushofer, J.& Shapiro, J. 2013. *Policy Brief: Impacts of Unconditional Cash Transfers.* Massachusetts: Massachusetts Institute for Technology.

Heckathorn, D.D. 2002. Respondent driven sampling II: Deriving valid population estimates from chain referral samples of hidden populations. *Social Problems,* 49(1): 11 - 34.

Helliker, K. 2006. A Sociological analysis of intermediary non-governmental organizations and land reform in contemporary Zimbabwe. Grahamstown: Rhodes University.

Henning, E. 2004. *Finding your way in qualitative research*. Pretoria: Van Schaik Publishers.

Herr, S. 1980. Rights of disabled persons. Columbia Human Rights Law Review.

Herriman, J. 2011. Local government and community engagement in Australia. Working Paper No 5. Australian Centre of Excellence for Local Government, University of Technology Sydney.

Heyns, C. & Killander, M. 2006. *Compendium of key human rights documents of the African Union*, 2nd ed. Pretoria University Law Press.

Hill, M. & Hupe, P. 2003. The multi-layer problem in implementation research. *Public Management Review*, 5(4): 471 - 490.

Hill, M. 2007. *The public policy process*. Malmö: Liber AB.

Hill, M.J. & Hupe, P.L. 2014. *Implementing public policy: An introduction to the study of operational governance*. London: SAGE.

Hills, S.D. Unwin, J.T., Chen, Y. Cluver, L. Sherr, L. Goldman, P.S., Ratman, O., Donnelly, C.A., Bhatt, S., Villaveces, A., Butchart, A., Bachman, G., Rawlings, L., Green, P., Nelson, C.A. & Flaxman, S. 2021. Global minimum estimates of children affected by Covid 19 associated orphanhood and deaths of caregivers: A modelling study. *The Lancet Journal*, 398(10298): 391 - 402.

Himes, R. J. & Saltarelli, D. 1996. Implementing the Convention on the Rights of the Child: Resource mobilization in low income countries. Geneva: Innocenti Studies.

Hirsch-Pasek, K. & Golinkoff, R. M. 2008. Why play = learning. In Tremblay, M.B. & Peters, R.D. (eds.). Encyclopedia of Early Childhood Development. Quebec, Canada: Centre of Excellence for Early Childhood Development and Strategic Knowledge.

Hodgkin, R. & Newell, P. 2002. Implementation handbook for the Convention on the Rights of the Child. New York: UNICEF.

Hodgson, D.1998. The human right to education. Dartmouth: Ashgate Publishing.

Holzscheiter, A. 2010. Children's rights in international politics: The transformative

power of Discourse. UK: Palgrave Macmillan.

Hofstee, E. 2006. Constructing a good dissertation: A practical guide to finishing a Masters, MBA or PhD on schedule. Sandton: EPE.

Hovell, D. 2022. The Elements of International Legal Positivism, *Current Legal Problems*, 75(1): 71–109.

Hugo, J. 2002. HCI and multiculturalism in Southern Africa. Proceeding of the Design Education Conference. 26 -27 February, Cape Town.

Hulme, D. & Shepherd. A. 2003. Conceptualising chronic poverty. *World Bank Development*. 31(3): 403 - 423.

Human Rights Watch. 2001. Protectors or pretenders? Government human rights commissions in Africa. New York: Human Rights Watch.

Human Rights Watch. 2001. Scared at school: Sexual violence against girls in South African school. [Online]. Available: https://www.hrw.org/reports/pdfs/c/crd/za-final.pdf [Accessed 11 June 2021].

Human Rights Watch. 2015. South Africa: Education barriers for children with disabilities discriminated against, excluded from schools. [Online]. Available: https://www.hrw.org/news/2015/08/18/south-africa-education-barriers-children-disabilities [Accessed 20 May 2022].

Human Rights Watch. 2021. South Africa, Events of 2020. [Online]. Available: https://www.hrw.org/world-report/2021/country-chapters/south-africa [Accessed 8 February 2022].

Hunt, P. F. 2011. Salamanca Statement and IDEA 2004: Possibilities of practice for inclusive education. *International Journal of Inclusive Education*, 15(4): 461 - 476.

Hunter, S. & Williamson, J. 2000. Children on the brink 2000. Washington DC, USA:

USAID.

Hupe, P. L. & Hill, M. 2006. The three action levels of governance: Re-framing the policy process beyond the stages model. London. Sage Publications.

ICCPR. 1996. International Covenant on Civil and Political Rights. Geneva: United Nations. Geneva: United Nations.

ICESCR. 1966. International Covenant on Economic, Social and Cultural Rights, International Covenant on Civil and Political Rights and Optional Protocol to the International Covenant on Civil and Political Rights. Geneva: United Nations.

IDRC. 2008. Qualitative data analysis.Ottawa: IDRC.

Ikejiaku, B. V. 2009. The concept 'poverty' towards understanding in the context of developing countries 'poverty qua poverty: With some comparative evidence on Britain. *Journal of Sustainable Development*, 2(2): 3 -13.

Immler, N.L. & Sakkers, H. 2021. The UN-Sustainable Development Goals going local: learning from localising human rights. *The International Journal of Human Rights*, 26(2): 262 - 284.

Inter-Agency Commission. 1990. World Conference on Education for All : Meeting Basic Learning Needs & Inter-Agency Commission for the World Conference on Education for All. Jomtien, Thailand, 5-9 March.

International Service for Human Rights. 2022. Who protects human rights? [Online]. Available: https://ishr.ch/about-human- rights/who-protects-human-rights/ [Accessed 18 August 2022].

Ishola, A.S. 2012. A study of the relationship between school dropout and AIDS orphans in Oshana region. Stellenbosch: Stellenbosch University.

Jackson, L. 2007. The International Covenant on Economic, Social and Cultural

Rights: A critical examination of the relative importance of resource constraints on benchmarks and benchmarking processes in the African context. Cape Town: University of Cape Town.

Jansen, J.D. 2010. Political symbolism as policy craft: Explaining non-reform in South African education after apartheid. *Journal of Education Policy*, 17(2): 199 – 215.

Javadi, M. & Zarea, K. 2016. Understanding thematic analysis and its pitfall. *Journal of Client Care*, 24(1): 34 - 40.

Jayaraman, R. & Simroth, D. 2011. The impact of school lunches on Primary School Enrollment: Evidence from India's Midday Meal Scheme. CESifo Working Paper Series 3679: CESifo.

Johnson, G. A. 2011. Set up to fail: Inadequate educational support for orphans in central *Kenya Advances in Anthropology*, 6(2): 1 - 8.

Jonas, B. 2006. Towards effective implementation of children's rights in Tanzania: Lessons and opportunities from Ghana and South Africa. Legon: University of Ghana.

Jones, L. & Wells, K. 2007. Strategies for academic and clinician engagement in community-participatory partnered research. *JAMA*; 297(4): 407 - 410.

Joubert, R. & Prinsloo, S. 2009. *The Law of Education in South Africa*. Pretoria: Van Schaik Publishers.

JournAIDS. 2014. Challenges Faced by OVCs. [Online] Available: http://www.journaids.org/index.php/essential_information/orhans_and_vulnerable_children/_challenges_faced_by_ovcs/ [Accessed: 15 March 2019].

Jukes, M., Simmons, S., Smith Fawzi, M.C. & Bundy, D.A.P. 2008. Educational access and HIV prevention: Making the case for education as a health priority in sub-Saharan Africa. Joint learning initiative on children and HIV/AIDS, FXB International, Geneva.

Jukes, M.C.H., Drake, L.J. & Bundy, D.A.P. 2008. School health, nutrition and education for all: Levelling the Playing Field. Wallingford: CABI Publishing.

Kabay, S., Wolf, S. & Yoshikawa, H. 2017. So that his mind will open: Parental perceptions of early childhood education in urbanising Ghana. *International Journal of Educational Development*, *57(3):* 44 - 53.

Kabeer, N. 2010. Can the MDGs provide a pathway to social justice? The challenge of intersecting inequalities. UNDP: New York.

Kaime, T. 2009. The foundations of rights in the African Charter on the Rights and Welfare of the Child: A historical and philosophical account. *African Journal of Legal Studies,* 3(1): 120 - 136.

Kalantry, S., Getgen, E.J. & Koh, A.S. 2009. Measuring state compliance with the right to education using indicator: A case study of Colombia's obligation under ICESCR. Cornell Law Faculty Working Papers.

Kalantry, S., Getgen, J. E. & Koh, S.A. 2010. Enhancing Enforcement of Economic, Social and Cultural Rights using Indicators: A Focus on the Right to Education in the ICESCR. *Human Rights Quarterly*.

Kalin, W. & Kunzli, J. 2009. *The Law of International Human Rights Protection.* Oxford University.

Kanuri, M.C. 2009. Domestic violence and its influence on pupils' academic performance and school participation: A Case Study of Kiandutu Slum – Thika Municipality, Kenya. MA Dissertation, Njoro: Egerton University.

Keesbury, J. & Askew, I. 2010. Comprehensive responses to gender-based violence in low-resource settings: Lessons learned from implementation. Lusaka: Population Council.

Keet, A. 2007. Human rights education or Human rights in education. Doctoral dissertation. University of Pretoria.

Kelly, M. & Adger, N. 2000. Theory and practice in assessing vulnerability to climate change and facilitating adaptation. *Climatic Change*, 47(1): 325 - 352.

Kelsen, H. 1997. Introduction to the problems of legal theory: A translation of the First edition of the Reine Rechtslehre or Pure Theory of Law. Oxford: Oxford University Press.

Khan, A. 2011. Gender based violence and HIV: A program guide for integrating gender based violence prevention and responses in PEPFAR program. Arlington: McGraw-Hill.

Khosa, M. M. 2003. Towards effective delivery. Synthesis report on the project entitled 'Closing the gap between policy and implementation in South Africa.' Research Report No. 98. Johannesburg: Centre for Policy Studies.

Kiersey, R. & Hayes, N. 2010. Reporting the rhetoric, implementation of the United Nations Convention on the Rights of the Child as Represented in Ireland's second report to the UN Committee on the rights of the child: A critical discourse analysis. *Child Care in Practice*, 16(4) 327 - 346.

Kijo-Bisimba, H. & Peter, C. M. 2005. Justice and rule of law in Tanzania: Selected judgements and writings of Justice James L. Mwalusanya and commentaries. Dar es Salaam: Legal and Human Rights Centre.

Kilinc, H. & Firat, M. 2017. Opinions of expert academicians on online data collection and voluntary participation in social sciences research. *Educational Sciences: Theory & Practice*, 17(5):1461 - 1486.

Kilkelly, U. 2002. Disability and Children: The Convention on the Rights of the Child. In Quinn, G. & Degener, T. (eds.). *The Current Use and Future Potential of United Nations Human Rights Instruments in the context of Disability*. New York: United

Nations.

King, N. 1994. The qualitative research interview. In Cassell, C. & Symon, G. (eds.). *Qualitative methods in organizational research: A practical guide*. London: Sage Publications, Inc.

Kinghorn, A., Coombe, C., McKay, E. & Johnson, S. 2002. The impact of HIV/AIDS on education in Botswana. Ministry of Education, Botswana and United Nations Development Programme (UNDP).

Koch, I.E. 2005. Dichotomies, trichotomies or waves of duties? *Human Rights Law Review*, 5(1): 81 - 103.

Kosak, S. 2009. Realizing education for all: Defining and using the political will to invest in primary education. *Comparative Education*, 45(4): 495-523.

Kota, Z., Hendricks, M., Matambo, E. & Naidoo, V. 2021. Provincial governance of education: The Eastern Cape experience. In Levy, B., Cameron, R., Hoadley, U. & Naidoo, V. (eds.). *The Politics and Governance of Basic Education: A Tale of Two South African Provinces*. Oxford: Oxford University Press.

Kothari, C.R. & Garg, G. 2019. *Research methodology: Methods and techniques*. New Delhi: New Age International Publishers.

Krieger, H. 2006. A conflict of norms: The relationship between humanitarian law and Human Rights Law in the ICRC Customary Law Study. *Journal of Conflict and Security Law,* 11(2): 265 - 370.

Krueger, R. & Casey, M. A. 2000. *Focus groups: A practical guide for applied research*, 3rd ed. Thousand Oaks, CA: Sage.

Kugara, S.L., Matshidze, P. & Mdhluli, T.D. 2017. Human rights violation: Probing the cultural practice of ukuthwala in KwaZulu-Natal province, South Africa. *Human and Social Science Journal*, 15(2): 9007 - 9012.

Kumar, R. 2011. *Research methodology: A step-by-step guide for beginners*, 3rd ed. New Delhi: Sage.

Kumar, R. 2019. *Research methodology: A step-by-step guide for beginners*, 5th ed. Cape Town: Sage Publications Limited.

Kuyini, A. B. 2021. Implementing child rights and protection law in Ghana: Case study. Australia: University of New England.

Kuyini, A.B. & Mahama, F.K. 2011. Implementing Child Rights and Protection Law in Ghana: A case study. Australia: University of New England.

La Rossa, R. & Bennett, L.A. 2018. *Ethical dilemmas in qualitative family research. In the psychosocial interior of the family.* New York, NY: Routledge.

Lautensach, A. & Lautensach, S. (eds.). 2000. Human security in world affairs: Problems and Opportunities, 2nd ed. Victoria, BC: BCcampus.

LeBlanc, L.; Huibregste, A & Meister, T. 2010. Compliance with the Reporting Obligations Requirements of Human Rights Conventions. *The International Journal of Human of Human Rights*, 14(5): 789-807.

Lee, S.E. 2013. Education as a Human Right in the 21st Century. *Democracy and Education*, 21(1): 1 - 9.

Lee, Y. 2013. Creating new futures for all children: The promise of international human rights law. *Australian International Law Journal*, 20(1): 3 - 16.

Leedy, P.D. & Omrod, J.E. 2005. *Practical research: Planning and design*, 8th ed. New Jersey: Pearson Prentice Hall.

Liamputtong, P. 2008. Doing research in a cross-cultural context: Methodological and ethical challenges. Dordrecht: Springer.

Liamputtong, P. 2013. *Qualitative research method*. Australia: Oxford University Press.

Liebenberg, S. & Pillay, K. 2000. Socio-economic rights in South Africa : A resource book. Cape Town: University of the Western Cape.

Linda, C. & Reif, L.C. 2013. *The Ombudsman, good governance and the International Human Rights System*. Springer. University of Alberta.

Little, A.W. 2010. Access to elementary Education in India: Politics, policies and progress. Falmer: CREATE, Centre for International Education.

Lloyd, A. 2002. A theoretical analysis of the reality of children's rights in Africa: An introduction to the African Charter on the Rights and Welfare of the Child. *African Human Rights Law Journal,* 2 (1): 11 - 33.

Lloyd, A. 2002. Evolution of the African Charter on the Rights and Welfare of the Child and the African Committee of Experts: Raising the gauntlet. *The International Journal of Children's Rights,* 10(4):179 - 198.

Loewe, M. & Rippin, N. 2015. The Sustainable Development Goals of the Post-2015 Agenda: Comments on the OWG and SDSN proposals. Geneva: German Development Institute.

Lombard, A. 2002. Social work training responding to the challenges of a changing environment: Repositioning social work within a changing environment. Potchefstroom: University of Potchefstroom.

Lomofsky, L. & Lazarus, S. 2001. South Africa: First steps in the development of an inclusive education system. *Cambridge Journal of education*, 31(3): 303-317.

Long, K. 2010. No entry! A review of UNHCR"s response to border closures in situations of the mass refugee influx. Geneva: UNHCR.

Lugaz, C. 2009. Educational Marginalization National Education Plans. [Online]. Available: http://unesdoc.unesco.org/images/0018/001866/186608e.pdf [Accessed 28 March 2020].

Lusanjo, P. 2013. The implications of Tanzania not domesticating International Human Rights Instruments: The case study of CEDAW. Mzumbe: Mzumbe University.

Mabila, N.O. 2014. Job satisfaction in the royal Swaziland police services: Case study of Manzini and Hhohho region. *Problems and Perspectives in Management*, 12(1): 16 - 25.

Machard, D.C. 2014. The socioeconomic and environmental impact of school commuting: A case study of the Johannesburg Inner City. Dissertation. University of Johannesburg.

MacNamara, J. 2005. Media content analysis: Its uses, benefits and best practice methodology. *Asia Pacific Public Relations Journal*, 6(1): 1 - 34.

Madyibi, S. 2021. Evaluating the impact of facility and household-level factors on early learning development in Philippi, Western Cape. Cape Town: University of Western Cape.

Maggio, L. A., Sewell, J. L. & Artino, A. R. 2016. The literature review: A foundation for high-quality medical education research. *Journal of Graduate Medical Education*, 8(3): 297 - 303.

Maggott, T., Mbatha, S., Ceruti, C., Moyo, L., Mporo, A., Ngwane, T., Shezi, C. & Sinwell, L. 2022. Energy racism report: The electricity crisis and the working class in South Africa. Center for Sociological Research and Practice. Johannesburg: University of Johannesburg.

Magnússon, G. 2019. An amalgam of ideals and images of inclusion in the Salamanca Statement. *International Journal of Inclusive Education*, 23(7): 677- 690.

Magombeyi, M. T. & Odhiambo, N. M. 2016. Poverty alleviation policies in Tanzania: *Progress and challenges. Euro Economica*, 35(2): 48 - 60.

Mahaye, N. E. 2018. The philosophy of ubuntu in education. Research Gate.

Mahlaba, B.J. 2014. Rural school transport: Poor rural learners' experiences of their trips to and from school. Dissertation. Durban: University of KwaZulu-Natal.

Mahlala, S. 2019. Monitoring and evaluation policy as a tool for performance enhancement in the public service: The case of the Eastern Cape Department of Health. North-West University.

Mahlangu, P., Gibbs, A., Shai, N., Machisa, M., Nunze, N. & Sikweyiya, Y. 2022. Impact of COVID-19 lockdown and link to women and children's experiences of violence in the home in South Africa. *BMC Public Health,* 22(1029): 1 – 11.

Majova, B.L. 2018. An implementation evaluation of the Eastern Cape Rural Development Strategy: Agrarian transformation and food security. Stellenbosch: Stellenbosch University.

Makama, P. 2018. Involuntary circumcision of males in illegal initiation schools in South Africa: A violation of African Customary Human Rights? *Southern African Public Law Volume*, 33(1): 1 - 29.

Malik, J. S. & Nadda, A. 2019. A cross-sectional study of gender-based violence against men in the rural area of Haryana, India. *Indian Journal of Community Medicine: Official Publication of Indian Association of Preventive & Social Medicine*, *44*(1): 35 - 38.

Maluleke, M.KJ. 2012. Culture, tradition, custom, law and gender equality. *PER*, 15(1): 1 - 22.

Mandlate. A, S. 2012. Assessing the implementation of the Convention on The Rights

of The Child in Lusophone Africa. Cape Town: University of the Western Cape.

Manyonganise, M. 2013. Education for All: Myth or reality for orphaned and vulnerable children in Zimbabwe. *International Journal for Social Science and Education* 3(2): 2223 - 4934.

Maqoko, Z. & Dreyer, Y. 2007. Child-headed households because of the trauma surrounding HIV/AIDS. *HTS Teologiese Studies/Theological Studies,* 63(2): 717 - 731.

Maree, K., Cresswell, J.W., Ebersohn, I., Ferreira, R., Ivankova, N.V., Jansen, J.D., Nieuwenhuis, J., Pietersen, J., Plano, C.V.L. & Westhuizen, C. 2007. *First steps in research*. Pretoria: Van Schaik.

Marshall, C. & Rossman, G.B. 2011. *Designing qualitative research*, 5th ed. *Thousand Oaks, CA*: SAGE.

Martin, P. 2010. *Government-funded programmes and services for vulnerable South Africa*. Cape Town, South Africa: HRSC Press.

Martin, P. 2014. Children's rights to basic education: A review of South Africa's laws and policies. In Proudlock, P. *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.

Massesa, J. W. 2004. *Children and poverty: What children & young people are saying about poverty in Tanzania: An overview report on issues in Tanzania*. Dar es Salaam: Tanzania Movement for and with Children.

Mathenjwa, M. 2017. The realisation of the right to basic education in the twenty years of constitutional democracy. *SPECJU*, 31(1): 1 - 13.

Mathipa, R. E. & Gumbo, T. M. 2015. Addressing research challenges: Making headway for development researchers. Noordwyk: Mosala-MASEDI Publishers & Booksellers.

Mauras, M. 2011. Public policies and child rights: Entering the third decade of the Convention on the Rights of the Child. *The Annals of the American Academy of Political and Social Science,* 633(1): 52 – 65.

Maxwell, J.A. 2012. Qualitative Research Design: An interactive approach, 3rd ed. Thousand Oaks, CA: Sage.

Maynard, B. R., McCrea, K. T., Pigott, T. D. & Kelly, M. S. 2013. Indicated truancy interventions for chronic truant students: A Campbell systematic review. *Research on Social Work Practice*, 23(1): 5 - 21.

Mayring, P. 2000. Qualitative content analysis. *Qualitative Social Research*, 1(2): 1 - 10.

Mbata, Z. 2015. Investigating the Effectiveness of orphans and vulnerable children (OVC) programmes in schools: A Case Ntuzuma G-Section in Durban. Durban. University of Kwazulu-Natal.

Mbaula, W. 2011. Social protection for support of the education of the most vulnerable children: Lessons from targeting approaches in Dodoma, Tanzania. Unpublished Master's Dissertation, Dodoma: University of Dodoma.

Mbise, A. T. 2017. The diffusion of the United Nations Convention on the Rights of the Child (UNCRC) more than the African Charter on the Rights and Welfare of the Child (ACRWC) in Africa: The influence of coercion and emulation. *International Social Work*, 60(5): 1233–1243.

McCarney, W. 2008. The globalisation of child and family law. In Sloth-Nielsen, J. & Du Toit, Z. (eds.). Trials and tribulations, trends & triumphs: Developments in International, African and South African Child and Family Law. Cape Town: Juta.

McConnachie, C., Skelton, A. & McConnachie, C. 2016. The Constitution and the right a to basic education. In Veriava, F., Thom, A. & Fish-Hodgson, T. (eds.). Basic

Education Rights Handbook – Education Rights in South Africa. Pretoria: Section 27.

McCowan, T. 2010. Reframing the universal right to education. Comparative Education, 46(4): 509 – 525.

McEntire, D. 2011. Understanding and reducing vulnerability: From the approach of liabilities and capabilities. *Disaster Prevention and Management*, 20(3): 294 - 313.

McGee, S. 2009. Understanding community engagement in municipal contexts. Canada: Wilfrid Laurier University.

McKibbin, K.J., Malin, B.A. & Clayton, E.W. 2021. Protecting research data of publicly revealing participants. *Journal of Law and the Biosciences*, 8(2): 48 – 59.

McMillan, J.H. & Schumacher, S. 2010. *Research in education evidence-based inquiry*. New Jersey: Pearson Education.

Meintjes, H. & Giese, S. 2006. Spinning the Epidemic: The making of mythologies of orphanhood in the context of AIDS. *Childhood*, 13(3): 407 - 430.

Meix-Cereceda, P. 2020. Educational Values in Human Rights Treaties: UN, European, and African International Law. *Human Rights Review*, *21*(4): 437–461.

Mellenbergh, G.J. 2019. *Nonprobability sampling. In counteracting methodological errors in behavioural research*. Cham: Springer.

Meltzer, H., Doos, L., Vostanis, P., Ford, T. & Goodman, R. 2009. The mental health of children who witness domestic violence. *Child and family social work*, 14(3): 491-501.

Mendes, P. E. & Lalonde-Roussy, A. 2003. *Bridging the global divide on human rights: A Canada-China Dialogue*. Hants: Ashgate Publishing Ltd.

Merriam, S.B. 2009. *Qualitative research: A guide and implementation*, 3rd ed. San

Francisco:Jossey-Bass Publishers.

Mezmur, B. 2008. The African Children's Charter versus the UN Convention on the Rights of the Child: A zero-sum game?' *SA Public Law*, 23 (1): 1 - 29.

Mezmur, B. D. 2020. The African Children's Charter @ 30: A distinction without a difference? The International Journal of Children's Rights, 28(4): 693-714.

Michael, H. 1997. The policy process in the mobilisation in low Income Countries Florence: Innocenti Publications.

Milanovic, M. 2011. Extraterritorial application of human rights treaties: Law, principles, and policy. Oxford: Oxford University Press.

Miles, S. 2000. Overcoming resource barriers: The challenge of implementing inclusive education in rural areas. Geneva: Gustav Stresemann Institute.

Minister of Basic Education v Basic Education for All 2016 1 All SA 369 (SCA).

Ministry of Social Welfare. 2010. National Plan of Action for orphans and vulnerable children Ghana June 2010 - 2012.

Mitter, R. 2016. The sustainable development goals: Promoting education for utility or transformation? *International Development, Community and Environment.* [Online]. Available: https://commons.clarku.edu/idce_masters_papers/15 [Accessed 8 February 2022].

Mkhize, M.C. 2015. Is South Africa's 20 years of democracy in crisis? Examining the impact of unrest incidents in local protests in post-apartheid South Africa. *African Security Review*, 24(2):190 - 206.

Mlambo, M. 2021. Non-governmental organisation's psycho-social and educational support for orphans and vulnerable children in Soweto. University of Johannesburg.

Molepo, L.P. 2014. Challenges and coping strategies of child and youth care workers in the South African context. Doctorate thesis. Pretoria: University of Pretoria.

Monash, R. & Boerma, J.T. 2004. Orphanhood and childcare patterns in sub-Saharan Africa: An analysis of national surveys from 40 countries. *AIDS*, 2(5):55 - 65.

Monette, D.R., Sullivan, T.J. & DeJong, C.R. 2008. Applied research: A tool for human services, 7th ed . Belmount, CA: Thomson Wadsworth.

Mooney, C. 2000. Theories of childhood: An introduction to Dewey, Montessori, Erikson, Piaget & Vygotsky. Minnesota: Red Leaf Press.

Morei, N. 2017. Cultural practices and children's rights: The case of male initiation in South Africa. *The Journal of Pan African Studies*, 10(2): 1 - 47.

Moses, E., van der Berg, S. & Rich, E. 2017. A society divided: How unequal education quality limits social mobility in South Africa. Synthesis report for the Programme to Support Pro-poor Policy Development. RESEP: University of Stellenbosch.

Motshekga, A. 2020. Minister's statement on the developments in the Basic Education sector and the 2020 matric exam countdown. Pretoria: Department of Basic Education.

Mowafi, M. & Khawaja, M. 2005. Poverty. *Journal of Epidemiology and Community Health*, 159(4): 260 - 264.

Msengana, N.W. 2006. The significance of the concept 'Ubuntu' for educational management and leadership during democratic transformation in South Africa. University of Stellenbosch.

Mshweshwe, L. 2020. Understanding domestic violence: masculinity, culture, traditions. *Heliyon*, 6(10): 1- 5.

Mubangizi, J.C. 2015. Human rights education in South Africa: Whose responsibility is it anyway? *African Human Rights Law Journal*, 15(2): 496 - 514.

Mudau, P. 2020. Has the COVID-19 pandemic exposed the fragility of South Africa's constitutional democracy? [Online]. Available: https://africlaw.com/2020/07/23/has-the-covid-19-pandemic-exposed-the-fragility-of-south-africas-constitutional-democracy/ [Accessed 30 May 2021].

Mugwagwa, J., Edwards, D. & de Haan, S. 2015. Assessing the implementation and influence of policies that support research and innovation systems for health: The cases of Mozambique, Senegal, and Tanzania. *Health Res Policy*. [Online]. Available: https://doi.org/10.1186/s12961-015-0010-2 [Accessed 5 February 2022].

Munzhedzi, P.H. 2016. Fostering public accountability in South Africa: A reflection on challenges and successes. *The Journal for Transdisciplinary Research in Southern Africa,* 12(1): 431 535.

Murungi, L. 2015. Inclusive basic education in South Africa: Issues in its conceptualisation and implementation. *Potchefstroom Electronic Law Journal*, 18 (1): 3160 - 3195.

Murungu, C. & Biegon, J. 2011. *Prosecuting international crimes in Africa.* Pretoria: University Law Press.

Muthukrishna, A. 2006. Research report: Mapping the barriers to basic education an HIV/AIDS context. Pietermaritzburg: University of KwaZulu-Natal.

Muthukrishna, N. & Schoeman, M. 2010. From 'Special Needs' to 'Quality Education for All': A participatory, problem-centred approach to policy development in South Africa. *International Journal of Inclusive Education*, 4(4): 315 - 335.

Mutubwa, W. 2019. Monism or Dualism: The dilemma in the application of international agreements under the South African Constitution. *Journal of CMSD*, 3(1): 27 - 37.

Mwambene, L. & Sloth- Nielsen, J. 2011. Benign accommodation? Ukuthwala, 'forced marriage' and the South African Children's Act. *Journal of Family Law and Practice,* 1(1): 5 - 14.

Mwanza, P. 2013. The role of non-governmental organisations in Basic Education Policy reform in Lusaka Province of Zambia. Edinburgh: The University of Edinburgh.

Mwoma, T. & Pillay, J. 2016. Educational support for orphans and vulnerable children in primary schools: Challenges and interventions issues in educational research. *Issues in Educational Research*, 26(1): 82 - 90.

Myende, P.E. 2011. School-community partnership in education in a South African rural context: Possibilities for an asset-based approach. Thesis. University of KwaZulu-Natal.

Mzikamanda, R.R. 2011. Constitutionalism and the judiciary: A perspective from Southern Africa. [Online]. Available: https://www.justice.gov.za/alraesa/conferences/2011malawi/constitutionalism-and-the-judiciary_mzikamanda.pdf [Accessed 5 July 2022].

Naidoo, J. T. & Muthukrishna, N. 2016. Child well-being in a rural context: Shifting to a social sustainability lens. *South African Journal of Childhood Education*, 6(2): 458 - 589.

Naidoo, L. 2010. The role of the educator in addressing the needs of orphans and vulnerable children. Richards Bay: University of Zululand.

Najam, A. 1995. *Learning from the literature on policy implementation: A synthesis perspective*. Working Paper, International Institute for Applied Systems Analysis, Laxenburg.

Nambalirwa, S. 2010. The implementation of universal primary education in Uganda. Masters Thesis. University of Pretoria.

National Treasury. 2019. *Budget Review 2019.* Pretoria. [Online]. Available: http://www.treasury.gov.za/documents/national%20budget/2019/review/FullBR.pdf [Accessed 24 July 2020].

Ndayi, Z.B. 2020. A legal analysis of legislation and policies on the right to basic education in the Eastern Cape, South Africa. University of Western Cape.

Ndlovu, S. 2013. Community development projects and food security: The case of Zanyokwe Irrigation Project Eastern Cape Province, South Africa. Alice: University of Fort Hare.

Ndonga, M. 2012. An assessment of the impact of HIV/AIDS on the Children's Right to Education: A case study of HIV/AIDS orphans and vulnerable children in the Amathole District. Alice: University of Fort Hare.

Neuman, W.L. 2011. *Social research methods: Qualitative and quantitative approaches*, 7th ed. Boston: Pearson.

New Frame. 2023. Eastern Cape school's infrastructure horror. [Online]. Available: https://www.newframe.com/eastern-cape-schools-infrastructure-horror/ [Accessed 19 January 2023].

Ng'weshemi, A.M. 2002. *Rediscovering the human: The quest for a Christo-Theological anthropology in Africa*. New York. Peter Lang Inc.

Ngcukana, L. 2009. Help on way for child brides. *Daily Dispatch,* June 29:1.

Ngokwey, N. 2004. Children's Rights in the Central Africa sub-region: Poverty, conflicts and HIV/AIDS as context. *The International Journal of Children's Rights*, 12(3):183 - 216.

Ngumbela, K.G. 2021. Unique challenges of the poverty dilemma in the Southern Cape province of South Africa. *African Journal of Public Affairs*, 12(1):1 - 18.

Ngumbela, X.G., Khalema, E.N. & Nzimakwe, T.I. 2020. Local worlds: Vulnerability and food insecurity in the Eastern Cape province of South Africa Jàmbá. *Journal of Disaster Risk Studies*, 2(1): 830 - 921.

Nhapi, T. & Mathende, T.L. 2018. Towards child-centered sustainable development goals: Implications on child welfare policy and practice in Zimbabwe. In Alemu, K.T. & Alebachew, M.A (eds.). Handbook of research on sustainable development and governance strategies for economic growth in Africa. Hershey, PA: IGI Global.

Nicolai, S. & Triplehorn, C. 2003. The role of education in protecting children in conflict. London: Humanitarian Practice Network (HPN), Overseas Development Institute.

Nieuwenhuys, O. 2008. Editorial: The ethics of children's rights. *Childhood*, 15(1): 4 - 11.

Nilholm, C. & Göransson. K. 2017. What is meant by inclusion? An analysis of high impact research in North America and Europe. *European Journal of Special Needs Education*, 32(3): 437 - 451.

Njungwe, E.N. 2009. International protection of children's rights: An analysis of African attributes in the African Charter on the Rights and Welfare of the Child. *Cameroon Journal on Democracy and Human Rights*, 3(1): 4 - 25.

Nkosi, M. & Wassermann, J. 2014. A history of the practice of ukuthwala in the Natal/ KwaZulu-Natal region up to 1994. New Contree : *A Journal of Historical and Human Sciences for Southern Africa*, 70(1):131-146.

Nomngcoyiya, T. & Kang'ethe, S.M. 2017. Exploring flaws embedded in the contemporary traditional circumcision practice in South Africa: A literature review. *Ethno Med*, 11(1): 123 - 129.

Norwegian Refugee Council. 2017. Millions of children miss school because of war

and drought in East Africa. [Online]. Available: https://www.nrc.no/millions-of-children-miss-school-due-to-war-and-drought-in-east-africa/ [Accessed 4 November 2020].

Nowak, M. 2000. Civil and political rights in Janusz Symonides. Geneva: UNESCO.

Nowak, M. 2005. *Human rights: A Handbook for Parliamentarians.* Bellegarde-sur-Valserine: SADAG.

Nqeketo, A. 2008. Xhosa male circumcision at the crossroads: Responses by government, traditional authorities and communities to circumcision related injuries and deaths in Eastern Cape province. University of Western Cape.

Nundy, K. 2004. *Global status of legislative reform related to the Convention on the Rights of the Child*. New York: UNICEF.

Nyerere, J.K .1967. Education for self-reliance. *The Ecumenical Review*, 19 (4): 382 - 403.

O'Flaherty, M. 2005. Trafficking in human beings, especially women and children, in Africa. Geneva: UNICEF Innocenti Centre.

O'Reilly, K. 2012. *Ethnographic methods*. Abingdon: Routledge.

Obodo, C.A. 2019. Realising the effective enforcement of civil and political rights in Africa: An analysis of the African Charter on Human and Peoples' Rights. *Robert Gordon University*. [Online]. Available: https://openair.rgu.ac.uk [Accessed 13 February 2022].

Obrien, K., Eriksen, S., Nygaard, L. P. & Schjolden, A. 2007. Why different interpretations of vulnerability matter in climate change discourses. *Climate Policy*, *7*(1): 73 - 88.

Odongo, G. 2012. Caught between progress, stagnation and a reversal of some gains: Reflections on Kenya's record in implementing children's rights norms. *African Human*

Rights Law Journal, 12(1): 112 - 141.

Odhiambo, O.H. 2005.The domestication of International Law Standards on the Rights of the Child with specific reference to juvenile justice in the African context. Cape Town: University of Western Cape.

Offor, F. & Badru, R.O. 2014. Beyond basic education: Towards a pragmatarian justification for education as a human right. *AJOL*, 10(2): 1 – 22.

Offorma, G.C. 2009. Girl child education. Keynote address presented at the Conference of the Federation of University Women of Africa held in Lagos, Nigeria 16-19 July 2009. [Online]. Available: http://www.ifuw.org/fuwa/docs/Girl-Educaton-Africa-part2.pdf [Accessed 10 July 2020].

OGAC. 2012. PEPFAR: Guidance for Orphans and vulnerable children programming. [Online]. Available: http://www.pepfar.gov/documents/organization/195702.pdf [Accessed 20 July 2020].

OHCHR. 2000. Costa Rica, Second Report Concluding Observations. Geneva: United Nations Publications.

OHCHR. 2010. Asia Pacific Forum, and Association for the Prevention of Torture. Preventing Torture: An Operational Guide for National Human Rights Institutions. Geneva: OHCHR.

OHCHR. 2017. The South African Human Rights Commission's parallel report to CESCR. [Online]. Available: https://tbinternet.ohchr.org/Treaties/CESCR/Shared%20Documents/ZA/INT_CESCR_IFL_ZAF_28910_E.pdf [Accessed 10 January 2022].

OHCHR. 2022. Treaty bodies guidelines civil society and national human rights institutions. [Online]. Available: https://www.ohchr.org/en/treaty-bodies/ced/guidelines-civil-society-and-national-human-rights-institutions [Accessed 18 June 2022].

OHCHR. 2022. UN expert raises alarm over serious human rights violations against religious minorities in situations of conflict. [Online]. Available: https://www.ohchr.org/en/press-releases/2022/03/un-expert-raises-alarm-over-serious-human-rights-violations-against [Accessed 23 May 2022].

Okoth-Ogendo, H.W.O. 2003. Constitutions without constitutionalism: An African political paradox. In Greenberg, D., Kartz, S.N., Oliviero, B. & Wheatley, S.C (eds.). Constitutionalism and democracy: Transitions in the contemporary world. New York: Oxford University Press.

Okoye, C.J. 2019. Early Childhood Development migration will only work if government takes it seriously – experts. *The Citizen*, 9 October. [Online]. Available: https://citizen.co.za/news/south-africa/education/2188845/early-childhood-development-migration-will-only-work-if-government-takes-it-seriously-experts/ [Accessed 23 May 2020].

Oleke, C., Blystad, A., Moland, K. M., Rekdal, O. B. & Heggenhougen, K. 2006. The varying vulnerability of African orphans: The case of the Langi, northern Uganda. *Childhood*, *13*(2): 267- 284.

Olivier, N.J., van Zyl, C. & Williams, C. 2010. Rural development within the context of development, sustainability and rural issues some constitutional, policy and implementation perspectives. PER 13(1):101 - 234.

Olowu, D. 2002. Protecting children's rights in Africa: A critique of the African Children's Charter on the Rights and Welfare of the Child. *The International Journal of children's rights,* 10(2):127-136.

Olowu, D. 2009. *An integrative rights-based approach to human development in Africa*. Hatfield: Pretoria University Law Press.

Omar, E.1998. Human rights and statistics. Paper presented at the Workshop on the use of statistics in Human Rights: International Conference on Human Rights Information, Impunity and Challenges of the Post-Conflict Healing Process.

Gammarth, Tunisia.

Omran, A. R. 2005. The epidemiologic transition: A theory of the epidemiology of population change. *The Milbank Quarterly*, 83(4): 731 - 757.

Onibere, E.A., Morgan, S. & Mpoleng, D. 2001. Human computer interface design issues for a multi-cultural and multi-lingual English speaking country: *Interacting with Computers*, 13(1): 497 - 512.

Oparinde, K., Matsha, R.M. & Champion, M.G. 2021. Powerful Discourse: Gender-Based Violence and Counter-Discourses in South Africa. *Cogent Arts & Humanities*, 8(1): 1 – 15.

Osborn. 2007. Adolescents missing from programs for the world's orphan and vulnerable children: Advocates for youth. Washington, DC: American Psychiatric Press.

Osei-Agyakwa, C. 2012. An investigation into the plight of orphans and vulnerable children in two high schools in the Libode District in the former Transkei. Masters Thesis. Stellenbosch University.

Ostergard, R.L. & Guest, E. 2003. Children of AIDS: Africa's orphan crisis. *African Studies Review*, 46(2):119 - 120.

Osttveit, S. 2000. Education for All Ten Years After Jomtien. *Prospects*, 30(1): 97 - 103.

Oviado, S. 2016. Committee on the Rights of the Child Reviews the Reports of South Africa.

Owosuyi, I. L. 2016. Participatory constitution-making and why it matters: A review of the Egyptian experience. *South African Journal of International Affairs*, 23(2): 211 - 223.

Parsons, N. 1999. *A new History of Botswana*. Gaborone: Macmillan.

Park, Y., Konge, L. & Artino, A. R. 2020. The Positivism Paradigm of Research. Academic medicine. *Journal of the Association of American Medical Colleges*, 95 (5): 690 – 694.

Payne, G. & Payne, J. 2004. *Key concepts in social research*. London: SAGE Publications.

Pendlebury, S., Lake, L. & Smith, C. 2009. *South African Child Gauge* (2008/2009), Cape Town: Children's Institute, University of Cape Town.

Phiri, S. & Webb, D. 2002. The impact of HIV/AIDS on orphans and programme and policy responses. Florence: UNICEF.

Phooko, R. 2018. The direct applicability of SADC community law in South Africa and Zimbabwe: A call for supranationality and the uniform application of SADC Community Law. *PER,* (21):1 - 34.

Pillay, J. 2014. Advancement of children's rights in Africa: A social justice framework for school psychologists. *School Psychology International,* 35(4): 225 - 240.

Pillay-van Wyk, V., Bradshaw, D., Groenewald, P., Seocharan, I., Manda, S., Roomaney, R.A., Awotiwon, O., Nkwenika, T., Gray, G., Buthelezi, S.S. & Mkhize, Z.L. 2020. COVID deaths in South Africa: 99 days since South Africa's first death. *S Afr Med J*. [Online]. Available: https://doi.org/10.7196/SAMJ.2020.v110i11.15249 [Accessed 19 October 2021].

Polat, F. 2011. Inclusion in education: A step towards social justice. *International Journal of Educational Development,* 31(1):50 - 58.

Polit, D. F. & Beck, C. T. 2004. *Nursing research: Appraising evidence for nursing practice*, 7th ed. Philadelphia: Wolters Klower/Lippincott Williams & Wilkins.

Polit, D.F. & Hungler, B.P. 2004. Nursing research-principle and methods. Philadelphia: Lippincott Williams & Wilkins.

Polus, A., Kopinski, D. & Tycholiz, W. 2020. Reproduction and convertibility: Examining wealth inequalities in South Africa. *Third World Quarterly*, 42(2): 292 - 311.

Price, J.H. & Murnan, J. 2004. Research limitations and the necessity of reporting them. *American Journal of Health Education*, 35(2): 66 - 67.

Prochner, L., Cleghorn, A. & Green, N. 2008. Space considerations: Materials in the learning environment in three majority world preschool settings. *International Journal of Early Years Education*, 16(3):189 - 201.

Proudlock, P. & Jamieson, L. 2009. The Children's Act: Providing a strong legislative foundation for a developmental approach to child care and protection. South African Childrens Gauge 2007/2008. Cape Town: The Childrens Institute.

Proudlock, P. 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.

Psaki, S. R., McCarthy, K. J. & Mensch, B. S. 2018. Measuring gender equality in education: Lessons from trends in 43 countries. *Population and Development Review*, 44(1): 117-142.

PSAM. 2017. Research Findings: School Infrastructure in the Eastern Cape. Presentation at the Provincial Indaba, SAHRC. Rhodes University.

Punch, K. 2006. *Developing effective research proposals*, 2nd ed. Los Angeles: SAGE Publications.

Quennerstedt, A., Robinson, C. & l'Anson, J. 2018. The UNCRC: The voice of global consensus on children's rights? *Nordic Journal of Human Rights*, 36(1): 38-54.

Rafudeen, A. 2016. A South African reflection on the nature of human rights. *African Human Rights Law Journal*, 16(1): 225 – 246.

Ramdhani, A., Ramdhani, M.A. & Amin, A. S. 2014. Writing a literature review research paper. *International Journal of Basics and Applied Sciences*, 3(1): 47 - 56.

Ransom, B. 2008. Missing voices: Children with disabilities in Africa. Addis Ababa: The African Child Policy Forum.

Regassa, T. 2009. Making legal sense of human rights: The judicial role in protecting human rights in Ethiopia. *Mizan Law Review*, 3(2): 294 - 295.

Reid, E.J. 2000. Understanding the word “advocacy”: Context and use. *Structuring the inquiry into advocacy*, 1(1): 1-8.

Republic of Namibia. 1990. The Constitution of the Republic of Namibia [Online]. Available: http://www.orusovo.com/namcon/NamCon.pdf [Accessed 12 January 2022].

Republic of South Africa. 1996. Constitution of the Republic of South Africa. Pretoria.

Republic of South Africa. 1996. The South African Constitution: Chapter 2 The Bill of Rights. Pretoria: Government Printers.

Republic of South Africa. 2005. Childrens Act No. 38 of 2005. Pretoria.

Republic of South Africa. 2005. Policy framework for orphans and other children made vulnerable by HIV and AIDS in South Africa. Department of Social Development.

Republic of South Africa. 2012. National Plan of Action for Children in South Africa. Pretoria: Department of Women, Children and People with Disabilities.

Republic of South Africa. 2013. Regulations Relating to Minimum Uniform Norms and Standards for Public School Infrastructure. GN R920/2013. Government Gazette.

Republic of South Africa. 2015. Promoting children's rights in South Africa: Fast facts United Nations Convention on the Rights of the Child (UNCRC). Cape Town: Core Business Support.

Republic of South Africa. 2019. Minister Angie Motshekga: Basic Education Dept Budget Vote 2019/20. [Online]. Available: https://www.gov.za/speeches/basic-education-budget-vote-speech-17-jul-2019-0000 [Accessed 17 April 2021].

Republic of South Africa. 2015. National Integrated Early Childhood Development Policy. Pretoria: Government Printers

Republic of South Africa. 2020. Address by President Cyril Ramaphosa on South Africa's response to the Coronavirus pandemic, 17 June 2020. [Online]. Available: http://www.dirco.gov.za/docs/speeches/2020/cram0617.pdf [Accessed 30 May 2022].

Republic of Uganda. 1995. Constitution of the Republic of Uganda. [Online]. Available: https://www.parliament.go.ug/documents/1240/constitution [Accessed 12 January 2022].

Reynolds, P., Nieuwenhuys, O. & Hanson, K. 2006. Refractions of children's rights in development practice. *Childhood*, 13(3): 291 - 302.

Rhea, M.H., Chafey, K.H., Dohner, V.A. & Terragno, R. 1996. The silent victims of domestic violence Who will speak? *Journal of Child and Adolescent Psychiatric Nursing*, 9(1): 7-15.

Rich, C., Mavhu, W., France, N.F., Munatsi, V., Byrne, E., Willis, N. & Nolan, A. 2022. Exploring the beliefs, experiences and impacts of HIV-related self-stigma amongst adolescents and young adults living with HIV in Harare, Zimbabwe: A qualitative study. *PLoS ONE*, 17(5): 1 - 18.

Richter, L., Manegold, J. & Pather, R. 2004. Family and community interventions for children affected by AIDS. Research Monograph commissioned by the Social Aspects of HIV/AIDS and Health Research Programme of the Child, Youth and Family

Development Research Programme. Pretoria: HSRC.

Risenga, P.R. & Mboweni, S.H. 2023. Adolescent Girls' Experiences Regarding Teenage Pregnancy in the Rural Villages of Limpopo Province, South Africa. Adolescents 3(1): 60 – 71.

Rishmawi, M. 2006. The nature of state parties' obligations. Leiden: Martinus Nijhoff Publishers.

Ritchie, J. 2003. The Applications of Qualitative Methods to Social Research. In Ritchie, J. & Lewis, J. (eds.). *Qualitative research practice: A guide for social science students and researchers*. London. SAGE Publishers.

Ritchie, J. & Lewis, J. (eds.). 2003. *Qualitative research practice: A guide for social science students and researchers.* London. SAGE Publishers.

Robinson, J.A. 2003. Children's rights in the South-African Constitution. *PER*, 6(1): 22 - 112.

Roby, D. E. 2004. Research on school attendance and student achievement: A study of Ohio schools. *Educational Research Quarterly*, 28(1): 3 -16.

Rodriguez, A. & Venzor, C.L. 2022. The impacts of exposure to domestic violence in childhood that leads to experiencing violence in future intimate partner relationships. California State University, San Bernardino.

Roithmayr, D. 2003. Access, adequacy and equality: The constitutionality of school fee financing in public education? *SAJHR,* 19(3): 382 - 429.

Roodt, M. 2001. Participation, civil society, and development. In Coetzee, J.K., Graaf, J., Hendricks, F. & Wood, G. (eds.). *Development Theory, Policy and Practice*. Cape town: Oxford University Press Southern Africa.

Rooms for Africa. 2022. Map of Eastern Cape accommodation. [Online]. Available:

https://www.roomsforafrica.com/dest/south-africa/eastern-cape.jsp [Accessed 30 May 2022].

Rosa, S. & Dutschke, M. 2006. Child rights at the core: A commentary on the use of international law in South African court cases on children's socio-economic rights. A Project 28 Working Paper, May 2006. Cape Town: Children's Institute, University of Cape Town.

Ryan, J. 2013. A South African Retrospective Study Of Children's Exposure To Domestic Violence As A Predisposing Factor For Revictimization In Adulthood. University of Western Cape.

Rossiter, G., Sebastian, B. & Twala, N. 2007. The Valley Trust OVC Project: A case study. Pretoria: Khulisa Management Services.

Roth, K. 2009. Article 26: A principled statement on education. *Journal of Human Rights*, 8(2): 139 – 149.

Ruto, S. J., Chege, F. N. & Wawire, K. V. 2009. Kenya's HIV/AIDS education sector policy: Implications for orphaned and vulnerable children and the teaching of HIV/AIDS education. *Journal of International Cooperation in Education*, 12 (1):127 - 142.

Sahovic, N., Doek, J. & Zermatten, J. 2013. *The rights of the child in International Law*. Berne: Stampfli Publishers.

Salomon, M. 2014. Better development decision-making: Applying International Human Rights Law to neoclassical economics. *Nordic Journal of Human Right*, 32(1): 44 - 74.

Samuel, S. 2013. Importance of education in a countries' progress. How To Learn. [Online]. Available: https://www.howtolearn.com/2013/03/importance-of-education-in-a-countrys-progress/ [Accessed 10 February 2022].

Samuelson, P. & Kaga, Y. 2008. The contribution of early childhood education to a sustainable society. Paris: UNESCO.

Santarelli, N.C. 2008. Non-state actors' human rights obligations and responsibilities under International Law. *Revista Electrònica de estudios internacionales*,15(2): 234 - 342.

Santini, A. 2018. The importance of referencing. *Journal of Critical Care Medicine*, 4(1): 38 - 54.

SAPS. 2020. The crime situation in South Africa: Annual report, 2019/2020. Pretoria: SAPS.

Saunders, M., Lewis, P. & Thornhill, A. 2007. *Research methods for business students*, 4th ed. London: Prentice Hall.

Saunders, M., Lewis, P. & Thornhill, A. 2012. *Research methods for business students*. Harlow: Pearson Education.

Savio, N.D. 2010. Forecasting the effectiveness of policy implementation strategies. Manchester: University of Manchester.

Sayed, Y. & Jansen, J.D. 2001. Implementing education policies :The South African experience. Cape Town: UCT Press.

Section 27 v Minister of Education 2013 2 SA 40 (GNP).

Scheel, A.M., Tiokhin, L., Isager, P.M., Lakens, D. 2021. Why hypothesis testers should spend less time testing hypotheses. Perspectives on Psychological Science, 16(4): 744 – 755.

Schefer, K.N. 2013. *Poverty and the international economic legal system: Duties to the world's poor*. Cambridge: Cambridge University Press.

Schenk, K.D., Michaelis, A., Sapiano, N., Brown, L. & Weiss, E. 2010. *Improving the lives of vulnerable children: Implications of Horizon's Research among orphans and other children affected by AIDS*. Washington D.C: Routledge.

Schenk, K.D. 2009. Community interventions providing care and support to orphans and vulnerable children: A Review evidence. *AIDS Care*, 21(7): 918 - 942.

Schilling, J. 2006. On the pragmatics of qualitative assessment: Designing the process for content analysis. *European Journal of Psychological Assessment, 22*(1): 28 - 37.

Schlake, M. R. 2015. Community engagement: Nine principles. [Online]. Available:https://digitalcommons.unl.edu/agecon_cornhusker/726/ [Accessed 9 October 2021].

Schlemmer, E.C. 2004. South Africa and the WTO Ten Years into Democracy. *SAYIL*, 29(1): 125 - 135.

Schmitz, C.L. & Gabel, S.G. 2022. Protecting the Rights of People and Communities that are the Most Vulnerable. *Journal of Human Rights and Social Work*, 7(1):347–348.

Sebastian, B., Pillay, S. & Twala, N. 2008. Zimeleni home-based care OVC project with support from Management Sciences for Health. Johannesburg: Khulisa Management Services.

Seleoane, M. 2004. The right to basic education. Monitoring socio-economic rights in South Africa: Achievements and Challenges. Cape Town: IDASA.

Sepúlveda, M. 2003. The nature of the obligations under the International Covenant on Economic, Social and Cultural Rights. Geneva: Intersentia.

Serey, S., Many, D., Sopheak, M., Sokkalyan, T., Sela, S., Chanravuth, L. & Sophal, K. 2011. Addressing the special needs of orphans and vulnerable children (OVCs): A case study in Kien Svay district, Kandal province, Cambodia. *Journal of AIDS and HIV*

Research, 3(2): 43 - 50.

Shaw, N. M. 2008. *International Law*, 6th ed. London: Cambridge University Press.

Shibuya, T. 2016. Alternative care options and social protection policy choices to support orphans and vulnerable children: A comparative study of Mozambique and Guinea-Bissau. Cape Town. University of Cape Town.

Shisana, O., Rehle, T., Simbayi, L.C., Zuma, K., Jooste, S. & Zungu, N. 2014. *South African National HIV Prevalence, Incidence and Behaviour Survey, 2012.* Cape Town: HSRC Press.

Sibanda-Moyo, N., Khonje, E. & Brobbey, M.K. 2017. Violence against women in South Africa: A country in crisis. Oxfam and Centre for the study of violence and reconciliation, South Africa. [Online]. Available: https://www.csvr.org.za/pdf/CSVR-Violence-Against-Women-in-SA.pdf [Accessed 27 May 2021).

Sillah, P. 2023. Assessing The African Charter on the Rights and Welfare of The Child (ACRWC) As a Blueprint Towards the Attainment of Children's Rights in Africa. *IOSR Journal of Humanities and Social Science*, 11(2):50-55.

Silverman, D. 2010. *Doing qualitative research*. Los Angeles: SAGE Publishers.

Silverman, D. 2014. *Interpreting qualitative data*. Los Angeles: SAGE Publishers.

Simbo, C. 2012. Defining the term basic education in the South African Constitution: An international law approach. *Law, Democracy and Development*, 17(1): 477 - 503.

Simbine, S.L. & le Roux, L. 2021. Vatsonga people's perceptions of children's rights. *Social Work*, 57(4): 472 – 485.

Simmons, B. 2009. Civil rights in International Law: Compliance with aspects of the International Bill of Rights. *Indiana Journal of Global Legal Studies*, 16(2): 439 - 440.

Singh, S. & Nagpal, C. 2010. The right of Children to Free and Compulsory Education Act 2009: Promises and perils. *The Journal of International Issues*, 14(4): 118 - 135.

Skelton, A. 2017. Strategic litigation impacts: Equal access to quality education. Report commissioned by the Open Society Justice Initiative: Open Society Foundations. Education Support Programme

Skinner, D., Tsheko, N., Mutero-Munyati, S., Segwabe, M., Chandiwana, B., Nkomo, N., Tlou, S. & Chitiyo, G. 2004. *Defining orphaned and vulnerable children*. Cape Town: HSRC Publishers.

Skinner, D., Tsheko, S., Mtero-Munyati, M., Segwabe, P., Chibatamoto, S., Mfecane, B., Tlou, G. C. 2006. Towards a definition of orphaned and vulnerable children. *International Conference on AIDS*, 10(6): 619 - 626.

Skogly, S.I. 2006. Beyond national borders: States' human rights obligations in International Cooperation. Geneva: Intersentia.

Sloth-Nielsen, J. & Kruuse, H. 2013. A maturing manifesto: The Constitutionality of Children's Rights in South African jurisprudence 2007 - 2012. *Int'l J Child Rts,* 4(2): 646 - 678.

Sloth-Nielsen, J. 2019. Monitoring and implementation of children's rights. In: Kilkelly, U. & Liefaard, T. (eds). *International Human Rights of Children*, 16(2018): 31 – 64.

Smart, R. 2003. *Policies for orphans and vulnerable children: A framework for moving ahead*. The Policy Project. USAID.

Smart, R., Heard, W. & Kelly, M. 2007. An education policy framework for orphans and vulnerable children. Paris: IIEP/ESART.

Smit, J.W. & Notermans, C. 2015. Surviving change by changing violently: Ukuthwala in South Africa's Eastern Cape province. *Anthropology Southern Africa*, 38(2): 29 - 46.

Sofradzija, H., Sehic, S., Alibegovic, A., Bakic, S. & Camo, M. 2021. Education is a Process. *International Journal of Contemporary Education*, 4(1): 56 – 64.

Sooklal, S. 2005. The structural and cultural constraints on Policy Implementation: A case study on further education and training colleges in South Africa. PhD thesis. University of Pretoria.

South African Schools Act (84/1996): Regulations relating to minimum uniform norms and standards for public school infrastructure.

SAPS. 2020. SAPS 'Media Briefing statement by Minister of Police, General Bheki Cele on the Visit to Kwazulu-Natal to Assess Adherence to the COVID-19 Lockdown Regulations South African Police Service. [Online]. Available https://www.gov.za/speeches/minister-bheki-cele-visit-kwazulu-natal-assess-adherence-coronavirus-covid-19-lockdown [Accessed 15 June 2020].

Spodek, B. & Saracho, O.N. 2003. *Contemporary perspectives on play in early childhood education*. Greenwich: Information Age Publishing.

Sripati, V. 2007. Constitutionalism in India and South Africa: A comparative study from a human rights perspective.

Ssenyonjo, M. 2010. Economic, social and cultural right: An examination of state obligations. [Online]. Available: https://www.researchgate.net/publication/291094798 [Accessed 16 February 2021].

Ssenyonjo, M. 2017. The influence of the International Covenant on Economic, Social and Cultural Rights in Africa. *Neth Int Law Rev,* 64(1): 259 - 289.

Stake, R.E. 2005. *Qualitative case studies*. Thousand Oaks, CA: Sage.

Stanton, T.K. 2008. New times demand new scholarship: opportunities and challenges for civic engagement. *Education, Citizenship and Justice*, 3(1):19 - 42.

Stats SA. 2015. Millennium Development Goals: Country report 2015 Pretoria: Stats SA Library Cataloguing-in-Publication.

Stats SA. 2015. Millennium Development Goals: Country report 2015. Statistics South Africa. Pretoria: Stats SA.

Stats SA. 2016. General Household Survey. Statistics South Africa. [Online]. Available: https://www.statssa.gov.za/publications/P0318/P03182016.pdf [Accessed 14 December 2021].

Stats SA. 2019. General Household Survey. [Online]. Available: https://www.statssa.gov.za/publications/P0318/P03182018.pdf [Accessed 23 June 2021].

Stats SA. 2019. Statistics South Africa. Mid-year Population Estimates 2018. [Online]. Available: https://www.statssa.gov.za/publications/P0302/P03022018.pdf [Accessed 22 December 2021].

Statistics SA. 2020. Child Poverty in South Africa: A Multiple Overlapping Deprivation Analysis. Pretoria: Statistics SA.

Stats SA. 2021. General Household Survey 2020. Pretoria: Stats SA.

Stats SA. 2022. Statistical Release P0302: Mid-year population estimates. [Online]. Available: https://www.statssa.gov.za/publications/P0302/P03022022.pdf [Accessed 23 January 2023].

Stefanidou, C. & Skordoulis, C. 2014. Subjectivity and objectivity in science: An educational approach. *Advances in Historical Studies*, 3(4):183 - 193.

Steffen, E. 2016. Ethical considerations in qualitative research. *Analysing Qualitative Data in Psychology*, 2(1): 31 - 44.

Stein, N. 2017. *Language in Schools* in *Basic Education Rights Handbook: Education*

Rights in South Africa. Johannesburg: SECTION27.

Stover, J., Bollinger, L., Walker, N. & Monasch, R. 2007. Resource needs to support orphans and vulnerable children in sub-Saharan Africa. *Health Policy and Planning*, 22(1): 21 - 27.

Strohwald, A. 2021. The child's rights to, in and through basic education: An analysis of South Africa's international obligations. Thesis. University of Pretoria.

Strasser, S., Treadwell, M. & Ideh, J. 2008. Programming for impact: A review of the literature and lessons from the field on programming for vulnerable children. Baltimore: Catholic Relief Services.

Stuart, R. M., Fraser-Hurt, N., Kerr, C. C., Mabusela, E., Madi, V., Mkhwanazi, F., Pillay, Y., Barron, P., Muzah, B., Matsebula, T., Gorgens, M. & Wilson, D. P. 2018. The City of Johannesburg can end AIDS by 2030: Modelling the impact of achieving the fast-track targets and what it will take to get there. *J. Int. AIDS Soc*, 21(25):180 - 196.

Sunday Times. 2010. Province wants R24-billion for schools. [Online]. Available: https://www.timeslive.co.za/sunday-times/ [Accessed 10 January 2023].

Sutton, J. & Austin, Z. 2015. Qualitative research: Data collection, analysis, and management. *Journal of Hospital Pharmacy*, 68(3):226 - 231.

Swart, E. & Pettipher, R. 2005. A Framework for understanding inclusion. Pretoria: Van Schaik.

Swingler, H. 2013. Life in a thousand days. Cape Town: University of Cape Town.

Tanga, P.T., Khumalo, P. & Gutura, P. 2017. Three decades of HIV/AIDS pandemic: Challenges faced by orphans in Tembisa, South Africa. In Dumais, N. (ed.). *HIV/AIDS – Contemporary Challenges*, London: IntechOpen.

Tasamane, T. 2011. Analysis of services for orphans and vulnerable children in Lesotho. Human and Social Development Programme. Human Sciences Research Council.

Tawana, J.M. 2021. An analysis of South Africa's compliance with its reporting obligations under selected core human rights treaties. University of Pretoria.

Teddlie, C. & Tashakkori, A. 2007. *Foundation of mixed methods research.* Thousand Oaks, CA: SAGE.

Tellis, W. M. 1997. Introduction to the case study. *The Qualitative Report*, 3(2):1 - 14.

Terre-Blanche, M. & Durrheim, K. 2002. Histories of the present: Social science research in context. In Terre Blanche, M. & Durrheim, K. (eds.). *Research in Practice: Applied Methods for the Social Sciences*. Cape Town: University of Cape Town Press.

Tesemma, T.S. 2012. A critical analysis of law and policy on the education of disabled children in South Africa. Pretoria: University of South Africa.

The Presidency. 2009. Situational Analysis of Children in South Africa. The Presidency: RSA

Thiétart, R. 2007. *Doing management research: A comprehensive guide*. London: SAGE Publications.

Thobejane, T. D., Mogorosi, L. D. & Luthanda, N. V. 2018. Gender-based Violence against Men: A Muted Reality. *Southern African Journal for Folklore Studies*, 28 (1):10 - 15.

Thomas, G. 2011. *How to do your case study: A guide for students and researchers*. Los Angeles: SAGE Publications.

Thurman, T.R., Brown, L., Richter, L., Maharaj, P. & Magnani, R. 2006. *Sexual risk among South African adolescents: Is orphan status a factor?* Springfield: Business

Media, Inc.

Tomaševski, K. 2001. *Right to Education Primers No 2: Free and Compulsory Education for All Children: the Gap between Promise and Performance*. Gothenburg: Novum Grafiska.

Tomaševski, K. 2006. *Human Rights Obligations in Education: The 4-A Scheme*. Tilburg: Wolf Legal Publishers.

Tracy, S.J. 2013. *Qualitative research methods, collecting evidence, crafting analysis, communicating impact*. West Sussex: Wiley-Blackwell publication.

Tran, T. & Mwanri, L. 2013. Addressing stigma and discrimination in HIV/AIDS affected orphans and vulnerable children in Vietnam. *World Journal of Preventive Medicine*, 1(3): 30 - 35.

Transparency International. 2015. What is political will? [Online]. Available at: https://knowledgehub.transparency.org/guide/topic-guide-on-building-political-will-to-fight-corruption/5136 [Accessed 23 November 2021].

Tomaševski, K. 2001. *Right to Education Primers No 2: Free and Compulsory Education for All Children: the Gap between Promise and Performance*. Gothenburg: Novum Grafiska.

Tomaševski, K. 2006. *Human Rights Obligations in Education: The 4-A Scheme*. Tilburg: Wolf Legal Publishers.

Trussell, D. 2008. Unique ethical complexities and empowering youth in the research process. *Journal of Park & Recreation Administration*, 26(3): 163 -176.

Tshikululu. 2019. Migration of Early Childhood Development from DSD to DBE: The hard work lies ahead. [Online]. Available: https://tshikululu.org.za/migration-early-childhood-development-dsd-dbe-hard-work-lies-ahead/ [Accessed 18 December 2020].

Tull, K. 2019. Period poverty impact on the economic empowerment of women. University of Leeds Nuffield Centre for International Health and Development.

Türkkahraman, M. 2012. The role of education in societal development. University, Educational Faculty Antalya, Turkey. *Journal of Education and Instructional Studies in the World*, 2(4): 4 - 15.

UDHR. 1948. Universal Declaration of Human Rights. Geneva: United Nations

Udjo, E.O. & Lalthapersad-Pillay, P. 2015. Assessing the achievements of the Millennium Development Goals in Southern Africa. *African Population Studies*, 29(1): 1460 -1471.

Ullin, P.R., Robson, E.T. & Trolley, E.E. 2005. Qualitative methods in public health. New York: Jossy Bass.

Umozurike, U.O. 1997. *The African Charter on Human and Peoples Rights.* The Hague: Martin Nijhoff Publishers.

UNAIDS. 2013. 2011 – 2012 Education Sector HIV and AIDS Global Progress Survey. Paris, Inter Agency Task Team on Education. [Online]. Available: https://reliefweb.int/report/world/2011-2012-education-sector-hiv-and-aids-global-progress-survey-progression-regression [Accessed 12 May 2021].

UNAIDS. 2016. South Africa Country overview. [Online]. Available: http://www.unaids.org/en/regionscountries/countries/southafrica [Accessed 15 October 2020].

UNAIDS. 2020. South Africa HIV and AIDS estimates. [Online]. Available: https://www.unaids.org/en/regionscountries/countries/southafrica [Accessed 15 January 2022].

UNAIDS. 2022. Global data on HIV epidemiology and response. [Online]. Available:

https://aidsinfo.unaids.org/ [Accessed 28 December 2022].

UNAIDS, UNICEF & USAID. 2002. Children on the brink: A joint report on orphan estimates and program. Washington, DC: TVT Associates.

UNDP. 2022. Africa Sustainable Development Report: Building Back Better from the Coronavirus Disease, While Advancing the Full Implementation of the 2030 Agenda for Sustainable Development.

Underdal, A. & Hanf, K. 2000. *International environmental agreements and domestic politics: The case of acid rain.* London: Routledge.

UNESCO 1994. The Salamanca Statement and Framework for Action On Special Needs Education World Conference on Special Needs Education: Access and Quality Salamanca, Spain, 7-10 June 1994.

UNESCO. 1990. World Declaration on Education for All and Framework for Action to Meet Basic Learning Needs. Jomtien: UNESCO.

UNESCO. 2000. The Dakar Framework for Education – Education for All: Meeting our collective commitments. [Online]. Available: https://unesdoc.unesco.org/ark:/48223/pf0000121147 [Accessed 2 January 2022].

UNESCO. 2002. Education for all: Is the World on track? EFA Global Monitoring Report. Paris: UNESCO.

UNESCO. 2005. Guidelines for inclusion: Ensuring access to education for all. Paris: UNESCO.

UNESCO. 2007. Enhancing learning: From access to success. Paris: UNESCO.

UNESCO. 2009. Overcoming inequality: Why governance matters. EFA Global Monitoring Report. Oxford: Oxford University Press.

UNESCO. 2010. EFA Global monitoring report: Reaching the marginalized. Oxford: Oxford University Press.

UNICEF. 2003. Protection and support of orphans and families affected by HIV/AIDS. Geneva: UNICEF Press release.

UNICEF. 2005.*Guide to monitoring and evaluation of the national response for children orphaned and made vulnerable by HIV/AIDS*. New York, NY:UNICEF.

UNICEF. 2007. A Human Rights-Based approach to education for All: A framework for the realization of children's right to education and rights within education. Geneva: UNICEF.

UNICEF. 2007. Protecting the world's children: Impact of the Convention on the Rights of the Child in diverse legal systems. Cambridge: Cambridge University Press.

UNICEF. 2009. Promoting quality education for orphans and vulnerable children. [Online]. Available: http://www.unicef.org/education/files/Promoting_Quality_Education_for_Orphans_and_Vulnerable_Children_Programmes_from_Eastern_and_Southern_Africa.pdf [Accessed 11 May 2020].

UNICEF. 2010. Equity and inclusion in education: A guide to support education sector plan preparation, revision and appraisal. UNICEF.

UNICEF. 2010. Realising the rights of children in Ghana. Accra. New York: UNICEF.

UNICEF. 2011. Evaluation of UNICEF's Early Childhood Development Programme with focus on the government of Netherlands funding (2008–2010): *Ghana country case study report*. New York: UNICEF.

UNICEF. 2012. Ethical principles, dilemmas and risks in collecting data on violence. New York: UNICEF.

UNICEF. 2013. *Achieving an AIDS-Free Generation.* New York: UNICEF.

UNICEF. 2013. Child info statistics by area HIV/AIDS. [Online]. Available: http://www.childinfo.org/hiv_aids.html [Accessed 24 April 2020].

UNICEF. 2013. Towards an AIDS – Free Generation. [Online]. Available: http://www.childrenandaids.org/files/str6_full_report_29-11-2013.pdf [Accessed 8 July 2020].

UNICEF. 2014. Impact on children: Care and support for orphans and vulnerable children. [Online]. Available: https://www.unicef.org/southafrica/reallives_4265.html [Accessed 15 March 2019].

UNICEF. 2014. *Global initiative on out-of-school children: South Asia regional study*. [Online]. Available:https://www.unicef.org/education/files/SouthAsia_OOSCI_Study__Executive_Summary_26Jan_14Final.pdf [Accessed 28 April 2020].

UNICEF.2014. The state of the world's children 2015: Reimagine the future: Innovation for every child. New York: UNICEF.

UNICEF. 2020. Child poverty in South Africa: A multiple overlapping deprivation analysis. Pretoria. Pretoria: UNICEF.

UNICEF. 2021. About ten percent of all orphans globally have lost one or both parents due to an AIDS-related cause. [Online]. Available: https://data.unicef.org/topic/hivaids/orphanhood/ [Accessed 20 June 2022].

UNICEF. 2021. Implementing and monitoring the Convention on the Rights of the Child: Turning child rights principles into action and results for children. [Online]. Available: https://www.unicef.org/child-rights-convention/how-convention-works [Accessed 10 October 2021].

UNICEF. 2022. The number of COVID-19 orphans nears 150,000 in South Africa:

UNICEF South Africa calls for a whole of society response to protect, nurture and care for the most vulnerable children. [Online]. Available: https://www.unicef.org/southafrica/press-releases/number-covid-19-orphans-nears-150000-south-africa [Accessed 18 June 2022].

UNICEF, UNAIDS & USAID. 2004. Children on the brink. A joint report of new orphan estimates and a framework for action. Geneva: USAID Publications.

United Nations. 1948. United Declaration for Human Rights. [Online]. Available: https://www.un.org/sites/un2.un.org/files/2021/03/udhr.pdf [Accessed 20 April 2022].

United Nations. 1989. Convention on the Rights of the Child. Geneva: United Nations Publications.

United Nations. 1999. Implementation of the International Covenant on Economic, Social and Cultural Rights. General Comment No. 13. Economic and Social Council. [Online]. Available: https://www.ohchr.org/en/resources/educators/human-rights-education-training/d-general-comment-no-13-right-education-article-13-1999 [Accessed 13 March 2022].

United Nations. 2013. General comment No. 14 (2013) The right of the child to have his or her best interests taken as a primary consideration (CRC/C/GC/14).

United Nations. 2000. Former United Nations Secretary-General Kofi Annan in the Millennium Report 2000. [Online]. Available: https://www.un.org/press/en/2000/20000403.ga9704.doc.html [Accessed 5 January 2022].

United Nations. 2000. News on millennium development goals. [Online]. Available: http://www.un.org/millenniumgoals/ [Accessed 3 February 2022].

United Nations. 2001. UN General Assembly Special Session Declaration of Commitment on HIV/AIDS. [Online]. Available: http://www.unaids.org/en/media/unaids/contentassets/dataimport/publications/irc-

pub03/aidsdeclaration_en.pdf [Accessed 5 April 2019].

United Nations. 2002. 27th Special Session of the General Assembly on Children. [Online]. Available: https://documents-ddsny.un.org/doc/UNDOC/GEN/N02/481/78/PDF/N0248178.pdf?OpenElement [Accessed 12 April 2022].

United Nations. 2002. Human rights and disability: The current use and future potential of United Nations human rights instruments in the context of disability. New York: United Nations.

United Nations. 2008. Convention on the Rights of Persons with Disabilities and Optional Protocol. [Online]. Available: https://www.un.org/disabilities/documents/convention/convoptprot-e.pdf [Accessed 10 September 2021].

United Nations. 2014. Committee on the Rights of the Child Consideration of reports submitted by States parties under article 44 of the Convention Consolidated third to fifth periodic reports of States parties. Ghana: United Nations.

United Nations. 2015. Transforming our world: 2030 agenda for sustainable development. New York: United Nations.

United Nations. 2020. Children and armed conflict in South Sudan: Report of the Secretary-General. [Online]. Available: https://www.un.org/ga/search/view_doc.asp?symbol=S/2020/1205&Lang=E&Area=UNDOC [Accessed 3 April 2022].

United Nations. 2021. List of issues prior to submission of the combined third to sixth periodic reports of South Africa. [Online]. Available: https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/TBSearch.aspx?Lang=en [Accessed 12 January 2023].

Uzobo, E. & Ayinmoro, A.D. 2021. Trapped between two pandemics: domestic

violence cases under COVID-19 pandemic lockdown: A scoping review. *Int Q Community Health Educ*, 74(1):1-10.

Van den Berg, E. 2006. Factors influencing the capacity of extended families to provide psychosocial support to AIDS orphans. Master's dissertation. University of South Africa.

Van Bueren, G. 1995.*The international law on the rights of the child*. Martinus: Nijhoff Publishers.

Van der Vyver, J.D. 1997. Constitutional protection of children and young persons. Durban: Butterworths.

Van de Water, B. J., Fulcher, I., Cilliers, S., Meyer, N., Wilson, M., Young, C., Gaunt, B. & le Rou, K. 2022. Association of HIV infection and antiretroviral therapy with the occurrence of an unfavorable TB treatment outcome in a rural district hospital in Eastern Cape, South Africa: A retrospective cohort study. *PLOS ONE,* 17(4): 1-13.

Van Schalkwyk, C., Dorrington, R.E., Seatlhodi, T., Velasquez, C., Feizzadeh, A. Johnson, L.F. 2021. Modelling of HIV prevention and treatment progress in five South African metropolitan districts. *Sci Rep,* 11(5652): 1 – 10.

Van Sant, J. 2000. *Cooperation for good governance*. North Carolina: Duke University.

Vedaste, B. 2013. Rwanda’s international human rights obligations regarding theright to education for children with disabilities. Pretoria. University of Pretoria.

Veerman, P.E., & Gross, B. 1995. Implementation of the United Nations Convention on the Rights of the Child in Israel, the West Bank and Gaza. *The International Journal of Children's Rights*, 3(1): 295 - 332.

Verheyde, M. 2006. The right to education: A commentary to the United Nations Convention on the Rights of the Child. Martinus: Nijhoff Leiden.

Veriawa, F. & Coomans, F. 2005. *The right to education*. Pretoria: University of Pretoria Law Press.

Veriava, F. 2019. *Realising the Right to Basic Education: The Role of the Courts and Civil Society*. Cape Town: Juta.

Viljoen, F. & Precious, S. 2007. Human Rights under threat: Four perspectives in HIV, AIDS and the law in Southern Africa. Pretoria: University Law Press.

Viljoen, F. 2000. The African Charter on the Rights and Welfare of the Child. Lansdowne: Juta & Co Ltd.

Viviers, A. 2014. General comments of the Committee on the Rights of the Child: A compendium for child rights advocates, scholars and policymakers UNICEF. Pretoria: UNICEF.

Volmink, J. & van der Elst, L. 2017. The evolving role of 21st Century Education NGOs in South Africa: Challenges and Opportunities. National Education Collaboration Trust.

Wafula, T. 2012. Implementation of the Rome Statute in Kenya: Legal and institutional challenges in relation to the change from dualism to monism. University of Western Cape.

Wagner, C., Kawulich, B.B. & Garner, M. 2012. *Doing social research: A global context*. London: McGraw-Hill Education.

Walenius, D. 2020. The impact of the power balance between the state and the transnational corporation on human rights. Uppsala University. Uppsala.

Walker, L. & Smithgall, C. 2009. Underperforming schools and the education of vulnerable children and youth. Chicago: Chapin Hall at the University of Chicago.

Wangari, K.B. 2013. Domestication of International Conventions: A comparative study of Kenya and Sweden in their domestication of the United Nations Convention on the

Rights of the Child. Nairobi. University of Nairobi.

Wanyama, M. 2006. Form and content of African music: A case study of Bukusu circumcision Music. Pretoria. University of Pretoria.

Warner, R. 2018. What are the reasons for sampling in the research process? [Online]. Available: https://www.quora.com/What-is-the-importance-of-sampling-in-research [Accessed 24 January 2020].

Weiss, E.B. 2002. Invoking state responsibility in the twenty-first century. Washington. Georgetown University.

Weissbrodt, C., Hansen. J.C. & Nesbit, N.H. 2011. The role of the Committee on the Rights of the Child in interpreting and developing humanitarian law. *Harvard Human Rights Journal*, 24(1): 116 - 130.

Welman, C., Kruger, F. & Mitchell, B. 2005. *Research methodology*, 3rd ed. Cape Town: Oxford Publishers.

Welman, C., Kruger, F. & Mitchell, B. 2012. *Research methodology*. Cape Town: Oxford University Press.

Westaway, A. 2012. Rural poverty in the Eastern Cape Province: Legacy of apartheid or consequence of contemporary segregationism? *Development Southern Africa*, 29(1):115 - 125.

Weston, B.H. & Grear, A. 2016. *Human rights in the world community: Issues and action*, 4th ed. Philadelphia: University of Pennsylvania Press.

Wihlborg, E. 2010. The implementation loop - on Projects as an organizational form in the context of Governance. Linköping University.

Wilde, R. 2013. The extraterritorial application of international human rights law on civil and political rights. *Handbook of International Human Rights Law*, 35(1): 635 - 661.

Wildeman, R.A. & Nomdo, C. 2007. *Implementation of Inclusive Education: How far are we?* Occasional Paper, IDASA Budget Information Service.

Wilshire, C.E., Ward, T., Clack, S. 2021. Symptom descriptions in psychopathology: How well are they working for us? Clinical Psychological Science, 9(3): 323 – 339.

Wimmer, R. & Dominck, J. 2006. Mass media research: An introduction, 6th ed. Belmont, CA: Thompson, Wadsworth.

Winter, S. 2006. Implementation. Handbook of Public Policy. Thousand Oaks, CA: SAGE Publications.

Wolhuter, C.C. 2006.Teacher training in South Africa: Past, present and future. *Education Research and Perspectives*, 33(2): 124 - 139.

Woll, L. 2000. Reporting to the UN Committee on the Rights of the Child. *International Journal of Children's Rights,* 8(1): 71- 81.

Woolman, S. & Bishop, M. 2010. *Education*. Cape Town: Juta.

Woolman, S. & Fleisch, B. 2009. The constitution in the classroom: Law and education in South Africa 1994 - 2008. Pretoria: PULP.

World Bank. 2010. Excellent policies - unintended failures. [Online]. Available: http://siteresources.worldbank.org/INTSOUTHAFRICA/Resources/South_Africa_policy_briefs_overview.pdf [Accessed 20 October 2021].

WHO. 2020. Disease burden and mortality estimates: Cause-specific mortality, 2000 - 2016. World Health Organisation. [Online]. Available: https://www.who.int/data/gho/data/themes/mortality-and-global-health-estimates/ghe-leading-causes-of-death [Accessed 17 August 2021].

WHO. 2021. Violence against women. [Online]. Available: https://www.who.int/news-

room/fact-sheets/detail/violence-against-women [Accessed 19 February 2023].

WHO. 2022.Top 10 causes of death in South Africa for both sexes aged all ages. [Online]. Available: https://www.who.int/data/gho/data/themes/mortality-and-global-health-estimates/ghe-leading-causes-of-death [Accessed 20 April 2022].

World Vision. 2002. Summary of OVC programming approaches. Geneva: World Vision International/HIV/AIDS Hope Initiative.

Yanagisawa, S.K., Poudel, K.C. & Jimba, M. 2010. Sibling caregiving among children orphaned by AIDS: Synthesis of recent studies for policy implications. *Health Policy*. 98(3):121-130.

Yin, R. K. 2003. *Case study research: Design and methods*, 3rd ed. Thousand Oaks, CA: Sage Publishers.

Yusuf, A.A. 1998. African yearbook of international law: Annuaire African De Droit International. Amsterdam: Kluwer Law International.

Zaidah, Z. 2007. Case study as a research method. [Online]. Available: Available: https://jurnalkemanusiaan.utm.my/index.php/kemanusiaan/article/view/165 [Accessed 10 September 2021].

Zhang, Y. & Wildemuth, B. 2009. Qualitative analysis of content. In Wildemuth, B. (ed.). *Applications of social research methods to questions in information and library*. Westport, CT: Libraries Unlimited.

Zisongile-Dekeda, N. 2009. An investigation on the impact of HIV/AIDS on the educators at King Williams Town schools – Eastern Cape, South Africa. University of Stellenbosch.

Appendix A: Ethical Clearance

UNIVERSITEIT VAN PRETORIA
UNIVERSITY OF PRETORIA
YUNIBESITHI YA PRETORIA

Faculty of Humanities
Fakulteit Geesteswetenskappe
Lefapha la Bomotho

Humanities 100
Since 1919

3 February 2021

Dear Mr RF Chirowamhangu

Project Title:	Orphans, vulnerable children and access to basic education: The case of theEastern Cape province, South Africa
Researcher:	Mr. RF Chirowamhangu
Supervisor(s):	Dr MG Shangase
Department:	Political Sciences
Reference number:	29413614 (HUM035/0820)
Degree:	Doctoral

I have the pleasure of informing you that the above application was **approved** by the Research Ethics Committee on 28 January 2021. Data collection may therefore commence.

Please note that this approval is based on the assumption that the research will be carried out along the lines laid out in the proposal. Should the actual research depart significantly from the proposed research, it will be necessary to apply for new research approval and ethical clearance.

We wish you success with the

project.Sincerely,

Prof Innocent Pikirayi
Deputy Dean: Postgraduate Studies and Research Ethics Faculty of Humanities
UNIVERSITY OF PRETORIA
e-mail: PGHumanities@up.ac.za

Fakulteit Geesteswetenskappe
Lefapha la Bomotho

Research Ethics Committee Members: Prof I Pikirayi (Deputy Dean); Prof KL Harris; Mr A Bizos; Dr A-M de Beer; Dr A dos Santos; Ms KT Govinder Andrew; Dr P Gutura; Dr E Johnson; Prof D Maree; Mr A Mohamed; Dr I Noomè; Dr C Puttergill; Prof D Reyburn; Prof M Soer; Prof E Taljard; Prof V Thebe; Ms B Tsebe; Ms D Mokalapa

Appendix B: Letter of Consent

Faculty of Humanities
Fakulteit Geesteswetenskappe
Lefapha la Bomotho

DEPARTMENT OF POLITICAL STUDIES
Student: Raymond Chirowamhangu
Student Number: 29413614
Contact: 076 668 2091
Email: raychirowa@gmail.com

Dear Participant,

INFORMED CONSENT TO PARTICIPATE IN RESEARCH

RESEARCH PROJECT: ORPHANS AND ACCESS TO EDUCATION: THE CASE OF EASTERN CAPE PROVINCE

My name is Raymond Chirowamhangu, a PhD researcher in the Department of Political Studies at the University of Pretoria. I am currently conducting fieldwork research on the above-mentioned topic. Permission to conduct the field research has been granted by the University of Pretoria and the findings will eventually appear in my dissertation and journal articles. Your participation is highly appreciated. As part of the requirements of the qualification and my area of interest will explore barriers hindering orphans and vulnerable children from accessing basic education in the Eastern Cape Province in South Africa.

As part of the research, I will be collecting data in the Eastern Cape Province from the 16th of February to 10th of June. As such, I kindly request your assistance during this period. Should you need any further clarification, please do not hesitate to contact me on the details given above.

Your participation in this study is voluntary and will not disadvantage you. Your participation will be in the form of semi-structured interviews which will be conducted by me. You have the freedom to elaborate on your answers. The duration of the interview is no longer than 45 minutes. The interview will be recorded, and I will also take notes.

You may also withdraw from the study at any time with no negative consequences and any data collected from you during this study will be destroyed. Data collected during this study will be stored in a secure place for a period of 15 years as required by the University of Pretoria. In addition, with your consent, the data may be used in research journals and articles to further research. There are no known risks to you as a participant in this study.

Looking forward to your kind assistance.

Your signature below indicates that you have been fully informed on, objective and nature of the research.

I…….have read the above letter, letter, understand the information read, understand that I can ask questions or withdraw at any time. I consent to participate in this research study.

Participant signature……..

Researcher signature…….

Date…….

Appendix C: List of Participants

Organisation &Focus	Area
1. NGO, AIDS Orphans	Middeldrift
2. NGO, Basic education	Bisho
3. NGO, Basic education	Grahamstown
4. NGO, Basic education	Zwide
5. NGO, Children Care	Gqeberha
6. NGO, Children rights	Gqeberha
7. NGO, Childrens Home	Mthatha
8. NGO, Childrens Home	Seymour
9. NGO, Education	East London
10. NGO, Education	Peddie
11. NGO, Education	Qonce
12. NGO, Food & Nutrition	East London
13. NGO, HIV/AIDS	Walmer
14. NGO, Human rights	Province
15. NGO, Inclusive education	Gqeberha
16. NGO, OVC	Maletswai
17. NGO, OVC & HIV/AIDS	Province
18. NGO, OVC	Dikeni
10. NGO, OVC	Fort Beaufort
20. NGO, OVC	Komani
21. NGO, OVC	Province
22. NGO, Poverty	Butterworth
23. NGO, Poverty	Fort Beaufort
24. NGO, Special needs	East London
25. NGO, Special needs	Port Alfred
26. NGO, Vulnerable children	Komani
27. NGO, Vulnerable children	Zwide
28. Primary School	Bisho
29. Primary School	Chinsta East
30. Primary School	Dikeni
31. Primary School	Kwazakhele
32. Primary School	Mthatha
33. Primary School	Mthatha
34. Primary School	Nkwenkwezi
35. Primary School	Nqanqarhu
36. Primary School	Ntlemeza
37. Primary School	Oosterland
38. Primary school	Zithulele
39. Primary School	Zwide
40. Government Department 1	Bisho
41. Government Department 2	Bisho
42. Government Department 3	Bisho
43. Government Department 4	Bisho
44. United Nations 1	Province
45. United Nations 2	Province
46. United Nations 3	Province

Appendix D: Interview Guide NGO/ Basic Education institutions

UNIVERSITEIT VAN PRETORIA
UNIVERSITY OF PRETORIA
YUNIBESITHI YA PRETORIA

Dear Participant

This is a guideline of the questions that will be asked during the online interview. As a guideline, some responses may prompt clarification questions to ensure all the data is collected accurately. The questions below present the most accurate presentation of the interview.

Thank you for your participation

Interview Questions

1. Introduction - Organisation profile/Background

2. Which projects have you implemented to promote basic education in Eastern Cape province?

3. What have been your major achievements/projects to support basic education in your area?

4. In terms of accountability how do you keep data on the Orphans and Vulnerable Children (OVC) you have assisted or currently assisting?

5. What are the challenges (if any) are you facing in making basic education accessible for OVC?

6. What areas or issues of concern do you suggest should be addressed to ensure access to basic education for OVC in your area?

7. As an NGO/institution have you engaged with the government or local community on the rights of the child? Which projects, programmes or policies do you think need emphasis to make basic education accessible for OVC?

8. Highlight the challenges or achievements obtained from such engagements.

9. Alternatively have you assisted public schools, if yes what is the nature of this assistance?

10. As an organisation, have you established or partnered in any programmes specifically to promote access to basic education for OVC in the Eastern Cape province?

11. If yes. What have been your challenges and achievements?

12. What is your view on the Convention on the rights of the Child (CRC)? Are there any programmes or projects - you have established or partnered with to promote the rights of the child?

13. Supplementary/Closure

Thank you for your participation

Appendix E: Interview Guide Government Departments

UNIVERSITEIT VAN PRETORIA
UNIVERSITY OF PRETORIA
YUNIBESITHI YA PRETORIA

Dear Participant

This is a guideline of the questions that will be asked during the online interview. As a guideline, some responses may prompt clarification questions to ensure all the data is collected accurately. The questions below present the most accurate presentation of the interview.

Thank you for your participation

Interview Questions

1. Introduction - Organisation profile/Background

2. Which projects have you implemented or supported in relation to access to basic education for OVC in the Eastern Cape province?

3. What have been your major achievements/projects in basic education for Orphans and Vulnerable Children (OVC) in the Eastern Cape province?

4. In terms of accountability how do you keep data of the OVC you have assisted or currently assisting?

5. What are the challenges (if any) are you facing in making education accessible to all children?

6. Which areas or issues of concern do you suggest should be addressed to ensure access to basic education for OVC in the Eastern Cape province?

7. As a Government Department, do you engage with NGOs/institutions that relate to access to basic education and children's rights in your area?

8. (If yes). What is the nature and frequency of these engagements?

9. Can you highlight specific projects or programmes you have implemented to support access to basic education?

10. As an organisation, have you established or partnered in any programmes specifically to promote basic education for OVC in the Eastern Cape province?

11. (If yes). What have been your challenges and achievements?

12. What is your view on the Convention on the Rights of the Child (CRC)? Are there any programmes or projects you have established or partnered with to promote the rights of the child?

13. How does the Department monitor the implementation of the Convention on the Rights of the Child (CRC) at the provincial domestic level?

14. Participation in international treaties or agreements (Comment).

15. Supplementary/Closure.

Thank you for your participation

Appendix F: Atlas.ti 9 Research Analysis Dashboard