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LIST OF ACRONYMS

ACPF............... African Child Policy Forum
ACRWC........... African Charter on the Rights and Welfare of the Child
AU .... African Union
DfEE/QCA....... Department for Education and the Environment/Qualifications and
.... Curriculum Authority
DoBE............... Department of Basic Education
DoE .... Department of Education
DoHET .... Department of Higher Education and Training
EFA .... Education for All
ESCR .... Economic, Social and Cultural Rights
ESDP.............. Education Sector Development Programme
GER................ Gross Enrolment Ratio
ICCPR .... International Covenant on Civil and Political Rights
ICESCR........... International Covenant on Economic, Social and Cultural Rights
IEP.................. Individualised Education Plan (Programme)
IHRI .... International Human Rights Instruments
ISP.................. Individual Support Plan
LRE .... Least Restrictive Environment
NCESS .... National Committee on Education Support Services
NCSNET......... National Commission on Special Needs in Education and Training
NGO .... Non-Governmental Organisation
NSSF………....National Norms and Standards for School Funding
ODP................ Office of the Deputy President
RSA................ Republic of South Africa
SIAS ………… National Strategy on Screening, Identification, Assessment and Support
SNE................ Special Needs Education
UK .... United Kingdom
UNCRC .... United Nations Convention on the Rights of the Child
UNCRPD .... United Nations Convention on the Rights of Persons with Disabilities
UNDHR .... Universal Declaration of Human Rights
UNESCO .... United Nations Educational, Scientific and Cultural Organisation
UNICEF .... United Nations Children's Fund
UN .... United Nations
US .... United States
WHO............... World Health Organization

LIST OF ABBREVIATED TITLES OF LAWS AND POLICIES

Consultative Paper 1   *The Consultative Paper No 1 on Special Education: Building an Inclusive Education and Training System*
Disability Strategy   *White Paper on an Integrated National Disability Strategy*
Limburg Principles   *Limburg Principles on the Implementation of the ICESCR*
Maastricht Guidelines   *Maastricht Guidelines on Violations of Economic, Social and Cultural Rights*
Salamanca Statement   *The Salamanca Statement on Special Needs Education*
Schools Act   *The South African Schools Act 84 of 1996*
White Paper 6   *White Paper 6 on Special Needs Education: Building on Inclusive Education and Training System*

SUMMARY

From the literature we learn that existing educational frameworks that inform law and policy-making on the education of disabled children deal extensively with the curricular and educational concerns of disabled children. Yet, these frameworks leave out the pivotal issue of children's human right to education. The rights-based frameworks address human rights issues in a grand fashion, but give scanty educational guidelines on the actual education of disabled children, rendering hollow the human rights credo they espouse.

South Africa has been one of a few countries which made attempts at addressing both the human rights concerns facing learners with disabilities and their curricular and pedagogic needs. The country embarked upon extensive efforts of legislative and policy formulation that are, in some respects, unparalleled in the world. Hence, this country is a potential storehouse of good practices on the education of children with disabilities with the potential to inform the re-formulation of existing African and global frameworks on the right to education of disabled children. Furthermore, the impressive novelty contained in South African education laws and policies notwithstanding, there are a number of issues which should be addressed in the country's education environment, including how the laws and policies are implemented. It is to be acknowledged that laws and policies are only as good as their implementation.

Mindful of the above situation prevailing at the global level and the national (South African) level, this study offers a framework that marries the right to education of children with disabilities with educational theory on and practice in regard to the education of disabled children. The framework is constructed on the basis of current international literature on both disability and education and related South African law and policy instruments.

In terms of its methodology, the study employed a generic or non-categorical qualitative design, also called methodological *bricolage.* Under this overall design, two principal modes of inquiry were applied, namely the enlightenment mode to policy analysis and critical law and policy discourse analysis. Theoretically, the study is anchored in the human rights variant of the Social Model of Disability, Critical Theory and Post-structural paradigms.

KEY WORDS:

Acceptability, accessibility, adaptability, availability, critical analysis, disabled children, disability, discourse, education, framework, law, policy, South Africa, thematic content analysis

CHAPTER ONE

INTRODUCTION

OVERVIEW

> "….Preach, my dear sir, a crusade against ignorance; establish and improve the law for educating the common people." ~ from a letter written by Thomas Jefferson in 1786 (cited in Volio 1979:22)

Disabled children have the fundamental human right to get good quality education that will ensure their development to their full potential and their effective participation in a free society (UN 2006b, a 24(1) (a-c)).

It is a truism that educational access, and subsequent success in education, is one of the most important gateways to change many other areas of life for disabled individuals. Educational access coupled with educational success has the potential to effectively challenge societal prejudices about disability, thereby improving the possibility of career success of persons with disabilities. Yet, it is to be noted that educational access alone may not be enough for success as there are other societal and personal factors that have a bearing on success.

The way education laws and policies are formulated and implemented by and large determine the success or failure of the school system and eventually of the children with disabilities. This is because a country's thinking and philosophy of education practice are embodied in its law and policies as these furnish the direction for any national educational endeavour. This central place of law and policy means that these instruments have to be reviewed regularly and be updated with new trends, knowledge and developments.

With that in mind, the researcher reviewed selected laws and policies related to the right to education of disabled children in South Africa. The review was carried out using critical discourse analysis and thematic content analysis as tools of analysis. The latter was done based on the so-called the 4 'A' scheme (see section 2.3.1 for a detailed discussion of this scheme). As the original contribution of the research, a framework that spells out the fundamental elements of laws and policies on the education of disabled children is presented in line with both International and Regional Human Rights Instruments, and current disability and educational thinking and practice.

1.1 BACKGROUND

In this section, the background is sketched by highlighting the prevalence of disability among children in Africa, the overall state of access to education of this group of children, and the law and policy environment related to the right to education of disabled children in Africa.

Children with disabilities are born into families in virtually every community in Africa as in all other regions of the world. Major causes of disability are communicable diseases, war, accidents, and inadequate prenatal and neonatal health care services (UN 2006a, para 53 & 54).

Accurate figures on the prevalence of disability are difficult to find for most African countries, partly due to the hidden nature of the problem and partly because of the little attention given to it by actors in various fields. The little statistical evidence available shows, however, that it is a prevalent problem.

Between 1999 and 2006, 35 per cent of 2- to 9-year-olds in Djibouti, 31 per cent in Central African Republic and 23 per cent in Sierra Leone lived with at least one reported disability (UNICEF 2007a:146-147). In the 2009 general household survey of South Africa, it was reported that 10.7% of children aged 0 to 18 years were disabled (Statistics South Africa 2010). Despite the large number of children with disabilities in Africa, these children are absent, or referred to only marginally, in public law and policy documents, health, education and social development plans or poverty reduction programmes of most African countries. National Plans of Action for Children in African countries sometimes make reference to children with disabilities, but suggest little action to meet their needs (Ransom 2008:10). This situation, in turn, contributes to neglect of their economic, social, cultural, civil and political rights of which education is one (African Child Policy Forum 2008:31).

The right to education is an empowering right necessary for the fulfilment of other economic, social, cultural, civil and political rights (UNICEF 2007b:7). UNESCO (2006a:74) estimates that fewer than 10 per cent of disabled children in Africa receive an education. This high level of exclusion is due to a host of factors including limitations in law and policy and lack of clear strategies for the delivery of these services and the erroneous assumption underlying most law and policy that these children are uneducable (Balescut & Eklindh 2005:1).

With this situation in mind, the researcher examined the existing laws and policies in South Africa and their implications to the right to education of children with disabilities and came up with a framework that would inform law and policy-making on the education of disabled children in South Africa, and in Africa. The framework emerged both from the international literature on the subject and the South African experience, hence has the potential for a wider, pan-African application (refer to the discussion on transferability, sections 1.7.2 and 3.6.4).

1.2 MOTIVATION OF THE RESEARCH

Under this section, the major factors that motivated this study, over and above my fairly obvious motivation of doing the research as a fulfilment for my degree of Doctor of Education in Education Management, are spelt out.

Firstly, my personal interest and empathy motivated me to undertake this study. The plight of vulnerable groups of children is not only an interest of mine but also something that lies close to my heart. I am currently affiliated with the African Child Policy Forum - a pan-African child-rights advocacy organisation - which is in the process of establishing a programme for children with disabilities in Africa. The programme will mainly focus on research on and advocacy for the rights and wellbeing of children with disabilities. My involvement in establishing this programme motivated me to undertake this specific study.

I also have made a number of research contributions on vulnerable groups of children such as orphans, street children and child-headed households. This research on disabled children helped me to broaden and complement my knowledge of these groups of children and, I hope, would help me to make informed contributions to current law and policy debates.

I was also motivated by the fact that there clearly is a dire need to address the plight of children with disabilities and ensure that the right to education of children with disabilities is upheld. Education stands out as one of the defining opportunities for the empowerment and development of children with disabilities.

Some African countries made progress in fulfilling their human right obligations with regard to the schooling of children with disabilities by providing free basic education and developing programmes aimed at realising the right to education of vulnerable groups of children.

Despite some progress, it was evident by the end of 2008 that the African Decade for Disabled Persons (1999-2009) would come to an end with much work still to be done to fulfil the political, social and economic rights of disabled people in Africa. This is, *inter alia*, evident from the fact that in September 2008, during the Disability Regional Conference held in Nairobi, the need was emphasised and the call made to extend the African Decade of Persons with Disabilities for another 10 years (UN 2008).

In fact in 2007, Dube, the then Chief Executive Officer of the Secretariat of the African Decade of Persons with Disabilities, stated that only 2 per cent of the people with disabilities on the African continent received basic schooling (Dube 2007). According to UNESCO (2006a:74), about 90 per cent of the continent's disabled children are excluded from education. This gross educational exclusion of children with disabilities is the outcome of law and policy inaction, which is partly due to a lack of well-researched information on feasible laws, policies and strategies (Lawrence 2004:7). It is also a function of a lack of knowledge of the pros and cons of the differing mix of law and policy options for the schooling of children with disabilities (African Child Policy Forum 2008:4; Terman, Larner, Stevenson & Behrman 1996:17).

1.3 RESEARCH PROBLEM

Under this section, I give an overview of laws, policies and sectoral plans related to the education of disabled children in some African countries and provide highlights of problems in the implementation of these laws, policies and plans. The information provided under this section is used to show how the research problem and the research questions were arrived at.

The Universal Declaration of Human Rights (UNDHR), the International Covenant on Economic, Social and Cultural Rights (ICESCR), the International Covenant on Civil and Political Rights (ICCPR), the Convention on the Rights of Persons with Disabilities and its Optional Protocol, the United Nations Convention on the Rights of the Child (UNCRC), the African Charter on the Rights and Welfare of the Child (ACRWC), the African Common Position on Children and the UN Standard Rules for the Equalization of Opportunity and other International and Regional Human Rights Instruments provide the legal framework for the right to education of children with disabilities. The International Human Rights Instruments set the international standard and the Regional Instruments set the regional standard for the education of children with disabilities.

Even though most African countries have ratified a host of these human rights instruments that uphold the right to education of disabled children, apart from the outstanding exception of few countries such as South Africa, Ethiopia, Kenya, Lesotho and Mozambique, limited attempts were made to integrate these instruments in national laws, policies and education sectoral plans (World Vision 2007:29). For instance, in a 2007 report, it was revealed that the education sector plans of Mauritania and Cameroon made no mention at all of disability, while the plans of Niger, Burkina Faso, Gambia, Guinea, Mali, Madagascar, Rwanda and Senegal made just indicative or superficial mention of the subject (World Vision 2007:26). According to the same report, many African countries had not adopted strategies and set specific targets for the schooling of disabled children (World Vision 2007:26).

On a more positive note, some countries have put in place a progressive law and policy to protect the right to education of disabled children. South Africa, Uganda and Zimbabwe are countries worth mentioning in this regard (Combrinck 2008:314). These countries are potential storehouses of good practices.

The above listed factors such as a lack of laws, policies and strategies coupled with the resultant lack of adequate budgets, lack of awareness and absence of proper curriculum and teacher training contribute to the denial of the rights to education of disabled children.

In a nutshell, there are two major problems facing the provision of education services to disabled children in Africa. First, only a few countries in Africa have adopted statements or policies that refer specifically to the education of children with disabilities (Inclusion International 2006:61). Even in those countries where it is mentioned, the laws and policies are not in keeping with the principles underlying the right to education enshrined in International and Regional Human Rights Instruments and current trends, perspectives and practice on the effective education of disabled children. This is partly the result of a lack of comprehensive models or frameworks that address both human rights and educational principles related to education of disabled children in an integrated fashion.

Related to this, the existing internationally recognised framework for analysing the right to education of children, namely the 4 'A' scheme, which is also a framework that signals the elements necessary for implementing the right to education, is designed with an eye on non-disabled children and falls far short of being a blue print for serving the interests of children with

disabilities. Second, the existing law and policies in South Africa –their limitations notwithstanding – have not been critically tested in terms of their implications to discourses of disability, power, ideology, race and agency, which are as important in the implementation of the provisions contained in the laws and policies as the surface meanings of these provisions. This is especially so in this post-apartheid era where the catchwords are transformation, change, redress and an unequivocal break from the past.

In light of the above state of affairs, the study addressed the following research questions:

1. What are the requirements and principles enshrined in the existing International and Regional Human Rights Instruments in relation to the right to education of children with disabilities?
2. What are the current trends, perspectives and practices on the effective education of disabled children as reflected in recent education, psychology and disability literature?
3. What is the status of South Africa in terms of ratifying International and Regional Human Rights Instruments related to the right to education of children with disabilities and to what extent are the international norms and standards related to the right to education incorporated into the country's national laws and policies?
4. What disability and education discourses are employed to shape the relevant laws and policies on the education of disabled children in South Africa?
5. What is the predominant image of learners with disabilities in relevant law and policy documents of the country?
6. What lessons can we draw from the laws and policies of South Africa as well as from the existing human rights and education literature on the education of disabled children towards developing an appropriate framework that informs law and policy-making on the education of disabled children in Africa and elsewhere?

1.4 AIM AND OBJECTIVES OF THE RESEARCH

The overall aim of this study was to develop a framework containing the ingredients for an appropriate law and policy framework on the education of disabled children, applicable in South Africa and other African countries based on the International and Regional Human Rights Instruments as well as on current disability and education thinking and practice and drawing on the relevant law and policy framework of South Africa. The framework is presented as an

alternative version to the 4 'A' scheme that would address the educational principles governing the right to education of disabled children.

Specifically, the objectives which the researcher strived to achieve were:

- To investigate the provisions in International and Regional Human Rights Instruments dealing with the education of children with disabilities and to determine the international and regional legal requirements for the education of children with disabilities.
- To review current trends, perspectives and practices on the effective education of disabled children as reflected in recent educational and disability literature with a view to complementing the human rights norms with sound educational principles.
- To examine the laws and policies of South Africa that give effect to the right to education of children with disabilities. This investigation was benchmarked against the requirements of international and regional human rights principles for the education of children with disabilities and included documenting South Africa's status of ratification and domestication of the relevant human rights instruments.
- To examine the disability and education discourses employed in shaping the relevant laws and policies in South Africa and look at how learners with disabilities are portrayed in law and policy documents.
- To develop a framework from legal and educational perspectives to contribute towards improving existing laws and policies on the education of children with disabilities in South Africa in particular, and Africa, in general.

1.5 SIGNIFICANCE OF THE STUDY

Under this section, the policy, scholarly and advocacy relevance and contribution of the study to the improvement of laws and policies of the participant country are provided.

Firstly, the study has a multidisciplinary merit as being one that cuts across law, education and disability, and as a result, can be considered one of those attempts at breaking away from what Woolman and Fleisch (2009:2) called the "desiccated debates taking place in both the education policy community and the legal academy" in isolation.

For Woolman and Fleisch (2009:1-2):

> When lawyers argue [about education], they tend to cherry pick the evidence to be found in educational policy statements and the secondary literature. …they seem uninterested in how primary and secondary schools actually work… they engage[d] in the most arid and disengaged ruminations on what our basic law required... Educators were perfectly content to discuss policy. But they appeared constitutionally incapable of discussing, in a meaningful or subtle fashion, the law and its ramifications for the state of education in this country [South Africa]. …they tend to eschew engagement with the sophisticated constitutional, statutory and regulatory arrangements that bracket education policy. Nor do you see most educators looking at legal texts for support of their propositions.

Hence, the study has the potential to offer a multidisciplinary picture of the state of education of disabled children in South Africa, as well as give a clearer understanding of law and policy as they relate to disability and education in South Africa. In 2001, the South African Department of Education published a *White Paper 6 on Special Needs Education: Building on Inclusive Education and Training* System (hereafter referred to as White Paper 6), which sets out a 20-year plan for developing an inclusive education and training system in South Africa (DoE 2001a, para 3.2.6). Wildeman and Nomdo (2007:11) refer to preliminary studies that have signalled policy blind spots in White Paper 6 which requires a deeper investigation. The findings of this study would give the opportunity to signal some of the gaps in White Paper 6 and the other related law and policy instruments. The discourse analysis of the relevant policy documents of South Africa will help to unlock important hidden ideological, political and discursive aspects in the tremendous curricular and educational reform efforts the country has embarked upon. It also helps to look deeper into the country's claim to employ education in societal transformation, emancipation and break from the past (Woolman & Fleisch 2009:6).

The study is also relevant to the continent in general as it would offer a generic law and policy framework on the education of disabled children that is cognisant of the continent's economic and socio-cultural context (cf section 1.7.2 and section 3.6.4 in terms of the study's transferability).

The results of the study are expected to benefit a range of actors in the disability research and practice arenas. Primarily, the results would benefit law and policy makers and people on the frontline of the implementation of those laws and policies in South Africa and of other countries with similar socio-economic context. The study's findings might thus be a good starting point for legislative and policy reforms in the study country and beyond.

At the global level, there are no specific frameworks to inform for law and policy-making on the education of disabled children that are firmly anchored in both human rights and educational principles and spelling out the discourses surrounding portrayals of disability, discursive role of education in ideology formation and perpetuation, emancipation or exploitation and political change. Hence, the SAVE framework developed as an outcome of this is study helps to wed developments hitherto made in separate ways, along the lines of educational principles and human rights standards in the education of disabled children, and thereby has the potential to inform the work of major institutions such as UNESCO, UNICEF, and the various special committees monitoring the implementation of education rights. The SAVE framework will thus have the potential to influence law and policy reforms well beyond South Africa, and in the final analysis, contribute towards improving the educational access of the millions of disabled children who are currently denied access.

At the regional level, the study would offer valuable tools for the AU. The African Child Policy Forum, where I am currently working, has a healthy working relationship with the African Union, especially the commission for Social Affairs and the African Committee of Experts on the Rights and Welfare of the Child. The African Child Policy Forum will leverage this rapport to lobby for legislative changes in AU member states (letters to potential users of the research findings and recommendations are found in Appendix 3).

The African Child Policy Forum also is the secretariat of one of the largest civil society forums on children in Africa, which gives it the possibility to bring the findings of this study to the attention of various national advocacy groups who might ultimately use it for encouraging government action towards improving the educational access of the millions of disabled children who are currently denied access. At the individual level, children with disabilities, their parents and teachers would eventually benefit as a result of improved laws, policies and practices.

1.6 RESEARCH DESIGN AND METHODS

In this section, the research approach and design, the type of data, and the corresponding methods for data collection and data analysis are explained.

1.6.1 Generic qualitative design: A methodological bricolage

The study employed mainly a qualitative approach with a generic or non-categorical design. This design is a "non-categorical, highly interpretive approach that requires explication of theoretical influences and an analytic framework that locates the interpretation within existing knowledge" (Thorne *et al.* 1997 cited in Caelli, Ray & Mill 2003:5). Merriam (1998:11) defines qualitative research studies with a generic design as "those that epitomize the characteristics of qualitative research but rather than focusing on culture as does ethnography, or the building of theory as does grounded theory", seek to "discover and understand a phenomenon, a process, or the perspectives and worldviews of the people involved". Generic or non-categorical qualitative designs typically draw from concepts, models, and theories in educational, developmental or cognitive psychology, or from sociology, which provide the frameworks for the studies (Caelli *et al.* 2003:5). This study also drew its conceptual and analytical frameworks from existing models of disability and those related to the education of disabled children as its theoretical and conceptual bases (cf section 1.9 for a discussion of the theoretical frameworks underpinning the study).

1.6.1.1 Modes of inquiry: Enlightenment mode and critical discourse analysis

Under the generic qualitative research approach, the study employed two modes of inquiry: the enlightenment mode to law and policy research and the critical discourse analysis mode. The enlightenment mode is understood as a critical approach to analysing policy and legislative texts though of less rigour compared to critical policy discourse analysis which is at the apex of current critical methodologies.

The enlightenment mode answers questions such as: how is a policy or law designed? Whose interest does it serve? How is it implemented? And what are its possible outcomes (Taylor, Rizvi, Lingard & Henry 1997:20). Such mode of inquiry also challenges taken-for-granted definitions of educational problems and allows a fresh perspective different from the traditional, rational and engineering modes of policy analysis (Trowler 2003:177).

The choice of critical discourse analysis as the appropriate approach for analysing the current South African educational law and policy environment is justified on three grounds. Firstly, critical law and policy discourse analysis has been dubbed a methodology with "political

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usefulness … in South Africa" as it allows going "beyond description to include an analysis of the role discourses play in the life of institutions, power and transmission of ideology". Such critical approach to policy analysis is also relevant since it forebears the emergence of what Nkomo (1991 cited in De la Rey 1997:192) calls "a post-apartheid epistemology" - one that would disrupt the ignorance and prejudices of the past.

Secondly, a critical look at the laws and policy discourses is important in view of the fact that education has been accorded the subtle ideological and political role of the driver of change and transformation and tool of effective disengagement from a racially-divided past and a vehicle of achieving redress, social justice and inclusion. Thus, South Africa's transformation agenda relied on the education system. In such a situation, critical discourse analysis allows us access to the ontological and epistemological assumptions behind the transformation process. But education inclusion was itself conditioned and envisioned to be achieved within existing racialised and class-divided social hierarchies (Sayed, Subrahmanian, Soudien, Carrim, Balgopalan, Nekhwevha & Samuel 2007:117).

Further, Sayed *et al.* (2007:116) identify what they referred to as "policy zeal as the key aspect of the South African education policy environment. They also observe that there is an "almost religious optimism" on the efficacy of environment for change. Such environment for change is mediated by social structures and relations, diversity, race, class, power asymmetries and hierarchies, ideology and voice as well as by the positions of those who make, shape and implement policy (Sayed *et al.* 2007:116). These attributes can hardly be addressed through conventional approaches to policy analysis. These are the kinds of issues that critical discourse analysis attempts to unravel and capture.

Thirdly and equally important, in a country which embarked upon a spate of policy reforms, it becomes important to uncover how policy itself – its good intentions notwithstanding – might have unforeseen exclusionary outcomes and to examine whether or not there is any trans-textual coherence and consistency among the various policies.

The modes of inquiry I just explained, as well as the overall research design and approach, the theoretical frameworks and the sources of data, and the study's quality and ethical considerations are summarised in the table below.

Table 1 Research methodology and approach

Approach	Theoretical framework	Design	Modes of inquiry	Sources of data	Data analysis methods	Quality and Ethical considerations
Qualitative approach	• Social Model of Disability • Post-structural model of disability • Critical Theory	Generic or non-categorical design	• Enlightenment mode • Critical discourse analysis mode	Relevant law and policy texts Related literature	• Thematic content analysis • Textual analysis • Discourse analysis	**Quality issues:** • Reflexivity • Credibility • Transferability **Ethical issues:** • Use of appropriate language

1.6.1.2 Sources of text for analysis

As a critical policy study, the research relied on existing law and policy texts for the analysis in which instance the researcher was not involved in the collection or generation of data as a separate research procedure. For both the thematic content analysis and discourse analysis, existing laws and policies of South Africa were used, and there was no need to collect or generate new data for the analysis. Therefore, it suffices to make a reference to the sources of data instead of methods of data collection. Accordingly, two sources of data were used for the study: relevant law and policy documents and the related literature. Three selected policy or legislative documents were reviewed, namely the *White Paper on an Integrated National Disability Strategy (hereafter referred to as* Disability Strategy)[1]; the *White Paper 6 on Special Needs Education: Building an Inclusive Education and Training System* (White Paper 6) *and the South African Schools Act 84 of 1996 (hereafter referred to as* the Schools Act). Guides that

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[1] This document published by the Office of the Deputy President was selected for analysis because, as implied in its name, it is the only integrated disability strategy in South Africa. As an overarching strategy document, the *White Paper on an Integrated National Disability Strategy* was supposed to be followed up by the formulation of sector-specific disability policies (Leonard Cheshire Disability and Inclusive Development Centre 2007:13) and provincial versions of the strategy. Accordingly, a few sector-specific legislations and policies have been enacted since its publication in 1997 to facilitate its implementation. These include the *Employment Equity Act 55 of 1998*, *Promotion of Equality and Prevention of Unfair Discrimination Act 4 of 2000*, *White Paper 6 on Special Needs Education of 2001*. Another important development in this regard has been the establishment of a provincial version of the Disability Strategy – termed the Integrated Provincial Disability Strategies (IPDS). In 2005, the Western Cape, Mpumalanga, KwaZulu/Natal, Eastern Cape, and North West Provinces had already designed their provincial strategies, although implementation of those strategies did not occur in all these provinces at that time (Dube 2005:72).

accompany these documents were also reviewed. The analysis benefited from the review of other related law and policy documents. This is in accordance with the principle of trans-textuality where the analyst, using critical discourse analysis, attempts to get a full picture of the issue at hand by referring to other relevant texts.

The current literature on the education of disabled children was also reviewed to situate the study in the current state of knowledge on the subject, on general and to interpret the findings of the thematic content analysis and discourse analysis vis-à-vis the reviewed law, human rights and educational literature.

1.6.1.3 Data analysis methods

Analysis of data in generic qualitative designs uses concepts from the theoretical framework, and by helping to identify recurring patterns, categories, or factors that cut through the data, these designs help to further delineate the theoretical frame (Caelli *et al.* 2003:2). This makes thematic-content analysis one of the techniques that best suits the generic qualitative design (Caelli *et al.* 2003:17).

The thematic content analysis employed in this study applied the deductive logic by borrowing themes from the 4 'A' scheme first introduced by *General Comment*[2] No 13 of the Committee on Economic, Social and Cultural Rights (ICESCR) in order to structure the analysis of the education of children from a human rights' perspective (UN 1999a, para 3).

According to this scheme, while the exact standard secured by the right to education may vary according to conditions within a particular state, education must exhibit the following features: availability, accessibility, acceptability and adaptability (UN 1999a, para 3) (The 4 'A' scheme is discussed in more detail under section 2.3 of this thesis).

The second method of analysis, namely discourse analysis began with a textual analysis of the selected legislative or policy texts and went on to discourse analysis with an emphasis on these

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[2]   The Human Rights Committees of the major international treaties publish General Comments on thematic issues. The aim is to provide interpretations of and clarifications on the content of human rights provisions contained in the treaty or covenant they are responsible for monitoring (OHCHR 2007). Given their detail and clarity, General Comments offer a valuable set of principles to be applied by countries in their law and policy-making processes.

written policy and legislative documents as discourses. By so doing it delved into analysis, *inter alia*, of the assumptions that underlie the framing of policy problems and solutions; the subject positions they are portraying; the various discursive orientations these texts follow; and the silences in these texts (Allan 2008:11).

Discourse analysis was most suited for this study because it allowed "spotting significant absences – things which never happen and whose absence tends to be taken so much for granted that most people never think about them" (Rugg & Petre 2007:161). This was done by looking into whether or not disability and disabled children were mentioned in the selected law and policy documents, and if not whether the omissions were deliberate or causal. It is noteworthy that the absence of certain key elements in the policy and law and policy discourse is as important as their presence in such types of analysis.

1.7 RESEARCH QUALITY AND INTEGRITY

Various considerations are made to ensure quality in research, including issues of credibility, validity, reliability and transferability (Seale 1999:7). Some of these quality considerations apply for quantitative research studies, while others apply for qualitative research studies or for both qualitative and quantitative research studies. In line with a qualitative study that is anchored in critical and post-structural theoretical paradigms, three important research quality considerations were made in this study: reflexivity, credibility and transferability, each of which is discussed below.

1.7.1 Reflexivity

Reflexivity is a crucial consideration in a study involving critical discourse analysis because there is a need to spell out from the outset the discursive orientation and world outlook of the researcher towards the issue at hand, in this instance, disability. Reflexivity, not only as an ethical consideration, but also as an aspect of post-structural concerns of quality in qualitative research, requires researchers to reflect on "the ways in which research efforts are shaped and staged around the binaries, contradictions, and paradoxes that form" their lives (Lincoln, Lynham & Guba 2011:124).

Usher (1996a:32) offers a series of self-questions for a reflexive researcher:

- Why do I do research?
- How has my research been constructed?
- What is it silent about?
- What gives my text its narrative authority?
- What are the gender, race, disability, and class reactions that produce the research and how does the text reproduce these relations?
- To what extent does the research empower (and disempower) those involved in it?

The researcher addressed the above issues related to reflexivity by being straightforward about the "subjective" elements, including the values of the researcher. In other words, the autobiography of the researcher's lived experience, his values and standpoints as well as his motivations were spelt out in various sections of the research report, notably in the respective sections on research objectives, motivations and reflexivity (cf sections 1.2, 1.4, 1.5 and 3.6.1).

1.7.2 Credibility

The researcher attempted to enhance research credibility through careful design of the study, including proper theoretical anchoring of the study, and by providing evidence of researcher reflexivity in the form of a brief description of his philosophical stand. Credibility was further ensured by the researcher by being continually alert to his own biases and subjectivity through rigorous reflexivity and peer-debriefing (Allan 2008:65; Glesne & Peshkin 1992:147). Further, the researcher did so by delineating the conceptual and theoretical frameworks guiding the approach and methodological underpinnings of law and policy discourse analysis; and the systematic and thorough description of approach used in data collection and analysis (Allan 2008:67). In addition, in this study, thick descriptions by way of detailed and direct quotations from law and policy texts were used in numerous instances to give full account of the "multifaceted complexities" surrounding the issue (Smit 2012:16).

As Allan (1999:67) states, credibility in law and policy discourse analysis is ensured when the researcher opens up analytical space for thinking differently about examined law or policy and for entertaining multiple, even competing, discourses that shape particular understandings of a policy issue and the corresponding solutions. This is what Lather (1993:685) called "transgressive validity", an important consideration for a study such as this anchored in a post-structural mode of inquiry. "Transgressive validity" refers to the extent to which the research promotes interruption, heterogeneity, and dispersion; or the extent to which it opens "discursive

space by unsettling conventional modes of thinking which inhibit acceptance of difference, multiplicity, paradox and complexity" (Allan 2008:67).

Furthermore, in order to avoid any inconsistencies and with a view to addressing cultural nuances in these texts as well as to avoid distorted discursive representations, the selected law and policy texts were analysed based on versions written in their original language. This is related to what Armstrong (2003:145) calls "interpreting the foreign". Resorting to second or third languages in analysing law or policy text heightens the likelihood that distortions in capturing the discursive power of the original law or policy texts can occur. Thus, in the context of this study, the English versions of the laws and policies of South Africa – as their original languages – were used for the analysis. Though Amharic is the researcher's mother tongue, the researcher is also proficient in English.

1.7.3 Transferability

Transferability refers to the probability that a study's findings have meaning and make sense in other similar contexts and situations (Streubert 2011:49). Transferability is also about a researcher's awareness of the scope of his qualitative inquiry and his discernment and description of the study's applicability to different contexts (Smit 2012:3).

In this regard, the qualitative research modes used in this study, namely the enlightenment mode of law and policy-oriented research and critical policy discourse analysis are limited in that they do not allow us to make prescriptive recommendations as they operate within the context of existing policy or practice. Yet, they allow us to make "workable, context-specific recommendations" (Van Dijk 1995:19). As it is the case with such modes of inquiry, it would then be up to the reader or the audience to determine the applicability of the recommendations in their own specific context (Smit 2012:3). Thus, although claims cannot be made about the transferability of the findings and the resultant recommendations in a prescriptive fashion, they will, however, give generic blueprints for tailored application by other countries.

Allan (1999:166) writes the following in the context of policy discourse analysis, which is equally applicable to legislative discourse analysis:

> Policy discourse analysis is not a project of discovery that seeks to uncover a fixed reality hidden from view. Rather, the findings from policy discourse analysis offer particular perspectives about ways in which subjectivity is shaped via policy and these perspectives can serve as an incitement for considering new and better possibilities for policy-making.

Accordingly, the researcher attempts to only "clarify issues, raise awareness and create space for testing policies before they are put into action" or suggest ideas for improving current operating policies in South Africa (Nisbet 1999:70). This study attempted to ensure transferability to other similar African contexts through providing the ingredients for a good law and policy framework in the education of disabled children in a new framework alternative to the 4 'A' scheme. It is to be noted that the 4 'A' scheme – conventionally used in analysing children's right to education, including disabled children – is mainly informed by the rights rhetoric, but lacks in educational principles on the issue. The Framework is cognisant of the African context firstly because it was mainly drawn from the South African law and policy experience on the education of disabled children and secondly because it relied on the standards contained in the relevant African and international instruments which many African countries have ratified. Therefore, it is fair to argue that this Framework serves as a vehicle for transferability of many of the principles and elements contained therein to other African countries. The Framework lays down the ingredients for law and policy-making on the education of disabled children and, therefore, enables law and policy makers in other countries to contextualise and customise it for their use.

1.7.4 Avoiding plagiarism

Plagiarism is a serious ethical concern for literary works, including doctoral research studies – even more so for those studies focussing on law and policy analysis. Plagiarism – as a violation of the intellectual copy rights of individuals and institutions – occurs more frequently in studies that rely on text such as textual analysis and discourse analysis. In recognition of this, in this study, I have taken due care in avoiding plagiarism of content and ensuring the required intellectual integrity, by –

- giving full and proper attributions of sources of citations and ideas taken from materials referred in the course of the study
- paraphrasing texts and ideas and acknowledging the source

- reproducing word-for-word those provisions in laws and policies that are of central importance and duly acknowledging the author
- avoiding too much reliance on one source; and
- presenting a full list of references.

The thesis was run through the turn-it-in programme and a positive report was received (see the turn-it-in certificate in Appendix 4).

1.8 ETHICAL CONSIDERATIONS

This study is desk-based and as such relies on a corpus of law and policy texts and does not come into contact with human research subjects. Hence, the conventional ethical standards required in studies which involve live research participants, including the issues of consent, confidentiality, welfare and dignity of research participants did not apply to this study. But, the study made two crucial ethical considerations, namely the use of appropriate language in both formal and informal communications in portraying persons (children) with disabilities, and the care to avoid plagiarism.

1.8.1 Use of appropriate language

The researcher took extra care in using language that is socially acceptable and morally appropriate when writing the research report. Language defines people and has both an uplifting and demeaning function. The use of appropriate language that is culturally-sensitive and acceptable by persons with disabilities themselves is, therefore, crucial. Accordingly, terms such as the *disabled* which deny the individuality of persons with disabilities by giving them a group identity are avoided. So also are avoided terms such as *dumb*, *lunatic*, *abnormal*, *insane*, and *blind*. Metaphors that use impairment-related terms such as *deafening silence*, *blind rage*, *blind faith*, *lame excuse*, and *dumb luck* are avoided. The terms *persons (people) with disabilities*, *children with disabilities*, *disabled persons* and *disabled children* are used in this thesis.

Ethical clearance was obtained from the College of Education's Research Ethics Committee (refer to the Research Ethics Clearance Certificate in Appendix 5 of this thesis).

1.9 SCOPE OF THE STUDY

The study's geographic scope, which is about the country covered by the study and its thematic coverage and scope are described below. Accordingly, the research covered South Africa and the relevant laws and policies related to disability and education of disabled children that are currently in use. Apartheid era laws and policies – notwithstanding their historical significance – were not covered in this study. In analysing the relevant laws and policies, wherever there was no explicit mention of children with disabilities, I relied on law and policy provisions that generically refer to persons with disabilities with the belief that these provisions also apply to disabled children. Thus such issues such as employment, maternity and paternity rights, and marriage rights, with little relevance to the issue of children, were left out of the analysis.

The study had a theoretical framework that also contributed to limiting its scope. This was reflected in the overall theoretical paradigms it situated itself and the kind of disability model the study adopted, as well as in the definition of the term *disability* and that of other related terms used in the study. These frameworks are discussed in the following sections.

1.10 THEORETICAL FRAMEWORK

The researcher adopted three theoretical frameworks for this study, namely the Social Model of disability, post-structuralism and critical theory. The first theoretical framework in which this study was anchored is the Social Model of disability with its two variants: the environmental approach and the human rights approach. The environmental approach emphasises environmental factors and service arrangements as creating barriers for disabled persons, and suggests increased individual control of services to facilitate access (Rioux & Valentine 2006:49). The human rights approach considers disability as the consequence of social organisation and the relationship of the individual to society, hence aims at the provision of political and social entitlements through reformulation of economic, social and political policy (Rioux & Valentine 2006:49).

Secondly, this study is situated within critical theoretical perspectives, firstly as it seeks to critically engage with laws and policies on the education of disabled children and social processes that surround them, and secondly, because it is committed to promoting social justice for children with disabilities. Critical social theory aims at emancipating the oppressed from the

chains of such institutions as well as from their own false beliefs (Lakomski 1999:175) so as to ensure a better future for them (Powers 2001:3). As Usher (1996b:22) rightly puts it, the knowledge interest involved in critical theory is

> the unmasking of ideologies that maintain the status quo by restricting the access of groups to the means of gaining knowledge and the raising of consciousness or awareness about the material conditions that oppress or restrict them.

Critical theorists promote substantive equality – without creating a hierarchy of difference – either between disability and non-disability or within disability. By so doing, they identify the systemic nature of inequality and pursue solutions tailored to the goals of full inclusion and participation (Devlin & Pothier 2006:20). Critical theory offers a perspective that contends that the status quo – where the subject is oppressed through hegemonic systems of thought and knowledge – can be changed if individuals are enlightened to resist these ideological systems (Allan 2008:18).

The third theoretical framework used in this study is post-structuralism, which offers a range of possibilities in conceptualising social change at the discursive level. This theoretical framework rejects totalising, universalising meta-narratives, but rather seeks to offer alternative interpretations of social phenomena (Marston 2004:26). Its main thrust is revealing the role of ideology, power, dominance and discourse in controlling and oppressing people, and the ways in which discourses are coalesced to shape particular understandings of individual and group identities in any given context (Allan 2008:8).

For post-structuralist theorists, disability is regarded as a cultural and political construct which needs to be decoded and deconstructed in order to set forth the basic orientations and unstated assumptions about disability and people with disabilities (Pfeiffer 2002:5). The predominant emphasis of this theoretical perspective on discourse makes it suitable to describe and interpret, analyse, and critique social life (Luke 1999:170).

Yet, the study cannot escape the discussion of traditional perspectives such as *Individual Defect Paradigm* or the *Medical[3] Model of Disability* which attributes the "problem" to the individual and to his/her physical or mental constitution (Quinn & Degener 2002:10). When applied to education, this model lays the blame for failing to survive in mainstream education on the

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[3] The use of the term *medical* which has a derogatory connotation here should not be construed as a denial of the irreplaceable role medical science has been playing in keeping many disabled people alive, and reducing their discomfort; we use it here to argue that disabled people are not just their impairments.

individual child with a disability, and to a defect, pathology, or inadequacy located within him/her instead of within the school and its structures (Naicker 2005:240).

Partly for that reason and partly because of the need to give historical accounts, as well as to portray the perceptions that prevail at a certain point in time, in some parts of the report, terminologies that are no longer in use were reproduced. This was done to avoid confusing the reader by presenting a distorted picture of past prejudices. Terms of derogatory and offensive connotations are, however, italicised to show that they are anachronisms. Otherwise, in this report, the terms *children with disabilities* and *disabled children* were used interchangeably in keeping with the Social Model of disability and in order to accommodate the variations in usage among various groups. Where appropriate, the terms *special needs,* and *handicapped* were also used. The theoretical frameworks underpinning the study are summarised in the diagram below.

Figure 1 Theoretical framework

POST-STRUCTURALISM

(disability as a cultural and political construct)

- Disability needs to be decoded and deconstructed in order to set forth the basic orientations and unstated assumptions about disability and people with disabilities
- Rejects the impairment-disability dualism
- Focuses on cultural artefacts and texts to understand what is happening

CRITICAL THEORY

(seeks to critically engage with laws and policies, structures and social processes related to disabled persons)

- Focus is on cultural values embedded in laws and policies
- Upsets institutions and threatens to overturn sovereign regimes of truth
- Unmasks ideologies that maintain the status quo
- Is committed to social justice and human freedom
- Liberates actors from false beliefs and 'psychic prison'
- Facilitates the move toward a barrier-free society

SOCIAL MODEL OF DISABILITY

Environmental approach

(consequence of environmental factors and service arrangements)
- Treatment: through increased individual control of services and supports
- Prevention: through elimination of social, economic and physical barriers
- Social responsibility: to eliminate systemic barriers

Human rights approach

(consequence of social organisation and relationship of individual to society)
- Treatment: through reformulation of economic, social and political policy
- Prevention: through recognition of conditions of disability as inherent in society
- Social responsibility: to provide political and social entitlements

Sources: Adapted from Devlin *et al.* 2006:20; Powers 2001:3; Rioux and Valentine 2006:49

In the following section the key terms used in this thesis are defined in a manner that is contextual. The use of words according to their context and using the definition as given by the contextually relevant author, in this instance, the Department of Basic of Education[4], becomes crucial in critical discourse analysis. As a general principle, critical discourse analysis has to be aware of and honour what is called "situated meaning" (context-specific meaning) of words (Gee 2011:73). Failure to do so might create the risk of using definitions that are contextually irrelevant and might distort the analysis and its conclusions. Therefore, most of the key terms are defined based on the *Dictionary of Concepts and Terms* authored by the South African Department of Basic Education.

1.11 DEFINITION OF KEY TERMS

Availability: functioning educational institutions and programmes have to be available in sufficient quantity within the jurisdiction of the State party, including having buildings or other protection from the elements, sanitation facilities for both sexes, safe drinking water, trained teachers receiving domestically competitive salaries, teaching materials, and library, computer facilities and information technology (UN 1999a, para 6 (a)).

Accessibility: educational institutions and programmes have to be accessible, both physically and economically) to everyone, without discrimination, within the jurisdiction of the State party (UN 1999a, para 6 (b)).

Acceptability: the form and substance of education, including curricula and teaching methods, have to be relevant, culturally appropriate and of good quality to students and, in appropriate cases, parents (UN 1999a, para 6(c)).

Adaptability: education has to be flexible so it can adapt to the needs of changing societies and communities and respond to the needs of students within their diverse social and cultural settings (UN 1999a, para 6(d)).

Child: "every human being below the age of eighteen years unless, under the law applicable to the child, majority is attained earlier" (UN 1989, a1). A similar definition of a "child" is used in the

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4   The Department of Basic Education was created in 2009 after the Department of Education was divided into the Department of Basic Education and the Department of Higher Education and Training (DoBE 2012a).

South African Children's Act 38 of 2005 (s 1(1)). Also refer to section 28(3) of the SA Constitution.

Disabled children: also referred to as **children with disabilities** are defined in this study in accordance with the definition given in the UN Convention on the Rights of Persons with Disabilities to "include those who have long-term physical, mental, intellectual or sensory impairments which in interaction with various barriers may hinder their full and effective participation in society on an equal basis with others" (UN 2006b, a 1).

Education is the process of teaching, educating or training persons in any education institution (DoBE 2010a:36). A distinction needs to be made between education and schooling. The latter is aimed at providing education, but it may be developed elsewhere, or even in spite of schooling. It is certainly the case that some aspects of schooling might not be considered educational, and also certainly the case that not all education is provided by schooling (Gillies 2010).

Educator refers to any person who teaches, educates or trains other persons or who provides professional educational services (DoBE 2010a:39). Therefore, a teacher is one among many types of educators (see definition of **teacher** below). In the South African context the term educator refers to persons who educate other persons or who provide professional educational services or support to schools catering for Grades R to 12 learners. The term includes classroom teachers; education practitioners; teaching and learning specialists; heads of departments, deputy principals, principals, curriculum advisors, education specialists, teacher development officers; education development officers; district and regional managers; and education systems managers (DoHET 2011, para 1).

Framework is defined, in this thesis and in the spirit of General Comment No 13 of the ICESCR, as a set of ideas, rules and principles identified as essential factors or features giving shape to and used for analysing the right to education of children with disabilities (UN 1999b, para 6).

International Human Rights Instruments refer to legally binding treaties, covenants and conventions that define the duties of States Parties to the treaty, covenant or convention as part of international law in ensuring the human rights of individuals and groups (CRIN 2007).

Examples include the Convention on the Rights of Persons with Disabilities and its Optional Protocol (UN 2006b) and the UNCRC (UN 1989).

Learner refers to "any person receiving education or obliged to receive education in terms of the South African Schools Act 84 of 1996" (DoBE 2010a:55). This term is used in this thesis in preference over other terms often used interchangeably with *learner,* such as *pupil,* which is not used in the South African education system, and *student*, which has a different meaning in the South African education system (see the definition of *student* below). "Learner" in this thesis refers to both disabled and non-disabled learners. Wherever it refers to disabled learners, it includes those with mild, severe and multiple disabilities attending either "special schools" or inclusive (ordinary) schools.

Ordinary school refers to a school that is not a special school (DoBE 2010a:68) (see the definition of special school below).

Pedagogy refers to the art or profession of teaching, hence is just one aspect of educational practice (Office of the Education Ombudsman Governor's Office/State of Washington 2011:22).

Regional Human Rights Instruments denote legally binding treaties, covenants and conventions that define the duties of States Parties to the treaty, covenant or convention in ensuring the human rights of individuals and groups within Africa (CRIN 2007). Examples in the context of Africa include the ACRWC and the African Charter on Human and Peoples Rights.

Schooling: (See definition of education above).

Special School is a school resourced to deliver education to learners requiring high-intensity educational and other support on either a full-time or part-time basis. The learners who attend these schools include those who have physical, intellectual or sensory disabilities or serious behaviour and/or emotional problems, and those who are in conflict with the law or whose healthcare needs are complex (DoBE 2010a:89).

Student refers to a person who attends a Further Education and Training college or higher education institution (DoBE 2010a:90).

Teacher refers to a school-based educator whose core responsibility is that of classroom teaching at a school (DoBE 2010a:93).

In the following subsection I give an overview of the organisation of the research report.

1.12 CHAPTER DIVISION

The research report is organised in the following manner; chapter 1 gives an introduction and background to the study, the problem statement, the research questions and the aim and objectives of the study as well as the study's significance. The chapter also gives a description of the research design, the data collection and analysis methods, and the quality and ethical considerations of the study. In chapter 2 a detailed review of the literature is done focusing on the relevant International and Regional Human Rights Instruments and the corresponding educational principles related to disabled children. In chapter 3 the research design and the data collection and analysis methods are explained in greater detail. Chapters 4 and 5 are dedicated to presenting the findings of the thematic content analysis and discourse analysis, respectively. A summary of the research findings as well as conclusions and recommendations including a framework for informing laws and policies on the education of disabled children are presented in chapter 6.

1.13 CONCLUSION

In the preceding chapter, I gave an overall introduction and background to the study and laid out the context for the study, the motivation and significance of the study, the research problem and the research questions and objectives. I also highlighted the research design and methods. In the next chapter, I present the review of the related literature in order to situate the study within the state of the art knowledge on the subject.

CHAPTER TWO

EDUCATION OF DISABLED CHILDREN: SYNCHRONISING HUMAN RIGHTS NORMS WITH EDUCATIONAL PRINCIPLES

2.1 INTRODUCTION

Human rights norms and standards on disability have a role to play in the promotion of the rights of persons with disabilities both at the international and domestic levels. At the international level, they may be invoked as a basis for the critical analysis of periodic State reporting before treaty-monitoring bodies; as guidelines for fact-finding by inter-governmental and non-governmental bodies; as a frame of reference for international and regional human rights commissioners and special rapporteurs; and as persuasive authority or as a guide to the interpretation of human rights obligations of a general character in international legal procedures (Lord & Guernsey 2003:59). On the domestic front, disability norms and standards may be directly incorporated into a domestic legal system through treaty mechanisms, customary international law, domestic legislation, and through domestic courts in reliance upon international norms and standards as authoritative guides to the interpretation of constitutional provisions, treaties or national laws (Lord *et al.* 2003:59).

In this part of the review of literature, the various international and regional (African) human rights norms and standards are discussed. Current trends, perspectives and practices on the effective education of disabled children as reflected on in recent educational and disability literature are reviewed with a view to complementing the human rights principles with sound educational principles. It is worth noting that discussions on human rights standards and educational principles are not mutually exclusive. A large number these human rights instruments also contain valuable educational guidance.

2.2 RIGHTS-BASED PERSPECTIVE TO EDUCATION

The *Rights Perspective* is one of the most important perspectives on the value and intent of education*.* This perspective recognises education as a right without which human beings are unable to realise their potential and become fully functioning members of society. It regards education as a precondition for the enjoyment of full human dignity (Hodgson 1998:19) as it is

the only means that allows people to be aware of all their rights and freedoms, as well as the vehicle for the realisation of all other rights.

A rights-based approach to education is also about using human rights as a framework for educational theory, for access to places of learning, for testing of capacity and for measuring success. The approach integrates human rights principles into the design, implementation and evaluation of policies and programmes, and it offers the means to assess the human rights implications of education policy, programmes and legislation (Rioux 2007:107).

Schaeffer (2009:88) identifies three different but closely interrelated dimensions of a right-based perspective of education:

- Compulsory and free basic education without discrimination.
- A learning environment that is conducive for learning, including appropriate curricula, quality of teaching and non-discrimination.
- The outcome of education and its effects on society, including shared democratic values and respect for human rights.

General Comment No 11 of the Committee on ESCR, paragraph 2 states:

> [The right to education] has been variously classified as an economic right, a social right and a cultural right. It is all of these. It is also, in many ways, a civil right and a political right, since it is central to the full and effective realization of those rights as well. In this respect, the right to education epitomizes the indivisibility and interdependence of all human rights (UN 1999b).

The right to education is not exactly the same thing as the right to schooling. In fact, the right to schooling is part of the broader right to education that goes beyond the mere placement of children in school buildings or classrooms. The latter places emphasis on getting children into classrooms, and focuses little on what actually happens when they get there, or on what happens once they are out of school (ActionAid 2007:171).

Over the last 50 years the right to education has been firmly enunciated in a series of UN declarations and covenants. Some of the existing instruments subsume the right to education of disabled children under the rights of children in general while others address it specifically. The various elements of the panoply of child rights instruments as they relate to the right to education of children with disabilities are mainly discussed in Chapter 2, section 2.5 of this thesis.

2.3 HUMAN-RIGHTS BASED FRAMEWORKS FOR ANALYSING ACCESS TO EDUCATION

A number of mostly overlapping human-rights based frameworks for analysing access to education are entertained in the literature. But, I have picked two frameworks to illustrate the various vantage points from which the right to education can be addressed. These frameworks are the Tomaševski framework or the 4 'A' scheme, which focuses more on the minimum essentials of what States should do, and the "Violations Framework", which is more interested in the failure of States to deliver minimum core obligations, hence focusing on States Parties' violations of their treaty obligations. I discussed each of these frameworks in the following sections.

Tomaševski framework (named after the former Special Rapporteur of the Commission on Human Rights on the Right to Education who developed it) is a useful tool for analysing the right to education, according to which education must be *available*, *accessible*, *acceptable* and *adaptable*[5] (see Table 2). The ICESCR Committee draws attention to the fact that these four principles are not mutually exclusive (UN 1999a, para 7).

The following succinct description of what is required in applying a right-based approach to education by Schaeffer (2009:89) captures the various elements encapsulated under the 4 'A' scheme:

> applying a right-based approach to education in order to move towards inclusion will require comprehensive school system reform including modification of constitutional guarantees and policies, curricula, teacher training systems, materials, learning environments, methodologies, resource allocation etc. Above all, it will require a change in attitudes of all people, throughout the system, to welcome diversity and difference and see these as opportunities rather than problems.

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[5]   This framework has, however, been revised recently where reference to 'acceptability' has been dropped and the principle of 'adaptability' has been replaced by 'quality'. The latter is defined as to include the need for flexibility to be able to adapt to the needs of changing communities and respond to the needs of persons within their diverse social and cultural settings (UNESCO 2010:1-2).

Table 2.4 'A' Scheme for analysing States' obligations to fulfil the right to education

Availability	Schools:
	▪ Schools must be established
	▪ Schools must not be closed
	▪ The right to establish and direct private schools must be guaranteed
	▪ States Parties must not neglect the public education system
	Teachers:
	▪ Teachers must be made available
	▪ Teachers must be properly qualified
	▪ Labour and trade union rights of teachers must be guaranteed
	▪ Academic freedom and institutional autonomy must be ensured
Accessibility	▪ Education must be accessible without discrimination
	▪ Education must be physically accessible
	▪ Education must be economically accessible (at the primary level, it must be free, at the other levels, it must be made progressively free)
Acceptability	▪ The state must set and enforce minimum standards in education concerning, for example, quality, safety and health
	▪ The right of parents to ensure their children's religious and moral education in conformity with their own convictions must be respected
	▪ Opportunities for instruction in the mother tongue must be maximised
	▪ Methods of instruction, the contents of textbooks, and teachers' conduct must respect human rights values
	▪ Learners must be recognised as bearers of rights (or rights-bearers)
Adaptability	Education must be flexible so that it can adapt to the
	▪ needs for a constantly changing society, notably those flowing from the opposing pressures of globalisation and localisation
	▪ education needs of minority and indigenous communities
	▪ special situation of disabled children
	▪ special situation of working children

Source: Beiter 2006:476-478

The umbrella principle of *availability* relates to the existence of functioning education institutions and programmes close to a child's area of residence, the appropriate, feasible and contextually-relevant choice of modes of educational delivery, as well as the allocation of adequate public

resources, the provision of appropriate facilities and infrastructure, educators and educational materials (UN 1999a, para 6).

Accessibility relates to education being available to all on the basis of the principle of equality and non-discrimination, economic accessibility as well as physical accessibility. The element of economic accessibility is not only limited to free access to education services, but also includes the equitable public funding of education (UN 1999a, para 6).

The principle of *adaptability* requires schools to respond to the needs of each individual child, instead of expecting the child to adapt to whatever form of education the school provides (Tomaševski 2004:7). The core elements of this principle are the flexibility of curricula and instructional techniques for the benefit of all children (Tomaševski 2004: vi). The choice and involvement of parents in all adaptations is also another core element of this principle.

Acceptability is closely related to the principle of adaptability. It requires minimum guarantees regarding the quality of education, including the content of educational curricula and textbooks and the creation of violence-free schools (Tomaševski 2004:7).

The other approach to analysing the state's obligations vis-à-vis the right to education is what is referred to as the violations approach. This approach – in a similar way as the 4 'A' scheme – emanated from the ICESCR, later concretised through the *Maastricht Guidelines on Violations of Economic, Social and Cultural Rights* and the *Limburg Principles on the Implementation of the International Covenant on Economic, Social and Cultural Rights*. Paragraph 70 of the Limburg Principles on the Implementation of the ICESCR states that "a failure by a State Party to comply with an obligation contained in the Covenant is, under international law, a violation of the Covenant" (UN 1987). According to paragraph 72 of the Limburg Principles, a violation of the Convention occurs if a State Party, fails, *inter alia*, to promptly remove obstacles which it is under a duty to remove; to meet a generally accepted international minimum standard of achievement, which is within its powers to meet; if it applies a limitation to a right recognised in the Covenant other than in accordance with the Covenant; and if it deliberately retards or halts the progressive realisation of a right, unless it is acting within a limitation permitted by the Covenant or it does so due to a lack of available resources or *force majeure* (UN 1987).

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According to paragraph 9 of the Maastricht Guidelines:

> Violations of the Covenant occur when a State fails to satisfy what the Committee on Economic, Social and Cultural Rights has referred to as 'a minimum core obligation to ensure the satisfaction of, at the very least, minimum essential levels of each of the rights'... Such minimum core obligations apply irrespective of the availability of resources of the country concerned or any other factors and difficulties (UN 1997).

Minimum core obligations – spelt out under paragraph 57 of General Comment No 13 of the Committee on ESCR – refer to the fundamental aspects of a right, the main entitlements of which constitute the core content of the right (Beiter 2006:642). A failure to comply with an aspect of the core content of a right should thus be considered a violation of that right according to paragraph 10 of General Comment No 3 of the Committee on Economic, Social and Cultural Rights (OHCHR 1991).

Figure 2 Minimum core obligations of state parties to ICESCR with regard to education

an obligation to ensure free choice of education without interference from state or third parties, subject to conformity with minimum educational standards

an obligation to ensure that education conforms to the objectives set out in article 13(1); to provide primary education for all in accordance with article 13(2)(a)

an obligation to ensure the right of access to public educational institutions and programmes on a non-discriminatory basis

an obligation to adopt and implement a national educational strategy which includes provision of secondary, higher & fundamental education

Source: UN 1999a, General Comment No 13 of Committee on ESCR, para 57

Thus as it has been clearly noted in General Comment No 3 as well as under the Limburg Principles and the Maastricht Guidelines, violations in relation to the *minimum core obligations* can come about as a result of acts of omission or commission (UN 1997, para 15). Under acts of commission are included the formal removal or suspension of legislation necessary for the continued enjoyment of an economic, social and cultural right that is currently enjoyed (UN 1997, para 14(a)); the calculated obstruction of, or halt to, the progressive realisation of a right protected by the Covenant, unless the State is acting within a limitation permitted by the Covenant or it does so due to a lack of available resources or force majeure (UN 1997, para 14 (f)); the reduction or diversion of specific public expenditure, when such reduction or diversion

results in the non-enjoyment of such rights and is not accompanied by adequate measures to ensure minimum subsistence rights for everyone (UN 1997, para 14(g)). States' violations through the omission or failure of States to take the necessary measures that emanate from their legal obligations include the failure to reform or repeal legislation which is manifestly inconsistent with an obligation of the Covenant (para 15(b)); failure to enforce legislation or put into effect policies designed to implement provisions of the Covenant (c); to utilise the maximum of available resources towards the full realisation of the Covenant UN 1997, para 15(e)).

Finally, under General Comment No 13 (para 36), the Committee affirms the applicability to children with disabilities of paragraph 35 of its General Comment No 5, which addresses the issue of the education of persons with disabilities.

The violations approach is seen by some scholars as playing a role in spurring States Parties on to make special efforts as "no state would like to be labelled a human rights violator" (Beiter 2006:652). Stressing the power of the violations approach, Tomaševski (2003:4) writes: "[T]he import of human rights can be expressed in one single word – violation. The mobilising power of calling a betrayed pledge a human rights violation is immense".

2.4 EDUCATIONAL FRAMEWORKS FOR EVALUATING SCHOOLING OF DISABLED CHILDREN

The most important limitation of existing frameworks developed for analysing the education of children (Peters 2004; UNESCO 2003:9) relates to the fact they were developed without proper consideration of the needs of children with disabilities. Some of these frameworks also failed to consider education as a fundamental human right of children. Even those frameworks that specifically focus on the education of disabled children such as the inclusive education framework developed in 2004 (see Figure 3) operate in a unidirectional linkage from inputs to process and from process to outcome measures. In this framework, the various elements of evaluating policy and provision are laid down, including individual family and systemic characteristics and contextual factors such as macroeconomic policies, funding, national standards and education system management (Peters 2004:14) (see Figure 3). Despite its being titled a framework for "inclusive" education, it fails to address the plight of children that are already excluded as it seems to make the assumption that all children (with disabilities) are already at school. Hence, it fails to offer ways of bringing those children, notably children with

disabilities, still outside the educational fold into the school system. Its relevance in analysing the inclusiveness or otherwise of an education system notwithstanding, part of the framework's shortcoming lies in its failure to properly address education as a fundamental human right of all children. Due to its chiefly educational bias, the framework misses out on the important issues of rights and duties. For instance, it does not mention the term *right* even once and by so doing it hides the education of disabled children from the human rights radar.

Figure 3 A framework for inclusive education

INPUTS	PROCESS	OUTCOMES
SCHOOL • Curriculum content • Textbook & learning materials • Teacher qualifications & training • Morale & commitment • Accessible facilities • Parent/community support • Braille/Sign Language support • Action Plans and Needs Assessments • Evaluation Plan	**SCHOOL CLIMATE** • High expectations/respect • Guiding philosophy/mission • Participation/choice • Positive teacher attitude • Safe & supportive environment • Flexible curriculum • Incentives for participation • Integrated whole-school system • Collaborative support teams	**ACHIEVEMENT** • Literacy, numeracy • Good citizenship • Personal development • Positive attitude towards learning • Self-determination/advocacy • Self-esteem • Social & independent living skills • Positive teacher attitude
STUDENT CHARACTERISTICS • Diverse characteristics valued and supported • Disability, gender, at-risk, refugee children, minorities, low-income **FAMILY/COMMUNITY CHARACTERISTICS** • Parental attitudes • Household income • Economic conditions • Cultural/religious factors • Multi-sector coordination & collaboration	**TEACHING/LEARNING** • Sufficient learning time • Active teaching methods • Integrated systems for assessment & feedback • Appropriate class size • Adapted curriculum to meet individual needs • Active student participation • Appropriate supports • Clear roles & responsibilities	**ATTAINMENT** • Formal completion • Diplomas/qualifications • Preparation for adult life **STANDARDS** • Official learning objectives (desired outcomes) • School-level objectives • Impact on family & community • Supportive government policy

CONTEXTUAL FACTORS

• Macro-economic and fiscal policies • Political stability, decentralisation • International coordination • Data collection & analysis	• National goals & standards for inclusive education • Sources of funding & allocation • Systemic knowledge transfer	• Education system management • Parental & community participation • Community sensitisation & awareness

Source: Peters 2004:14

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The above discussion shows that existing human rights norms and frameworks related to children in general and those pertaining to the right to education of children in particular, including Tomaševski's framework, apply equally to children with disabilities. But, given the fact that they are conceived and developed predominately with an eye on children without disabilities, and with a particular focus on the human rights dimension, they fall far short of fully addressing the educational needs and requirements of children with disabilities. Even their treatment of the human rights of children with disabilities leaves much to be desired.

Similarly, as it has already been highlighted in the preceding sections, many of the inclusive education frameworks do little to fully address the human rights of disabled children, including their right to education. A framework that synchronises both the rights of children with disabilities, including their right to education and their specialised educational needs is hence badly needed.

In the subsequent sections, I discuss in greater detail the various educational and human rights principles related to education of disabled children as they appear in the education, psychology and disability literature and the corresponding provisions contained in existing human rights instruments especially those related to the right to education of disabled children. By so doing, I give a synchronised perspective that marries hitherto detached human rights standards and educational principles when analysing the discourse on the education of disabled children.

2.5 SYNCHRONISING HUMAN RIGHTS STANDARDS AND EDUCATIONAL PRINCIPLES

In this section, the various human rights standards related to education of disabled children invoked in the relevant human rights instruments and the corresponding education principles are discussed. Therefore, the issue of inclusive education, funding and the elements that constitute teacher development for inclusion are dealt with. The twin human rights principles of equality of opportunity and non-discrimination are discussed as well as the need to use appropriate language – free from labelling – when referring to children with disabilities. This section also discusses issues related to curricular adaptations through *Individualised Education Plan* and *Transition Planning*. Assessment of learners with disabilities, and the care to be taken in disciplining learners with disabilities are also discussed as well as the importance of parental involvement in the educational life of children with disabilities.

2.5.1 Educational inclusion and inclusive education

> "No [one] is wise enough not to need help, no [one] is rich enough not to have to rely on others, and no [one] is strong enough to go it alone" (Mays 1969:108)

The crux of the section is to put inclusive education within a broader perspective of (and as part of) societal inclusion and to elaborate on how educational integration reaches its apex at inclusive education. The section also aims to highlight the pros and cons of full integration (inclusive education) from both education and human rights perspectives.

Inclusion is seen through diverse lenses. It is seen from the broader perspective of societal reform and change, as well as from the narrower perspective of full integration of children into mainstream schools.

On a broader perspective, Corbett (2001:10) invites caution on the wholesale application of the term inclusive education "to everything from school effectiveness to civil rights to political manifestos", which "renders it vacuous and susceptible to those critiques which accuse it of masking inadequacies". Education inclusion and social inclusion have a "didactic relationship"; education can guarantee some level of equality of opportunities in society, while a democratised access to knowledge cannot be possible without some basic level of social equity (Acedo, Amadio & Operatti 2008:13). Ballard (2003:59) argues that the difficulty of envisaging inclusive schools within a society that pursues policies and practices that exclude some of its citizens from social rights and participation is a major challenge facing the implementation of inclusion. This means that inclusion has to have the wider focus of "eliminating oppression from social structures" (Brantlinger 1997:447). Similarly, according to UNESCO (2005:13):

> Promoting inclusion is about improving educational and social frameworks to cope with new trends in educational structures and governance. It involves improving inputs, processes and environments to foster learning at the level of the learner in his/her living environments as well as at the level of the system which support the learning experience.

Hence, the creation of more inclusive social practices requires measures that extend further than the organisation of the classroom and/or the introduction of compartmentalised disability awareness programmes (Vlachou 1997:169). A learner with disabilities simultaneously occupies a space within a regular classroom in direct interactions with his other peers and with the teacher(s), as well as being a member of a school with learners of a particular range of ages, governance and management structure, and philosophy. The school is in turn part of a broader society with a range of values, legislation, and resources. Each one of these aspects of a

learner's context has the potential to facilitate or hinder his/her inclusion into the school and the community (Mitchell 2005:15).

One needs to distinguish between inclusive education (narrow approach) and education inclusion (inclusion in education, e.g. broader approach). Inclusive education is an educational model that concretises the inclusion of children with disabilities in education. However, education inclusion is a shift in paradigm and philosophical intent to bring all learners regardless of ability, age, religion, or race into the education fold and the commitment to give equal educational opportunities for all children (Inclusion International 2009:20). In other words, education inclusion is a much broader concept. Sayed, Soudien and Carrim (2003:244-245) further elaborate on this:

> Educational inclusion…presumes a broad-based collective will to effect transformation at every level of society. It requires grand schemes within an architecture that frames and facilitates transformation as well as political will at a sectoral, institutional and classroom level to create truly inclusive spaces.

From a narrow perspective, inclusive education is regarded as the apex in a continuum of the *mainstreaming*[6] or *integration* approach to schooling of children with disabilities (Alper, Schloss, Etsheidt & Macfarlane 1995:7).

One of the global declarations to make a reference – albeit implicit – to the term *integration* is the Jomtien World Declaration: Education for All in which it is required that steps "be taken to provide equal access to education to every category of disabled persons as an ***integral*** part of the education system" [emphasis added] (UNESCO 1994a, para 5). Integration is an approach to schooling where learners are required to adapt to the existing system. The focus is on the changes that the learner needs to make in order to fit in and cope with what is demanded by "the normal" classroom (DoE 2001a, para 14.4; Murphy 1994:472).

Inclusion, however, is about "restructuring the culture, policies and practices in schools so that they respond to the diversity of students in their locality" (Ainscow, Booth & Dyson 2006:25). Alper *et al.* (1995:6) spell out the tenets upon which the principle of inclusion is based. Firstly, children (and learners) are more similar than dissimilar and all can learn regardless of disability, hence dispels misconceptions about the "educability" of disabled children. Incidentally, these misconceptions emanated from deficit constructions of disability and the "limited ontology of

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6   The term *mainstreaming* is preferred in American literature, but in this report the term *integration* is used.

personhood and its exaggerated legitimation of the 'normal'" (Isaacs 1997:42). They also emanate from the failure to recognise each person as a distinct individual with his/her unique aspirations towards self-realisation and from deficit notions that construct disability as reflecting certain biological givens that underlie the misfortunes of persons with disabilities (Isaacs 1996:41).

Secondly, learning often occurs through participation with and modelling competent peers. Thirdly, diverse instructional support that allows a learner to overcome disabilities that detract from learning can be provided in the regular classroom. Fourthly, everyone benefits from inclusion of children with diverse learning and behavioural features in the same classroom. The last point is further elaborated on by Alper *et al.* (1995:12) who argue that inclusion may teach non-disabled children about the conditions that lead to disabilities as well as offering them the opportunity to develop an appreciation for the complexity of human characteristics (Alper *et al.* 1995:12).

The literature review conducted gives evidence of an undeniable international preference to inclusive education over segregated education. The Salamanca Statement on Special Needs Education (Ainscow et Miles 2008:17) – makes a clear commitment to inclusive education (UNESCO 1994b: viii-ix):

> We believe and proclaim that:
>
> - those [children] with special educational needs must have access to regular schools which should accommodate them within a child-centred pedagogy capable of meeting those needs
> - regular schools with this inclusive orientation are the most effective means of combating discriminatory attitudes, creating welcoming communities, building an inclusive society and achieving education for all; moreover, they provide an effective education to the majority of children and improve the efficiency and ultimately the cost effectiveness of the entire education system.

The Salamanca Statement further recommends that governments should adopt the principle of inclusive education as a matter of policy or law, but allows what it calls "compelling reasons for doing otherwise" (UNESCO 1994b: ix). Paragraph 3 of the Salamanca Statement stipulates that:

> [S]chools should accommodate all children regardless of their physical, intellectual, social, emotional, linguistic or other conditions. This should include disabled and gifted children, street and working children, children from remote or nomadic populations, children from linguistic, ethnic or cultural minorities and children from other disadvantaged or marginalized areas or groups (UNESCO 1994b:6).

The Expanded Commentary on the Dakar Framework for Action (2000) equates inclusive education with *Education for All* when it states (UNESCO 2000:14):

> The key challenge is to ensure that the broad vision of 'Education for All' as an inclusive concept is reflected in national government funding agency policies. Education for All must encompass not only primary education, but also early childhood education, literacy and life skills programmes. Using both formal and non-formal approaches, it must take account of the needs of the poor and the most disadvantaged, including working children, remote rural dwellers and nomads, and ethnic and linguistic minorities, children, young people and adults affected by conflict, HIV/AIDS, hunger and poor health, and those with special learning needs…

The UNCRC Committee reiterates

> the obligation for States to ensure that persons including children with disabilities are not excluded from the general education system on the basis of disability and that they receive the support required, within the general education system, to facilitate their effective education (UN 2006a, para 66).

The Committee encourages States Parties which have not yet begun a programme towards inclusion to introduce the necessary measures to achieve this goal but cautions countries to maintain "a continuum of services and programme options in circumstances where fully inclusive education is not feasible to achieve in the immediate future" (UN 2006a, para 66).

In a similar vein, the UN Convention on the Rights of Persons with Disabilities (UNCRPD) (UN 2006, art 24 (2)) requires State Parties, in realising the right to education, to ensure that:

a) Persons with disabilities are not excluded from the general education system on the basis of disability, and that children with disabilities are not excluded from free and compulsory education, or from secondary education, on the basis of disability;
b) Persons with disabilities can access an inclusive, quality and free primary education and secondary education on an equal basis with others in the communities in which they live; ...

The above provisions provide legal ammunition towards tackling exclusion at the various fronts, as well as offering the opportunity for the disabled child "to swim the deep and dark waters of a tough and demanding world" (Puri & Abraham 2004:23).

Corbett and Slee (2000:212) identify the three levels at which inclusion can be developed (a) the higher level determined by policy and notions of school effectiveness, which they termed surface inclusion, (b) structural modifications to the school environment and curriculum, and (c) deep culture, the *hidden curriculum* of fundamental value systems, ritual and routines, initiations and acceptance which forms the fabric of daily life. In other words, inclusive education policies and practices should be able to strike at the heart of entrenched school-level ethos and cultures, especially those that are derived from such neo-liberal philosophies as marketisation,

devolution, public choice, competition, and the setting of accountability criteria such as standards, outcomes and high-stakes testing (Mitchell 2005:9). Further shedding light on the role played by school climate and culture, Nes and Strømstad (2001:117) emphasise the need to replace the language of individual categorisation of learners by the inclusive concept of "barriers to learning and participation" and in general an inclusive school culture.

In the preceding section, I discussed the issue of inclusive education and school culture as a concrete aspect of inclusive education; in the next section, the crucial issue of funding and the principles of adequacy, equity and efficiency in educational finance are discussed from the vantage point of the education of disabled children.

2.5.2 Funding education of disabled children: Issues of adequacy, equity and efficiency

Adequacy is broadly defined in the educational finance literature as "sufficient input levels to ensure student achievement of learning goals" (Amsterdam 2006:25). It is thus no small wonder that the need for the allocation of resources for services that benefit children is one of the requirements set for the education of children with disabilities. This mandate is enunciated in various human rights instruments. Tomaševski (2003:33) stresses that governments have the human rights obligation of allocating adequate funds for education in order to prevent children who cannot afford the cost of education from being deprived of this right.

It has often been difficult to determine the adequacy of funding because of poor specification and quantification of educational goals. Therefore, a viable alternative that provides a type of global indicator of relative adequacy has been a focus on resource input which permits a calculation of total expenditure per learner, which can then be compared from one time or place to another. It is assumed that, other things being equal, a greater expenditure in one educational system than another can be associated with a higher likelihood of positive outcomes (Sage & Burrello 1986:123).

The concept of adequacy has, however, been criticised for merely focusing on sufficiency rather than equality of the distribution of education resources. Adequate funding levels ensure equal opportunity for all learners to achieve learning standards whereas an adequate education is essential for participation in political and economic life (Amsterdam 2006:30). The issue of

adequacy is further complicated by the whole concept of an individualised education programme.

The issue of adequate allocation of funds for the education of children with disabilities has been underscored by a number of human rights instruments. For instance, Article 4 of the UNCRC mandates that "…States Parties shall undertake such measures to the maximum extent of their available resources…". The obligation of governments to allocate resources for realising the rights of their people is also unequivocally stated under Article 2(1) of the ICESCR and Article 4(2) of the UNCRPD.

Yet, the UNCRC Committee, in its General Comment No 9 (UN 2006a, para 20), expressed its concern about the compliance of States Parties with the requirement to allocate sufficient resources for the benefit of children with disabilities. It has found that not only do many State Parties not comply with this requirement, but budgets allocated to children over the years have been reduced. The Committee further observes that this trend has many serious implications especially for children with disabilities who usually either rank low or not at all on priority lists. For example, if a State Party is failing to allocate sufficient funds to ensure compulsory and free quality education for all children, it will be unlikely to allocate funds to train teachers for serving children with disabilities or to provide for the necessary teaching aids and transportation for children with disabilities (UN 2006a, para 20).

The Committee not only urges States Parties to allocate sufficient resources, but also lists the key areas of resource allocation, including programmes established for training professionals working with children with disabilities such as teachers, physiotherapists and policymakers; education campaigns; financial support for families; income maintenance; social security; assistive devices; and related services. Furthermore, the Committee requires that funding must also be ensured for other programmes aimed at including children with disabilities into mainstream education, *inter alia*, by renovating schools to render them physically accessible to children with disabilities (UN 2006a, para 20).

In a similar vein, Rule 4 of the Standard Rules on the Equalization of Opportunities for Persons with Disabilities spells out the obligation of States to avail assistive devices and equipment "free of charge or at such a low price [so] that persons with disabilities or their families can afford to buy them" (UN 1993).

Related to the issue of adequacy is that of equity in educational finance. Equity, from the perspective of the learner, can mean "either the assurance of equal dollars per learner (horizontal equity) or the assurance of enough dollars to provide for different individual needs and cost of services (vertical equity)". Therefore, equity takes into consideration the varying characteristics of learners and uses the concept of *equal treatment* being possible only when the system provides unequal resources as a means of compensating for the unequal needs of various learners (Sage & Burrello 1986:126-127).

One of the important challenges in the financing of education of disabled learners relates to the fact that the determination of the cost of educating each child with a disability must be done on a child-by-child or school-by-school or district-by-district basis and over a number of years to ensure that start-up costs do not distort the data (Jones & Power-deFur 1997:71). Related to this is the challenge faced by governments in terms of applying funding models that are inherently complex and their struggle to strike a balance between simplicity and flexibility on the one hand, and transparency, accountability and equity, on the other hand (Mitchell 2010).

Although there may be variations in the way funding models are categorised, Ferrier *et al.* (2007 cited in Mitchell 2010) identify five generic types of funding models: discretionary funding models, categorical funding models, voucher-based funding models, census-based models and actual costs funding models (see Figure 3).

Table 3 Models of funding education of disabled learners

Type of funding model	Model description
Discretionary funding models	• Provide separate funds for special education purposes. • The funds are allocated as a set percentage of the school's overall budget. • The funds enable individual schools to make decisions about the types of services and programmes to support, within broad guidelines on the use of the funds.
Categorical funding models	• Allocate additional funding to each learner with an identified disability, with the amount based on the child's degree and type of disability. • This funding might be allocated to the school or to the learner's parents. • Funding allocated to parents can be moved if the learner transfers from one school to another, thus the categorical model has features in common with voucher-based models. • These models aim to ensure that special education funds are specifically targeted to meet the needs of learner with identified disabilities or special needs.
Voucher-based funding models	• Provide a direct public payment to parents to cover their child's public or private school costs. • The amount of the voucher varies depending on parent and learner characteristics, such as the type and degree of the learner's disability and parental income. • The aim of these models is to increase parental choice and to promote competition between schools in order to increase the quality of educational services.
Census-based models	• Allocate funding on the basis of the number of learners with certain weighted characteristics, such as socio-economic status or the type and degree of disability. • The aims of these models are to simplify the overall funding mechanism; and to make the financing of special education independent of classification and placement decisions, thus removing the financial incentives for over-identifying learners as having a disability.
Actual costs funding models	• Allocate funding based on the actual costs involved in providing special education services. • Total funds would be allocated to schools on the basis of the number of learners meeting the definition for mild or more severe/multiple disabilities. • This model is unique in attempting to estimate the actual costs of providing services, but also includes features of categorical and census-based approaches in that the total amount of funding is based on learner numbers.

Adapted from Ferrier *et al*. (2007 cited in Mitchell 2010)

The third aspect of educational finance, also applicable to the funding of special education, is efficiency, generally understood to mean "reducing the cost of achieving a given level of effectiveness, or improving the volume and quality of outcome achieved from fixed budgets" (Beecham & Knapp 1999:328). Although the reduction of costs through the elimination of resource wastage and leakage is an important step, the tendency of investing in education

solely in terms of its rate of returns would have unwelcome effects for disabled learners who may not always be highly productive in economic terms (Artiles & Dyson 2005:43).The economic efficiency argument would also trigger a resource prioritisation frenzy, whereby the financing of the education of disabled children – which may not necessarily pay off financially in the near future – might be considered as an "irrelevant luxury" in the face of competing demands for scarce resources for apparently more urgent demands such as food. This is observed by (Mittler 1993:9):

> To some such issues [related to the education of disabled children] may seem an irrelevant luxury when the day-to-day concerns of families with a disabled child are with the basic necessities of food and drink, the beliefs and superstitions of neighbours about disability and their inability to secure a school place for their child.

Still related to the issue of economic efficiency is the increasing commodification and marketisation of education services, including privatisation, which may fuel the tendency of downplaying the need for investing in the education of disabled children. This is so because, as Rioux (2007:113) observes, the school system is "an important pillar of the meritocracy, which is not only justified but is necessary for the economic efficiency of any society. A presupposition of inequality is essential to that notion". The meritocracy is justified because social and economic efficiency and progress – presumed essential in any society – are dependent on searching and rewarding people whose natural capacity is the source of sustenance of the social wellbeing, culture and progress of society (Rioux 2007:115).

On the privatisation front, the current political ideology of education envisions that the best quality education is a good to be rationed and competitively sought after. Education is thus regarded as a commodity subject to the laws of market supply and demand where competitive individualism, separation, exclusion are the norms (Small 2005:155) and conformity are also celebrated (Vlachou 1997:170). In such a system where both excellence and failure are considered as individualised attributes (Vlachou 1997:1), and where there is a competition among schools for enrolling exceptionally clever learners, learners with disabilities might be seen as "non-marketable commodities" (Blackmore 2000:381). This is referred to by some writers as the "human capital approach" – a reductionist notion that strips education of its basic purpose and substance and lends it an economic subservient role. Here, education's function is limited to merely structuring the supply of qualified people over a long period in accordance with economic demands. In short, this approach emphasises the "economic value of education, the rate of return on schools and the productive utility of human knowledge" (Beiter 2006:607). Of course, Beiter (2006:607) acknowledges the significance of economic progress in creating the

resources badly needed to realise rights, but at the same time cautions against seeing economic progress as the sole or the most important function of education. Katarina Tomaševski, the former Special Rapporteur of the Commission on Human Rights on the Right to Education, has the following to say:

> To refuse to educate children with disabilities on the grounds that there is no evidence that such an investment would help eliminate poverty or enhance the rate of economic growth will be cruel. ... no state admits to doing it. Nevertheless, children with disabilities may be excluded from school because providing wheelchair access might not be commercially viable, or because their learning is deemed not to yield a sufficient marginal return on investment. This type of reasoning challenges the very assumptions of human rights, namely that there should be equal human rights for all (Tomaševski 2003:33).

Thus, seen through a human rights lens, education should not be geared towards just economy-related knowledge but more importantly towards fostering the full development of human personality and towards strengthening respect for human rights. If the purpose of education falls short of the latter ideal, then it might run the risk of compromising inherent human dignity (Beiter 2006:607).

In spite of all the above challenges plaguing the funding of education of children with disabilities, the key to ensuring the full enjoyment of the right to education of disabled children is to acknowledge that access to publicly funded education services is a right that cannot and should not be calculated in terms of input-output terms (Tomaševski 2003:33). As Hegarty (1995:16) rightly observes, people should be able to enjoy their entitlement to the resources that their education requires, regardless of the fact that education may or may not succeed in making them employable or economically self-sufficient. Article 23(3) of the UNCRC (UN 1989) and Article 13 (2) and (3) of the ACRWC (AU 1990) treat funding of the education of disabled children as a human rights issue. Article 2 of the ACRWC states that:

> 2. States Parties to the present Charter shall ensure, subject to available resources, to a disabled child and to those responsible for his care, of assistance for which application is made and which is appropriate to the child's condition and in particular shall ensure that the disabled child has effective access to training, preparation for employment and recreation opportunities in a manner conducive to the child achieving the fullest possible social integration, individual development and his cultural and moral development (AU 1990).

As the above discussion shows, the issue of public funding is a crucial aspect of the education of disabled children without which the various policy formulations remain hollow promises. Numerous human rights instruments stress the importance of funding; and yet, it has been one of those areas where African governments have made limited progress partly because of the lack of a proper funding model applicable to the African context (ACPF 2011:73).

The issues of funding adequacy, equitability and efficiency determine many of the ingredients of the provision of education services for disabled children, of which educator supply is the most critical. The next section takes a look at the role played by the availability of qualified teachers in the provision of education services for disabled children.

2.5.3   Teacher training for inclusion

The importance of teacher training that is appropriate for inclusion is addressed both in the human rights literature and educational literature. The former deals with the obligations of States to train and make available teachers qualified to teach in diverse classrooms, while the latter focuses on the form and content of teacher training for inclusion. In this section, I discuss the issue of teacher training for inclusion by drawing from both sets of literature.

There are several instances where human rights literature calls for teachers being trained for inclusive education. Firstly, General Comment No 9 of the UNCRC Committee emphasises that training programmes for teachers and other personnel be modified to accompany the drive towards the philosophy of inclusive schooling (UN 2006a, para 67). The General Comment also requires that teachers be trained in appropriate methodology and techniques such as child-centred and individualised teaching strategies, and appropriate languages, and other forms of communication (UN 2006a, para 65).

Secondly, paragraph 46 of *The Guidelines for Action at the National Level of the Salamanca State*ment suggests that teacher training be done in such a way as to enable trainees primarily to deal with all types of disabilities, and secondly to help them be specialised in one or more disability-specific areas (UNESCO 1994b). Yet, the statement emphasises integration and the preparation of pre-service and in-service teachers to provide special needs education in inclusive schools (UNESCO 1994b, para 3). This is ambiguous because it invokes special needs education within inclusive education. Similarly, General Comment No 5 of the ICESCR stresses teacher training for integration:

> States should ensure that teachers are trained to educate children with disabilities within regular schools and that the necessary equipment and support are available to bring persons with disabilities up to the same level of education as their non-disabled peers (OHCHR 2006, para 35).

Lastly, Article 4 of the UNCRPD promotes the preparation of teachers, professionals and other staff who work at all levels of education to be qualified in sign language and/or Braille (UN 2006b).

The educational literature also addresses teacher education for inclusion, both pre-service and in-service, from various angles. For Forlin (2010:8), the paradigm shift demanded by inclusive schools has to be automatically followed by an inclusive teacher training programme where the focus is on a deeper questioning of normative assumptions about the purpose of education in each curriculum area; the new demands for knowledge and societal and political commitments to education; and the provision of educational opportunities for all. In this regard, three models of teacher training currently exist, which vary in their curricular focus and overall orientation: the Infusion model, the Collaborative Training Model and the Unification Model (see Figure 4).

Figure 4 Existing models of teacher training for inclusion

Infusion Model
- Students in pre-service teacher training take 1 or 2 courses that cover inclusive education and provide a systematic introduction of knowledge about individuals with disabilities integrating it throughout an entire curriculum.

Collaborative Training Model
- More courses in pre-service teacher training deal with teaching inclusive classes, and both students preparing for mainstream teaching and for special education do all, or part of, their practical experiences together.

Unification Model
- All students in pre-service teacher training study the same curriculum that trains them for teaching mainstream education with a focus on pupils with special needs.

Adapted from: Stayton & McCollun 2002:211-218

The primary challenge in terms of the kind of teacher training model to pursue has been the expectation that teacher training for inclusive education must occur in a special training programme, rather than being embedded within the regular curriculum. Such expectation has the potential to perpetuate the myth that inclusion is different from regular education and that it takes only specialists to teach learners with disabilities (Forlin 2010:4). The excessive emphasis on specialised teachers for the education of disabled children might also engender the risk of *deskilling* regular teachers (Mongon 1985:45).

The above awareness has led to efforts geared towards eliminating the current general and special education binary in preparation of teachers (Smith 2010:212). Instead, the preferable approach is to train teachers as generic teachers based on the principle that "good teaching practice is good for every child regardless of levels of ability" (Vlachou 1997:100). Such attempts at bringing the hitherto dichotomous teacher training programmes under one roof (the Unification Model) would make some of the celebrated instructional strategies such as task analysis, social skills training, adapted instruction – now seen as the strict domain of special education – part of every teacher's skill repertoire (Sapon-Shevin 1989:95).

It is apparent that most countries have not yet reached the ideal model, i.e. the Unification Model. Rather, they lie somewhere between the Collaborative Training and Infusion Model where the special and regular teacher education binary is evident (Kurz & Paul 2005:19). The implication is that as long as special education continues to be taught as a separate curriculum – through the Infusion Model – the whole purpose of inclusive curriculum envisaged in inclusive schools is defeated (Forlin 2010:8).

In terms of the content of teacher training, a general principle to follow is that teacher training should equip teachers with competencies, including making suitable accommodations and modifying curricula to meet the multiple needs of diverse learners and utilising different pedagogies to enable effective learning outcomes for all learners (Forlin 2010:10).

Given the fact that the daily classroom routines are too complex to predict, it becomes important for teacher education to be more forward-thinking and focussed on equipping teachers to better cope with potential challenges instead of providing them with rhetorical and homogenous content that perpetuates the status quo of teacher training within narrowly-defined disciplines (Forlin 2010:10). Therefore, a standardised approach to teacher training might not be an ideal option for preparing teachers for inclusive classrooms (Ferguson 1989:53).

Skills in processes of research and inquiry are also equally important, since it is only when so grounded that teachers can create the "solutions" to the set of unpredictable situations or contingencies of teaching children with disabilities (Ferguson 1989:53). This is what Engen (2003:79) calls "situated practice", a "teaching sensibility", which is about contextualising teaching to suit the curriculum content and the needs of learners.

"Situated practice" can partly be ensured through frequent interface between teacher training institutions and schools through which it is possible to keep pace with rapid evolutions in the challenges and opportunities presented to school teachers, as well as "to make sure that training courses are actually meeting the needs of teachers in heterogeneous classrooms" (Forlin 2010:10).

However, serving a heterogeneous learner population requires more than competencies in "situated practice", which becomes hardly possible if teachers are still entrapped in misunderstandings, negative attitudes and stereotypes towards disability and disabled learners. Hence, training of teachers must also be targeted at challenging prejudices and stereotypes and dominant ideologies of normalcy. This can be done by enabling them to effectively disrupt hegemonic discourses and resist and transform oppressive practices (Bartolomé 2007:280). This is what Ferri (2006:299) calls "pedagogy of disruption" whereby *ablism* – so entrenched in the educator's mindset – is confronted with and challenged to effect real inclusive learning. Teachers who are exposed to such critical pedagogy would have their "common sense knowledge about disability and normalcy" disrupted, to be replaced by an interdisciplinary perspective (Rice 2006:18). Teacher training with an inclusive orientation should, therefore, prepare teachers on how "to teach against the grain", which enables them to challenge mainstream, pervasive deficit narratives of disability (Oyler 2011:201-2).

As part of their value formation, prospective and incumbent teachers should be sensitised of the fundamental rights of children with disabilities enshrined in existing international and national legal norms. According to Jaeger and Bowman (2002: ix):

> [M]any preschool educators who do not specialize in special education often get little or no training about the legal, pedagogical, and human dimensions of working with disabled learners. Once in the field, educators are often without a reference as to how to deal with their disabled learners, as required by law and as dictated by principles of education.

Without an understanding of the legal requirements and the educational and related demands of inclusive education, teachers risk "creating a structure that is illegal, untrustworthy, or both" (Crockett & Kauffman 1999: ix).

In a nutshell, one needs to first understand that just as the formal curriculum mandates shift and change, so do learners' needs. It is practically impossible – and even unnecessary – for any teacher education programme to prepare pre-service teachers for every curriculum and every child (Oyler 2011:204). It is through inquiry that the teacher designs a curriculum that serves the

day by making use of his/her background knowledge and by posing the right questions for possible answers (Oyler 2011:204).

Furthermore, successful inclusive education has to be accompanied by teacher development programmes that not only focus on technical competencies, but also on changes in attitudes and values towards creating teachers who cherish the principles of equality and non-discrimination. Effective teachers are those who understand and appreciate child variance and diversity as gifts to capitalise on, instead of as deviance to shy away from (Sapon-Shevin 1989:95). Among the principles to follow in understanding and appreciating diversity is the ability to ensure an equality of opportunity for all learners regardless of their disability status or other attributes. In the next section, I turn to a discussion of "equality of opportunity" as an important principle in inclusive education.

2.5.4 Equality of opportunity

A noble aim of educational policy should be that of enhancing "equality of opportunity" and non-discrimination (Davie 1989:13). Equality of opportunity has both weak and strong meanings: in its weak sense, it refers to equality of access. In this sense, the goal of equality is achieved the moment there is a school in reach of every child. Such a view, however, ignores the tremendous structural inequalities within society and the nexus of expectations, attitudes and values that surround them. Hence, in its strong sense, "equality of opportunity" means equality of outcomes or of results (Davie 1989:13), implying that the necessary curricular or instructional conditions have to be in place to translate equal access into equal outcomes. One way of doing that is through what is referred to as "equity pedagogy" where teachers are trained to teach for equity (Parks 2008:1) and where the curriculum assumes diversity and pluralism as starting points (Oyler 2011:202).

Elaborating the concept of equality of result, Kanter (1999:245) emphasises the concept of the unequal treatment or the provision of special accommodations on behalf of people who may not be equally situated. The purpose of the accommodations is thus not just to make the barriers disappear, but to provide equality of access so that equality of result may be achieved. Therefore, equality of opportunity requires not merely that there should be no exclusion from access on grounds other than those appropriate or rational but that people from all sections of society have an equal chance of satisfying the grounds considered appropriate (Williams

1997:99). In a similar vein, Nieuwenhuis (2005:192) argues that even if fairness were to be ensured at the starting line, the outcome of the race may not be the same for all. Equality of opportunity in this context does not apply only to the starting block, but to the race itself. In other words, equality can never mean "uniformity" and should be interpreted to mean equal treatment.

The general principle of equal opportunity can be translated into concrete rights at the level of actual educational provision in part through the notion of differential educational treatment. Since children are different from each other, they must be treated in different ways in order to reach common goals (Hegarty 1995:16).

The World Programme of Action Concerning Disabled Persons regards equalisation of opportunities as the process of ensuring the universal accessibility of the general system of society, including the physical and cultural environment, housing and transportation, social and health services, educational and work opportunities, cultural and social life (UN 1982).

Rule six of the Standard Rules on the Equalization of Opportunities for Persons with Disabilities (UN 1993) calls for States to ensure equal access to education for disabled children, youth and adults as an integral part of the education system. The same Rule (UN 1993, item 6) points out the need for States to have a clear policy which should be understood and accepted at the school level and by the wider community in order to accommodate educational provisions for children with disabilities in the mainstream.

The Call for Accelerated Action on the Implementation of the Plan of Action towards Africa Fit for Children promises universal access to comprehensive quality basic education for all including children from poor families, children on the streets, children with disabilities, and children in situations of armed conflict (AU 2007, chap III, item (29)(6)(c)).

Article 7 of the UNCRPD requires States Parties to ensure equal and full enjoyment by children with disabilities of all human rights and fundamental freedoms (UN 2006b). Under article 30(5) (d), the UNCRPD (UN 2006b) requires States Parties to:

> ensure that children with disabilities have equal access with other children to participation in play, recreation and leisure and sporting activities, including those activities in the school system.

The issue discussed under this section, namely equality of opportunity has another side to it: non-discrimination. Equality of opportunity and non-discrimination are two sides of the same

coin; wherever there is discrimination, equality of opportunity is unthinkable and wherever there is equality of opportunity, non-discrimination becomes the norm. In the next section, I discuss this related concept of non-discrimination.

2.5.5 Non-discrimination

Discrimination on grounds of disability is the result of treatment, attitudes and social structures (Degener 2004:6). Several human rights instruments deal with non-discrimination in general terms and with education in particular. Both the UNCRC (a 2(1)) and the ACRWC (a 3) call upon States Parties to respect and ensure the rights set forth in the Convention for all children without discrimination on the basis of child's race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status. General Comment No 5 of the ICESCR, defines *disability-based discrimination* as

> any distinction, exclusion, restriction or preference, or denial of reasonable accommodation based on disability which has the effect of nullifying or impairing the recognition, enjoyment or exercise of economic, social or cultural rights (OHCHR 1994, para 15).

The General Comment lists some of the causes of disability-based discrimination, including neglect, ignorance, prejudice and false assumptions, and exclusion (OHCHR 1994, para 15). The characterisation of discrimination adopted by the General Comment covers both *de jure* discrimination such as the denial of access to educational opportunities, and *de facto* forms of discrimination such segregation and isolation achieved through the imposition of physical and social barriers (OHCHR 1994, para 15).

The Limburg Principles on the Implementation of the ICESCR calls upon States Parties to eliminate "*dejure* discrimination" by taking immediate steps to abolish any discriminatory laws, regulations and practices, and to bring to an end "*de facto* discrimination" which might be the result of a lack of resources or otherwise (UN 1987, para 37, 38). Paragraph 39 of the Limburg Principles recommends that special measures be taken in order to ensure that certain groups or individuals have equal enjoyment of economic, social and cultural rights and that such measures not be considered discriminatory:

> provided … that such measures do not, as a consequence, lead to the maintenance of separate rights for different groups and that such measures shall not be continued after their intended objectives have been achieved (UN 1987).

Issued in the same year as the ICESCR, the ICCPR also contains provisions that can be cited in the protection of persons with disabilities from discrimination, inhuman treatment, compulsory detention and compulsory institutionalisation. For instance, Article 26 guarantees all persons equal and effective protection against discrimination on any ground such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status (UN 1966a).

The Beijing Declaration and Platform for Action highlighted the need for special protection for the girl child with disabilities because of the additional barriers they may be faced with (UNESCO 1995, para 270).

General Comment No 9 (UN 2006a, para 9) of the UNCRC Committee requires States Parties to:

(a) Include explicitly disability as a forbidden ground for discrimination in constitutional provisions on non-discrimination and/or include specific prohibition of discrimination on the ground of disability in specific anti-discrimination laws or legal provisions.
(b) Conduct awareness-raising and educational campaigns targeting the public at large and specific groups of professionals with a view to preventing and eliminating *de facto* discrimination against children with disabilities.

As in the case of equal education opportunity, the fundamental principle of non-discrimination in the field of education has evolved as an international norm as a result of standard-setting instruments issued by UNESCO notably the Convention against Discrimination in Education (1960) which came into force on 22 May 1962 (Singh 2005:57). Article 1 of the Convention defines the term *discrimination* to include

> any distinction, exclusion, limitation or preference which, being based on race, colour, sex, language, religion, political or other opinion, national or social origin, economic condition or birth, has the purpose or effect of nullifying or impairing equality of treatment in education and in particular:
>
> > (a) Of depriving any person or group of persons of access to education of any type or at any level;
> > (b) Of limiting any person or group of persons to education of an inferior standard;
> > (c) Subject to the provisions of Article 2 of this Convention, of establishing or maintaining separate educational systems or institutions for persons or groups of persons; or
> > (d) Of inflicting on any person or group of persons conditions which are incompatible with the dignity of man.

The above definition of discrimination encompasses not only the prohibition of denial of access to quality education but also that of the establishment and provision of segregated education services for persons or groups of persons (UNESCO 1960).

Under Article 3 of the Convention against Discrimination in Education, States Parties are required to take immediate measures to eliminate and prevent any discrimination within the meaning of the Convention, preventing differences in treatment and forbidding preferences and restrictions in various fields. They also have the obligation to formulate, develop and apply a national policy which, by methods appropriate to the circumstances and to the national usage, will tend to promote equality of opportunity and treatment in the matter of education.

The elimination of stigma, oppression, discrimination, or segregation begins with using appropriate language in portraying children with disabilities (Harry & Klingner 2007:16). In the next section, I turn to the discussion of how language, labels and discursive portrayals play a role in excluding or including children.

2.5.6 Appropriate language

> Initial encounters between the disabled and others do not start from a neutral point, and the disabled person has to deal with definitions of himself and his disability previously and independently conceived by others (Thomas 1982:8).

There is a close association between language and the "objectivity" of society and what individuals consider to be "real" experiences (Hurst 1984:208). Thus, depending on how it is used, language has both edifying and debilitating potentials. For Wa-Mungai (2009), language, as a medium of culture, exerts a eugenic influence; this is what he calls "cultural deletion in expressive forms". Hence, language plays an important role in facilitating or hindering access to education. Language used in daily interactions and in professional discourse can have debilitating effects by leaving false impressions of "feeble status" and of "little value" about the life of the person with a disability (Mittler 2004:3).

The terms, labels and stereotypes used to characterise disabled people are a reflection of particular socioeconomic and cultural developments and the differential ways in which policy and service provision are associated with particular conceptions. Historically, therefore, disabled people have experienced a range of responses in both official and everyday discourses (Barton 2003:4).

Wa-Mungai (2009) explains how people use culture and language to name and define people with disabilities as "a reminder that the rest of the more fortunate society are 'alright'":

> [I]n reality as well as in the social imaginary, they [non-disabled people] place some 'bodies' at a permanently lower level, often through language but just as commonly by means of such actions as ostracism. The naming process is achieved by means of … marking another in unfavourable terms in order to justify whatever negative treatment might be meted out.

The expert discourse – done in the name of science, medical care or social or economic necessity – is no exception to this labelling tendency. Jaeger *et al.* (2002: xvi) observe that even though expert labelling of disabled people has declined over the years, the persistent use of derogatory terms to describe individuals with disabilities is still prevalent. Unfortunately, it seems that these reasons for defining people and their differences have been used to control disabled people because they are perceived as threats or as inconvenience to society (Trent 1994:2).

That explains the reason why terms used to describe persons with disabilities evolved along with emerging paradigms or thinking. More importantly, this has been the result of disabled people gaining greater control over these definitions over the years and their capability to offer "alternative, empowering conceptions" (Barton 2003:4).

The shift of official categories and their meaning including, *moron, imbecile, idiot, insane, feebleminded, mentally deficient, subnormal, mentally handicapped* and *learning difficulties* that took place over the years reflect how the conceptualisations and perceptions evolved over different historical periods and cultural contexts (Barton 2003:4). Pothier and Devlin (2006:3) attribute the rapid lexical evolution in describing people with disabilities to the significant level of discomfort with what the English language seems to be able to offer as the available options, while others attribute that to the increasing control over disability discourses being exercised by disabled persons.

Up until the 1970s the term *handicapped* was widely used to refer to people with disabilities. This categorical term is thought to be of British origin, and describes the prevalent begging gesture with the hand to cap, "the receptacle for the blessings sought" (Sage & Burrello 1986:2). The handicap first occurs when people are placed in a certain environment and certain demands and expectations are made of them (Söder 1984:31).

The term *handicapped* was later replaced by "people-first" language (i.e. "people with disabilities") to maintain disability as a characteristic of the individual, instead of the attribute that

defines the person's identity (Triano 2003a:8). At about the same time, the term *disabled persons* was used among the British civil rights movement (Clark & Marsh 2002:2). There has since been a heated controversy as to the appropriateness of each of these terminologies. Titchkosky (2003:129,134) offers a sociological critique of person-first language as an "apolitical, individualized, and inappropriate means by which to dismember disability from the self". Similarly, Pothier and Devlin (2006:5) argue that the first-person, or "with," language does have the potential to give the impression that the disability is of a second order nature; we do not speak of "persons with a gender" or "persons with a race" (Pothier & Devlin 2006:3). Those who argue in favour of the term *disabled children (persons)* argue that one of the most effective ways to directly engage, and thereby supersede, this dichotomous category of able/disabled is "to invert the subject/object divide and effectively mobilise it to its opposite by purposively valuing that which is devalued". According to this claim, "one must, therefore, engage the language that has been historically used to stigmatise, i.e., *disabled*, and reclaim and reassign meaning to it by purposely valuing that which is devalued ('disability')" (Triano 2003b:6).

Terms such as *physically challenged*, *disABILITY*, *the able disabled*, *special needs* (Triano 2003b:6), and *difabled* or *differently abled* (UNESCO 2009:5) are also used in the literature. However, some writers argue that these terms do not necessarily challenge the oppositional category of able/disabled.

Another term, perhaps the most commonly used one, to describe children with disabilities is *children with special needs*. Despite its widespread use the term has, however, been a subject of severe criticism. Hall (1997: x) explains that the term *special* is "a vague and fuzzy umbrella kind of word" with hidden, and usually damaging, assumptions about the nature and character of the children it is supposed to portray.

Hall (1997:57) also criticises the noun "needs" that accompanies the term *special needs* by saying that the things labelled as needs – such as prosthetic devices, a wheelchair, standing frame, computer switch – are not actually "needs" but solutions.

Some observers advocate the use of *exceptional children*, with the connotation that the parameters include children who are at variance with the norm, or exceptional, on dimensions that include the mentally gifted or talented as well (Hallahan & Kauffman 1997:7). This term has gained prominence not only because of its objective accuracy (if we do wish to encompass

individual variance on dimensions rather than the disabled) but also because it carries more positive connotations than the negative ones associated with "handicapped" (Sage & Burrello 1986:2).

In the above section, I discussed how language, as a medium of culture and attitude and as a tool of categorisation has the potential to effectively exclude children with disabilities from interacting with non-disabled children and from accessing mainstream education services. In the next section, the issue of access is entertained from the perspective of physical accessibility.

2.5.7 Physical accessibility of schools and related facilities

The physical accessibility of schools and related facilities is a crucial consideration in the education of children with disabilities. In this section, I discuss physical accessibility from the perspectives of the appropriateness – in terms of design and construction – of buildings, public transport and how they either allow physical access and free mobility or result in exclusion.

The way school buildings and other public infrastructure are designed and built has the potential to reinforce spatial segregation of children with disabilities from mainstream public spaces (Armstrong 2003:80) as well as restricting their movement.

UNCRC General Comment No 9 acknowledges that

> the physical inaccessibility of public transportation and other facilities, including governmental buildings, shopping areas, recreational facilities among others, is a major factor in the marginalization and exclusion of children with disabilities and markedly compromises their access to services, including health and education (UN 2006a, para 39).

Article 9(1) of the UNCRPD (UN 2006b) requires States Parties to:

> take appropriate measures to ensure to persons with disabilities access, on an equal basis with others, to the physical environment, to the transportation, to information and communications, … these measures, which shall include the identification and elimination of obstacles and barriers to accessibility, shall apply, to inter alia:
> > (a) Buildings, roads, transportation, and other indoor and outdoor facilities, including schools, housing, medical facilities and workplaces.

With regard to accessibility, the UNCRPD introduces the concept of *universal design*, which is defined as the "design of products, environments, programmes and services that should be usable by all people, to the greatest extent possible, without the need for adaptation or specialized design" (UN 2006b, a 2). Here, the Convention advocates for designs that aim at

being accessible to all, both disabled and non-disabled persons, but does not preclude the provision and use of assistive devices for particular groups of persons with disabilities where this is needed. Article 13(3) of the ACRWC is particularly relevant in this regard, where it is stated that States commit resources towards progressively achieving movement and access to public highway, buildings and other places to which the disabled may legitimately want to have access to. Similarly, UNCRC General Comment No 9 (UN 2006a, para 39) urges all States Parties

> to set out appropriate policies and procedures to make public transportation safe, easily accessible to children with disabilities, and free of charge, whenever possible, taking into account the financial resources of the parents or others caring for the child.

The problem of accessibility is even more complicated for girls with disabilities. The inaccessibility of toilets and the unsanitary situation of bathrooms, coupled with the nature of some disabilities, might create a situation where a girl has to be helped with toileting. The emphasis on modesty and privacy of many cultures and the proscribed degree of openness on some biological processes such as menstruation makes intimate help in toileting and sanitation highly problematic, as well as intensifying safety concerns (Rousso 2003:9-10). This situation not only intensifies parental anxieties, but it might also reinforce negative stereotypes about the ability of girls with disabilities to function as learners, which might discourage school attendance (Rousso 2003:10).

UNICEF advises that the specific access needs of all children, including those with disabilities, be taken into account in the design of schools. The physical design and resources available in schools can serve as barriers to inclusion, and it is far harder to redress inaccessible design after schools have been built (UNICEF 2007b:60).

Puri and Abraham (2004:23-27) suggest some cost-effective steps schools can take to facilitate environmental conditions, including clear pathways; tables organised in the classroom for mobility and access; doors kept shut; and areas defined by a mat or shelve. Schools can create good positioning especially to facilitate motor function, promote normal muscular tone, stabilise body parts, and maintain alignment of the body among children with severe and multiple disabilities. Evans (2007:19) also mentions how white edging can be used on stairs and counter tops and how blinds can be fitted at windows to eliminate glare.

The Center for International Rehabilitation (2003:48) suggests that pedestrian pathways and buildings serving the public should incorporate low cost inclusive design features such as level pathways of adequate width and curb ramps serving wheelchair users and all other pedestrians. Similarly, transit terminals should have well-located signs with high-contrast large print to assist deaf and visually impaired passengers; a low ticket counter for use by wheelchair users and short persons; and tactile warning strips at curbs and platform edges to assist blind persons.

In the preceding section, I dealt with the crucial issue of physical accessibility and how children with certain types of disabilities can be excluded from public spaces on account of the fact that such facilities are designed and built with an eye on non-disabled children. In the next section, I dwell on the discussion of the concept of *individualised education plan* and the arguments against and in favour of it in the education of disabled children.

2.5.8 Individualised Education Plan

For Hardman and Nagle (2004:281), the *Individualised Education Plan* also called *Individualised Education Programme* (IEP) is "the vehicle for delivering a free and appropriate public education to every eligible pupil with a disability". It is a curricular programme that caters for the unique needs of each child with a disability (Biklen 1989:16). It is thus an attempt to deal with conditions which either exclude disabled children from school altogether or force them to accept inappropriate placements in available school programmes. IEPs do not just contain records of the child's strengths and difficulties. They detail learning targets that are time-bound, and the associated strategies for teaching and progress monitoring (Corbett & Norwich 2005:21). As such it is useful as an accountability blueprint, allowing to alter goals and objectives whenever necessary to ensure a learner progress in the general curriculum, especially when learners with disabilities are included in national or district-level testing (Hardman & Nagle 2004:289).

The UNCRC Committee, in its General Comment 9 implies the need for *individualisation* of the education of children with disabilities when it states:

> The manner and form of inclusion must be dictated by the individual educational needs of the child, since the education of some children with disabilities requires a kind of support which may not be readily available in the regular school system (UN 2006a, para 66).

Though IEP is not explicitly mentioned, the UNCRPD and the Salamanca Statement both draw attention to individualised support to disabled children to ensure their effective education. For

instance, the UNCRPD draws attention to the need to take special and appropriate steps to ensure the effective education of disabled children, including reasonable accommodation[7] in line with the individual's requirements (a 24(2)(e)) and the provision of appropriate support within the general education system (a 24(2)(f)). Article 24(2)(g)) stresses the provision of "effective ***individualized support …*** in environments that maximize academic and social development, consistent with the goal of full inclusion" [emphasis added] (UN 2006b).

For Biklen (1989:14), the IEP has a number of positive aspects, including linking unique learner abilities, needs and styles with instructional goals and objectives and alternative instructional strategies and offering a mechanism for parents, teachers, and other personnel to work together for the benefit of the child. There have been, however, also criticisms labelled against IEP. For instance, it is criticised on the ground that it "…rationalizes an isolated, fragmented and asocial approach to teaching". Both learner–learner and teacher-learner relationships are affected by the impersonal and highly specified curricular form of individualised programming, which functions to minimise social interaction in classrooms, as well as modifying learner and teacher roles (Bart 1984:113).

Biklen (1989:14) identifies more problems with IEP: Firstly, IEP's individual focus tends to shift attention away from school culture, school programmes and school performance to individual performance. Under such kind of *individualised gaze* learners – who are perceived as being unable to take advantage of the opportunities that are generally and ordinarily provided – are considered to be in some way deficient. Therefore, the focus is on them as individuals and those of their attributes that would seem to be preventing their progress (Ainscow 1993:241).

Secondly, according to Biklen (1989:14), because the IEP is very detailed and individualised – unlike other approaches that apply to all learners – it might risk becoming another of the many structural ways in which disabled children are differentiated from the typical learner. Focusing attention on particular children in an individualised way may result in the school population becoming divided into "types" of children to be taught in different ways or even different types of teachers (Ainscow 1993:242).

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[7] "Reasonable accommodation" means necessary and appropriate modification and adjustments not imposing a disproportionate or undue burden, where needed in a particular case, to ensure to persons with disabilities the enjoyment or exercise on an equal basis with others of all human rights and fundamental freedoms (UN 2006b, a (2)).

If IEPs lead to learners being assigned to separate routines and spaces, or discontinuity in a learner's education, then they may have a labelling effect as it encourages teachers to characterise particular learners in terms of selected attributes that are assumed to be inhibiting their learning (Ainscow 1993:242; Biklen 1989:17). This, in turn, then can lead to a lowering of the expectations teachers have of certain learners (Ainscow 1993:242).

Criticising the one-to-one instruction that often accompanies the IEP as being controlled-oriented rather than one that fosters learner involvement and autonomy, Ferguson (1989:45-47), writes:

> [T]he strongly behavioural language of IEPs tends to reinforce a climate of technical management and authoritarian control: highly specific, minutely fragmented, quantifiable goals and objectives ... An important risk of this style of individualisation is that the burden of failure to learn comes to rest squarely on the individual child in classic 'blame-the-victim' fashion…. Some children become so dependent upon the instructional contingencies teachers provide that they cannot spontaneously engage in any behaviour without another person's exact instructional guides.

In terms of content, despite its attempt to address the individual learning needs of the child, IEP leaves unanswered a number of questions related to the child's place in school (Biklen 1989:15). These include: how does the child's curriculum fit in with the curriculum of the other children, the curricular goals of the school, and the educational atmosphere of the school? What are the attitudes of teachers and peers about disability and other perceived differences? How obtrusively or unobtrusively are special services presented? (Biklen1989:15).

In fact, Sage and Burrello (1986:56) argue that, despite its recognition as a valuable tool, the IEP is often no more than a "paper exercise" with modest instructional utility. Furthermore, the emphasis on conformity characteristic of the IEP extends to teachers' pedagogical practices, which too often emphasise rote learning, control, and repetition rather than spontaneity, creative expression, and divergent thinking (Ferguson 1989:45). It might, therefore, have the effect of precluding the instructional decision-making functions of teachers. The IEP is also criticised for having little relevance to teaching personal and social development skills and problem-solving areas of learning (Corbett & Norwich 2005:22).

From the above discussion, we can see that there are merits of individualised education plans, which might be in the interest of disabled learners if they are properly planned and administered, and without exposing such learners to labelling. Thus, the question remains: Can education be individualised in a way that is not exclusionary and does not reinforce the stereotype of deviancy? This is basically the dilemma of inclusive pedagogy whereby promoting

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inclusive values may conflict with maintaining a commitment to genuine individual learning and development in practical contexts (Corbett & Norwich 2005:27).

The focus of this section, namely individualisation of education services for learners with disabilities is intimately linked to, and allows the pursuit of, multiple curricular and instructional avenues to address the unique needs of each learner with a disability. Hence, the IEP can be considered as a valuable educational tool, and as one of the several means to ensure curricular and instructional flexibility (Corbett & Norwich 2005:23). The latter issue is the topic of discussion of the next section.

2.5.9 Curricular and instructional adequacy and flexibility

In many situations, although structural access are largely assured for children with disabilities, the quality of what happens inside the classroom might leave much to be desired (Sage & Burrello 1986:ixv). There are, therefore, both human rights and educational considerations to be taken into account in ensuring *epistemic access. Epistemic access* refers to "access to the content knowledge and skills needed to reach the required levels of achievement and competency" (Motala, Dieltiens, Carrim, Kgobe, Moyo & Rembe 2007:6).The way the curriculum is organised, managed, and delivered including the medium of instruction, the learning materials and equipment used, and the manner in which learning is assessed all may be a cause for either *epistemic access* or *epistemic exclusion* (DoE 2001a, para 1.5.3).

According to Biklen (1989:21), a curriculum with potential to integrate disabled children into regular education is capable of fully addressing the following questions:

- How much should teachers focus on children's social experiences and emotional growth?
- Are there ways of organising learning and learner groups so that learners with more unique needs are not treated as fundamentally different?
- What are the curricula that pay attention to the future skills that disabled children need and how do these fit with the regular education curricula?
- Are there progressive, integrating curricula that promise to bring disabled and non-disabled children together in a unified educational experience?

Further, questions related to curriculum are intimately related to both wider philosophical questions about the aims of education and what is worth learning and why (Corbett & Norwich 2005:13).

Article 29(1) of the UNCRC offers a general template on the aims of education when it urges States Parties to ensure that education is directed to:

    a) The development of the child's personality, talents and mental and physical abilities to their fullest potential;
    b) The development of respect for human rights and fundamental freedoms, and for the principles enshrined in the Charter of the United Nations;
    c) The development of respect for the child's parents, his or her own cultural identity, language and values, for the national values of the country in which the child is living, the country from which he or she may originate, and for civilizations different from his or her own;
    d) The preparation of the child for responsible life in a free society, in the spirit of understanding, peace, tolerance, equality of sexes, and friendship among all peoples, ethnic, national and religious groups and persons of indigenous origin;
    e) The development of respect for the natural environment.

General Comment No 1 of the UNCRC Committee stresses the need for the curriculum to be of direct relevance to the child's social, cultural, environmental and economic context and, present and future needs. It should also take full account of the child's evolving capacities (UN 2001, para 9). In the same vein, General Comment No 9 of the Committee (UN 2006a, para 64) recommends that the aims of the education of children with disabilities should include "the strengthening of positive self-awareness, making sure that the child feels he/she is respected by others as a human being without any limitation of dignity".

Article 24(1) of the UNCRPD obliges States Parties to ensure an inclusive education system at all levels and lifelong learning directed to:

    (a) The full development of human potential and sense of dignity and self-worth, and the strengthening of respect for human rights, fundamental freedoms and human diversity;
    (b) The development of persons with disabilities of their personality, talents and creativity, as well as their mental and physical abilities, to their fullest potential
    (c) Enabling persons with disabilities to participate effectively in a free society.

Paragraph 29 of the Guidelines for Action at the National Level of the Salamanca Statement lays down a basic curricular and instructional principle in the education of disabled children: children with special needs should "receive additional instructional support in the context of the regular curriculum, not a different curriculum". It points out that all children should be provided with the same education, and be provided with additional assistance and support when they require it (UNESCO 1994b:22).

In terms of specific skills to include in the curriculum, in addition to the common curriculum, Article 24(3) of the UNCRPD suggests additional considerations:

> States Parties shall enable persons with disabilities to learn life and social development skills to facilitate their full and equal participation in education and as members of the community. To this end, States Parties shall take appropriate measures, including:
>
> a) Facilitating the learning of Braille, alternative script, augmentative and alternative modes, means and formats of communication and orientation and mobility skills, and facilitating peer support and mentoring;
> b) Facilitating the learning of sign language and the promotion of the linguistic identity of the deaf community;
> c) Ensuring that the education of persons, and in particular children, who are blind, deaf or deafblind, is delivered in the most appropriate languages and modes and means of communication for the individual, and in environments which maximize academic and social development.

Similarly, Sage and Burrello (1986:199-200) suggest the following specific curricular and instructional adaptations:

- Expanding the curriculum to include supplemental related services such as speech, psychological, occupational, physical therapy when such services are needed to benefit or enhance the pupil's educational programme
- Substituting such skills as adaptive physical education for regular physical education for physically disabled learners
- Providing supplemental Braille and large-print books, auditory trainers and speech communicators as adaptive vehicles to communication for sensory or neurologically impaired learners who were formerly educated separately.

Although it can be said that all children have common educational needs, hence common pedagogic needs, there are differences between children which might necessitate applying different pedagogic styles (Corbett & Norwich 2005:16). In other words, pedagogic styles need to balance "practices which are common to all, specific to some and not others and unique to individuals" (Corbett & Norwich 2005:17). The latter reminds us of the need to differentiate pedagogic styles and make curricular adaptations according to the mildness or severity of the disability, which are basically individual attributes.

Accordingly, for children with mild disabilities, a more effective approach to modifying the curriculum would follow on adaptations in the instructional planning stage towards maximising the learners' strengths and abilities within the instructional context (Alper *et al.* 1995:32-33).

Suggested modifications include modifying the scope of the lesson objective by, for example, making it cover a fewer number of skill areas or concepts, or adjusting the criteria for skill mastery by, for example, allowing the child with a mild disability additional response time, a different number or type of response (e.g., fewer written responses and more oral or illustrated responses), or a different type of skill evaluation (e.g. true-false) (Alper *et al.* 1995:33). All modifications and adaptations including the use of additional media and educational technology, should, as a rule, be kept to a minimum and should be "as subtle and unobtrusive as possible to minimise pointing out the differences in the child with the disability" (Gargiulo & Kilgo 2011:234).

A different set of approaches is suggested for children with severe and complex disabilities, especially in special schools with possible application in integrated schools. For instance, for children with severe and complex disabilities and for those who lack verbal communication, a method called "intensive interaction" is used. Under this approach, much of the teaching takes place directly on the basis of the learner's self-initiated actions and reactions, instead of a teacher-imposed, pre-planned curriculum (Westwood 2011:22-23).

For teaching children with autism, an approach is used which focuses more on a visual mode than the auditory-verbal mode of communication (Westwood 2011:27), while for orthopedically impaired learners, no change in the instructional programme is required. Making appropriate modifications to the physical environment or providing services such as transportation and therapies of a non-educational nature would suffice (Rao 2004:80).

Experts suggest that the curriculum should be extended to include prevocational and vocational skills. These are necessary skills that learners must master in order for them to become independent, responsible adults. Unfortunately, these skills are usually only taught at post-secondary education level (Sage & Burrello 1986:199-200). This last point, namely that of enabling learners with disabilities, especially those who are likely to leave school early, to successfully integrate into society, is related to the concept of *transition planning*, which is the focus of the next section.

2.5.10 Transition: Planning for the post-school scenario

It is well recognised that the right to education includes learning for life. Hence, learning transition skills is a right that helps learners to "continue negotiating the many challenges that

will come with adulthood" and to be able to lead an independent life (Spooner, Browder & Uphold 2011:370).

Paragraph 56 of the Guidelines for Action at the National Level of the Salamanca Statement (UNESCO 1994b:34) draws attention to the need for transition planning:

> Young people with special educational needs should be helped to make an effective transition from school to adult working life. Schools should assist them to become economically active and provide them with the skills needed in everyday life, offering training in skills which respond to the social and communication demands and expectations of adult life. This calls for appropriate training technologies, including direct experience in real life situations outside school. Curricula for students with special educational needs in senior classes should include specific transitional programmes, support to enter higher education whenever possible and subsequent vocational training preparing them to function as independent, contributing members of their communities after leaving school.

Thus, transitional planning should include both instructional and linkage goals. Instructional goals are of an academic, social and/or behavioural nature and include skills in self-advocacy and self-determination (deFur & Russell 1997:219). Linkage goals are mainly orientated towards making connections with various services with which the child could get involved in or will need in his/her post-school life (Patton 2004:189). Thus, the school curriculum must be aimed at ensuring that no child leaves school without being equipped to face the challenges he/she can expect to be confronted with in life (UN 2001, para 9).

In its General Comment No 9, the UNCRC Committee recommends that career awareness and vocational skills be incorporated into the years of compulsory education as mandatory for children with disabilities (UN 2006a, para 69).

This section dwelt on the issue of preparing learners with disabilities for independent living, through a curricular intervention called *transition planning*. In the next section, I turn the discussion to the delicate issue of disciplining learners with disabilities. The section thus draws attention to the care that needs to be exercised in applying school disciplinary measures on learners with disabilities without at the same time unfairly exempting children with disabilities from normal disciplinary procedures.

2.5.11 "Disciplining" children with disabilities

Discipline at the school level has two very important goals, namely to create an environment conducive to teaching and learning and to ensure the safety of staff and learners. If certain

learners are too scared to attend school because they constantly feel threatened, or because the behaviour of learners in a school disrupts the normal teaching and learning process, then their access to equal educational opportunities would be seriously compromised (Joubert, De Waal & Rossouw 2005:208).

Yet, the question remains: is it possible to administer wholesale school disciplinary measures to learners with disabilities and, at the same time, exercise care of not penalising them for an apparent misconduct which may – directly or indirectly – be linked to the child's disability? Are there positive behaviour management tactics aimed at promoting appropriate behaviour and developing self-discipline and self-control in learners that can be fairly applied across-the-board? (Squelch 2000:2).

Jaeger and Bowman (2002:77) deduct valuable guidelines for the disciplining of disabled children from the US *Individuals with Disabilities Education Improvement Act of 2004 (P.L. 108-446).* First, a learner with a disability cannot be punished for being disabled. Second, each learner with a disability is protected from any disciplinary procedure that would result in a unilateral change in placement. If the disabled child's educational placement is not changed by a disciplinary action, the school generally may use the same disciplinary measures on learners with disabilities as on all other learners. Third, a child with a disability cannot be disciplined for reasons resulting from the disability.

The guiding principle of any approach to disciplining should be the understanding that problem behaviours are context-related and interventions should be equally preventative, proactive, and educative, always being centred on an understanding of and respect for the individual learner (Soodak 2003:330). Thus, the focus of schools should be not on punitive measures but rather on positive interventions that focus on supporting the children by making changes in the school environment, such as changing seating arrangements, schedules, and patterns of supervision and teaching learners new or alternate behaviours (Soodak 2003:330).

The implication of this is that teachers need to be trained to be able to analyse the key elements of the environment as well as diverse learner characteristics – the *ecological approach* – and to recognise and measure various antecedent events influencing learner behaviour – called *applied behaviour analysis* (Furlonger, Sharma, Moore & King 2010:295). In this approach, teachers need have the skills to clearly determine whether a learner's misbehaviour is a

manifestation of the disability or whether the disability has a relationship – albeit attenuated – to the misbehaviour.

In situations where a child's disabilities cannot be easily detected, apparent behavioural patterns such as not paying attention, poor learning performance, or hyperactivity in the classroom – which are otherwise linked to the child's disability – may be wrongly identified as misbehaviour (UNESCO 2006:50).

In fact, many children with disabilities display a variety of "problem" behaviours that are the product of a complex interaction of such variables as temperament, cognitive endowment, environmental privation, learning history and previous experience of aggression. Children with severe intellectual disabilities are also reported to display behaviours of non-compliance, stereotyped mannerisms, persistent screaming, overactivity and eating inedible objects (Emerson & Einfeld 2011:4). Children with learning disabilities, including those with "mental retardation" and information processing and cognitive disorders as well as attention deficit hyperactivity exhibit aggressive and disruptive behaviour to avoid distress and control a difficult situation. They may also exhibit self-injurious behaviour which may be related to poor self-esteem. In both instances, aggressive and self-injurious behaviours might be triggered by previous experiences of aggression or by health-related triggers, such as the exacerbation of epilepsy leading to aggressive outbursts. At times, especially in the case of children with autism, the behavioural problem might be triggered by any change to routine or to some aspect of the familiar. "What to others may seem a quite innocuous or insignificant environmental change, such as moving furniture, may be perceived as threatening" (O'Brien 2000:20-21).

A US court held that a learner's learning disabilities prevented him from understanding the implications of his peers convincing him to become involved in drug trafficking (*Student Board of Prince William County v. Malone,* 1985 cited in Jaeger & Bowman 2002:79). In another case a court held that children with orthopaedic disabilities were more likely to get involved in fights to cope with the stress and vulnerability (*s-1 versus Burlington 1981* cited in Jaeger & Bowman 2002:79).

If a learner's misbehaviour stems from a disability, then the problem behaviour is not the fault of the learner. The learner cannot be faulted from being unable to hear, unable to walk, or unable to control certain emotional outbursts. A deaf learner, for instance, cannot be punished for

failing to comply with spoken instructions. As much as a blind learner cannot be punished for knocking over something in a walking path (Jaeger & Bowman 2002:79).

In this section attention was drawn to various issues related to disciplining learners with disabilities and the due care that needs to be exercised in that regard. In the following section, I discuss issues related to academic testing and assessment and the implications of the use of psychometric tests – as a prevalent form of assessment – for measuring the academic progress of learners with disabilities.

2.5.12 Academic assessment and testing

The most important issue in relation to the assessment of the academic performance of learners with disabilities is whether or not disabled children should be tested in the same manner as their non-disabled peers. According to Evans and Weld (1989:236), at the most basic level there should be little difference between evaluating learners with disabilities and those without. Yet, the use of similar academic testing methods especially psychometric tests for both disabled and non-disabled learners has been subjected to a great deal of criticism.

First, such tests have an excessive focus on academic and intellectual skills that may pose challenges when evaluating disabled learners (Evans & Weld 1989:236). Curriculum-based standardised tests have an excessive theoretical focus while the critical educational outcome for learners with disabilities is to achieve everyday functional competences (Evans & Weld 1989:241). Second, psychometric tests erroneously assume that learners' abilities to perform the skills (required by the tests themselves) are more or less equal. The implication is that, even when there are adaptations to the tests (preparing them in Braille, for instance), there will still be the problem of focusing on measuring "the child's ability to read the test" (Evans & Weld 1989:236).

Given these and related limitations surrounding the administration of tests for disabled learners experts suggest quite a few requirements in the assessment of learners with disabilities. Allan (2003:134) suggests that assessment and examination policies and procedures – as a general principle – should provide disabled learners with the same opportunity as their peers to demonstrate the achievement of learning outcomes. This should be complemented by having

equal expectations from learners with disabilities in inclusive classrooms, with relatively minor accommodations (King, Schroeder & Chawszczewski 2001:14).

Outcomes-based curriculum[8]is a curricular approach that offers learners with disabilities the opportunity to demonstrate the achievement of learning outcomes. This curriculum strategy, which is against content-laden, examination-oriented style of education, has a two-pronged emphasis that learners' progress be measured against the broad results expected at the end of each learning process; and that all learners be evaluated against their own achievements in an on-going process and in a flexible manner instead of being compared to other learners (Mokhaba 2005:32).

As was highlighted in this section, any approach to academic assessment in schools should not put learners with disabilities at a disadvantage by way of compromising their grade-to-grade progression and adversely affecting their self-esteem. Teachers should place as high expectation on disabled learners as their non-disabled peers and the proper accommodations and adaptations should be made available when administering tests. Psychometric tests should be avoided at all costs and a more outcomes-based assessment should be adopted.

In the following section, I dwell on the discussion of the role of parents or caregivers in the educational life of children with disabilities.

2.5.13 Involvement of parents or caregivers

The role of parents in the life of the disabled child is irreplaceable. Adults disabled in childhood unanimously attribute much of their success (and many of their problems) to how parents treated them and in particular to how their parents handled their disabilities. This role is first and foremost a matter of principle and, in some instances, a legislative requirement: parents have the right and the duty to be involved in their children's education (James 2008:1, 18).

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[8] Curriculum and Assessment Policy Statement (CAPS) is an adjustment to **what** we teach (curriculum) in terms of making the curriculum more accessible to teachers and not **how** we teach (teaching methods) (Du Plessis 2012:1). Accordingly, the change is in the way the curriculum is to be packaged with every subject in each grade having a single, comprehensive, concise Curriculum and Assessment Policy Statement. This will offer details on what is expected of teachers in teaching and assessment. Outcomes-Based Education (OBE) is a method of teaching, not a curriculum, and hence is still alive in South African education (Hofmeyr 2010).

For instance, in a landmark case (*Gillick v West Norfolk and Wisbech Area Health Authority and another [1985] 1 All ER 533*) on the nature of consent which a minor can give to medical treatment without obtaining parental consent, an English court upheld that

> A parent or guardian had a parcel of rights in relation to a child in his custody including the right to control the manner in which and the place at which the child spent his or her time, and in general such rights could not be abandoned or transferred. Those parental rights would be enforced by the court, subject always to the court's right to override them in the interests of the child... (Court of Appeal (England) 1985).

Although this is a health-related case, it has far-reaching implications on the enforcement of parental rights in relation to their children including in education in a court of law. In fact, various human rights instruments uphold the rights and duties of parents and the crucial role they can play in the education of their children, as well as making suggestions on the kinds of support to be given to them. For instance, Article 14(2) of the UNCRC calls upon States to respect the rights and duties of parents and caregivers to guide their child according to the child's "evolving capacities" to enable him/her to exercise his/her right.

Under paragraph 61, the Salamanca Statement Framework for Action suggests that parents – as irreplaceable partners in the educational enterprise – should be supported to be able to become involved in and make meaningful contributions in their children's educational activities both in school and at home. Similarly, paragraph 41 of the UNCRC General Comment No 9 states that:

> ...[S]upport to families includes education of parent/s and siblings, not only on the disability and its causes but also on each child's unique physical and mental requirements; … education on the family's common language, for example sign language, so that parents and siblings can communicate with family members with disabilities; material support in the form of special allowances as well as consumable supplies and necessary equipment, such as special furniture and mobility devices that is deemed necessary for the child with a disability to live a dignified, self-reliant lifestyle, and be fully included in the family and community (UN 2006a, para 41).

Under paragraph 37, the Salamanca Statement requires that parents and volunteers be invited to take an active part in the work of the school. Paragraph 59 stresses the vital role parents can play in the education of their disabled children and the need to capacitate them to make a meaningful contribution, including through training in parenting skills and the provision of necessary information in easily understandable language.

Despite the crucial role parents could play in the life of a disabled child, a "cult of expertise" that prevailed among most professionals allows no room for "amateurs" resulting in the knowledge that parents have about their children being devalued; "their concerns dismissed; and their

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requests patronised" (Ferguson & Asch 1989:122). Shore (1986: xiii) notes in the context of the USA that many parents were either unwilling or unable to become involved in their children's education programmes due to lack of educational and communication skills to cope with the often mystified technical expertise of teachers.

Despite the professed good intentions of professionals during conferences and meetings with parents, many interactions are structured in such a way that professionals report and parents listen, implying that initiative and authority are in the hands of professionals (Harry & Anderson 1994 cited in Schaller, Yang & Chang 2004:234). As for participation in decision-making, the best parents could generally hope for was the reactive role of agreeing to, or taking issue with, the educational placement proposed for their child by the professionals (Hegarty 1993:25).

An analysis of the dynamics of professionals' power over parents provided by Gliedman and Roth (1980 in Schaller, Yang & Chang 2004:234) illustrates four types of power:

- the power of the group: that is, the accumulated perspectives of several professionals overpowering parents' attempts at offering dissenting viewpoints;
- the power of kindness: the apparent kindness of professionals deterring parents from expressing dissenting viewpoints;
- the power of manipulation: professionals purposely using technical language, knowledge and authority to overpower parents and gain their consent; and
- finally, the power of need: parents' need for services and assistance puts them in a position where they are unable to disagree with the very people who control provision of those services.

In the final analysis, true partnership has to be fostered between parents and experts, through various mechanisms including through legislation (Hegarty 1995:17). This has been echoed in paragraph 62 of the Salamanca Statement Framework for Action where governments are called upon to formalise parental involvement through appropriate legislation and through the promotion of parents' associations and their representatives to allow their involvement in the design and implementation of education and other programmes.

To conclude, Sigston (1987:138) offers four general areas for the inclusion of parents of children with disabilities as partners in the education of their children:

- **Concrete and contextual**: covers the ways in which parents may assist in the supplementation of resources through fundraising and voluntary help in classrooms, under the direction of educators
- **Pedagogical and problem-solving**: this includes 'parent evening' discussions on children's strength and matters of concern and contributions to overcome them. It could also cover co-tutoring where the parent takes on a limited teaching role as in the case of home reading initiative
- **Policy and governing**: here parents contribute to decisions affecting the school as a whole. At its most direct this will be as a parent governor themselves, but in order to exert a more representative influence there is a need for wider consultative mechanisms
- **Communal**: the school tries to address itself to the needs of parents as well, by for example, giving them learning opportunities.

These are important aspects for possible incorporation into countries' law and policy provisions as they could promote parental involvement.

2.6 CONCLUDING REMARKS

In the foregoing sections of Chapter 2, existing human rights norms and standards and relevant educational principles underlying the education of children with disabilities were reviewed. One central issue came out strongly: the need for governments to put in place legal and policy frameworks that are in keeping with international and regional human rights standards and current educational knowledge and practice. Therefore, governments need not look into the existing educational frameworks or the human rights frameworks in isolation, but should rather wed the two in such a way that they come up with laws and policies that better address the educational and human rights needs of disabled children.

CHAPTER THREE

RESEARCH METHODOLOGY AND DESIGN

3.1 INTRODUCTION

In this chapter, I discuss the overall research methodology and design, including the data collection instruments, the data analysis methods and the quality and ethical considerations in greater detail.

3.2 RESEARCH APPROACH AND DESIGN

3.2.1 Qualitative research approach

The overall research approach chosen for this study is the qualitative approach, which is an approach that allows representing any given reality from a range of different perspectives – opening up "the possibility of multiple, valid descriptions of the same phenomenon" (Gerrish 2003:82).

In addition to reiterating the political nature of qualitative research, hence "shaped by multiple ethical and political positions", Denzin and Lincoln (2011:6) define qualitative research as

> an interdisciplinary, transdisciplinary, and sometimes counterdisciplinary field. It crosscuts the humanities, as well as the social and physical sciences. It is multi-paradigmatic in focus, and its practitioners are sensitive to the value of the multimethod approach.

As law and policy research aims at unravelling the complexity underlying law- and policy-making processes, the qualitative research approach would be a suitable choice for such research and thus for this specific study (Taylor *et al.* 1997:40). Qualitative research embraces broad, interpretive, post-experimental, postmodern, feminist, and critical approaches as well as more narrowly defined positivist, postpositivist, humanistic, and naturalistic conceptions of human experience (Denzin & Lincoln 2011:6). Such a research approach also seeks to address "questions that stress how social experience is created and given meaning" (Denzin & Lincoln 2011:8).

There are many qualitative research designs, including grounded theory, phenomenology, case study, ethnography and narrative analysis. One of these research designs, the *generic* or *non-categorical* research design, has gained ground over the past decade (Lichtman 2010:87). It is also referred to as *methodological bricolage*[9] (Denzin & Lincoln 2011:194). This is the design adopted by this researcher owing to the nature of this study that cuts across law and policy, as well as the disciplines of disability and education, which makes the application of any one singular research design or theoretical framework untenable. The rationales for the choice of this design are further elaborated below.

3.2.2 Generic qualitative research design

Research design describes a "flexible set of guidelines that connect theoretical paradigms, first, to strategies of inquiry and second, to methods for collecting empirical material" (Denzin & Lincoln 2011:14). A research design "situates researchers in the empirical world and connects them to specific sites, peoples, institutions, and bodies of relevant interpretive material, including documents and archives" (Denzin & Lincoln 2011:14). It is the procedural plan and structure that is adopted by the researcher to obtain evidence to answer the research questions validly, objectively, accurately and economically (Kumar 2011:94).

The choice of the generic research designs emanates from the deliberate choice researchers make to use a combination of approaches rather than a particular methodological orientation (Lichtman 2010:88). This was then also the case for me. The generic research design is a *bricolage* of theoretical and methodological approaches borrowed from the various qualitative designs (Kincheloe, McLaren & Steinberg 2011:164). Instead of passively receiving "correct, universally-applicable methodologies" and "certified processes of logical analysis", a researcher using this design actively makes up research methods from the tools at hand (Kincheloe *et al.* 2011:168). Researchers adopting the generic research design – as methodological bricoleurs – "enter into the research act as methodological negotiators" and steer clear of the "blinders of particular disciplines and peer through a conceptual window to a new world of research and knowledge production" (Steinberg 2011 cited in Kincheloe *et al.* 2011:168).

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[9] Bricolage is derived from the French word 'bricoleur' – describing "a handyman or handywoman who makes use of the tools available to complete a task" (Steinberg 2011 cited in Kincheloe, McLaren & Steinberg 2011:168).

The inter- or cross-disciplinary nature of the study, which makes any one methodological or theoretical framework untenable for a more profound understanding of the research object (Kress 2011:103), makes this design fitting for this study. Two more reasons why the generic design befits this research are that it allowed the researcher to uncover the polymorphous nature of power, representations and actions (Brent 2009:48), and to engage in high level interpretation and "explication of theoretical influences", serves as "an analytic framework that locates the interpretation within existing knowledge" (Thorne *et al.* 1997 cited in Caelli *et al.* 2003:2).

Two modes of inquiry are used for this study under the generic qualitative design: the enlightenment mode to policy and legal research and the critical discourse analysis mode. A mode of inquiry as an essential element of the research design refers to "a bundle of skills, assumptions, and practices that researchers employ as they move from their paradigm to the empirical world". Modes of inquiry set "paradigms of interpretation into motion" and "connect the research to specific methods of collecting and analyzing empirical material" (Denzin & Lincoln 2011:14).

Even though both the enlightenment mode and policy discourse analysis are policy research methodologies of a critical bent, albeit with varying degrees, there is an apparent tension between these two research modes: the enlightenment mode bases itself on established theories and meta-narratives such as the social theory of disability, while critical policy discourse analysis rejects such totalising and technicist discourses. But, this tension seems to be an inherent part of the discussion surrounding the education of children with disabilities and policies of inclusion. On the one hand, the quasi-philosophical intent and language of social justice and belonging gives inclusion a status that rejects one unitary model or set of ideas. On the other hand, it is placed within a heavily technicist context which reduces the practice of inclusion to a set of techniques and skills (Ball 1994:24).

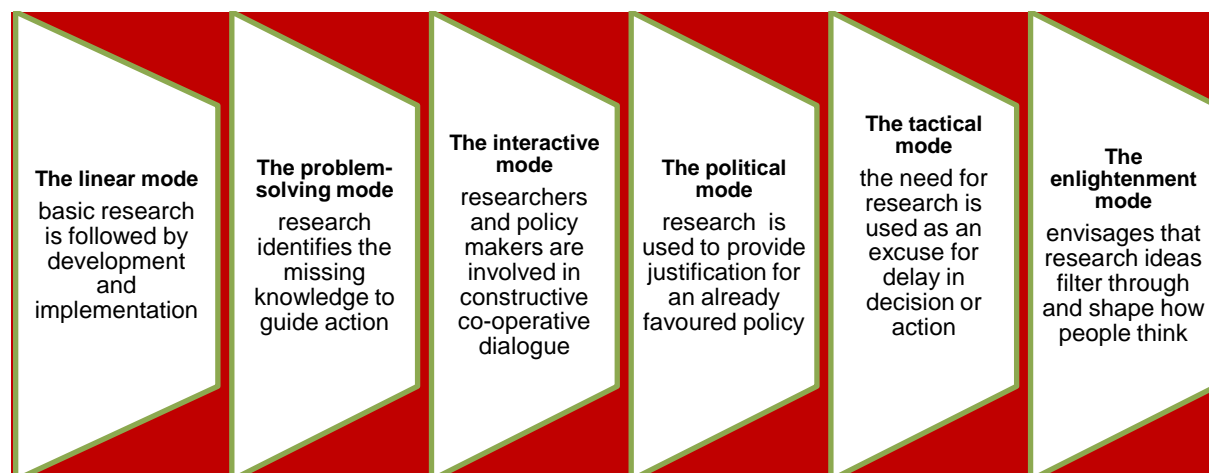Within the framework of these research modes, the study involves the critical analysis of the relevant South African law and policy documents and the description of the information according to currently acceptable educational and human rights thinking and practice and existing discursive representations of disabled children and their schooling. Each of these modes of inquiry is discussed in detail in subsequent sections.

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3.2.3 The enlightenment mode of critical law and policy research

Several modes of law and policy-oriented research are entertained in the literature, each with its own merits and demerits. The enlightenment mode is one of the several modes of law and policy research and one that is conceptually a major departure from traditional, rational and engineering modes, ranging from the linear mode, the problem-solving mode and the interactive mode, to the political mode and the tactical mode (refer to Figure 6).

Perhaps one of the crucial limitations of each of the first five modes to law and policy analysis, besides their assumption of law and policy-making processes as apolitical and value-free, is the fact that they embrace the reductionist assumption that law or policy is made by a single individual or group of individuals and agencies acting in unison as one rational individual – the "unitary policy actor assumption" (Malen & Knapp 1997:424). Nisbet (1999:16) calls the linear and problem solving modes naive, the interactive mode over-hopeful, while labelling the political and tactical modes cynical.

Figure 5 Law and policy-oriented research mode

The linear mode	The problem-solving mode	The interactive mode	The political mode	The tactical mode	The enlightenment mode
basic research is followed by development and implementation	research identifies the missing knowledge to guide action	researchers and policy makers are involved in constructive co-operative dialogue	research is used to provide justification for an already favoured policy	the need for research is used as an excuse for delay in decision or action	envisages that research ideas filter through and shape how people think

Source: Adapted from Weiss (1979:429)

The enlightenment mode can be categorised as a critical approach to analysing policy and legislative texts though at a lower level compared to critical policy discourse analysis. The latter is at the apex of currently existing critical methodologies. Both these law and policy research modes remedy the shortcomings of traditional modes of law and policy studies, including the

failure to acknowledge explicitly the fact that the policy process is inherently value-laden (Bacchi 1999 cited in Allan 2008:9).

In sharp contrast to the rational or engineering modes, the critical policy analysis mode, of which the enlightenment mode is one, encompasses efforts aimed at understanding the context in which policy arises, evaluating how policy-making processes are arranged, and assessing its context in terms of a particular set of education values. Such a policy analysis mode also allows investigating whose interests the policy serves, explaining how it might contribute to political advocacy, examining how a policy has been implemented, and with what outcomes (Taylor *et al.* 1997:20).

In much the same way as critical discourse analysis, the enlightenment mode leans towards qualitative methods of data collection and analysis (such as textual analysis), and adopts a relativist ontology, and works with a relativist/interpretivist epistemology. The relationship of this inquiry mode to law and policy lies in its function of enlightening law and policy makers as well as implementers and "challenging the accepted definitions of educational problems" (Trowler 2003:177).

The research *of* policy – a critical attribute to the enlightenment mode – sees the deconstruction of problem-construction work of policy as a necessary step in policy analysis (Lingard 2010:383). For Weiss (1979:429), the outcome of the law and policy-oriented research in the enlightenment mode is to shape how people, in this case, law and policy makers and implementers, think. Thanks to this approach, research can offer concepts and theoretical perspectives that permeate the policy-making process ... percolating through informed publics and coming to shape the way in which people think about social issues".

Hence, the enlightenment mode blurs the distinction between theory and research, and emphasises creating the right intellectual conditions for problem-solving, not just the provision of technical solutions (Finch 1985:123). According to DeClercq (2000:9), critical policy analysis attempts to address the issues related to the focus of the policy or how the problem is framed; the process it came through and the actors involved; its proposal of solving the problem and whose interests it is serving; its context and any gaps or tensions therein; its implementation context including the interests it privileges and marginalises; its consequences; and its contribution or not to social justice goals. Critical policy analysis also focuses on and is

committed to unmasking or decoding ideological dimensions, values and assumptions of public policy (Doherty 2007:193).

According to Trowler (2003:177), the enlightenment mode can be seen as similar to research *of* policy and has more of a critical theory bent, compared to the engineering mode to policy research which is research *for* policy and with a problem-solving bent. The danger with this mode – which necessitates the need for reflexivity – is that

> there is real potential for the researcher's insights to be reinterpreted and translated into the policy-making process in ways quite contrary to those which she or he would have wished. But the researcher who acts as the provider of knowledge only ... essentially abdicates responsibility for the use of that knowledge - which is at best a weak strategy for engaging policy-makers, and at worst, counterproductive (Finch 1985:123).

Bulmer (1982:48) suggests two research aims for the enlightenment mode, namely allowing policy-makers to use research to "orient themselves to problems" instead of to solve them and to offer them the "intellectual background [to] concepts, orientations and empirical generalisations that inform policy".

In the next subsection, I discuss the other mode of inquiry employed in this study, namely critical discourse analysis. The subsection begins by entertaining the varied definitions of discourse and by highlighting the significance of law and policy texts as discourses.

3.2.4 Critical discourse analysis

3.2.4.1 What is discourse?

The term *discourse* is used in different ways in different disciplines and it is important to delineate it in the context of this study. Some definitions of discourse place the emphasis on the links between language and patterns of meaning and how such meanings are socially constructed. Locke (2004:9)), for example, defines discourse as "language in use and the way in which patterns of meaning (as in stories that make the world meaningful) are socially constructed". Other definitions place the emphasis on the volatility and dynamism of discourses. In this respect, Allan (2008:6) defines "discourses as dynamic constellations of words and images that are actively reinforced, resisted, and reconstituted". Discourses cannot be neutral; they always "reflect ideologies, systems of values, beliefs and social practices" (Hicks 1995:53). Hence, discourse allows us to make sense of the physical and social aspects of the world we live in (Allan 2008:16).

Human subjects are defined and constructed both in generic categories (e.g. as "children" and "teachers") and in more specialised and purposive historical categories (e.g. as "professionals", "adolescents", "linguistic deficit") within institutions, knowledge and social relations. These discourse constructions act both as institutional "technologies of power", implemented and enforced by official authorisation, and as "technologies of the self" (Foucault 1980 cited in Luke 1999:164), where they function as internalised means for self-discipline vis-à-vis one's action, practices, and identity. According to Foucault, these technologies potentially have both productive and negative material, bodily and spatial consequences for human subjects and communities (cited in Luke 1999:164). Not only do discourses construct subject positions and identities, but also constitute the pervasive ways of knowing, valuing, and experiencing the world. Hence, discourses play a role in regulating the conduct of specific groups of people, in this instance disabled persons, and normalises their exclusion by creating a hegemonic representation, and can also be used for resistance and critiquing the status quo (Luke 1999:170).

Armstrong (2003:4) draws attention to the use of discourse as an instrument of power to persuade the speaker to change his/her viewpoint. In other words, power and knowledge are asserted through discourses. In the context of disability, discourses help to reinforce and legitimise existing oppressive socio-economic structures via law and policy texts. At the same time, those struggling for emancipation from these structures use discourses for challenging this discursive power and for critiquing the status quo by inventing and reinventing their own discursive resources.

3.2.4.2 Policy as discourse

It is now established that policy is a discourse in its own right. As rightly noted by Luke (1999:163-164),

> discourses make up a dense fabric of spoken, written and symbolic texts of institutional bureaucracies (e.g. policies, curriculum documents, forms) and their ubiquitous face-to-face encounters (e.g. classroom interaction, informal talk)

According to Allan (2008:32):

> Policy-as-discourse envisions policies as dynamic – actively circulating, intervening, and intervened upon at micro levels of society and enmeshed in a complex and contradictory process of negotiation. This perspective provides an opportunity to expand traditional approaches to policy analysis by focusing on how policy actively produces subjects, knowledge, and perceived truths.

Ball (1994:26-27) contends that a focus on policy as discourse can be used toward developing political strategies for eliminating social inequalities, for the reason that discourses embedded in policy texts commonly operate to constitute, position, make productive, regulate, moralise and govern the citizen (Doherty 2007:195). Similarly, Allan (2008:11) writes:

> The focus on written text of policy does not imply that context is not crucial to meaning making. Rather, the approach highlights the discursive power of policy by investigating written text of policy documents as primary data sources situated within a larger socio-political context.

Policy plays a role in supporting, re/producing, controlling and dispersing particular discourses and subject positions. As Armstrong (2003:112) rightly puts it, "by assuming neutral clothing, it [policy] facilitates the role of governance and social control." Since policy documents are used to communicate ideas to mass audience, the subject positions discursively produced by them may have far-reaching effects – by shaping perceptions of self and others in relation to the social world (Allan 2008:11). Elaborating the role of discourses in constructing subject identities, Ball (1994:22) notes: "we are spoken by policies [and] we take up the positions constructed for us within policies".

On par with policy texts and very much related to them, legislative texts – as social discourses – play an important role in the construction of social phenomena (Niemi-kiesilainen, Honkatukia & Ruuskanen 2006:69). In the next section, I take a look at the attributes of legislative texts as discourses.

3.2.4.3 Legislative text as discourse

> "Law is the most linguistic of institutions. Legislation and legal documents … are almost entirely linguistic" (Gibbons 2004:1).

Tiersma (2000:141) identifies three main forms of legislative texts: operative documents, expository documents and persuasive documents. In this study the focus is on operative legislative documents and in particular enacted laws defined as "the body of law adopted by the people or legislative bodies, including constitutions, statutes, ordinances and regulations" having the force of law (Putnam 2010:4).

Each of these types of legislative texts can be considered as discourse, and can therefore be subjected to discourse analysis. Many writers agree that the law is a discourse in its own right, given its highly political and linguistic attributes. The law is a discourse also because, as an

instrument of state power, hence a reflection of the distribution of power in society, it "works by categorising, isolating, ostracising, [and] dehumanising". In fact, "the success of law depends on its ability to discipline behaviour via an ideology of normalisation" (Jones & Marks 19993).

According to Antelmi (2007:101),

> legislative texts must be analysed not only as language instances which convey meanings to be decoded, but also as forms of discourse, which apart from pursuing their own ends, also reflect cognitive attitudes and power roles in society.

Critical discourse analysis of legislative texts goes beyond the traditional interpretation of legal language as specialised system of signs, hence only "to be interpreted according to the legislator's will to decide a particular case" to their interpretation "within the communicative and social context which has generated them" (Antelmi 2007:101). Critical discourse analysis of legislative texts, therefore, challenges the taken-for-granted assumption that the real readers of laws are lawyers and judges who interpret the law for ordinary citizens (Bhatia 1993:102-103).

Niemi-kiesilainen *et al.* (2006:69) underscore the usefulness of discourse analytical methods developed in sociology and cultural sciences in the analysis of legal discourses. Critical discourse analysis can be employed for analysing legal texts also because laws are coded in language and the concepts that are used to construct the law are accessible only through language (Schane 2006:1). Further, critical discourse analysis is most suited to analyse the contextual aspect of legal knowledge as it allows the researcher to challenge taken-for-granted knowledge and to criticise current law in relation to its context (Niemi-kiesilainen *et al.* 2006:9, 31).

There are commonalities between legal analysis and discourse analysis, in that both are concerned with reading and interpreting texts, and both are preoccupied with the meaning of texts, and both seem to assume that texts have a life of their own that is independent of their authors (Niemi-kiesilainen *et al.* 2006:73). Yet, they draw out an essential difference between applying methods of legal interpretation and using methods of discourse analysis in the study of legal texts. The analysis of legal discourse is based on social constructionist theory, which views discourse as constructing the social world. Hence, under a constructionist perspective, legal discourse is involved in constructing what is factual and what is conceptual. Seen from this perspective, laws on education or on disability do play a role in defining children with disabilities or the rights they are entitled to as well as the range of services they can benefit from.

Although there is a great deal of commonalities between legal texts and policy texts as discourse, each has its own peculiar characteristics. Firstly, unlike policy texts, legal documents are mostly de-contextualised, and go to great lengths to be formal and impersonal. Yet, they unmistakably manifest power asymmetries (Gibbons 2004:2) which are mainly attributable to their authoritative regulatory function. There is an expert-to-layman relationship between the law-making body and the law-abiding public and an enforcer-to-submissive subject relationship between the drafter and the public at large (Trosberg 1997:31).

The second area of difference between legislative and policy texts as discourse revolves around the attempt of legislative texts to be clear, precise, all-inclusive and unambiguous, which is not necessarily a feature of policy texts as discourse. Chimombo and Roseberry (1998:296) observe that written legal discourse is "high on informational production, high on non-narrative concerns, and extremely high on explicit reference". Furthermore, legislative expression is complete and explicit, unlike most other kinds of written discourse. The legislative intent of parliament is expressed in a written document addressed to all citizens within a jurisdiction, by means of which courts are "obliged to provide interpretation in cases where the intent is apparently contravened or disputed (Trosberg 1997:27).

A third distinctive attribute of legislative texts is their "wordiness, redundancy and specialised vocabulary", often profuse with "lengthy, complex and unusual sentence structure" (Schane 2006:3). Bhatia (1993:105-110) identifies five syntactic features of legislative sentences: sentence length, nominal character, complex prepositional phrases, binomial and multinomial expressions. Unlike policy texts which are often understood by the average reader, the language used in legislative texts is often difficult for non-lawyers to comprehend.

As it has been highlighted in the preceding sections, legislative and policy texts are discourses which can be subject to critical discourse analysis. In the next section, I take a look at the elements of critical discourse analysis as one of this study's modes of inquiry.

3.2.4.4 Elements of critical discourse analysis

For Locke (2004:1-2), critical discourse analysis refers to an ensemble of techniques for the study of textual practice which views:

- A prevailing social order as historically situated and therefore relative, socially constructed and changeable
- Discourses as coloured by and productive of ideology
- Power in society not so much as imposed on individual subjects as an inevitable effect of the way particular discourse configurations or arrangements provide the status and privilege of some people over others
- Human subjectivity as at least in part constructed or inscribed by discourse, and discourse as manifested in the various ways people *are* and *enact* the sorts of people they are [emphasis in the original]
- Reality as textuality and inter-textuality mediated via verbal and non-verbal language systems, and texts as sites for both the inculcation and contestation of discourses
- The systematic analysis and interpretation of texts as potentially revelatory of ways in which discourses consolidate power and colonize human subjects through often covert position calls.

Critical discourse analysis also assumes that discourses are produced and used within political economics, and as such, they produce and articulate broader ideological interests, social formations, and movements within those fields (Luke 1999:167). It is thus an interdisciplinary technique of textual analysis that looks at how texts construct representations of the world, social identities and social relationships (Luke 1999:170).

Armstrong (2003:111) notes the role discourse plays in the construction or moving of conceptual and relational boundaries, in the formation of identities and the creation and interpretation of meanings. That is also evident of the ideological function of discourse and language in everyday life when used to render asymmetrical relations of power and particular textual portrayals of social and biological worlds as given, commonsensical and "natural".

One common assumption underlying various approaches to discourse analysis is

> an intellectual commitment to undertaking discourse as 'constructing' the social world, rejecting a realist perspective on language as a neutral medium that allows the describing and categorising of that world (Doherty 2007:194).

Therefore, critical discourse analysis allows a systematic investigation of how social contexts are constructed and maintained through discourses, and how discourses consolidate power of some over others and colonised human subjects (Locke 2004:1-2). The emergence of critical

discourse analysis has at least two interrelated implications for educational studies. Firstly, it makes out a re-theorisation of educational practice. Educational theory and practice have relied historically on foundational metaphors and apparently universal notions such as the unfolding child and the individual rationalist mind. The contribution of post-structuralism in this front is the notion that the text is an interpretable phenomenon that is constitutive of all educational and intellectual endeavours, instead of being the vehicle of a single, universal metanarrative (Luke 1999:170-171).

Secondly, practices – educational or otherwise – are related to context, in which case discourse analysis should begin "with explicit acknowledgment of the context of the text and then proceed to reveal all of the text's ideological ambiguities, distortions and absences" (Codd 1988 cited in Vidovich 2003:79). In other words, discourses are not only "about what can be said, and thought, but also [about] who can speak, when, where and with what authority" (Ball 1994:30). Following this argument, critical discourse analysis thus aims "to uncover, reveal or disclose what is implicit, hidden or otherwise not immediately obvious" (Van Dijk 1995:18).

Critical discourse analysis begins from the assumption that systematic asymmetries of power and resources between speakers and listeners, readers, and writers can be linked to their unequal access to linguistic and social resources. In this way, critical discourse analysis presupposes that institutions such as schools act as gatekeepers of mastery of discursive resources: the discourses, texts, genre, lexical, and grammatical structures of everyday language use (Luke 1999:167). In the words of Van Dijk (1995:19), such type of "discursively implemented dominance involves preferential access to text and content as a basis of power".

Critical discourse analysis is typically invested in the "understanding and critique of social inequality, based on gender, ethnicity, class, origin, religion, language, sexual orientation and other criteria that define differences between people" (Van Dijk 1997:22-23). Further, discourse analysis is more suitable for analysing written text – which can be law or policy text – which is thought to reflect certain stereotypes in areas such as disability that are ridden with prejudices (Paltridge 2006:50).

Hence, it is a research design that works to uncover how discourses can naturalise and disguise power relations that are "...tied to inequalities in the social production and distribution of symbolic and material resources" (Luke 1995:12). Disability is one of those areas where

discourses are used to naturalise and legitimise inequalities and structural domination. For example, terms such as special schools and mental institutions have been used to maintain the spatial control and subjugation of children with disabilities.

Both approaches, e.g. the enlightenment approach and critical discourse analysis, have their own respective theoretical underpinnings. In the following sections, I take a look at the various theoretical frameworks of the study.

3.3 THEORETICAL FRAMEWORKS

As shown in Figure 7, in spite of variations in nomenclature, there are currently three main disability models: the biomedical model, the Social Model and the post-structural model, each with its own research or theoretical paradigms, namely positivism, interpretivism and critical emancipatory paradigms, respectively (Mercer 2004:120). Of these, this research study is anchored in the Social Model of Disability, Critical Theory and Post-structuralism. Each of these theoretical frameworks is discussed in detail in the following sections.

Figure 6 Epistemological and ontological perspectives of disability
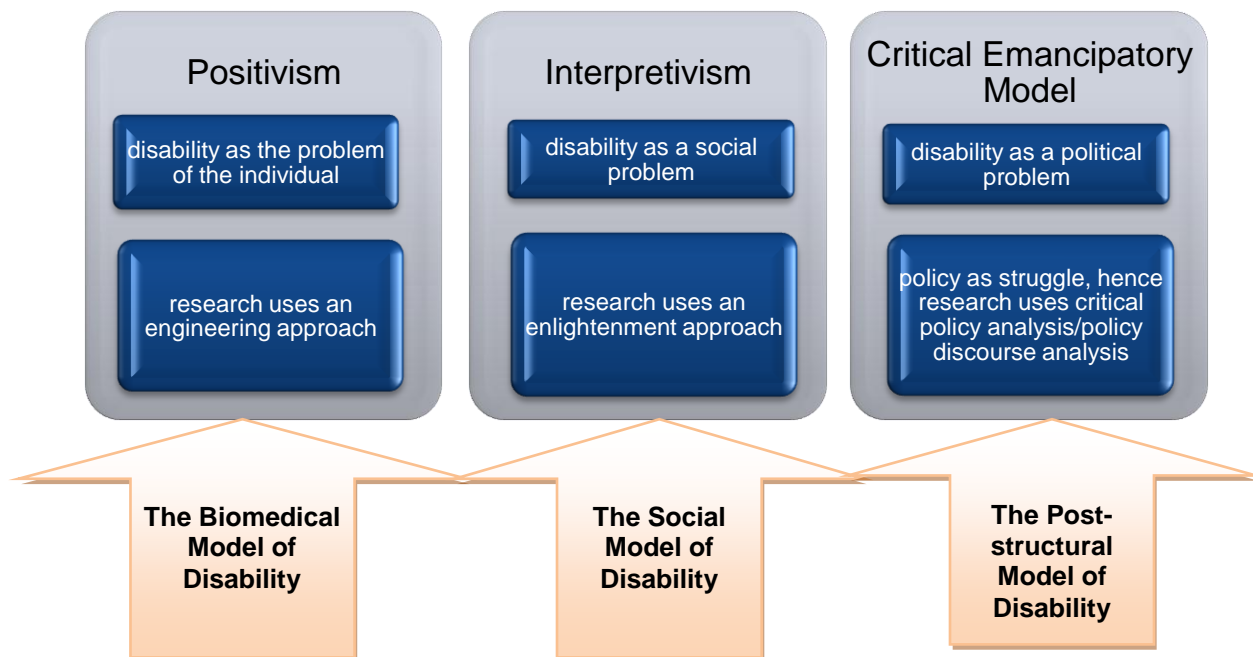
Source: Adapted from Mercer 2004:120

3.3.1 The Social Model of Disability

The Social Model of disability regards disability as

> an artificial and exclusionary social construction that penalises those people with impairments who do not conform to mainstream expectations of appearance, behaviour, and/or economic performance (Tregaskis 2002:457).

According to Barton (2003:5), the Social Model serves several purposes:

> Firstly, it provides a framework and language through which disabled people can describe their experiences. Discrimination, exclusion and inequality can be named and challenged. Secondly, it offers a means through which the question of disability can be explained and understood in terms of wider socioeconomic conditions and relations.... Thirdly, it provides a basis for support and collective engagement of disabled people.

This model has two variants: the environmental approach and the human rights approach. The environmental approach regards disability as a "consequence of environmental factors and service arrangements". Thus interventions under this perspective involve increased individual control of services through facilitating access (Rioux & Valentine 2006:49).

Special needs or the educational difficulties experienced by disabled children in the classroom are portrayed as social constructs and special education is viewed as a system in which structural inequalities at the micro-social level are reproduced in institutional form (Mitchell 2005:7). Children who "did not fit" into the mainstream were perceived as the "social products" of an insufficiently or poorly structured education system (Vlachou 1997:25).

Under the human rights approach, disability is considered as the consequence of social organisation and the relationship of the individual to society (Rioux & Valentine 2006:49). The central mode of intervention here is "to provide political and social entitlements through reformulation of economic, social and political policy" (Rioux & Valentine 2006:49). Although the Social Model played a crucial role in the disability movement by offering a political strategy, i.e. removal of barriers at the social level instead of within the individual, it has been criticised on various fronts (Shakespeare & Watson 2002:4).

According to Shakespeare and Watson (2002:5),

> the very success of the social model is now its main weakness. Because it is such a powerful tool, and because it was so central to the disability movement, it became a sacred cow, an ideology which could not easily be challenged.

The Social Model is also criticised for its neglect of the role of discourse in social relations:

> ... the Social Model of disability frames the top-down view of the relationship between the individual and society, hence leaves discourse as a side effect of social structure so that it cannot be the focus of social change (Corker 2005:221-2).

Equally important, by failing to address the role of discourse, the Social Model unwittingly reinforces the political function and power of government to form and define subjects it categorises as people with impairments because certain requirements of contemporary social and political arrangements fit into this identity (Tremain 2008:10). If the categorisation of "people with impairments", as the identity of the subject of the Social Model, is the product of these social and political arrangements, then a social movement that bases its claims to entitlement in that identity is bound to legitimise those arrangements (Tremain 2006:42).

Another point of critique brought against the Social Model of disability is that it ignores or downplays "differences in the experience of oppression within the disabled population". It focuses on social aspects to the detriment of the crucial role of the individual given the fact that the "personal is political" (Mercer 2002:234).

Like the medical model, the Social Model seeks to explain disability universally, and ends up creating totalising, meta-historical narratives that exclude impairment dimensions of disabled peoples' lives and their knowledge. This is so despite the fact that the global experience of disabled people is too complex to be rendered within one unitary model or set of ideas (Corker & Shakespeare 2006:15). The model is also blamed for "its denial of the relevance of the body" in disability discourse:

> Most activists concede that behind closed doors they talk about aches and pains and urinary tract infections, even while they deny any relevance of the body while they are out campaigning (Shakespeare & Watson 2002:6).

In a similar vein, Hughes and Paterson (1997:329) see little difference between the biomedical model and the Social Model:

> ... there is a powerful convergence between biomedicine and the Social Model of disability with respect to the body. Both treat it as a pre-social, inert, physical object, as discrete, palpable and separate from the self. The definitional separation of impairment and disability which is now a semantic convention for the social model follows the traditional, Cartesian, western meta-narrative of human constitution.

Adherents of the Social Model held that disability can be reduced or eliminated by changing society, and by so doing they shifted the focus away from attempting to change disabled people themselves (French 1993:24). In other words, pushing the Social Model argument to its logical

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extreme might lead to a situation where impairment is not seen as something which we should make efforts to avoid (Shakespeare & Watson 2002:13). This is so because the Social Model regards disability and impairment as conceptually distinct categories – "impairment neither equals disability nor causes it" (Tremain 2008:9).

The Social Model of disability – though still valid in many circles – is being replaced by other emerging theoretical perspectives. According to Shakespeare and Watson (2002:29):

> The world, and social theory, has passed it [the Social Model] by, and we need to learn from other social movements, and from new theoretical perspectives, particularly those of post-structuralism and post-modernism.

Each of these emerging theoretical perspectives, namely post-structuralism and critical theory, is described in the following sections from the perspective of law and policy research.

3.3.2 Post-structuralism

> People are not cultural dupes of old structuralism frameworks. They do indeed exhibit agency, struggle, and imagination as they grapple with structures wrapped around their located lives (Weiss 1996 quoted in Ware 2003:146).

Post-structuralism proposes a perspective of looking at things in ways that are different from conventional theoretical paradigms and goes beyond the obvious and puts different sorts of questions on the agenda for change (Ball 1994:2). It offers social policy a range of pathways that assist in conceptualising social change at a discursive level. This body of theory provides an important contribution for understanding micro processes, precisely because these intellectual perspectives reject grand theories and dispute totalising metanarratives that seek to offer only one interpretation, or one explanation of social phenomena (Marston 2004:26). The insight of philosophic post-structuralism, then, is that there are no educational truths, practices, or phenomena that can be studied outside of discourse. By such an account, educational institutions could be seen as complex sites constructed by and through discourses expressed in various texts from policy statements and textbooks to face-to-face talk in classrooms (Luke 1999:165).

According to Pfeiffer (2002:5), post-structuralism regards disability as a cultural and political construct which needs to be decoded and deconstructed in order to set forth the basic orientations and unstated assumptions about disability and people with disabilities. Everyone

has an agenda and this agenda must be set forth. To do this it focuses on cultural artefacts and texts to understand what is happening. Post-structuralism

> deals specifically with language and discourse, and as such, is bound up with issues of meaning, representation and identity. Its main premise is that meaning can never be fixed because human discourse is constantly evolving and therefore continually engaged in creating new meanings (Corker 2005:224).

Being centred in the primacy of discourse, post-structuralism relies on critical discourse analysis for "describing and interpreting, analysing, and critiquing social life" (Luke 1999:170). This theoretical perspective is also important for policy discourse analysis as "it provides a theory of dynamic and contradictory subjectivity that is discursively constituted" (Allan 2008:8). For instance, a disabled child can be portrayed once and at the same time as a subject of welfare – a recipient of a cash grant – a rights holder and a learner in a segregated special school.

Therefore, post-structuralism

> challenges the notion of stable, prior or essential characteristic identities of people in favour of a much more fluid socially constructed subject. Identities can be seen as sites of enunciation which constitute positions. This raises problems for the disability/ability binary, which places individuals firmly on different sides of an essential divide (Marks 1999:17-18).

Research with a post-structural orientation holds that:

> a) all inquiry is by definition a form of discourse analysis; and
> b) all research consists of a 'reading' and 'writing' of a series of texts from a particular historical and epistemological standpoint.

As a result, it provides a perspective on learners and teachers, policy and curriculum, schools and classrooms that radically differs from structural and other theoretical paradigms (Luke 1999:164). Post-structuralism also allows us to look into the nature of power in relation to disability, which according to Foucault has moved away from what he called "sovereign power", which is the result of coercion from outside" to "disciplinary power" where the techniques of power and their normalising effect on modern life were the result of ritualized and institutionalized action". "Disciplinary power" is exercised through the production of discourses which are used to control disabled people by making it appear that it is for our own good" (Corker 2005:231).

3.3.3 Critical Theory

This study is situated within critical theoretical perspectives firstly, because it seeks to critically engage with laws and policies on the education of disabled children and social processes that surround them, and secondly, because it is committed to social justice.

Qualitative research that frames its purpose in the context of critical theoretical concerns produces what Kincheloe and McLaren (2002:87) called "dangerous knowledge, the kind of information and insight that upsets institutions and threatens to overturn sovereign regimes of truth". Therefore, the knowledge interest involved in Critical Theory is

> the unmasking of ideologies that maintain the status quo by restricting the access of groups to the means of gaining knowledge and the raising of consciousness or awareness about the material conditions that oppress or restrict them (Habermas 1972 cited in Usher 1996b:22).

Critical theory allows for "critical refection which liberates or emancipates actors from false beliefs and subsequently leads to concrete proposals for overcoming oppression" (Lakomski 1999:175). The emancipation is made possible as a consequence of becoming aware of an alternative interpretation, which includes a different and better future (Powers 2001:3).

The term *critical*, according to Ozga and Gewirtz (1994:122), foregrounds the role research plays in dealing with concerns of social justice. For Usher (1996b:22), the term *critical* refers to the detecting and unmasking of beliefs and practices that limit human freedom, justice and democracy. Denzin and Lincoln (2011:11) see the term *critical as* the rejection of "universal claims of truth". A *critical* perspective is one for which "claims of truth are always discursively situated and implicated in relations of power" (Kincheloe *et al.* 2011:172). This perspective offers an insight of "critical reflection which liberates or emancipates actors from false beliefs and subsequently leads to concrete proposals for overcoming oppression" (Lakomski 1999:175).

For Heck (2004:8), critical perspectives on policy emphasise "going against the grain" of conventional approaches to examining laws and policies. That means researchers

> focus on cultural values embedded in policies; the deconstruction of policy documents into various readings, interpretations and sanctions; the analysis of policy intention and effects for groups of people. [such as persons with disabilities] often silenced in conventional studies …; the impact of institutional structures that reinforce policy domination, oppression, and racism; and analyses of policies, programmes, and political stances that focus on neglected needs in schooling (López 2003; Marshall 1997; both cited in Heck 2004:8).

As a researcher employing post-structural theoretical frameworks would do, the critical researcher is "critical" of the current social organisation and arrangements, which is a privilege for the researcher. He/she argues that "knowledge is integrated into a social process, which has its central content the alienation and reification of social relations" (Misgeld 1988:80). In short, critical theory is about a "critique of domination" (Misgeld 1988:114), hence is concerned with the interplay of discourse, discursive practices and power (McLaren & Giarelli 1995:17).

Critical theorists generally think that substantive equality necessitates taking difference into account – without creating a hierarchy of difference – either between disability and non-disability or within disability. That would help to both identify the systemic nature of inequality and pursue solutions tailored to the goals of full inclusion and participation (Devlin & Pothier 2006:20).

In preceding sections, I discussed the overall methodological orientation of the study and its theoretical underpinnings. In the following section, I turn to the discussion of data collection instruments, the data analysis methods and ethical considerations in that order.

3.4 SOURCES OF INFORMATION

The primary sources of data for the kinds of analysis used in this study were law and policy documents. These documents function "as one means by which discourses are supplied and subject positions re/produced" (Allan 2008:37).

The laws and policies of South Africa were analysed within their own frameworks of particular spaces and their cultures and at particular times and "in their own unique context of production in the incubator of the state apparatus or institutional context" (Doherty 2007:195). This is in tune with critical research methodologies:

> Policy texts … form a primary focus for the forensic analysis of their form, ideological ambitions, components and identity. The work of uncovering the ideological influences and ambitions of texts, unmasking the social relations of power and domination that they submerge, is a central preoccupation for critical policy analysis (Doherty 2007:195).

Therefore, in line with the aim of law and policy discourse analysis just explained, this study focuses, among others, on the discursive shaping of law and policy solutions and how children with disabilities are portrayed in law and policy discourses (Allan 2008:4).

In generating and analysing a textual analysis corpus the discourse analyst should constantly be open to claims about partiality in the selection of texts, given that only a small amount of discourse can be studied effectively in any detail. Accordingly, only one policy document related to the education of children with disabilities, another policy document relating to disability, and another law document relating both to the disability and education rights of disabled children were subjected to discourse analysis and thematic content analysis.

White Paper 6, the Disability Strategy, and the Schools Act were the primary documents subjected to the thematic content analysis and the critical discourse analysis. The analysis of this law and policy corpus was complemented by the analysis of a number of other relevant law and policy texts of the country, as well as related literature.

3.5 DATA ANALYSIS

The law and policy texts were analysed using deductive thematic content analysis (following the enlightenment mode) and discourse analysis (following policy discourse analysis). On the latter front, this study subjected the selected law and policy texts to the three dimensions of discourse analysis: textual analysis (micro) which is concerned with description of the form and meaning of the text; discourse practice (meso) which focuses on the discursive production and interpretation of the text; and sociocultural practice (macro) which operates at the levels of broader social analysis (Fairclough 2003:4).

3.5.1 Thematic content analysis using the 4 'A' scheme

The thematic content analysis was employed in this study using the deductive logic by borrowing themes from the methodological mode in which it is anchored, namely the enlightenment mode. Deductive logic employs an *a priori* approach wherein the researcher approaches the data looking for segments of text that correspond with particular research questions, concepts, or themes (Coffey & Atkinson 1996:29).

In the thematic content analysis these deductive categories were derived from the 4'A' scheme, namely availability, accessibility, acceptability and adaptability, where the presence and absence in the law and policy documents of these thematic categories are to be documented (refer to section 2.3.1 of the review of literature for a detailed discussion of the 4 'A' scheme and

its principles). Such importation of categorising concepts from a theoretical framework and identification of factors that cut through the data is characteristic of data analysis under the generic design (Caelli *et al.* 2003:2). For the sake of brevity, the following seven major elements of Tomaševski's 4 'A' scheme were looked for in the selected legislative and policy documents, namely:

- Explicit mention of education as a human right
- Clear targets for establishment of schools
- Teacher development schemes
- Clear strategies for funding education
- Equality and non-discrimination provisions
- Economic and physical accessibility of schools
- Curricular and instructional adequacy and flexibility

3.5.2 Analysis of laws and policies as text

Texts as "social actions, meaningful and coherent instances of spoken and written language use" are not created and re-created arbitrarily (Luke 1999:168). They are shaped by two causal powers: social structures and social practices, on the one hand, and social agents, the people involved in social events, on the other (Fairclough 2003:22). That is why texts are often seen as "sensitive barometers of social processes, movement and diversity," and textual analysis, therefore, can provide "good indicators of social change". Textual analysis can also offer "evidence of on-going processes such as the redefinition of social relationships between professionals and publics, the reconstitution of social identities and forms of self, or the reconstitution of knowledge and ideology" (Fairclough 2002:204).

According to McKee (2003:17), this is what underlies the post-structuralist form of textual analysis – in which this study is located – where the emphasis is not on making claims about whether texts are "accurate" or "inaccurate", "truthful" or "biased" or "show reality", but rather on "the ways in which these forms of representation take place, the assumptions behind them and the kinds of sense-making about the world that they reveal".

The textual analysis involved in this study went beyond the conventional form of textual analysis wherein text is understood "as detached from the social relations which organise [it] and which it serves to organise" (Smith 1990:223). Thus, the type of textual analysis adopted for this study

was the one which considers text/documents as being entrenched in social relations (Smith (1990:221-23). Such type of textual analysis follows the following guidelines:

- Situate texts in social relations thereby avoiding treatment as *ahistorical* or detached
- Insist on the materiality of texts as fundamental to the relations they organise
- Understand and approach texts as part of a social course of action; texts are fluid and continually reshaped and reconstituted
- Be attentive to how the movement between the text and the local history influences and patterns social relations (Smith 1990:221-223).

A textual analysis is able to draw attention to ideological properties of the text; however, ideology cannot simply be "read off" from texts. Written texts do not provide a sufficient account of the social, political and cultural processes that are inevitably implicated in the production and legitimisation of the texts in question. Within a critical discourse analysis framework there needs to be an investigation of issues pertaining to the internal properties of the text and the socio-cultural context of the text (Marston 2004:7).

Textual analysis might also involve deconstruction, which is directed at the interrogation of texts in and of themselves and vis-à-vis their binary opposites. This approach is useful in taking apart and exposing the underlying meanings, biases, and preoccupations that structure the way a text conceptualises its relation to what it describes (Denzin 1994:185).

In agreement with Jäger (2005:23), the textual analysis specifically took into account the kind and form of argumentation; denial and strategies of presenting issues in relative terms; the intrinsic logic and composition of text; implications and insinuations that are in some way implicit in the text; collective symbolism*;* use of metaphors, figures of speech, idioms, sayings, clichés and style; actors (persons, pronominal structure); and references (for example to medicine or science).

At the same time, the texts were analysed in terms of "how they structure and stipulate social relations between human subjects". Texts might define and position the reader through the use of "we" or by using pronouns, modal auxiliaries and other speech acts such as questions, imperatives, and injunctions with the aim of directing their readers (Luke 1999:169). "These lexical and grammatical choices build differentiated relations of power and agency between readers and writers" (Luke 1999:170).

In a nutshell, in this study, I:

- did a critical framing of texts, where one stands back and looks at them in relation to their social and cultural values (Gee 2004 cited in Paltridge 2006:45). This was important to see how the content of the text was presented, and the sort of angle or perspective the writer was taking. It helped to unpack some of the assumptions underlying the use of language, the ideological thrust of seemingly ordinary everyday genres and what the text was aiming to do. It also allowed the researcher to consider the social, political underpinnings of the written discourse (Paltridge 2006:47) (see sections 4.1.2 and 4.2.5 of the thesis).

- looked at how modals such as shall and must were employed and if they were used to impose a high or low degree of obligation on the addressee (Trosberg 1997:36) (see section 4.2.6 of the thesis).

- looked at the usage of *defocalisation* or depersonalisation and where and how statements of liability or obligation were foregrounded using the passive form to attribute it to a non-human object (Trosberg 1997: 41 & 48) and their implications in objectifying some subjects and downplaying their agency (see section 4.2.6 of the thesis).

- examined the use of words such as *ought to* and *should* – and whether they were used to show the weakness with which the obligation was expressed or if they were employed to convey moral duty, rather than legal obligation (Trosberg 1997:46) (see section 4.2.6 of the thesis).

- examined the use of words such as *may* and *can;* according to Trosberg (1997:48), while the modal verb *may* is typically used to indicate permission stating the rights of legal bodies and citizens, the modal verb *can* mostly occurs in negated form stating what cannot take place (see section 4.2.6 of the thesis).

- looked out for repeated structures and their use as a rhetorical device in recapitulating, re-asserting, and emphasising messages (Johnstone, Freedle & Kirk 1994:13). For Merritt (1994:28), repetition facilitates rhythm and provides "catch-up" time, allowing longer periods of time for information to be assimilated and processed by the readers (see section 4.2.6 of the thesis).

There is another aspect of textual analysis of law and policy that investigates the power, ideology and subject position that are embedded in the law and policy texts, namely the analysis of policy as discourse. This will be the focus of my discussion in the next section.

3.5.3 Analysis of policy and legislative texts as discourse

As a blend of post-structural and critical perspectives, the policy discourse analysis undertaken by this study was constituted by the following aspects:

- Emphasis on written policy and legislative documents as discourses
- Analysis of subject positions constructed though policy and legislative discourses that are inhered in the written text of selected policies and laws
- Analysis of the assumptions that undergird the framing of policy problems and solutions
- Examination of subject positions with the goal of expanding possibilities for thinking differently and for advancing efforts to promote equitable social practices (Allan 2008:37).

I, therefore, did what discourse analysts do at a more basic level of analysis: "paying particular attention to vocabulary, metaphors, assumptions, conventions, structures, and style of a text" (Fairclough 1995 cited in Allan 2008:61). The idea was thus not to take data at face value but to uncover hidden assumptions and unpack the discursive powers embedded in the legislative and policy texts. This was done, for example, by looking at the *definitions* section of law and policy documents where the absence of the meaning of a particular attribute might be as important as its presence and how it is presented.

Anchored as it is within post-structural and critical paradigms, this study did not only highlight dominant and loud discourses in policy documents, but also examined policy silences, or the discussions absent from policy reports. By uncovering and examining such silences, the study was able to reveal how policy reinforced normalcy/deviance, and how it constructed normative frameworks that helped to solve social problems (Allan 2008:10). As noted by Armstrong (2003:49), "... formal and written policy can be instruments of policy-making in terms of what they hide or suggest rather than what they appear to 'lay down' in terms of principles and procedures".

In other words, the discourse analysis involved the processes of policy text production and consumption, including representations, ideology, power and authority. The latter is what Luke (1995:19) called the "denaturalization of text" wherein is offered

> the possibility of alternative readings and interpretations of the policy text particularly those silenced by dominant social institutions that tend to privilege a particular analysis, reading position, or practice as official knowledge.

The analysis started by a generic look at the following four aspects of discourse in the legislative and policy texts (Halliday & Hasan 1985:12):

- The *field of discourse* is the general sense of what the text is about and refers to 'what is happening, to the nature of the social action that is taking place' (see sections 4.1.3, 4.1.4 & 4.1.5 of the thesis).

- The *tenor of discourse* is concerned with the authors of the discourse (in this instance the policy makers) and the discursive subjects (in this instance children with disabilities), their relationship, their roles and relative status (see section 4.2.6 of the thesis).

- The *mode of discourse* focuses on what the language is being asked to do – its function – the way it is organised, the medium (print, spoken, and so on) and also 'the rhetorical mode, what is being achieved by the texts in terms of such categories as persuasive, expository, didactic, and the like' (see section 4.2.6 of the thesis).

- *Context of culture* – describing the broader institutional and cultural environment within which the context of situation is embedded, which may include the macro context of the law and policy- making environment and the micro-context of schools and their culture (see section 4.1.2 of the thesis).

In more specific terms, the analytical tasks undertaken in this research included the following:

Task 1: Gleaning the various portrayals of the discursive object – "the child with disability". The preamble and the section that gives definitions of terms in each law and policy text were some of the places where such issues were found (see sections 4.2.1 and 4.2.2 of the thesis).

Some of the issues I looked at under this included the following:

- How the identities and subject positions of children with disabilities were portrayed in the relevant law and policy texts. This follows from post-structural discourse theory, which allows examination of how texts and discourses as constructive phenomena shape the identities and practices of human subjects. Post-structural theory also questions whether there are essential human subjects, individual agents, and social realities independent of their dynamic historical construction in social and cultural discourses (Luke 1999:163).

- As it has been framed by the research question, where I asked: How does the law or policy document portray children with disabilities? I looked out for any representations of children

with disabilities as capable and independent, educable, or as victims, objects of charity, objects of pity, medical objects or simply as *special*.

- I examined the scope of coverage of disability and children with disabilities in the law and policy document: was it a paragraph? A section? A chapter? Two chapters? Was it mentioned once or twice?

- The various ways in which the discursive object was constructed in the textual discourse was then analysed. For example, are children with disabilities constructed in terms of their disability (i.e. using the facilities they use, the schools they attend, or the disability type they are living with) or as children? What qualifiers were used to refer to children with disabilities? Are children with disabilities given a collective identity or name?

Task 2: Locating the law or policy in terms of its institutional discursive orientation (this has been done throughout chap 6 of the thesis)

- Probing into the linguistic features of a text for its underlying ideologies, unpacking particular biases and ideological presuppositions underpinning the text to other texts (Clark 1995 cited in Paltridge 2006:45).

- Examining the text in terms of its generic discursive orientation (charity/moral/biomedical/social/rights/post-structural discourses).

According to Foucault,

> institutionalised discourses consist of categorical 'grids of specification' that classify and regulate people's identities, bodies, domestic and civil spaces, and social practice in different relations of knowledge and power (cited in Luke 1999:163).

Thus, in this study, I critically examined whether or not the law or policy text under scrutiny contained any one or more of the following more specific discursive makers vis-à-vis the portrayals of children with disabilities:

- Spatialising or localising discourse
- Pauperising discourse
- Demonising discourse
- Criminalising discourse
- Dehumanising discourse
- Homogenising versus individualising discourses

- Identifying the dominant (and taken-for-granted, or 'natural') discourse in the legislative and policy texts regarding disability that are rarely called into question and name and analyse them "to determine how they may limit and even undermine attempts to advance equity" (Allan 2008:5) and how they are being employed to obscure other less privileged discourses (Allan 2008:32). Or, if there are any competing (and yet incompatible) discourses and how such discourses conspire to construct or challenge legitimacy (Burton & Carlen 1979 cited in Allan 2008:62).

Task 3: Trans-textuality and inter-texuality – bringing the "outside" of a text into the text and looking into how texts draw upon, incorporate, recontextualise and dialogue with other texts (this has been done throughout chap 6 of the thesis)

- Texts often make sense when seen in the light of and against the background of other texts written in similar contexts or occasions. There is thus a trans-textual association between texts which has to be examined in discourse analysis. Hence, in this research, efforts were made to subject to discourse analysis those citations, references, recognisable inferences or paraphrases reproduced in the text under investigation from outside texts (Tardy 2011:59).

Task 4: Identifying hidden assumptions, silences and explicit omissions or gaps (see chap 6 in general)

By this, I attempted to answer the following questions:

- What were the assumptions and presuppositions – both explicit and implicit – policy makers made when they "textured"' the policy text? According to Fairclough (2003:17), "what is said in a text is always said against the background of what is 'unsaid' – what is made explicit always grounded in what is left implicit".
- What were the hidden assumptions that were implied – but not explicitly stated – in the text? How did these silences work to make particular images predominant and obscure others? What might be some policy consequences of these silences? (Allan 2008:63)
- How were various aspects of social relations implicated in the text? (Fairclough 2002:204)

Task 5: Action Orientation (see chap 6 of the thesis in general)

This involved a closer analysis of the discursive contexts within which the different constructions of the object are being placed. The questions asked by the researcher in this regard were:

- What was gained from constructing children with disabilities in the particular way in which they were constructed at a particular point within the text?
- What was the function of this construction and how did it relate to other constructions produced in the surrounding text? How were the policy discourses curtailing or opening up opportunities?
- What was the implication of such construction to the orientation of the education and other services provided to these children?

3.6 RESEARCH QUALITY AND INTEGRITY

In research studies such as this one, situated in the critical social science research tradition and post-structural theories where discourse analysis is involved, three important quality considerations are worth noting, namely reflexivity, credibility and transferability. These are discussed in detail below.

3.6.1 Reflexivity

Knowledge production happens within a field littered with highly complex socio-cultural practices and contexts, taken-for-granted values, tacit discourses and interpretive traditions, which implies the fact that "research is embedded in unconscious fore-structures of understanding, the 'unsaid' and 'unsayable' – that is, the condition of any methodical knowing" (Usher 1996b:29). As one vehicle of knowledge production, research cannot take off the ground without *a priori* knowing of the issues to be investigated (Usher 1996b:38).

Given these circumstances, being aware of reflexivity becomes crucial. In its broad sense, reflexivity – which can be personal or epistemological – "requires an awareness of the researcher's contribution to the construction of meanings throughout the research process, and an acknowledgment of the impossibility of remaining 'outside' one's subject matter while conducting research" (Willig 2008:10).

Personal reflexivity involves "reflecting upon the ways in which our own values, experiences, interests, beliefs, political commitments, wider aims in life and social identities have shaped the research". It also involves thinking about how the research may have affected and possibly changed us, as people and as researchers (Willig 2008:10).

Epistemological reflexivity "encourages us to reflect upon our assumptions about the world, and about knowledge we have made in the course of the research, and it helps us to think about the implications of those assumptions for the research and its findings" (Willig 2008:10). In a nutshell, epistemological reflexivity calls for our engagement with questions such as:

- How has the research question defined and limited what can be 'found'?
- How has the design of the study and the method of analysis 'constructed' the data and the findings? How could the research question have been investigated differently?
- To what extent would this have given rise to a different understanding of the phenomenon under investigation?

Therefore, the "self" and its influence of the research process and how it is presented in the research report lies at the centre of both personal and epistemological reflexivity. The "self" should not be seen as "some kind of virus which contaminates the research... the self is the research tool, and thus intimately connected to the methods we deploy" (Cousin 2010:10). Even as a research tool, the researcher should not present himself/herself as an abstract, disembodied entity (Cousin 2010:10). It is often the case that researchers use the third person "to evoke an authoritative voice" and to give semblance of the researcher's physical, psychological and ideological absence from the text as if he/she was speaking as an "all-knowing interpretive voice... from a distance, privileged vantage point in a detached measured tone" (Foley 1998:110).

Hence, the need for reflexivity is heightened by a growing awareness of how values of the researcher and the "autobiography of the researcher's lived experience" find their way into, and tamper with, the inquiry (Lather 1991:2; Usher 1996b:36). A researcher committed to reflexivity acknowledges that he/she is a "multicultural" subject buttressed by life experiences and theories that influence his/her perspectives (Allan 2008:54).

Reflexivity is addressed in this study by dedicating a separate heading on "reflexivity" in the methodology section of the research report, where:

- the researcher's person, especially his disability status, and its implications for the study was discussed; this would help to continuously question and glance at one's position vis-à-vis issues of disability that are controversial in nature. Personal reflexivity in this regard involves justifying whether or not it is possible for a non-disabled person to do critical research on disability such as this.

- the personal pronoun "I" was used in such a way as to implicate the researcher in the subject matter, especially given the critical and post-structural methodological orientation; this is because both methodological approaches start from the understanding that everyone is socially located and thus the knowledge that is produced is often bound to be influenced by some sort of social interest in which case the notion of "neutral or disinterested perspective" becomes an impossibility (Usher 1996a:23). Both spring from a certain interest and take an explicit socio-political stance where there is no privileged space (of neutrality) for the inquirer. Thus, a researcher anchored in critical theory is not afraid to "consummate a relationship with emancipatory consciousness" unlike its traditional counterparts who "cling to the guardrails of neutrality" (Kincheloe *et al.* 2011:164).

- the motivation for selecting *education of disabled children* as the study's subject matter was spelt out; motivations reveal the personal and institutional stake involved in selecting the theme for study.

One of the ways through which reflexivity is demonstrated – especially in studies such as this one with a critical and post-structuralist methodological orientation – is by avoiding "depersonalised" or "disembodied" abstractions that use the passive voice or the impersonal pronoun (Eisner 1991:4). This is done by using the personal pronoun "I" in writing the research report and its implications for postionality (Cousin 2010:10).

Under such circumstances, the researcher has to spell out his/her point of view, perspective, principles and aims. My case as the researcher of this study is no different. Living in a continent with a large number of children with disabilities and where laws and policies on disability are mostly outdated, I took a special interest in contributing to filling the legislative and policy gaps.

Further, working in the African Child Policy Forum which has a programme on disability, there is an institutional interest of which I am also a part. It is also important to note that I grew up in a rural area where disability was considered a curse or a consequence of ancestral wrongdoing.

Yet, thanks to my exposure to modern education and the rights discourse, I am now advocating the cause of these children. Hence, my standpoint vis-à-vis the subject matter being studied is clear. I stand explicitly against the oppressive class of the so-called "normal" in society. Such stances (biases) may, consciously or unconsciously, find their way into the way the study is approached and presented. In addition, in this research, I have used "I" throughout the report in a deliberate bid to show that I am not detached from the subject matter and to demonstrate my commitment to the subject.

Still on personal reflexivity, at the same time, when the researcher casts a critical eye on society, he is in a way engaged in self-criticism. Agger (1998 cited in Marston 2004:37) noted that "all politically-motivated cultural criticism is also self-criticism, situating oneself in the complex, cultural fields out of which we cannot pretend to abstract ourselves". This bias in favour of the marginalised may also introduce its own discursive challenge. This has been noted by Usher (1996a:49):

> In education, we need to be aware of reflexivity because even when we think our research is useful or even emancipatory we are still 'objectifying', still speaking for others, and education is full of people who speak for others in the name of doing good by them. Thus an awareness of reflexivity enables us to interrogate our own practice in terms of how it can become part of the dominant and oppressive discourses through a 'reflexive' acceptance either of the neutrality of research, of its 'pragmatic' usefulness or its emancipatory potential, and in terms of how we contribute to such discourses despite our best intentions.

It is crucial to mention from the outset the fact that I am a non-disabled researcher (doing disability-related research), hence likely to fall into the trap of the prejudices and stereotypes of the culture I grew up in. In contrast to feminist research where questions remain about the role of the so-called the "bearded feminist" in feminist research, disability studies have embraced the contribution of non-disabled researchers (Oliver 1990 cited in Goodley 2011:25). It also happens that, whenever the researcher and the researched have a "shared biography", a "shared narrative" is developed – which might preclude alternative narratives (Cousin 2010:16).

According to Stone and Priestley (1996:681) being a disabled researcher alone does not necessarily guarantee control and ownership of the research process and ensure emancipation of disabled people. What is needed, according to them, is that:

> the priorities for disability researchers must be the adoption of a social model of disablement, an overt political commitment to the development of the disabled people's movement, the use of non-exploitative research methods and a commitment to research which is widely disseminated for use against oppression (Stone & Priestley 1996:698).

In a similar vein, Barnes (1992:121) rejects the argument that it is "necessary to have an impairment in order to produce good qualitative research within the emancipatory model". Linton (1998:142), however, cautions non-disabled researchers against their scholarly tendencies to objectify the disability experience by utilising or implying the third person plural in their works such as "'they' do this", "'they' are like that", "'they' need such and such". Linton (1998:152-153) furthers urges that "[i]t is incumbent on non-disabled scholars to pay particular attention to issues of their own identity, their own privilege as non-disabled people, and the relationship of these factors to their scholarship".

In the foregoing subsection, the issue of reflexivity articulated, including how it was addressed in this study. In the following subsection, the use of language as an important ethical consideration is discussed.

3.6.2 Credibility

In the context of this study, research credibility depends on the careful analysis of data and on the credibility of the researcher, and his "philosophical belief in the methodological approach employed" (Patton 1990:461). The credibility of the research was partly ensured by looking at documents other than the ones that were selected for analysis in the country of study.

Research credibility was also enhanced through what Patton (1990:464) calls "theory/perspective triangulation", whereby the researcher approaches the data interpretation from multiple angles and thereby mitigates his/her bias and enhances transferability (Marshall & Rossman 1995 cited in Allan 2008:65). Allan (2008:65) asserts that, in critical discourse analysis, this type of triangulation is inherent in the methodology.

In addition, the researcher followed the following methods suggested by Allan (2008:67) in the context of enhancing credibility in critical discourse analysis: careful design of the study, evidence of researcher reflexivity in the form of a brief description of his philosophical stand (refer to the discussion under section 3.6.1 above); delineation of conceptual frameworks guiding the approach including the methodological underpinnings of policy discourse analysis; and description of the systematic and thorough approach used in data collection and analysis.

In agreement with this assertion of Allan's, the researcher kept in mind the fact that:

> ... the credibility of policy discourse analysis [is] reflected by how well the analysis opens up space for thinking differently about examined policy and for considering ways in which discourses shape particular understandings of policy problems and viable solutions to those problems Allan 2008:67).

The researcher also ensured more trustworthy interpretations by being continually alert to his own biases, his own subjectivity through rigorous reflexivity and peer-debriefing (Allan 2008:65; Glesne & Peshkin 1992:147). A doctoral student undertaking studies in education was approached to be involved in the peer debriefing of the analysed and interpreted texts.

A post-structural inquiry seeks to put forward multiple answers to a problem by recognising multiple realities instead of searching for underlying truths. Hence, its validity is measured by the extent to which the research promotes interruption, heterogeneity, and dispersion – what Lather (1993:685) called "transgressive validity". According to Allan (2008:67), validity in such post-structural inquiry approaches can also be enhanced "through efforts to open discursive space by unsettling conventional modes of thinking which inhibit acceptance of difference, multiplicity, paradox and complexity".

The implication of lack of adherence to a singular theoretical or methodological framework means that researchers applying a generic design should make extra efforts to demonstrate their study's credibility (Caelli *et al.* 2003:3-5). Accordingly, credibility was ensured in this study first, by explicitly laying down the study's theoretical positioning and by demonstrating that it is congruent with the research questions; second, by clearly specifying the methods and tools of information gathering to be used and their congruence with the theoretical basis of the research and the research questions; third, by spelling out the strategies to be used to ensure quality, ethical integrity and rigour; and fourth, by clearly defining the analytic lens through which the data are to be examined (Caelli *et al.* 2003:3-5).

The other consideration under credibility is the danger associated with what Armstrong (2003:145) calls "interpreting the foreign" or the difficulties involved in deconstructing "foreign landscapes". Scott (1996:148) has this to say:

> The difficulty ... is that either they [researchers] have to find a solution to the problem of translation, or they have to accept that they will use concepts, categories and ways of seeing which may be alien to participants in the social setting being studied. Therefore they cannot in this sense participate fully, as they are involved in the act of translation and at the same time are making judgments utilising their value system about a society which must forever remain tantalizingly out of reach.

In the context of this study, this refers to the attempt to analyse the law and policy discourses in a language that is one of the official languages (English) of the country in question, namely South Africa.

3.6.3 Transferability

Transferability – as an indication of whether or not a study's findings and lessons have any meaning in another context (Streubert 2011:49) – is dictated mainly by the similarity between the study context and the other contexts to which we want to equally apply or transfer our findings and recommendations (Brown 2007:103).

Therefore, first of all, as a law and policy-oriented research operating under the enlightenment mode, this study has limited generalisability to contexts other than the study context and may not make claims of making prescriptive recommendations to those contexts. But such a study does have the potential to be transferred (transferability) with proper contextualisation to other similar contexts, in a manner that is incremental rather than radical (Nisbet 1999:66).

Consequently, in line with the aim of the enlightenment mode, the study findings would help in creating the right intellectual conditions for solving policy-related problems instead of providing technical solutions to policy problems as do traditional rational policy perspectives (Finch 1985:123).

Moreover, critical discourse analysis is no exception with regard to the issue of transferability: it is a research design that attempts to generate interpretive claims with regard to the effects of a discourse on the oppression and empowerment of groups in a specific context without claims of generalisability (Powers 2001:1) but laying down the ingredients that contribute to transferability. Said ingredients are presented in the form of an alternative 4 "A" scheme. This scheme is normally used in analysing children's right to access education, including disabled children, but being mainly informed by the rights rhetoric, the framework lacks a great deal of decisive ingredients on the education of disabled children. Although generalisations are not possible, experts note that studies located in critical social science traditions can still be used to make policy recommendations (Allan 2008:167). Talja (1999 cited in Cheek 2004:1147) points out that, though the research results of discourse analyses exercises are ungeneralisable in terms of descriptions of how things are, they can still be generalisable as to how a phenomenon can

be seen or interpreted. This is an indication of the potential for transferability of the study's findings as an interpretive guide.

Thus, in line with this argument by Van Dijk (1995:19) where emphasis is placed on the need for critical discourse analysis to be a worthwhile exercise and its conclusions and recommendations to be *practicable*, the approach employed in this research allowed us to make workable, context-specific recommendations to South Africa.

In sum, dictated by its theoretical frameworks, and given the highly contextual nature of the policy environment of the study country, the study only made generalisations and recommendations to the South African context. In line with the suggestion by Nisbet (1999:69), recommendations that come out of such exercises signal alternative law and policy strategies that would eventually percolate the professional and expert thinking and discourse, influencing the context within which law and policy decisions are made in the country. But the recommendations have the potential for transferability to other similar contexts. Hence, the findings and recommendations of this study would help to modify (and hopefully improve) the existing South African education policy landscape as it relates to learners with barriers to learning and development, by identifying or anticipating problems and by offering the ingredients for alternative policies.

3.6.4 Avoiding plagiarism

Plagiarism is a violation of rules of scholarly or literary conduct (Pecorari 2010:1, 2, 12); a transgression of an individual's intellectual copy right; and a theft of "professional discourse" (Randall 2001:6, 25). As such it is an important ethical concern. It is a "judgment imposed upon texts" (Randall 2001: xi) and hence a highly textual attribute. This makes it very relevant to critical discourse analysis and thematic content analysis which rely exclusively on text. In law and policy studies, plagiarism would have far-reaching implications as it might lead to eliminating the symbolic significance of the author (the law or policy-making institution) or to assigning ownership of an official text with a regulatory function to an illegitimate source.

In light of the above ethical concerns and given the imperative of authoring a thesis that is free from plagiarism, the utmost ethical care was taken in this study to ensure the literary integrity of the thesis and its author. For instance, thick, verbal quotations of law or policy texts were used

in many instances in order to avoid potential distortions of the original intent of these texts and to illustrate the symbolic significance of the author, which in many instances is the Ministry of Education. In the case of the reviewed literature, every text paraphrased or cited or quoted was properly acknowledged, with a proper referencing of the author name, year of publication and page number. Care was also taken in not plagiarising catchy phrases and expressions by putting them in inverted commas and with proper attribution to the author(s).

3.7 ETHICAL CONSIDERATIONS

As a desk-based review of laws and policies, the study does not involve interviews and focus group discussions with human research participants. As a result, conventional ethical considerations in research involving human participants such as the dignity and wellbeing of research participants, confidentially and anonymity of informants and the issue of getting informed consent are not relevant for the study. However, the study made a crucial ethical consideration in the use of language to describe children (persons) with disabilities and their attributes. I deal with this issue in the following section.

3.7.1 Use of appropriate "language"

It is imperative that research undertakings comply with a certain set of moral principles to safeguard the welfare of participants (Berg 2001:39). Even among research undertakings one that deals with disability has to be subject to scrupulous moral scrutiny, including the use of appropriate language. By appropriate, I mean language that is locally acceptable, and more importantly, one that is acceptable by persons with disabilities themselves within their own locale.

The researcher, therefore, took extra care in using appropriate language in writing the research report. Accordingly, in this report I avoided the use of terms such as *normal* children, *idiot*, *imbecile, retarded*, *crazy* and *abnormal* – and we advise others to do the same – when referring to children with disabilities. In this research, the terms *disabled persons (children)*, *persons (people) with disabilities* and *children with disabilities* are used, in keeping with the Social Model of disability, and in tune with the UNCRPD. However, in order to give historical accounts to readers, and to portray the perceptions that prevail at certain times, some currently

inappropriate terminologies were reproduced in some parts of the report, especially in quotations.

3.8 SUMMARY

In the preceding chapter, I discussed the overall methodological orientation of the research, namely the qualitative methodology and the specific research design within the qualitative methodology, namely the generic or non-categorical design. Further, the two modes of inquiry within this design, namely the enlightenment mode and (critical) policy analysis mode, as well as their respective theoretical underpinnings, were laid out in detail. Accordingly, the Social Model of disability that underpins the enlightenment approach and post-structural theory that underpins (critical) policy discourse analysis, and critical theory as a theory that cuts across both the enlightenment approach and critical policy discourse analysis were discussed.

I also looked at the two main data analysis techniques, namely the deductive thematic content analysis using the 4 'A' scheme as an organising concept, and the analysis of laws and policies both as text and as discourse. The issues surrounding quality were also discussed wherein the focus was on reflexivity, credibility and transferability as crucial considerations in critical law and policy research. The ethical issue considered was the use of appropriate language to portray children with disabilities.

CHAPTER FOUR
FINDINGS AND ANALYSIS: THEMATIC CONTENT ANALYSIS

4.1 INTRODUCTION

In this chapter, I will lay down the findings of the thematic content analysis carried out on the laws and policies related to education and disability in South Africa. The findings presented here answered two of the six research questions, namely research question numbers 3 and 4. Research questions 1 and 2 were addressed in the review of literature covered in Chapter 2.

Before going into a discussion of the findings of the analysis, I would start by highlighting the state of the rights of children (persons) with disabilities including their right to education in selected African countries, followed by an overview of the South Africa law and policy-making process.

4.1.1 The African disability and education law and policy context: An overview

The rights of persons (children) with disabilities are mainly protected through constitutional provisions in the form of equality and non-discrimination provisions in several African countries such as Benin, Botswana, Burundi, Côte d'Ivoire, Gabon, the Gambia, Ghana, Lesotho, Madagascar, Malawi, Mozambique, Niger, Seychelles, Sierra Leone, South Africa and Uganda (Flanz 1997 cited in Mwalimu 2003:243 & 252; Government of Ghana 1992; Republic of Uganda 1995; RSA 1996a).

Some countries have specific disability legislation, which may address the general human rights of persons (children) with disabilities, such as the Zimbabwe Persons with Disabilities Act 1992, as amended (Mwalimu 2003:243 & 252), the Sierra Leone Persons with Disabilities Act 3 of 2011 (Government of Sierra Leone 2011), the Zambian Persons with Disabilities Act 33 of 1996 (Government of Zambia 1996), and the Loi Portant Statut, Protection et Promotion de la Personne Handicapée et son Décret d'Application 00.007 2010 of Central African Republic (République centrafricaine 2010a). Loi Portant Statut, Protection et Promotion de la Personne Handicapée et

son Décret d'Application of Central African Republic provides that the State is responsible for the prevention of disability, as well as for the care, transport, education, training, professional orientation and employment of persons with disabilities. It is also the State's duty to ensure that disabled persons have access to appropriate leisure and sports activities and to public buildings (Title 1, a 3). Title 1 (Article 6) entitles persons with disabilities, or persons undertaking activities on behalf of disabled persons, to acquittals, exemptions, discounts and subsidies, as elaborated in greater detail under Title 2. Title 3 (Article 8) requires that, depending on the severity of their disability, learners with disabilities should be entitled to integrate fully, participating in examinations and competitions, and should be eligible to receive scholarship grants (République centrafricaine 2010a).

In many countries, a wide range of rights of disabled children, including their right to education, are ensured through children's acts. These include the Children's Act 8 of 2001 of Kenya, the Child Rights Act 7 of 2007 of Sierra Leone, the Children's Act 38 of 2005 of South Africa, and the Children's Statute No 6 of 1996 of Uganda (Combrinck 2008:315 & 316; Government of Sierra Leone 2007; RSA 2006). The most common approach to addressing the right to education is, however, through education/schools Acts (examples include the South African Schools Act 84 of 1996, the Education Act 12 of 1987 of Zimbabwe, and Loi Portant Orientation de l'Education 97.014 of 1997 of Central African Republic (Hapanyengwi 2005; République centrafricaine 2010b; RSA 1996b).

A number of countries also put in place education sector plans or special needs education strategies to address the educational needs of disabled children, with some laying down specific targets in terms of educational provision and budget allocations. For instance, in 2004, Mauritius, through its National Policy for Children and a National Plan of Action, promised to ensure universal access to good quality education of all disabled children in the country by 2015. In 2005, the country more than quadrupled the budget for the education of disabled children.

4.1.2 South African education law and policy-making context: Dangers of policy inflation

Under this section, I tried to offer a glimpse into the education law and policy-making processes of South Africa, as an important requirement of critical discourse analysis and transferability. Such contextual information is key to critical discourse analysis as it gives the reader information on what Halliday and Hasan (1985 cited Locke 2004:18) call the *field of discourse* and the *context of*

culture. The former refers to "what is happening, to the nature of the social action that is taking place". The latter describes the broader institutional and cultural environment within which the context of policy-making is embedded. Analysis of the law and policy-making context is important also because it facilitates the transferability of the recommendations to other countries with similar law and policy-making contexts (cf section 3.6.4 for the discussion on transferability).

The law and policy-making processes with regard to disability law and policy in South Africa involve a fairly elaborate process, including a series of consultations with stakeholders at provincial and national levels before they become discussion papers, Green Papers, White Papers and Laws/Acts, in that order (Lungu 2001:95).

The law and policy-making process is triggered by the publication by national department (the Executive) of a discussion document, usually a product of a think-tank assembled by the Minister. This will be followed by extensive research consisting of exploring various dimensions of the policy process and holding in-country and outside consultations. These consultations usually result in the formulation of a draft White Paper called Green Paper. This document – once refined through comments from the public – becomes a White Paper (Mothata 2000:95). The White Paper may then go through the parliamentary route and becomes a draft bill to be further refined by the relevant portfolio committee or select committee including through public hearings and redrafted before it is submitted to the Cabinet (Pandor 2001:76).

On national level, when both houses of Parliament have passed the bill, then it goes to the President for assent, and is finally published in the form of an Act as law of the land. It can be reviewed for constitutionality by the Constitutional Court, and, if found wanting, can be returned to Parliament for amendments. But, not all White Papers become enacted into laws, as the government lays great emphasis on White Papers to formulate national policies, leading some experts to describe the South African policy landscape as a White Paper process (Lungu 2001:95).

With specific reference to the education sector, South Africa has seen a remarkable pace of law and policy-making activities since the fall of apartheid. From the literature, one can identify four distinct phases in the education law and policy-making landscape, each with its own unique priorities (see Figure 3).

Each of these phases involves policy-making mainly in the form of white papers, and some degree of law making in the form of Acts, or at times white papers or regulations spelling out the details of the implementations of laws. The fourth phase also involves implementation and making change happen in real classrooms (Sayed *et al.* 2007:33). In a nutshell, these phases and the intensity of activities implied therein are a good indication of the crushing speed at which laws and policies were being issued in post-apartheid South Africa. For instance, the country has now had its third curriculum change since 1994.

Table 4 Four-phased journey of the post-apartheid education system

Phase	Priorities
One (1994-1997)	This immediate (post 1994) phase had the priority of what can be characterised as streamlining the functioning of the new [education] system and simultaneously overcoming the inheritance of the apartheid system. The priority was this to adjust to the new realities in respect of previous transitional agreements, ensuring that the new system was up and running in respect of basic infrastructure resources.
Two (1997-1999)	The second phase was a flurry of policy fora, discussions and texts that attempted to lay out a vision for the new system. This phase was crucial in generating a hegemonic discourse for change which could bring about trust and binding policy behaviour. It was not out of keeping with the richly evocative metaphor of the 'Rainbow Nation', which strove for unity in a context of deep division, suspicion, fear and anxiety. Thus it may not have generated robust and implementable action, but it created the possibilities for such, and captured the euphoria associated with the dismantling of the apartheid education system.
Three (1999-2004)	This phase was symbolically marked by the campaign of Tirisano (Call to Action) – which was a commitment to concrete action and an improvement in school practice and inclusion, but also involved formulation of policies notably White Paper 6 and the elaboration of a flurry of accompanying guidelines as well as the concomitant endorsement of inclusive education models.
Four (2004-to-date)	The fourth, unfinished, phase has been concerned – building on Phase Three – with the sobering realities of making change happen in practical terms in schools. This Phase has also involved (drawing lessons from the previous three Phases) a review and revision of existing legal and policy frameworks.

Source: Sayed *et al*. 2007:33

One can have several readings of such a policy influx. Firstly, it can be a witness to the degree of urgency involved in cleansing the system from discriminatory and oppressive apartheid laws and policies, and to herald the dawn of a new age of equality, social justice, non-discrimination and

redress sanctioned by white papers and Acts, hence has a symbolic significance. The policy influx can thus be seen as an attempt to hammer out a hegemonic discourse of unity and diversity in post-apartheid South Africa (Sayed *et al.* 2007:33). The laws and policies have also shaped new contexts for teaching and learning in schools:

> New educational policies have defined new contexts for teaching and learning in schools. In line with a constitution that acknowledges barriers to learning and affirms the dignity of all its citizens, schools now contain learners who come from diverse racial, linguistic, religious and (to a lesser extent) socio-economic backgrounds. School admissions, language, discipline and financial policies are geared toward the recognition of the rights of learners and their families, albeit within a social context where disparities between rich and poor are still vast (Robinson & Christie 2008:152).

According to Mda and Mothata (2000: vi),

> the proliferation of education policies, laws, acts, and discussion documents in South Africa since 1994 mirrors the state of hope, desire and urgency to move away from a painful, divisive, destructive and self-defeating education system.

Secondly, the situation might create the potential for possible trans-textual and inter-textual discordance between related law and policy texts, hence sending different messages to different people responsible for implementation. Moreover, in such policy-making hysteria, one can sense some level of policy-making by trial-and-error, as manifested in the flurry of subsequent amendments. This might adversely affect systemic continuity and might, therefore, compromise the transformation rhetoric. It might equally betray the predicament of a country that strives for unity in a context of deep division, suspicion, fear and anxiety (Sayed *et al.* 2007:33).

Thirdly, it might create a situation that can be termed policy inflation – following the term *human rights inflation* – defined as the debasement of fundamental human rights created by elevating every moral claim into a human right. In the policy context, policy inflation can be defined as the debasement of the objectives of policies caused by transforming every moral claim into the status of a policy objective (Hannam 2008:116). Policy inflation makes it difficult to prioritise since all policy objectives – both "elemental" and "desirable" in nature (Orend 2002:110) – compete for limited resources for implementation. Policy inflation imposes burdens on the addressees, and erodes the feasibility value of the policy objectives. In the words of Orend (2002:111), "the correlative duties they [policies] would impose would be excessive and destructively burdensome". This has been more so for teachers and school personnel who complained of policy overload and lack of breathing space for critical and sober internalisation of the policies (Lloyd 2000:147).

Again the observation by Lloyd (2000:147):

> It is difficult for teachers to regard themselves as having the power to transform, change or control their own practice when they are constantly being directed to implement yet another strategy, with yet another set of rules, under the constant threat that their performance in implementing the latest initiative will be measured…

In the next section, I turn to an important aspect of the law and policy-making process, namely the state of ratification of South Africa of the relevant human rights instruments, and the implications for the right to education of disabled children of the country's state of ratification of relevant treaties. This analysis – based on the review of the relevant literature – addressed research question 3.

RESEARCH QUESTION 3:

What is the status of South Africa in terms of ratifying International and Regional Human Rights Instruments related to the right to education of children with disabilities?

Table 5 South Africa's status of ratification of relevant international and regional human rights treaties

Convention/Treaty	Status of ratification
United Nations Convention on the Rights of Persons with Disabilities (2006)	Ratified
The African Charter on the Rights and Welfare of the Child (1990)	Ratified
Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (1984)	Ratified
United Nations Convention on the Rights of the Child (1989)	Ratified
International Covenant on Civil and Political Rights (1966)	Ratified
International Covenant on Economic, Social and Cultural Rights (1966)	Signed but not ratified
Convention against Discrimination in Education (1960)	Ratified

Source: OHCHR (2012)

According to section 231 of the South African Constitution of 1996 (hereafter only referred to as the Constitution), ratification, followed by parliamentary enactment, makes a ratified treaty or convention part of national law. The implication is that the above ratified instruments have now assumed domestic legislative authority.

Section 231 of the Constitution provides that:

1) The negotiating and signing of all international agreements is the responsibility of the national executive.
2) An international agreement binds the Republic only after it has been approved by resolution in both the National Assembly and the National Council of Provinces, unless it is an agreement referred to in subsection 3.
3) An international agreement of a technical, administrative or executive nature, or an agreement which does not require either ratification or accession, entered into by the national executive, binds the Republic without approval by the National Assembly and the National Council of Provinces, but must be tabled in the Assembly and the Council within a reasonable time.
4) 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.
5) The Republic is bound by international agreements which were binding on the Republic when this Constitution took effect.

As shown in Table 5 above, South Africa has ratified most of the relevant international human rights instruments especially those that relate to education and disability with the notable exception of the ICESCR – dubbed as the "primary United Nations instrument" in respect of socioeconomic rights (Brand 2005:7; UN 1966b). Despite the fact that the country has already expressed its intention back in 2008 that it is "in the process of signing and ratifying" the Covenant, it has not yet done so (OHCHR 2012).

The non-ratification of the ICESCR is considered paradoxical because the country modelled the Bill of Rights in its Constitution on the Covenant, as noted by the Constitutional Court, which shows its endorsement of international law (Brand 2005:7). At the same time, by failing to ratify the Covenant, it sent a message of rejection of international law (Pieterse 2004:902-903).

In fact, some argue that ratification would entail little or no changes in national law (Community Law Centre 2010:5). According to Pillay (2002 quoted in Community Law Centre 2010:5) the ICESCR "imposes no greater duties than the Constitution already imposes on government". Further, like the Constitution, the ICESCR recognises that most economic and social rights have to be realised progressively (Community Law Centre 2010:5).

There may be numerous reasons behind countries' reluctance to ratify legally-binding treaties. Three such reasons stand out: a) countries feel that they are not yet ready – both structurally and financially – to enforce the treaty in question; and b) they think that it has already been covered by other international treaties to which the country is a State Party or by the country's domestic legislation, in which case ratification becomes redundant; and c) States might have

problems with the principles underlying the covenant in question or its provisions. This has been notable in the case of the ICESCR, which is not only considered unjusticeable but also one containing more open-ended rights than can possibly be envisaged in national constitution or legislation. It is also argued that subjecting socio-economic rights to judicial or quasi-judicial reviews amounts to subjecting macroeconomic and social policy to such review, and this might be hardly palatable for some countries (Dowell-Jones 2004:14-15). The latter reason perhaps explains why South Africa has not ratified the treaty as shown in the following statement to parliament of President Jacob Zuma:

> I am informed that the delay in the ratification has been caused firstly by concerns that the ICESCR was in conflict with provisions of the Constitution of the Republic of South Africa and secondly due to problems identifying a lead Department that can oversee the implementation of the treaty once ratified by South Africa. With regard to the latter, Government Departments had indicated that the wide scope of the ICESCR goes beyond their individual mandates and therefore it is difficult for them to take responsibility for its implementation. Government Departments also felt they lack the authority and coordinating capacity to instruct and organise other Government Departments for the implementation of this human rights treaty. The Department of Labour was initially identified as a lead Department but the scope and content of the ICESCR goes beyond their mandate. This administration has been attempting to resolve the matter and the issue has been on the agenda of both the Social Protection and Community Development Cluster and the Forum of South African Directors-General Management Committee and I am sure that a resolution will be found shortly (Parliamentary Monitoring Group 2010).

Whichever is the reason behind South Africa's reticence to ratifying the ICESCR, if the results of the thematic content analysis turn out to be such that the right to education of children is not fully respected and fulfilled, that would give ammunition for advocacy groups to put pressure on the government to speedily ratify and implement the Covenant. Once a country ratifies a treaty, the government is expected to take up its legal duty to abide by the provisions contained therein and thereby become obliged to take steps to protect the exercise and enjoyment of human rights, to investigate violations, and to provide effective remedies to victims (Sagade 2005:113).

In the next part of the analysis, I discuss the findings of the thematic content analysis carried out in the relevant education and disability laws and policies. The analysis set out to address research question 4.

RESEARCH QUESTION 4:

To what extent are the international norms and standards related to the right to education incorporated into the national laws and policies of South Africa?

The thematic content analysis was carried out on the relevant provisions contained in, *inter alia*, White Paper 6, the Disability Strategy, the Constitution, the Children Act, the Schools Act, the Promotion of Equality and Prevention of Unfair Discrimination Act 4 of 2000, the White Paper 1 on Education and Training 1995, the Guidelines for Full-service/Inclusive Schools, the Norms and Standards for School Infrastructure, the National Norms and Standards for Funding, National Qualifications Framework Act 67 of 2008, Policy on the Minimum Requirements for Teacher Education Qualifications, and the National Policy for an Equitable Provision of an Enabling School Physical Teaching and Learning Environment.

As indicated in Chapter 1, the thematic content analysis was carried out using the 4 'A' scheme as an analytical scheme. This framework is used for analysing the right to education by looking at the issues of availability, accessibility, acceptability and adaptability of education services. As rightly suggested by Tomaševski (2001:12), the 4 'A' scheme can easily be used to structure governmental obligations vis-à-vis the right to education as guaranteed by international human rights instruments. In other words, the norms and standards contained in existing international human rights instruments as they relate to the right to education are subsumed under these four principles of the 4 'A' scheme. Accordingly, in my attempt to look into the extent to which South Africa has incorporated the international norms and standards related to the right to education into her laws and policies, I adopted the 4 'A' scheme as an organising framework (cf section 2.3.1).

In this regard, I looked at the following aspects of the 4 'A' scheme in the country's relevant law and policy texts:

- Explicit mention of education as a human right
- Clear targets for establishment of schools
- Teacher development schemes
- Funding of education: adequacy, equity and efficiency
- Equality and non-discrimination provisions

- Economic and physical accessibility of schools
- Curricular and instructional adequacy and flexibility
- Flexibility in assessment
- Disciplining children

4.1.3 AVAILABILITY

The principle of availability deals with availability of schools and teachers. It requires that schools be established and kept open and that States Parties not neglect the public school system. It further requires that properly qualified educators be made available (Beiter 2006:476-478). Below, I describe each of these elements.

4.1.3.1 School availability

In terms of making schools available, various policy instruments provide for the allocation of funds to build and to put specific targets for the gradual conversion of ordinary schools to full-service schools. White Paper 6 (DoE 2001a, para 3.11.1), for example, clearly outlines the targets for the establishment or transformation of schools to implement the inclusive strategy:

Immediate to short-term targets (2001-2003):

(d) designating, planning and implementing the conversion of thirty special schools to special schools/resource centres in thirty designated school districts;
(e) designating, planning and implementing the conversion of thirty primary schools to full-service schools in the same thirty districts as (d) above;

Medium-term targets (2004-2008):

k) Expanding the number of special schools/resource centres, full-service schools and district support teams in (d), (e) and (f) in line with lessons learnt and available resources.

Long-term targets (2009-2021):

Expanding provision to reach the target of 380 special schools/resource centres, 500 full-service schools and colleges and district support teams, and the 280,000 out of school children and youth.

It was reported in 2010 that 10 ordinary schools have been physically upgraded to comply with principles of universal design and to serve as model full-service/inclusive schools as well as being supplied with a wide range of assistive technology and properly qualified staff (DoBE

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2010b, para 21.13). Ninety four full-service schools had been established in seven provinces by 2011 (Parliamentary Monitoring Group (South Africa) 2011).

The Norms and Standards for School Funding (DoE 1998, paras 91, 93) explicitly provide for the allocation of capital expenditure to make schools available close to children's residential areas. Special provisions are made to make schools available for out of school children and in those in underdeveloped areas:

> The construction of new schools or additional classrooms and learning facilities should be targeted to the neediest population. In this expenditure category, 'need' is defined in terms of
>> a. lack of current schools, or
>> b. overcrowding of existing ones.

> Need indicators should refer to the proportion of children who are out of school or are in overcrowded schools. Preference should be given to areas where
>> a. children are out of school and there is no uncrowded local or nearby school; *or*
>> b. all eligible children are enrolled in school but the local or nearby schools are crowded; *and* an analysis of population movements demonstrates that the population concerned is resident and permanent.

The NSSF (DoE 1998, para 95) further states that:

> In the allocation of new school construction funds, preference must be given to
>> a) facilities serving the compulsory education grades (grades 1-9) in order to ensure that all eligible learners have school places as soon as possible, and
>> b) extensions to existing schools, rather than new schools, except where extensions would result in schools that are too large to be pedagogically sound, or would otherwise be uneconomical, impractical, or undesirable on educational grounds.

4.1.3.2 Teacher availability

The South African legislative and policy landscape entertains the issues of teacher development for inclusion from the perspectives of teacher supply, teacher quality and teacher preparation.

Teacher development gained particular urgency because of the country's move towards a more inclusive education system and the unprecedented curricular reform it undertook. Teachers are given a central place in the country's inclusive drive described by White Paper 6 as the "primary resource for achieving our goals of an inclusive education and training system" (DoE 2001a, para 1.5.2). Teachers were expected to act as agents of the country's social justice project, and teacher training institutions were to act accordingly to inculcate such a mindset not least because teaching in South Africa is still an area in which "apartheid education remains

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inadequately reconstructed" (OECD 2008:81). According the Department of Education back in 2006 (DoE 2006a:6):

> Most currently serving educators received their professional education and entered teaching when education was an integral part of the Apartheid project and organised in racially and ethnically divided sub-systems.

These challenges have been highlighted by the Integrated Strategic Planning Framework for Teacher Education and Development in South Africa, 2011–2025 (DoBE & DoHET 2011:1), which include:

> a lack of access to quality TED [teacher education and development] opportunities for prospective and practising teachers; a mismatch between the provision of and demand for teachers of particular types; the failure of the system to achieve dramatic improvement in the quality of teaching and learning in schools; a fragmented and uncoordinated approach to TED; the tenuous involvement of teachers, their organisations and other role-players in TED planning; and inefficient and poorly monitored funding mechanisms.

Teachers are not only in short supply in the country, but the supply continues to dwindle. According to HSRC (2005 cited in OECD 2008:83), the number of educator graduates per annum that stood at around 6,000 since 2000, has dropped below the replacement needs of approximately 20,000 per annum. To improve the state of teacher supply, a number of steps have been proposed. The Guidelines for Full-service/Inclusive Schools (DoBE 2010c, para 7.2.3 (i-v)) spell out staff provisioning to implement inclusive education in South Africa. If the school has more than 500 learners it must have a full-time learning support teacher who is trained to support the implementation of inclusive education. The Guidelines recommend that smaller schools have access to itinerant learning support teachers who serve the needs of a cluster of schools. They also recommend that schools get support visits by specialised staff from the DBST [District-Based Support Team] or Special School Resource Centre. It is also suggested that teacher assistants be appointed at full-service schools with clearly identified roles.

Furthermore, there are proposals to attract an increasing number of high-achieving school-leavers into teaching, including through implementing enhanced bursary funding schemes for initial teacher education students, and enhancing the image and status of teachers and teaching (DoBE & DoHET 2011:11-12). It is planned that the number of existing institutions offering Foundation Phase teacher education will increase from 13 to 18 institutions over the next four years (DoBE & DoHET 2011:17). Furthermore, the new policy environment also attempted to bring about change in teacher status from workers subsumed under the labour movement to a professional status of teaches as classroom practitioners (Sayed *et al.* 2007:47). The most recent document, the Action Plan to 2014: Towards the Realisation of Schooling 2025 (DoBE

2012b:4), sets out the vision of the Department of Basic Education in terms of teacher development. It states that its aim is to:

- attract in each year a new group of young, motivated and appropriately trained teachers into the teaching profession.
- ensure that the availability and utilisation of teachers is such that excessively large classes are avoided
- improve the professionalism, teaching skills, subject knowledge and computer literacy of teachers throughout their entire careers.
- strive for a teacher workforce that is healthy and enjoys a sense of job satisfaction.

The lack of proper skills and qualifications among teachers is the other important area of concern. In this regard, a number of steps have been either taken or proposed. In a report by the President's Education Initiative Research Project (1999 cited in DoE 2006:6-7) it was concluded that "the most critical challenge for teacher education in South Africa was the limited conceptual knowledge of many educators". There is also a sense of powerlessness and stress teachers felt as a result of the unprecedented demands of the inclusive agenda (Hay, Smit & Paulsen 2001:76). The same study revealed that teachers in South Africa felt ill-prepared and ill-equipped to teach in inclusive classrooms for reasons that include lack of training and experience and limited time for preparation (Hay *et al.* 2001:213). Teacher stress was (and still is) compounded by the rapid successions of changes introduced into the South African education landscape as observed by Lloyd (2000:147).

A new continuous professional training and development system is suggested in the national policy framework for teacher education and development, which will, among others:

- ensure that current initiatives devoted to the professional development of teachers contribute more effectively and directly to the improvement of the quality of teaching;
- emphasise and reinforce the professional status of teaching; and
- provide teachers with clear guidance about which Professional Development (PD) activities will contribute to their professional growth (DoE 2006a:17).

In terms of approaches to teacher training, the Policy on the Minimum Requirements for Teacher Education Qualifications (DoHET 2011, para 3) clearly indicates that techno-rational, purely skills-based approaches to teacher training are to be avoided. Instead an *integrated and applied knowledge* approach is to be adopted where teachers are equipped with skills to be able to flexibly respond to changing contexts. The policy defines *integrated and applied knowledge* as "both the condition for, and the effect of scrutinising, fusing together and expressing different types of knowing in the moment of practise".

In much the same vein, Robinson and Christie (2008:152) note that:

> The methodology of the new school curriculum places emphasis on learner-centred teaching, collaborative learning and continuous assessment. In preparing new teachers, teacher educators have had to familiarise themselves with these procedures at schools, many of which have been designed in the form of prescribed routines, rubrics and templates. Teacher educators' own lack of experience with these procedures, and limited opportunity to engage with the intellectual and practical challenges of implementation, is likely to impact on their capacity to engage student teachers in critical reflection on these procedures.

Under the new policy, all teacher education programmes are required to incorporate competences – both situational and contextual – that enable teachers to deal with diversity and transformation and address the critical challenges facing education in South Africa today (DoHET 2011, para 2). The policy, under paragraph 3, identifies five types of learning associated with the acquisition, integration and application of knowledge for teaching purposes that must inform teacher training:

- Disciplinary Learning - referring to disciplinary or subject matter knowledge, the study of education and its foundations, and the study of specific specialised subject matter that is relevant to the academic disciplines underpinning teaching subjects and professional ethics and issues related to knowledge of, and relationships between the self and others in the life of a teacher.

- Pedagogical Learning - referring to general pedagogical knowledge, including knowledge of learners, learning, curriculum and general instructional and assessment strategies; and specialised pedagogical content knowledge, which includes knowing how to create appropriate learning opportunities for diverse learners, as well as how to evaluate their progress. This type of learning also constitutes inclusive education as an important aspect of both general pedagogical knowledge and specialised pedagogical content knowledge.

- Practical Learning - referring to *learning in practice* (teaching in authentic and simulated classroom environments and preparing, teaching and reflecting on lessons presented by oneself and *learning from practice* (using discursive resources to analyse different practices across a variety of contexts, drawing from case studies, video records, lesson observations, and observations and reflections on lessons taught by others in order to theorise practice and form a basis for learning in practice.

- Fundamental Learning - referring to learning to converse competently in a second official language, namely one of the nine other official languages or South African Sign Language as well as the ability to use Information and Communication Technologies competently.

- Situational Learning - referring to knowledge of and learning about the varied learning situations, contexts and environments of education (classrooms, schools, communities, districts, regions, countries and globally), as well as to prevailing policy, political and organisational contexts. This includes learning to work in nuanced ways with the diverse challenges faced by children in schools and the communities that they serve, for example HIV and AIDS, poverty and the lingering effects of apartheid; dealing with diversity; promoting inclusivity; and environmental sustainability.

Teachers are to be trained to be able to create and manage "classrooms and schools that address issues of respect, fairness and equity". They are also expected to "understand the historical, socio-cultural and ideological contexts that create discriminatory and oppressive practices in education" (Ballard 2003:59). Similarly, the Ministry promises, in White Paper 6 (DoE 2001a, para 2.2.2.5), to

> ensure that the norms and standards for the education and training of teachers, trainers and other development practitioners include competencies in addressing barriers to learning and provide for the development of specialized competencies such as life skills, counselling and learning support.

Teachers are to be made aware of how exclusion works, and to be well-versed in discerning how identity, difference, privilege and disadvantage are played out in the school and through the school system is stressed by Slee (2010:19):

> …becoming an inclusive educator requires that they not only acquire disciplinary knowledge, pedagogic skills and inclusive dispositions, but that they know how to identify the manifest and insidious ways in which exclusion is established through and in school.

The understanding and respect for all forms of diversity is, therefore, put at the centre of educator professional development in South Africa (DoBE 2009, para 6.1.5). The Guidelines for Full-service/Inclusive Schools (DoBE 2009, para 6.1.10) call upon all public institutions providing in-service training for teachers to "recognise that they need to foster attitudes among future teachers that will lead to respect for all learners, and an enthusiasm to accommodate all learning needs". The Directorate for Inclusive Education stresses the need for teacher training to aim at altering attitudes and at enabling teachers to deal practically with learners who experience barriers to learning (DoE 2005:15).

Still on the attitudinal front, the Report by NCSNET and NCESS notes the potential role teachers with disabilities could have played but did not play in effecting attitudinal change:

> Despite the fact that people with disabilities in South Africa have a critical role to play in challenging attitudes regarding diversity and learner needs, few people with disabilities have been able to enter higher education institutions to train as teachers. Where they have overcome enormous barriers to enter institutions and complete their training, they have been prevented from working as teachers by discriminatory attitudes towards the employment of people with disabilities. A particularly acute example is the problem faced by Deaf people in accessing teacher development programmes, as well as the discrimination in finding permanent employment faced by female teachers with visual disabilities (DoE 1997:30).

White Paper 6 (DoE 2001a, para 2.2.3.3) provides that:

> The norms and standards for teacher education will be revised where appropriate to include the development of competencies to recognise and address barriers to learning and to accommodate the diverse range of learning needs.

> The eighty hours annual in-service education and training requirements of educators by the Government will be structured in such a manner that they include the requirement to complete courses relating to policies and programmes put forward in White Paper 6 (DoE 2001a, para 4.3.8.4).

Mindful of the gap in skills among teachers, the Guidelines for Full-service/Inclusive Schools (DoBE 2010c, para 6.1.1)stress the need for putting in place effective structures for continued professional development to ensure that all staff members are qualified (e.g. professional learning communities, peer mentoring, multiple opportunities created for continued professional development of staff).

In order to make the most impact on the system, approximately 3 000 underperforming teachers and corresponding district curriculum advisors of secondary schools with a pass rate of less than 60% in the NSC (National Senior Certificate) examinations and those in their feeder primary schools will be targeted for immediate short-course or part-qualification interventions (DoBE & DoHET 2011:9). Similarly, practising professionally unqualified graduate teachers, practising teachers who are completely unqualified and un-and under-qualified Grade R practitioners will each be offered courses that would lead to acquire the proper qualifications (DoBE & DoHET 2011:11). With the aim of improving the performance of novice teachers, the Integrated Strategic Planning Framework for Teacher Education and Development aims for highly competent teachers and subject advisors to be identified to participate in developing the capacity of and induct new teachers into the world of work (DoBE & DoHET 2011:10).

The Planning Framework also promises that teachers working with the *deaf, blind, multiply disabled and severely disabled (mentally and physically) who* require specialist qualification programmes will be identified and supported to complete them (DoBE & DoHET 2011:11). The pastoral role of the teacher (RSA 2000a:13) – one of the seven teacher roles – goes a long way in terms of creating a teaching corps that is equipped in providing emotional care, counselling and guidance to children with barriers to learning and development.

The Department plans to introduce what are called Teaching Schools (TSs) and Professional Practice Schools (PPSs). Teaching Schools (TSs) are

> 'teaching laboratories', where student teachers can engage in learning-from-practice, such as by observing best practice, participating in micro-teaching exercises and taking subject methodology courses.

The Professional Practice Schools (PPSs) are sites at which student teachers are placed and spend extended periods of time for the actual practical components of their programmes, for observation visits and to gain work integrated learning experience (DoBE & DoHET 2011:18).

Still on the issue of teacher quality and professionalism, South African educators are required to be registered with the South African Council for Educators (SACE) as a condition for them to practise teaching. Registration is their licence to teach. These registered teachers

> will be required to earn professional development (PD) points, and a teacher who earns the maximum allowable points in a three-year cycle will be given symbolic but visible recognition. Educators who do not achieve the minimum number of PD points over two successive cycles of three years will be required to apply to SACE for re-registration (DoE 2006a:19).

There is another factor that may contribute to the quality of teaching in the country's education system, namely the trends towards to assessing and monitoring educator performance and tying that up with substantial wage progression. According to the OECD (2008:86),

> An 'Occupation Specific Dispensation' for educators has been negotiated with trade unions. This salary package deal increases average performance, but also put in place a system where substantial wage progression is possible in the education system, depending on performance/assessment.

One of the activities planned to improve teacher quality for the 2011-2015 period is the use of diagnostic self-assessments to be used by individual teachers to self-test their level competence of the requisite knowhow and knowledge in order to carry out their core function better. The assessments will be linked to the SACE CPTD Management System in order to allow individual teachers to identify course providers approved by SACE to address the identified development

needs. Concurrently with the diagnostic self-assessments for those subjects, the department has planned to develop and deliver high-quality, content-rich, pedagogically sound CPD courses for teachers. These courses are not only accredited by SACE, but can also be considered for credit accumulation and transfer into formal teacher qualification programmes (DoBE & DoHET 2011:6-7).

4.1.4 ACCESSIBILITY

The principle of *accessibility* dictates that education must be made available to all on the basis of the principle of equality and non-discrimination[10], economic accessibility as well as physical accessibility. The element of economic accessibility includes the provision of fee-free access to education services, and the equitable public funding of education (UN 1999a, para 3).

In the following sections I discussed two of the elements of this principle, namely physical accessibility and economic accessibility of schools.

4.1.4.1 Adequacy and equitability of school funding

As noted by Woolman and Fleisch (2009:23-24), the South African school funding model has five objectives: equity[11] and redress; reduction in unit costs; increase in productivity levels; the elimination of an unsystematic pattern of user charges while meeting the commitment to free and compulsory education; and the creation of new funding partnerships for educational development.

In line with the provisions related to funding contained in the UNCRC (a 23(3)), the ACRWC (a 13(2)(3)), and the UNCRPD (a 4(2)), the Schools Act (RSA 1996b, s 34(1)) ensures the right of equal access to public funds of learners based on the recognition of the right of redress when it provides that:

> The State must fund public schools from public revenue on an equitable basis in order to ensure the proper exercise of the rights of learners to education and the redress of past inequalities in educational provision.

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[10] Equality and non-discrimination are discussed as part of the human rights discourse under section 4.2.7 of this thesis. The human rights discourse – in particular the recognition of children (learners) as rights holders – also pertains to the principle of acceptability (Beiter 2006:476-478).

[11] Equity is defined as "a measure of fairness with which education opportunities, resources or outcomes are distributed among the learning population" (DoBE 2010a:40).

Further, the National Norms and Standards for School Funding (NSSF) (DoE 1998, para 44) provide that this equality provision contained in the Schools Act should follow an equity approach, given the fact that

> … educational needs are always greater than the budgetary provision for education. To effect(sic) redress and improve equity, therefore, public spending on schools must be specifically targeted to the needs of the poorest.

The equity principle is nowhere so eloquently described than in section 91(d) of the Amended NSSF, where the government not only acknowledges the need to spend more on education for the poor, but further notes that:"…the poor in South Africa are not all equally poor, and that it may be necessary for the state to deal with the problem of poverty differentially" (DoE 2006b).

It is this equity principle that would justify the increased allocation for historically-disadvantaged sections of the population as well as the need to invest in "a more intensive, and hence more costly, education" on learners of poorer parents: "… to attain educational equity …some inequality in spending, in favour of the poor, is required" (DoE 2006b:40). Equity and redress were some of the rationales for the imposition of school fees, although it also had other rationales, including stemming white middle class flight to private schools, as well as enabling the system to secure elite political support (Fiske & Ladd 2004 cited in Lancaster 2008:76).

In fact, it is also argued that the school fee policy – with or without exemptions – is reinforcing apartheid-era class and racial inequalities in the enjoyment of the right to education. Wealthier parents sent their children to historically white, fee-rich schools, while poorer families did so to historically black, fee-poor schools, leading to a situation where the school fees "almost perfectly mimic patterns of historical privilege" (Porteus 2000 quoted in Roithmayr 2002). High fees in fee-rich, predominantly white schools meant high expenditures per learner – at two or three times the budgets and expenditures for historically black, fee-poor schools – which in turn meant good quality education (Roithmayr 2002). Indeed, the claim that the school fee system is perpetuating instead of redressing inequality was openly acknowledged by the then Minister of Education, Kader Asmal, in a 2001 status report:

> Inequality in education… continues to be one of the most vexing issues for the Education Ministry. Income inequality is simultaneously an object of equity strategies and a factor that mediates these strategies. Wealthier parents are able to maintain relative privilege in schools through school fees; poorer parents cannot (DoE 2001b).

But the *no-fee* school policy has had direct resource redistribution and equity impacts. The list of *no-fee* schools is determined provincially by the Provincial Education Department, using a standard national procedure. These schools (no-fee schools) are those in poorer quintiles (NQ 1 and 2) and hence receive larger allocations per learner, while those in better-off quintiles (*fee schools*) receive smaller state allocations (CREATE 2009).

Figure 7 Percentage of learners in schools categorised by poverty quintiles and by their share of allocations per learner, 2012
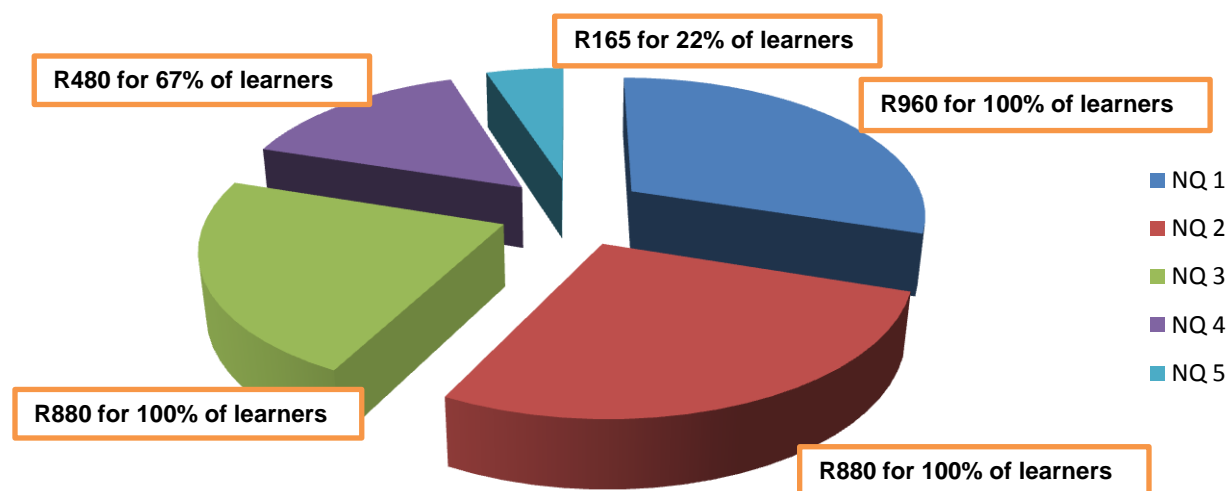
Source: Adapted from DoBE 2011a, schedule

As shown in Figure 9, in 2012, the poorest schools (NQ 1 and 2) and schools in the middle poverty quintile (NQ 3) are declared no-fee schools. While schools of the first quintile will receive an allocation of R960 for 100% of their learners, the second and third quintiles each will receive an allocation of R880 per learner, for 100% of their learners. Together, these three quintiles account for 60 per cent of all public school learners in South Africa (DoBE 2011).

Yet, the school fee regime has been a subject of a barrage of criticisms both from equity and non-discrimination perspectives. Roithmayr (2002) is of the view that the imposition of school fees is unconstitutional on two grounds: first, it violates section 29(1) of the right to basic education[12], because of the potential of fees to impede or restrict the exercise of this right; and

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[12]   The Constitution does not mention the term *free*, while the major human rights instruments related to education which South Africa has ratified require the government to make primary education compulsory and free to all (UNCRC, a 28; ACRWC, a 11(3)(a); UNCRPD, a 24(2)).

secondly, it violates section 9 of the Constitution, namely the right to equality "because the user fee system perpetuates class and race-based inequality in access to education".

Roithmayr (2002) further posits that the equity rationale envisioned by school fees, whereby poor families were allowed to benefit from good quality education, being partially or totally exempted from fees, while those who can afford to pay were to contribute more, has not been achieved:

> First, many [poor] families who would be eligible for exemptions do not apply because of the burden it imposes, i.e. the process is too time-consuming, the cost in dignity or in spending time to acquire information is too high, or because the school discriminates unfairly against those who are granted exemptions. Second, the statutory exemption system in many instances does not cover secondary fees, like uniforms and transport. Third, the exemption scheme is insufficiently broad to adequately cover those at the margins who do not qualify for any sort of exemption, but for whom school fees would be an unconstitutionally heavy burden. Finally, some evidence indicates that school governing bodies abuse their discretion by significantly restricting partial exemptions to a small percentage of the fee, or arbitrarily denying those who have applied for a partial exemption.

The fee system was also criticised on grounds of its potential to defeat the equity rationale. The provision that allows schools to charge fees – with or without a fee exemption policy – has created school quality differentials among poor and rural schools and other schools and. This is so because some schools were able to raise additional funds through fees and effect quality improvements such as through hiring additional and more qualified teachers thereby perpetuating racial and class-based differentiation (Fiske & Ladd 2004 cited Chisholm 2004:6).

The Report to the Minister on the Review of the Financing, Resourcing and Costs of Education in Public Schools revealed that the poorest households spend 2% of income[13] on school fees on average, compared to around 1 per cent spent by middle income and high-income households (DoE 2003:80).

However, there are others who contend that school fees are not significant when compared to other secondary expenses – not covered by fee exemptions – such as for transport, uniforms[14],

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[13]   The ministry has, however, acknowledged that household expenditure on education still constitutes a smaller proportion of total household expenditure than cigarettes and alcohol combined (DoE 2003:80).The latter are estimated to constitute 3 per cent of household spending in the poorest quintile of families compared to 2 per cent spending on school fees (Woolman & Fleisch 2009:219).

[14]   Secondary fees, such as those incurred on school uniforms (on average of R500) and transport (as much as R1100 per year) – not covered by exemptions– can be almost as burdensome for many parents as fees charged for attendance (De Paravanici cited in Roithmayr 2002). For example, the cost of a school uniform is estimated to be in the range of R700 and R 2, 000, which is about 20% of the total available income in poor households (DoE 2003:50).

textbook fees, PTA fees, exam fees, activity fees, and special equipment and programmatic expense. These secondary costs run into thousands of rand per year and are prohibitively high for working-class families (Roithmayr 2002).

4.1.4.2 Physical accessibility of schools

The Department of Education reported that back in 2001, only 7 per cent of learners were able to afford to use public transport to go to school, and the remaining 81 per cent had to get to school on foot (DoE 2003:86). Given this worrying picture, it is small wonder that White Paper 6, the Disability Strategy, the Norms and Standards for School Infrastructure, the Guidelines for the Implementation of Inclusive Education and Training discuss the issue of accessibility in detail. For instance, the Norms and Standards for School Infrastructure consider the current physical teaching and learning environment to be inadequate to facilitate effective delivery of curricula (DoE 2008a, para 1.13).

The issue of accessibility is clearly addressed in White Paper 6:

> An aspect of the development of learning settings that the Ministry shall give urgent attention to is the creation of barrier-free physical environments. The manner in which the physical environment such as buildings and grounds is developed and organised contributes to the level of independence and equality that learners with disability enjoy. The physical environment of most ordinary schools and learning settings are not barrier-free and even where they may be barrier-free, accessibility has not been planned. Accordingly, space and cost norms for buildings, including grounds, shall focus on the design and construction of new buildings, as well as the renovation of existing buildings. These actions shall be undertaken in collaboration with the Ministry of Public Works and provincial departments of public works (DoE 2001a, para 2.2.1.5).

White Paper 6 also recommends that "space and cost norms for buildings, including grounds, shall focus on the design[15] and construction of new buildings, as well as the renovation of existing buildings" (DoE 2001a, para 2.2.1.5). The National Policy for an Equitable Provision of an Enabling Environment School Physical Teaching and Learning Environment requires that designated full-service schools that were built before the issuance of this policy be adapted to ensure accessibility and that all new schools to take accessibility in account. "More than just the infrastructure, some furniture may need adjustment to allow for easy movement and seating" (DoBE 2010d, para 2.8).

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[15] Cost is often cited as the reason for the lack of a barrier-free environment, yet the National Environmental Accessibility Programme (NEAP) has calculated that the incorporation of accessibility into the original town and building design does not generally add more than 0.2% to the overall cost of development (DoE 1997:60).

Further, the Norms and Standards for School Infrastructure (DoE 2008a, para 1.24) give examples of architectural norms that should guide architectural designs including:

> minimum and maximum ratio of learners per classroom in a mono-grade and in a multi-grade teaching context, minimum area per learner that allows for dynamic pedagogy and the related movement of learners, furniture and equipment, minimum space per specialized teaching room to allow for safe and effective use of equipment, materials, as well as learner movement, materials and sensitive equipment storage facilities in teaching rooms, minimum lighting, ventilation, distance from chalkboard to allow for comfortable sight by learners, acoustics, access for people with special needs, solidity and durability of construction etc. They are all that an architect needs in order to design the physical spaces for teaching and learning.

The Norms and Standards list examples of *planning norms*, which include

> the maximum distance of a school from learners that are eligible to attend that school or distance from a school's catchment area, alternatively, the learners' maximum walking time to school, alternative means of bringing schools close to learners such as hostels and/or learner transportation, location of a school relative to other facilities such as fire stations, bars, shopping centers, hospitals … (DoE 2008a, para 1.26).

The definition of catchment area given includes "the distance between a school and the community it is serving". The section suggests every school to have a catchment area to the radius of up to 3 kilometres and a total walking distance to and from school of up to 6 kilometres. Learners outside the set catchment area are to be provided with either transport or hostel accommodation (DoE 2008a, para 3.1).

The Guidelines for Full-Service/Inclusive Schools provide for school management to make arrangements to ensure that learners with disabilities can travel to and from the school (DoBE 2010c, para 12.3.1). The Guidelines call upon full-service schools to negotiate with District Offices to arrange accessible public or scholar transport for learners with disabilities who live within the catchment area of the school (DoBE 2010c, para 12.3.2).

The Norms and Standards (DoE 2008a, para 3.4) make an important provision with regard to school sites that would have implications especially on the safety of learners with visual impairments. The Norms and Standards proscribe the construction of schools near cemeteries, business centres, railway stations, taxi ranks, sewage, hotels and busy roads. The location of the school should ensure easy accessibility to roads, sewage lines and basic services. This also becomes important given the fact that children spend 45 per cent of their school day engaged in listening activities, in which case the need to have an adequate acoustic surrounding becomes an essential element of the teaching-learning process (Berg 1987 cited in Pottas 2005:78).

According to the Norms and Standards for School Infrastructure (DoE 2008a, para 3.19) adequate facilities will be provided so as to promote health and hygiene standards that comply with the National Building Regulations and Water Service Act 108 of 1997. But, deplorably, the Norms and Standards fail to mention the need for and the means to make such sanitation facilities disability-friendly, unless, of course, the provision under paragraph 3.29 is extended to cover disability-friendliness of sanitation facilities, where it is stated that: "All school facilities will be adapted for learners with disability and will facilitate access and functionality in accordance with White Paper on inclusive education" (DoE 2008a).

OECD (2008:107-108) citing the 2006 National Education Infrastructure Management System study, reported that in 2006, only about 2 per cent of schools in South Africa had paved access, ramps and appropriate toilet facilitates for disabled learners. In the same year, in nearly 80 per cent of schools, a toilet had to serve more than 50 learners. To address this problem of access, the Guidelines for Full-Service/Inclusive Schools require that at least one toilet should be made available to be accessed by a person using a wheelchair. The same Guidelines state that:

> The school must procure portable ramps or fitted seats for learners with mobility impairments and make arrangements with drivers to supervise the travelling arrangements of disabled learners (DoBE 2010c, paras 12.1.3, 12.1.4 & 12.3.3).

The Disability Strategy (ODP 1997, chap 3) suggests that barrier-free access be ensured through inter-sectoral collaboration, training of relevant personnel on barrier free access/design and self-representation, and through incorporating accessibility in the original design of such public facilities such as schools, clinics and other public buildings. The overall policy objective in the Disability Strategy (ODP 1997, chap 3) in this regard is stated as

> to develop an accessible, affordable multi-modal public transport system that will meet the needs of the largest numbers of people at the lowest cost, while at the same time planning for those higher cost features which are essential to disabled people with greater mobility needs.

The Disability Strategy (ODP 1997, chap 3) also makes detailed policy suggestions in creating a disability-friendly public transport system, including road transport, railway services, and air travel. It also includes access to communication as an important issue of access, and suggests that strategies be developed to provide people with communication disabilities with equal opportunities to access information, as well as public and private services.

The Disability Strategy (ODP 1997, chap 6) makes a list of recommendations to achieve the goal of creating a barrier-free environment:

a. the inclusion of barrier-free design norms and standards in the Public Sector Briefing document;
b. barrier-free design of all buildings leased by the department, including the development of a barrier-free clause for all lease agreements;
c. the possible introduction of tax incentives to owners of existing private sector buildings that require upgrading,
d. the development of a broad spectrum of barrier-free design expertise within the department at national, provincial and local level
e. appropriate curricula and updating of handbooks focusing on integrated and barrier-free design as a part of the professional training of architects, town planners and engineers
f. adequate supplementary training for professionals and workers
g. the development of national guidelines and minimum norms and standards for access in airport buildings (including equipment and communication access), training of personnel in the transport industry etc.,
h. the development of public transport pilot projects in both rural and urban centres,
i. the possibility of tax incentives for the importation and local manufacturing of wheelchair lifts for buses, e.g. taxi subsidies, dial-a-ride, training of transport personnel.

4.1.5 ACCEPTABILITY AND ADAPTABILITY

There is a great deal of overlap in the principles of acceptability and adaptability. The former dictates that minimum guarantees be put in place to ensure good quality education, in terms of both the content of educational curricula and the availability of educational materials (Tomaševski 2004:7). Acceptability also requires the creation of violence-free schools, which can intuitively be extended to include the issue of disciplining. This is mindful of the fact that schools engage in discipline with the primary objective of keeping schools safe for all learners, free from violence and unacceptable learner behaviour.

The principle of *adaptability* is about the need to adapt the systems and structures instead of the learners in order to respond to the needs of each individual child, which can mainly be achieved through curricula and instructional flexibility (Tomaševski 2004:vi & 7). Furthermore, it goes without saying that schools also have the imperative to adapt the way they discipline learners in accordance with the child's situation, in which case discipline also fall equally under the principle of acceptability. Similarly, the choice and involvement of parents in the education of their children cuts across both principles of adaptability and acceptability (Beiter 2006:476-478).

In line with the elements of these overlapping principles of acceptability and adaptability outlined above, in the following sections, I discuss curricular and instructional flexibility, including

assessment, appropriateness of educational content, parental involvement in the education of their children, and flexibility in measures aimed at disciplining learners with disabilities.

4.1.5.1 Curricular and instructional adequacy and flexibility

South Africa undertook one of the most tremendous curricular reforms the world has ever seen which started off with the "cleansing" of the curriculum of its racist and sexist elements. This was followed by the implementation of outcomes-based education through C2005, which soon invited a litany of criticisms[16] that resulted the revision of same by a Ministerial Review Committee appointed in 2000 (Chisholm 2003:1). The country's curricular reform has taken note of the significant role curriculum plays in triggering barriers to learning, which is further elaborated in the figure below.

Figure 8 Curricular barriers to learning and development
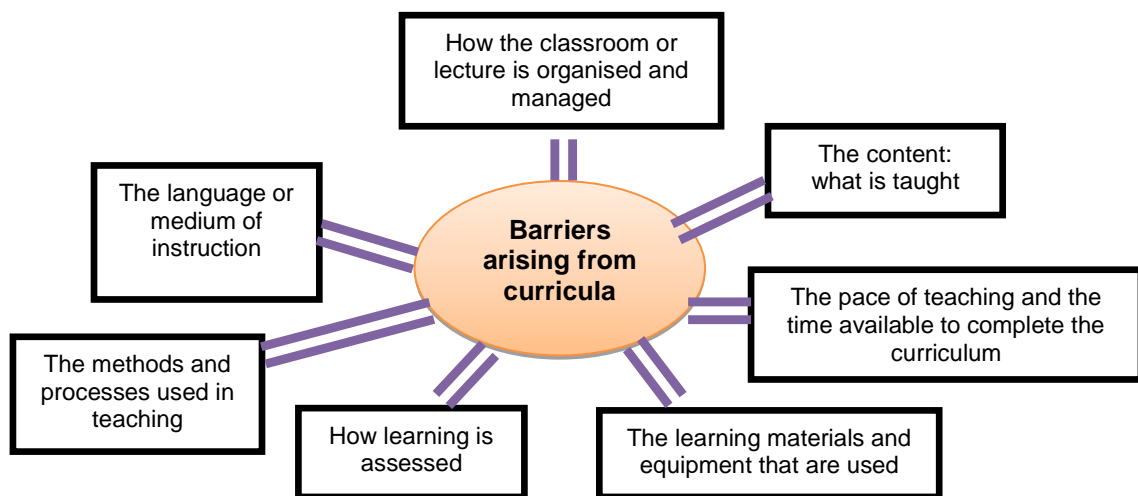
Source: adapted from DoE (2001a:20)

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16   One of the criticisms against C2005, which eventually led to its revision, was that it was too elaborate and littered with complex terminology with the result that the already over-worked teaching corps could hardly understand it (OECD 2008:80). Another criticism was that the curriculum placed a heavy burden on hard-to-come-by resources for its implementation which made it barely implementable in poorly-resourced schools (Christie 1999 cited in OECD 2008:80).

The curricular reform had in mind diversity and the educational needs of both disabled and non-disabled learners, as stated in the following words of the then minister of education, Prof Kader Asmal:

> … our new curriculum policy, Curriculum 2005, provides the platform for this inclusive curriculum, assessment and qualification system. This is so since in its design we took into account the principle that learners, who have a diverse range of learning needs, should proceed with learning, teaching and assessment at their own pace, but within a common, not separate curriculum framework. Accordingly no separate and new curriculum framework would be put in place for learners with diverse learning needs. Rather, our challenge is to create the conditions of learning and teaching in all our learning institutions so that all learners can be fully accommodated, can flourish and contribute effectively to the regeneration of our society, our economy and our country (DoE 1999, preface).

Hence, the idea of a separate curriculum for disabled learners was totally shunned in all the policy texts (DoE 2005:15). The Consultative Paper No 1 on Special Education: Building an Inclusive Education and Training System (hereafter referred to as Consultative Paper 1) – the precursor to White Paper 6 – reflects the view of the Ministry, which is resorting to flexibility in teaching approaches in order to customise and adapt the existing curriculum defined as "making the curriculum accessible for learners with disabilities" (DoBE 2010a:29). The adaptation includes learning programmes and materials and outcomes and range statements instead of inventing a separate curriculum for learners with barriers to learning and development (DoE 1999, chap 4, para 3.5).

This determination to break through the artificial curricular division and separation of learners into two under the banner of special needs education is echoed in different places in Consultative Paper 1:

> At the same time, the manner in which ESS has been provided has **separated** these learners from the mainstream education and training system or has **isolated** them from other learners [emphasis added] (DoE 1999, chap 1, para 4.1.5)

> The conceptualisation of 'special needs' which has informed the provision of ELSEN and ESS has also served to **divide** the learner population into those with 'special needs' who require specialized programs and/or support in order to participate in some form of learning process, and those who do not have 'special needs' [emphasis added] (DoE 1999, chap 1, para 4.1.6).

The White Paper on Education and Training (1995, para 5(9)) draws attention to the importance of curricular novelty, appropriateness and flexibility:

> New, flexible and appropriate curricula are needed that cut across traditional divisions of skills and knowledge, with standards defined in terms of learning outcomes and appropriate assessment practices, in order to provide a more meaningful learning experience, and prepare them more effectively for life's opportunities.

According to White Paper 6 (DoE 2001a, para 1.5.3), flexibility in the process of teaching and learning to accommodate different learning needs and styles is "the most important way" of addressing barriers to learning arising from the curriculum:

> The curriculum must therefore be made more flexible across all bands of education so that it is accessible to all learners, irrespective of their learning needs. One of the tasks of the district support team will be to assist educators in institutions in creating greater flexibility in their teaching methods and in the assessment of learning. They will also provide illustrative learning programmes, learning support materials and assessment instruments.

The most explicit references to curricular adequacy and flexibility are found under paragraphs 2.2.6.1 and 2.2.6.2 of White Paper 6:

> Central to the accommodation of diversity in our schools, colleges, and adult and early childhood learning centres and higher education institutions, is a flexible curriculum and assessment policy that is accessible to all learners irrespective of the nature of their learning needs … (DoE 2001a).

White Paper 6 (DoE 2001a, para 4.3.8.1) requires that –

> all curriculum development, assessment and instructional development programmes make special efforts to address the learning and teaching requirements of the diverse range of learning needs and that address barriers to learning that arise from language and the medium of learning and instruction, teaching style and pace, time-frames for the completion of curricula, learning support materials and equipment, and assessment methods and techniques.

The Guidelines for Full-Service Schools/Inclusive Schools (DoBE 2010c, para 9.2) equally recognises the importance of curricular flexibility:

> The most important way of addressing barriers arising from the curriculum is to make sure that the process of teaching and learning is flexible enough to accommodate different learning needs and styles. The curriculum must therefore be made more flexible across all bands of education so that it is accessible to all learners, irrespective of their learning needs. One of the tasks of the district-based support team will be to assist educators in institutions in creating greater flexibility in their teaching methods and in the assessment of learning. They will also provide illustrative learning programmes, learning support materials and assessment instruments.

The Guidelines (DoBE 2010c, paras 10.1.11 and 10.1.12) further emphasise the need for the "individualisation" of instruction and provision of educational support to learners with barriers. This is to be achieved mainly through the "preparation of learners' Individual Support Plans" expected to be developed drawing on the expertise of special teachers and in collaboration with them.

The Individual Support Plans (ISP) of learners (DoE 2008b:18) outline what support is to be provided at school level and how it is to be monitored. This Individual Support Plan – to be drawn up by the teacher in collaboration with the learner, parents, teachers, the ILST (Institution-level Support Teams), LSE, counsellor or other support specialists – is a record of

learners' needs, goals and progress that would help to keep track of support given and progress made and to be used at the end of each year when making decisions about progressions.

The SIAS reiterates that the main aim of the SIAS process is to "plan how to bring support to the learner rather than take the learner to the support" (DoE 2008b:29). Speaking about the Learner Needs Assessment Form, the SIAS (DoE 2008b:30) notes that the form has two purposes: to inform the decisions about where the support (place) is to be provided and what kind of support is to be provided.

The Guidelines for Full-Service/Inclusive Schools further note that educators should be able to –

- reflect on their practices in the classroom, and to monitor their own abilities to be inclusive (DoBE 2010c, para 9.4.6)
- value their role as the central role player in identifying and addressing barriers to learning in the classroom and the school (DoBE 2010c, para 9.4.7)
- promote peer support amongst learners (para 9.4.12) and have a holistic perspective about learning that includes developing the physical, emotional, moral and intellectual wellbeing of the learner (DoBE 2010c, para 9.4.9).

Under paragraph 9.5.14, the Guidelines for Full-Service/Inclusive Schools suggest that emphasis be placed on "more functional, vocational and skills orientated content in the delivery of the curriculum" for identified learners such as learners with disabilities. Further, the Guidelines (DoBE 2010c, para 10.1.9) note the need for teaching to address not just learners' academic needs but also "their social, emotional, behavioural, and cultural needs". In terms of social skills, it is noted, under paragraph 11.1.7, that such skills be "taught along with the explicit academic curriculum" and that "the social dimension of learners' functioning be directly addressed as part of their individualised education" (DoBE 2010c).

According to Consultative Paper 1:

> The National Curriculum Statement for Grade R-9 provides for the link of education to work. This is a critical matter for learners who experience learning difficulties and exclusion such as disabled learners. Like all other learners these learners also need to be prepared for inclusion within working communities.
>
> Specifically, the Ministry believes that the learnerships described in the Skills Development Act, 1998 will provide an important avenue for linking structured learning to a structured work environment, and for providing access routes from learning to work for all learners including these who experience learning difficulties and exclusion. The Ministry will work closely with the Ministries of Labour and Welfare and Population Development to develop programmes to create pathways from learning to work (DoE 1999, chap 4, para 3.14).
>
> In this regard, educators of life skills education can and should play a central role in developing mechanisms and programmes to facilitate the transition of all learners from school and further education and training institutions to work (DoE 1999, chap 4, para 3.15).

White Paper 6, under paragraph 2.2.6.3 (DoE 2001a), suggests a similar orientation for the content of the education to be provided in the inclusive education and training system when it states that:

> The Ministry believes that these programmes [improved and expanded participation in special schools/resource centres and full-service institutions] should provide a comprehensive education, and should provide life skills and programme-to-work linkages.

In terms of instruction, paragraph 10.1.5 of the Guidelines for Full-Service/Inclusive Schools spells out the underlying principle instruction should follow: instruction in each classroom is characterised by learner engagement; self-determination and choice; individualisation; recognition that instruction is for the purpose of preparing learners for post-school options; multiple options for learners to acquire, store, and demonstrate learning. The Guidelines anchor instruction in the principles of universal design for learning; as well as stressing the need for systematic data collection and differentiated instruction (para 10.1.6).The Guidelines for Full-Service/Inclusive Schools also provide that:

> Educators are prepared to teach all learners who walk through their doors, focusing on grade-level curriculum while addressing unique learner needs (para10.1.1).

> Educators express that they are committed to accommodating learners' learning needs, and they demonstrate their commitment daily through their choices of instructional approaches (para 10.1.2).

> Educators discuss instruction at the grade, phase or department level with the goal of shared problem solving to address instructional challenges (para 10.1.3).

Other paragraphs of the Guidelines promote age-appropriate instructional practices. For instance, paragraph 10.1.4 recommends that every learner in a class participates in some way in every learning activity, while under paragraph 11.1.5 it is provided that education of learners be based on age-appropriate instructional practices.

Flexibility in class timetables that allows learners to learn at their own pace and become fully engaged in the learning process is promoted (DoE 1999, chap 4, para 5.4) as well as teaching methods such as small group or peer-mediated learning (DoE 1999, chap 4, para 5.2).

The need to make assistive and adaptive devices available with a view to facilitating teaching and learning are stressed in the policy documents. Consultative Paper 1 provides for the need for assistive devices and appropriate technology [referring to equipment or adaptations to equipment that facilitate learning and the independence of learners] including mobility devices, hearing aids, Braillewriters, adapted access computers, magnifying glasses and voice

synthesisers (DoE 1999,chap 4, para 6.4). Consultative Paper 1 also makes provisions for availing Braille, Augmentative and Alternative Communication Methods[17] and sign language instruction and support for learning with visual impairments, those with hearing impairments and those with limited or no functional speech learning through a second language (DoE 1999, chap 4, para 4.1-4.13).

Finally, the SIAS recommends the following crucial curricular and instructional steps when planning activities to effectively address diversity in the classroom (DoE 2008b:81):

- Consider individual past experiences, learning styles, and preferences;
- Develop questions and activities that are aimed at different levels of ability;
- Modify expectations for some learners, including adapted objectives or outcomes;
- Provide opportunities for a variety of participation levels such as individual, pairs and small group activities;
- Give learners choices in determining what methods they use for gathering, synthesizing information and in demonstrating their understanding of a concept, or performance of a skill or task;
- Accept that the individual methods are of equal value;
- Evaluate learners based on individual objectives and progress.

4.1.5.2 Flexibility in academic assessment

Assessment is defined in the Curriculum and Assessment Policy Statement (DoBE 2011b, para 4.1) as

> a process that measures individual learners' attainment of knowledge (content, concepts and skills) in a subject and collecting, analysing and interpreting the data and information obtained from this process to inform learners about their strengths, weaknesses and progress [and] assist teachers, parents and other stakeholders in making decisions about the learning process and the progress of learners.

Both formal and informal assessment approaches are promoted with regular feedback to be provided to learners to enhance the learning experience (DoBE 2011b, para 4.1). Formal assessments, according to the National Protocol for Assessment, will aim at assessing the learner's progress in a particular subject and grade and may involve essays, oral presentations, performances, tests, examinations and practical demonstrations (DoBE 2011c, para 4(3)&(4)). Informal assessments mainly involve daily assessment, including through self-and peer-assessment of the planned teaching and learning activities that take place in the classroom as part of the lesson (DoBE 2011b, para 4.2). Under paragraph 29(3) of the National Protocol for

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[17] These describe the way people supplement their communication when they cannot speak clearly enough to be understood by those around them. These strategies include a wide range of communication methods ranging from gestures and communication boards to assistive communication devices (DoBE 2010a:22).

Assessment, it is provided that learners who experience barriers to learning in both ordinary and special schools need to be able to exit school with recognition of competence (DoBE 2011c).

The National Protocol for Assessment recommends three types of alternative mechanisms of assessing knowledge (content, concepts and skills) for learners experiencing barriers to learning to be available in ordinary and special schools (DoBE 2011c, para 29(4) & para 29(6)).

Table 6 Alternative assessment mechanisms for learners with barriers to learning

Target learners	Type of assessment	Assessment method/approach
Learners with intellectual disability who are currently enrolled in special and ordinary schools for learners with a significant cognitive disability	Alternate assessments based on alternate attainment of knowledge	These assessments are based on the grade-level content covered by the general assessment, but at reduced depth, breadth, and complexity. These assessments describe achievement based on what is determined as a high expectation for these learners.
Learners with moderate intellectual disability, learners who are deaf, and some learners on skills programmes	Alternate assessment based on modified attainment of knowledge	These assessments measure the mastery of the grade-level for learners with disabilities who are working on grade-level content that is covered in the general assessment but who may require more time to master the content because of their disability.
Learners who are blind, learners who have communication problems, physical disabilities, dyslexia or hearing loss	Alternate assessments based on grade-level attainment of knowledge	These assessments allow alternative testing formats or procedures that provide learners with disabilities or learning difficulties with equal opportunities to demonstrate their attainment of content which is at the same grade-level as the general assessment.

Source: DoBE 2011c, para 29 (5(a-c))

The Guidelines for Inclusive Learning Programmes (DoBE 2005:36) stress the primary importance of empowering learners with barriers to learning and assist them to attain their full potential by holding high expectation for these learners. Whatever challenges these learners might have need to be carefully graded in such a way as not to discourage them. Similarly, the National Protocol for Assessment (DoBE 2011c, para 29(7)) requires that no learner should be excluded from assessment or be disadvantaged by the system through imposing lower expectations.

The Guidelines for Inclusive Learning Programmes (DoBE 2005:20) caution that assessment adaptations should not lead to segregation of a group of learners into a different setting, and

recommend that assessment standards should be adapted to suit their level of development within the same context and/or content and within the same class or group.

The assessment notion of *designing down* (also called *breaking down* or *scaffolding*) is introduced in the Guidelines for Inclusive Learning Programmes as one of the assessment approaches. According to the Guidelines (DoBE 2005:23),

> in some learning areas designing down involves breaking down the assessment standard in order to build it up in a logical progressive way. Simply put, designing down involves looking at an assessment standard and dividing this minimum expected set standard for the year end into smaller, achievable components which are spread across the duration of the year.

The Ministry also adopted an assessment approach called *straddling* for learners who experience one or more of a range of barriers to learning and, as a result, may not fit comfortably within a particular phase or grade. Straddling is when a learner or group of learners at a specific grade or level work towards attaining assessment standards from more than one grade within learning areas or learning programmes. Learning programmes for such learners, which will be designed to fit the individual needs of a learner, may straddle both grades and phases as they draw learning outcomes and assessment standards from a number of grades and phases across all the Learning Areas (DoBE 2005:24).

However, the Action Plan of Schooling 2025 (DoBE 2012b:2) states that there will be an annual, standardised national test in languages (home language and first additional language) and mathematics and that teachers will be provided with instructions on how to do the standardised assessments. The use of standardised tests might put learners with barriers to learning at a disadvantage as such tests focus more on testing academic competencies than on everyday functional competences, which are the main critical outcomes expected from learning of children with learning barriers (Evans & Weld 1989:241). Such tests also have the tendency of overlooking the fact that children differ in their abilities to perform the skills required by the tests themselves (Evans & Weld 1989:236). Of course, it is not clear whether the assessment adaptations promised in the other policy documents are to be applied in such standardised tests.

4.1.5.3 Parental involvement

White Paper 6 (DoE 2001a, para 1.5.1) addresses one of the important challenges facing inclusive education, namely the limited role given to parents or the paternalism that often accompanies parent-professional interactions especially in the context of disabled learners. White Paper 6 identifies "the non-recognition and non-involvement of parents" as one of the cultural and systemic barriers to learning (DoE 2001a). This is further elaborated by the Guidelines for Inclusive Learning Programmes (DoBE 2005:12-13):

- Parents are not always adequately informed of their children's problems or progress, and therefore are often deprived of the opportunity to participate in their children's development.
- Parents who are unable to understand the emotional and/or behavioural problems of their children may aggravate their barriers
- Non-involvement and non-recognition of parents by the system creates a lack of respect for parents as informed role players in the assessment and future development of their children.

The government also recognised the impediments created by expert power and manipulation in the participation of parents in the education of their children. In the literature we find that professionals often mystify their communication with parents using technical language, knowledge and authority to overpower parents and gain their consent; and manipulating the power of need, where the need parents have of the services and assistance controlled and offered by these professionals puts them in a position where they are unable to disagree (Roth 1980 cited in Schaller, Yang & Chang 2004:234). For instance, the Disability Strategy (ODP 1997, chap 1) raises the concern that professional power may sometimes adversely affect the potential contribution of parents to the development of their children. The Disability Strategy (ODP 1997, chap 1) states that "professionals … take over decision-making from parent(s), insisting that they know what is best for the child".

The Disability Strategy heralds "a shift in power away from professionals towards persons with disabilities" (ODP 1997, chap 1), while White Paper 6 (DoE 2001a, para 4.3.10.3) calls for a partnership between parents and experts:

> At the educational institutional level, partnerships shall be established with parents so that they can, armed with information, counseling and skills, participate more effectively in the planning and implementation of inclusion activities, and so that they can play a more active role in the learning and teaching of their own children, despite limitations due to disabilities or chronic illnesses.

In White Paper 6 (DoE 2001a, para 2.2.7.2), parents are "regarded as an important form of support", while the Schools Act recognises parents/caregivers as equal partners in the process of screening, identification, assessment and support – the traditional domain of specialist

experts. In addition to being given the space to make contributions to help the educator to find the exact nature of the barriers that a learner experiences, parents/caregivers should also be free to initiate contact with teachers regarding their child's progress.

The policy and legislative texts have not only tried to dissipate the traditional expert power over parents exerted by teachers, psychologists, or counsellors, but they have also invested in parents' extraordinary autonomy and financial and legal discretion through school governing bodies (RSA 1996b, s 20(1)). These bodies constitute what can be considered as one of the landmark discursive decisions introduced into the South Africa education landscape.

According to section 20(1) of the Schools Act, the governing body of a public school must promote the best interests of the school and strive to ensure its development through the provision of quality education for all learners at the school (a); adopt a code of conduct for learners at the school (d); support the principal, educators and other staff of the school in the performance of their professional functions (e); and charge a fee or tariff which accrues to the school (2) (RSA 1996b). All of these functions of school governing bodies do have implications in terms of ensuring that schools are inclusive enough and that school-community linkages are established. This is notable in their involvement in curriculum issues by virtue of what is referred to as "allocated functions" (RSA 1996b, s 21(1) (b)).

The Action Plan to 2014: Towards the Realisation of Schooling 2025 (DoBE 2012b:1) states the vision of the Department of Basic Education to ensure that parents:

> Are well informed about what happens in the school, and receive regular reports about how well their children perform against clear standards that are shared by all schools. They know they are listened to, and any concerns will be dealt with by education authorities at all levels.

According to Woolman and Fleisch (2009:22), the State's decision to invest power in parents emanated from the belief that "parents, by acting in the best interests of their children, would act in the best interests of the school". These bodies are also a means of formalising the partnership between the parents and the school and an embodiment of the notion of the school as an extension of the family (Bagarette 2011:229). Elsewhere it is noted that school-community linkages are crucial in ensuring continuity in the education of children with disabilities in other societal setting outside of school (Sayed *et al.* 2003:244-245).

For instance, Ford and Black (1989:155) write:

> When the school broadens to encompass its community, members of that community take notice. After all, they are the clerks, the co-workers, and the bus drivers with whom children will routinely interact. Each member of the community is in an important position to contribute to the education of children with disabilities in casual and on-going ways.

The Schools Act requires the representation of the following on a governing body of a public school for learners with special education needs: Parents of learners at the school, representatives of organisations of parents of learners with special education needs, representatives of organisations of disabled persons, disabled persons, experts in appropriate fields of special needs education and learners attending the eighth grade or higher, if reasonably practicable (RSA 1996b, s 24. (1)). Similarly, the Schools Act requires a governing body of an ordinary public school which provides education to learners with special education needs to establish a committee on special education needs (RSA 1996b, s 30(2)).

In terms of parental responsibilities, SIAS and the Guidelines for Inclusive Learning Programmes spell out the following duties and rights of parents/caregivers which it calls "not a matter of choice, but compulsory" (DoE 2008b:86). Firstly, it calls for schools to empower parents to participate meaningfully in preparing and implementing the Individual Support Plan, creating inclusive education and understanding inclusive communities. For instance, the Guidelines encourage schools which use South African Sign Language to run accredited SA Sign Language courses for parents and teachers and Braille courses for parents to enable them to communicate with their children and assist them with homework, and reading and writing in Braille. They need to get access to information on the kinds of support needed by their child (DoBE 2005:13). Secondly, it obliges parents to provide information regarding the developmental history, health, behaviour at home, emotional state and personality to the school and to monitor and report progress of the learner at home.

Perhaps a very grave limitation of White Paper 6 in terms parental involvement is its mention of only parents and not caregivers as partners in the education of children under their care. This is crucially important in the context of South Africa where grandparents and siblings and other relatives as well as nonrelated caregivers give "parental" care to millions of orphaned children. We need to be reminded that the White Paper mentions learners who are orphans and the support they need to get in the context of HIV/AIDS (para 2.2.8.2). In fact the Disability Strategy acknowledges that "an alarmingly high proportion of caregivers of disabled children are grandmothers, further exacerbating the disadvantaged circumstances of elderly women in South

Africa". There is thus a weak trans-textual rapport between these two White Papers in this regard (ODP 1997, chap 1). Even though the Schools Act is not invoked in White Paper 6 in this regard, it should be noted that section 1(xiv) of the Act defines "parent" to include:

    a) the parent or guardian of a learner;
    b) the person legally entitled to custody of a learner; or
    c) the person who undertakes to fulfil the obligations of a person referred to in paragraphs (a) or (b) towards the learner's education at school.

4.1.5.4 Disciplining

Although "disciplining" is not explicitly mentioned in neither White Paper 6 nor the Guidelines for Inclusive Schools/Full-Service Schools, a chapter in White Paper 6 is devoted to what it refers to as "behaviour support" and to the strategies for addressing behavioural challenges, including preventative steps, positive behaviour support interventions, reinforcement techniques, and "buddy" systems and circles of friends (DoE 2001a, para 11.1.18). Paragraph 11.1.16 of the Guidelines makes allusion to the fact that some medications might trigger behaviour problems and that school staff members should be aware of (DoBE 2010c).

Under paragraph 11.1.2, the Guidelines suggest that: "the school uses positive behaviour supports that include school wide plans, classroom plans, individual learner plans, and intensive interventions for learners needing them" (DoBE 2010c). Such plans are to include functional behaviour assessment (para 11.1.4) with the active involvement of all learners and parents (DoBE 2010c, para 11.1.10) and on the basis of the principles of self-regulation and mutual respect (DoBE 2010c, para 11.1.3). The Guidelines also draw attention to the need on the part of professionals to "use the appropriate type of reinforcement for each learner (for example, verbal, activity, tangible)" (DoBE 2010c, para 11.1.8).

Under paragraph 11.1.13, the Guidelines urge schools to prohibit the use of "abuse against children with disabilities as part of school behaviour policy". This is further strengthened by paragraph 11.1.14 of the Guideline on protection of children with disabilities where a call is made of "zero tolerance of name calling, bullying and marginalization of learners who are different or individualistic in whatever way" (DoBE 2010c).

While the Guidelines suggest that suspensions and expulsions are last-resort strategies (DoBE 2010c, para 11.1.17), they, however, suggest that systems be devised so that "distressed children can take 'time-out'" (DoBE 2010c, para 11.1.20). This would have repercussions for

learners with disabilities, especially those with emotional disabilities, who have a higher likelihood of being emotionally disturbed and stressed.

Further, the Schools Act contains elaborate provisions allowing for suspension of children accused of misconduct from school, after a fair trial. Under section 9 (1), the Act states that:

> Subject to this Act and any applicable provincial law, the governing body of a public school may, after a fair hearing, suspend a learner from attending the school-
>
> > (a) as a correctional measure for a period not longer than one week; or
> > (b) pending a decision as to whether the learner is to be expelled from the school by the Head of Department.

Mambane (2000:21) argues that the role given to school governing bodies in developing a code of conduct for schools (RSA 1996b, s 20(1)(d)) will help the school adopt more positive disciplinary procedures for dealing with misconduct. Similarly, Van Wyk (2007:136) found in her study that the majority of the participants supported the involvement of the school governing body in maintaining discipline at school. One educator is reported as saying that it is a must that the school governing body – being mostly represented by parents – be involved in disciplining them. The above provisions in the Schools Act apply to all learners; hence they have relevance to learners with disabilities.

4.1.6 CONCLUDING REMARKS

In the foregoing chapter, I attempted to answer two of the seven research questions, namely those relating to the status of South Africa's ratification of the relevant human rights instruments and whether or not the country has incorporated the standards involved in these instruments into its national laws and policies. This was done by using the four principles contained in the so-called the 4 'A' scheme as organising themes. According to this scheme, education should be **available, accessible, acceptable and adaptable** (a detailed discussion of the 4 'A' scheme is found in section 2.3 of the thesis). I examined the country's legal and policy frameworks and looked into how the various elements that constitute each of these four principles were treated therein (see section 4.1.3-4.1.5).

The analysis revealed that there is a rapid policy turnover which has created a sense of change fatigue and overload adversely affecting teachers' readiness to implement laws and policies. The non-ratification of the ICESCR is seen as playing a potential role in circumscribing the

range of economic, social and cultural rights the country is ought to ensure to its citizens as well as curtailing the possibility of enforcing such rights in a court of law.

In terms of school availability, the government has put forward short-to-medium-to-long term plans, including the conversion of ordinary schools to full-service schools. The analysis also showed that teachers were not only in short supply but also that the existing teaching corps lacked the necessary schools to manage a diverse, inclusive classroom. But, there are a number of proposals to improve both teacher number and quality.

On the accessibility front, a good deal of attention has been given to ensuring physical accessibility of schools, including at the stage of construction design of schools and after-the-fact modifications to existing school infrastructure. There are equally important steps being taken to avail assistive and adaptive devices. However, in terms of economic accessibility through funding and provision of no-fee education, a great deal remains to be done. The existing no-school fee regime has, on the one hand, relieved poor parents of some financial burden, but, on the other hand, has reinforced race- and class-based differentiation akin to the apartheid era.

The country's legal and policy environment abounds with quite innovative elements in the area of curricular and instructional flexibility and adequacy towards ensuring epistemic access to learners with barriers to learning and development. These include individualisation of instruction and the supply of assistive and adaptive devices. Furthermore, the policy instruments put forth a number of novel elements that ensure flexibility in learning assessment with the potential to minimise the risk of putting learners with disabilities at a disadvantage. The country has also made some in-roads in the area of parental involvement, mainly though school governing bodies, which are given extraordinary powers in school governance.

Perhaps the weakest point of the legal and policy environment is in the area of disciplining of learners with disabilities. There are no policy statements or guidelines that could assist teachers to properly handle the disciplining of learners with disabilities in the event of an apparent "misconduct".

In the next chapter I present the second part of the findings and analysis, notably those that transpired from the discourse analysis carried out on the relevant law and policy corpus.

CHAPTER FIVE

FINDINGS AND ANALYSIS: DISCOURSE ANALYSIS

5.1 INTRODUCTION

In this part of the thesis, I present the findings of the discourse analysis of the relevant laws and policies thereby addressing research questions 5 and 6.

RESEARCH QUESTION 5:

- **What disability and education discourses are employed to shape the relevant laws and policies on the education of disabled children in South Africa?**

RESEARCH QUESTION 6:

- **What is the predominant image of learners with disabilities in relevant law and policy documents of South Africa?**

The corpus of the critical discourse analysis includes the South African Schools Act 84 of 1996, the 1997 White Paper on an Integrated National Disability Strategy, and the 2001 White Paper 6 on Special Needs Education: Building on Inclusive Education and Training System.

In the following section, the results of the critical discourse analysis on these three documents are presented. The analysis is further enriched by bringing in related texts from other law and policy documents such as the Constitution, the Children's Act, the Promotion of Equality and Prevention of Unfair Discrimination Act 4 of 2000, the White Paper 1 on Education and Training of 1995, and the Guidelines for Full-service/Inclusive Schools, to name a few. This is done following the principle of inter-textuality in critical discourse analysis where the analyst tries to make sense of texts at hand by referring to other texts written in similar contexts or occasions or said and written on a similar issue. Inter-textuality is "the property texts have of being full of snatches of other texts, which may be explicitly demarcated or merged and which the text may assimilate, contradict, ironically, echo and so forth' (Fairclough 1992:84).

5.1.1 Constructions of disability

The Disability Strategy recommends the development of "national guidelines for the use of disability sensitive terminology and uniform disability related definitions" (ODP 1997, chap 6). It also acknowledges that "cultural beliefs play an important role in the way we relate to people with disabilities, as do images and languages". The Guidelines for Full-service and Inclusive Schools (DoBE 2010c, para 4.2.9) call for the avoidance of "disablist, sexist, racist and homophobic language usage".

Consultative Paper 1 (DoE 1999, chap 1, para 5.1) recognises the role terminology and language play:

> … in a society where there is a history of discrimination, terminology can have the effect of labelling learners, discriminating against them, neglecting them, and ultimately creating a culture of non-acceptance of diversity. Also affected by this language are education managers, educators and communities, who should be the leaders and practitioners of change.

This emphasis on definitions and language is crucially important. Yet, the absence of a definition for disability and disabled persons in White Paper 6 is a loud discursive silence. Definitions as social constructions can have the potential to empower, and disempower, include and exclude. Definitions are also rooted in social discourses which in turn influence social practices. Soudien and Baxen (2006:154) explain this well:

> … definitions are not neutral constructions that are disembedded from their contexts, but instead are deeply situated and embedded in discourses of corporeality that convey powerful normative messages about what is acceptable and desirable, as against that which is neither [acceptable nor desirable]. Contextualised by these discursive formations, definitions can be seen to highlight certain markers of what is valued and what is not.

One of the limitations of the Disability Strategy is that it does not address children with disabilities in sufficient detail. It devoted a few pages that mainly dealt with issues of attitude, abuse and violence. This is despite the fact that the Disability Strategy (ODP 1997, chap 1) is presumed to apply to all persons with disabilities, including children.

Lansdown (2002:32) makes this relevant observation:

> Whilst disabled children face many of the same difficulties as disabled adults, it is not possible to subsume their experience within that of adults and assume that they are thereby sufficiently catered for. The invisibility of children in public policy-making is common, but until they are included as participants with an important perspective to contribute, policy will continue to be adult-focused and excluding. Of course, children themselves are not a homogenous group, but they do share a particular set of experiences, views and knowledge associated with the status of childhood which can only be accessed by consulting with them directly.

The Strategy, however, spells out the UN Standard Rules on the Equalization of Opportunities, the World Programme of Action Concerning Disabled Persons and the Disability Rights Charters as its guiding documents, but fails to mention the UNCRC and the ACRWC attesting to its conspicuous silence on children.

In terms of the construction of disability, the Disability Strategy is anchored in the Social Model of disability, following which:

- It is the stairs leading into a building that disable the wheelchair user rather than the wheelchair.
- It is defects in the design of everyday equipment that cause difficulties, not the abilities of people using it.
- It is society's lack of skill in using and accepting alternative ways to communicate that excludes people with communication disabilities.
- It is the inability of the ordinary schools to deal with diversity in the classroom that forces children with disabilities into special schools (ODP 1997, chap 1).

The Department of Basic Education gives the following definition of disability:

> A moderate to severe *limitation* in a person's *ability* to function or *ability to perform* daily life activities as a result of a physical, sensory, communication or mental impairment [emphasis added] (DoBE 2010a:33).

This definition has a biomedical thrust, far removed from the Social Model, as it considers the inability to perform as a disability. Instead of social structures and systems creating the barriers to the ability to perform (according to the Social Model), it is the impairment itself that is portrayed here to be the barrier (the deficit or biomedical model).

Paradoxically, the Department notes the definition of persons with disabilities by the UNCRPD, which South Africa has ratified. The Convention defines persons with disabilities – based on the Social Model – as

> those who have long-term physical, mental, intellectual or sensory impairments which in interaction with various barriers may hinder their full and effective participation in society on an equal basis with others (UN 2006b, a 1).

Although the focus of White Paper 6 is not exclusively on disabled children, but instead places disabled learners among other groups of children facing barriers to learning and development, it uses in its title a terminology that traditionally exclusively caters for disabled learners, namely "Special Needs Education". Furthermore, the term *disabled children* appears seven times in White Paper 6.

Further, White Paper 6 prefers to use the term *disabled children* or *disabled persons* to *persons (children) with disabilities*. In the Disability Strategy, however, *people (persons) with disabilities* and *disabled people* are used interchangeably (ODP 1997, chap 1 & 2). It seems that both usages are acceptable in the South African policy environment. There is, however, a heated contention surrounding the (in)appropriateness of either terminology among the community of disabled people itself.

The preference of the term *persons with disabilities* by the UNCRPD is arguably in line with the Social Model of disability, the latter being the guiding principle of the Convention. But, the term *people **with** disabilities* where *disabilities* is preceded by the preposition **with** might imply that the disabling effect rests **with**(in) the individual person rather than with society or is due to a person's medical condition (similar to expressions such as persons with cancer) and thus confuses disability with impairment. Hence, rather than being in line with the Social Model as is often claimed by is advocates, this term has a bio-medical or pathological connotation (Clark & Marsh 2002:2). In addition, the term is criticised for its denial of the political or 'disability identity' which emerges from the disabled people's civil rights movement (Clark & Marsh 2002:2).

There is an interesting conception of disability in the Disability Strategy, namely that of locating all people along a continuum from having less severe to severe limitations – not just in an absolute disabled-nondisabled dichotomy – hence the notion that everybody is disabled to a greater or lesser degree. This is how the Disability Strategy describes it:

> Populations should not be conceived in terms of those who do have a disability versus those who do not. Instead, the concept should be of a continuum that covers the range of disabilities and degrees of disablement (ODP 1997, chap 3).

This notion of regarding all people as disabled and that of considering the state of being "able-bodied" as a temporary experience is shared by renowned scholars of the field:

> The polar distinction between normal and abnormal bodies and minds is misleading. People have a range of abilities and body types and personalities. Everyone has limitations. Everyone is vulnerable to injury and diseases …The term *temporarily able-bodied* reminds us that everyone is vulnerable to become disabled, through accident, diseases or aging. Impairment is a continuum, along which people move in both directions, not a matter of separate groups of disabled and able-bodied people. People are limited in different ways, through physical, sensor, intellectual limitation, and through mental illness; these states can be congenital, stable or fluctuating or degenerative, visible or invisible. Disability is complex and scalar, not absolute and unitary (Shakespeare 2006 cited in Shakespeare 2007:53).

5.1.2 The race-disability discursive mixture

Race, like disability, is socially-constructed, according to post-structural thinking (Harry 1992:113). The Social Model of disability blames social structures for the problems facing disabled people and not individual impairments (Rioux & Valentine 2006:49). The same applies to race. It is the social system that creates the colour differentiating and attendant acts of segregation and exclusion. "[R]ace and disability share much in common both metaphorically and politically" (Goodley 2011:36). Hunt (1966:154) views "racialised ghettoes and disability long-stay institutions as similar contexts that 'salved society's conscience'". As disabled bodies are often spatially excluded from the built environment conceived for the 'normal', so also are black bodies "confined to socially constructed spaces, reserves and ethnic ghettoes" (Dossa 2009:68).

Equally important, these two socially-imposed attributes of individuals, at times, form a powerful alliance and expose individuals to double discrimination and exclusion. There is, thus, an interesting discursive mixture of race and disability. South African offers a good example of this. Priestley (2006:23) makes this clear:

> As apartheid systematically segregated black people from full participation in society, so also a similar apartheid system created within the welfare state and policed by its 'caring' professionals left many disabled people segregated and 'socially dead' to the world at large.

The disability-race discursive compatibility is clearly seen in White Paper 6, a reflection of a larger socio-political reality in South Africa. In Chapter 1, in its contextual paragraph, White Paper 6 notes how enmeshed disability and race were in apartheid South Africa:

> The segregation of learners on the basis of race was here extended to incorporate segregation on the basis of disability. Apartheid special schools were thus organised according to two segregating criteria, race and disability. In accordance with apartheid policy, schools that accommodated white disabled learners were extremely well-resourced whilst the few schools for black disabled learners were systematically under-resourced.

Further, Howell, Chalklen and Alberts (2006:48) make this observation:

> Under apartheid, the experiences of disabled people were also the experiences of a deeply divided people living in a profoundly unequal society. The lived experiences of black and white disabled people under apartheid were very different and reflected the general inequalities between black and white disabled people in South Africa. For the majority of black disabled people, their lives were about struggling on a daily basis to cope with the poverty, deprivation and violence of the apartheid system, a struggle compounded by their disability.

White Paper 6 not only aims to create an inclusive education system, but also a non-racial one. It is acknowledged that in the past, where it existed, "specialized education and support were provided on a racial basis, with the best human, physical and material resources reserved for whites" (DoE 2001a, introduction). According to the Disability Strategy:

> More than 80% of black children with disabilities live in extreme poverty in inhospitable environments. They have very poor access to appropriate health care facilities and early childhood development opportunities (ODP 1997, chap 1).

A similar observation has been made by Disabled People South Africa (2000:12), "finding a white learner within these former black special schools, or finding a former white special school that have truly embraced cultural diversity is like finding a needle in a haystack".

As a result, black disabled people suffered a double-edged oppression both in terms of the difference in their skin colour and in terms of their disability although the former is less a part of the oppression. It is no wonder that the White Paper on Education and Training (DoE 1995) even uses the term *black education* (para 5(28)) to refer to the scanty education services and opportunities that were made available to blacks in South Africa.

Thus, black disabled people in apartheid South Africa had to grapple with two evils at the same time – racial discrimination and disability discrimination and they had to contend with two "devalued" identities though one of these identities, namely race, had an overriding significance. As Howell *et al.* (2006:50) observe:

> If the experience of disability for white disabled people was largely about discrimination on the basis of disability, the experience of disability for the majority of black people was strongly influenced by the inequalities and oppression of the apartheid system.

5.1.3 Full-service schools as model of inclusive education

The full-service schools' model – as envisaged in White Paper 6 and its accompanying policy documents – introduces a new approach to inclusion, hence contains inclusionary discourses. At the same time the approach entertains discourses such as "restrictiveness", assimilation and "spatialisation", which are features of special, segregated schools. Let us start at the definition of *full-service schools*:

> An ordinary school that is specially resourced or orientated to address a full range of barriers to learning in an inclusive education setting (DoBE 2010a:43).

According to this definition, the change towards inclusive schooling is to emerge from and is wrought on the existing ordinary school (defined by the Department as a school that is not a special school) (DoBE 2010a:68). From this, one can infer that the ordinary school – with its extant values, structures and systems – is the foundation on which inclusive education is to be built, hence has assimilationist overtones.

In a similar vein, Soudien and Baxen (2006:160) argue that White Paper 6 aims for accommodating disabled learners into the world of the normative, or the "ideal" world of non-disabled learners, namely the ordinary school, hence not strictly inclusive. This is so because in such assimilationist tendencies, "inclusive education is compromised by holding the extant regular school as the model for reform" (Slee 2010:19).

For Soudien and Baxen (2006:160), White Paper 6 failed to "show how it might work with difference other than the 'ideal' value of that which is dominant". And this glaring failure to show the ways to operate within instead of by eliminating, difference and to unravel the power valences that sustain difference is thus an important discursive silence of White Paper 6. There is an implicit "normalisation" discourse which requires that attempts be made to give disabled children access to the same rights and social resources as "normal" children, the latter being the reference point, the ideal state which disabled children are enabled to be assimilated into (Isaacs 1996:3).

As an attempt to demonstrate the shift away from the ordinary-special dichotomy towards inclusive/full-service schools, White Paper 6 (para 2.1.13) puts the word *ordinary* in "'ordinary' classes and lecture halls" in inverted commas, also called "scare quotes" in critical discourse analysis. Similarly, the Disability Strategy puts the term *ordinary* in scare quotes in its reference to existing services and amenities: "This results in an approach that requires that resources be made available to transform so-called 'ordinary' amenities and services to cater for a more diverse environment" (ODP 1997, chap 1).

Scare quotes are often employed for reporting opinions or controversial points of view, as well as to show that there is distance and doubt in the authors' minds (Van Dijk 1992:106). The word "ordinary" is not just the antonym of special – a term that is increasingly shunned. The word "ordinary" is defined as "according to established order; methodical; settled; regular"(Webster's Revised Unabridged Dictionary 1998), hence disabled learners not attending their education in

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ordinary schools are likely to be labelled as "against the established order, or the norm" or as being irregular- out of the norm, deviant. The "scare quotes" in the White Paper 6 can be attributed to three reasons. Firstly, scare quotes send the message that the word and its educational implications have sparing practical significance in the future of the South African education landscape. Secondly, they demonstrate that the *White Paper* is at a safe discursive distance from the ideological basis of the word. Thirdly, scare quotes are used to show that the word's polarising usage is no longer relevant, now that the dichotomy of special and ordinary schools is to be superseded by a unitary, full-service school model.

In another place, White Paper 6 still maintains this intellectual distancing from the term *ordinary* and the *mainstream* by acknowledging that "most learners with disability have either fallen outside of the system or been mainstreamed by default" (DoE 2001a, Executive Summary). Further, Consultative Paper 1 (DoE 1999, chap 2, para 1.1.5) portrays *mainstreaming* in a similarly negative light, and dubs it "mainstream dumping". The notion of *mainstreaming by default* – here painted in a negative light – is a situation where there are "a large group of learners in the mainstream that experienced learning difficulties but did not receive any form of support because the system could not provide it" (Donald 1996 cited in Swart 2004:234).

Van Rooyen and Le Grange (2003b:11-12) who dubbed *mainstreaming by default* "resourceful inclusion within exclusion" ask why it is being framed negatively and further pose a series of questions: Was it "because it was not implemented, controlled or built by those who know?"

It should also be noted that children with disabilities go to mainstream schools because they are unaware of their disabilities, which, according to General Comment No 9 of the UNCRC Committee, (para 37), is the result of a denial of children's rights to know about their disabilities:

> Children with disabilities and their caregivers should have access to information concerning their disabilities so that they can be adequately educated on the disability, including its causes, management and prognosis. This knowledge is extremely valuable as it does not only enable them to adjust and live better with their disabilities, but also allows them to be more involved in and to make informed decisions about their own care.

The use of the term *barriers to learning and development* in the introduction of White Paper 6 (DoE 2001a), indicates a departure from medical terminology. This term firstly considers disability a barrier among others, not "the barrier", and barriers that stand not only in the way of education, but also in the way of development. Secondly, it focuses on the barriers instead of the learners, hence is impersonal. This is yet again a reminder of the departure of White Paper

6 from the biomedical discourse of disability. But, contrary to this, paragraph 1.5.1 spells out the range of "factors" that give rise to learning needs, which differ from one learner to another: it should be noted that the term *factors* is used instead of *barriers to learning*. Thus, according to White Paper 6, different learning needs arise from: "physical, mental, sensory, neurological and developmental impairments, psycho-social disturbances, differences in intellectual ability, particular life experiences or socioeconomic deprivation". Interestingly, the term *barriers* is used in the Guidelines for Full-service/Inclusive Schools referring to these first group of factors, as "intrinsic barriers" or "factors within learners" (DoBE 2010c, para 3.3.3) (see Figure 9), again portraying a deficit notion of the learner as being inherently responsible for the barriers he/she faces.

Similarly, Van Rooyen, Le Grange and Newmark (2002:6) wonder whether the term *barriers to learning* is not "a cosmetic adjustment to disguise the medical discourse". They also argue that, despite its claim to avoid the use of the terms *learners with special education needs* and *learners with mild to severe learning difficulties* because of these terms' biomedical connotations, the term *special needs education* is used in the title of White Paper 6 (see DoE 2001a, title).

Figure 9 Barriers to learning and development
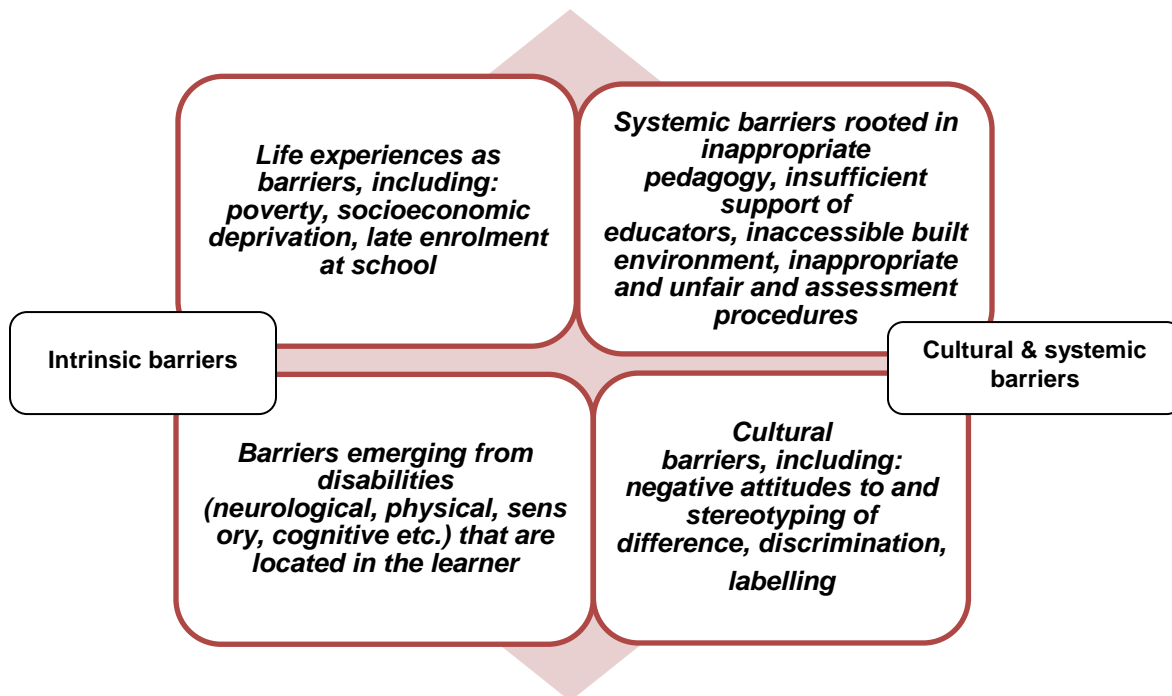
Source: Adapted from DoE (2002b:6); DoBE (2009:9)

White Paper 6 extends the list of factors that give rise to different learning needs to include:

> negative attitudes to and stereotyping of difference; an inflexible curriculum; inappropriate languages or language of learning and teaching; inappropriate communication; inaccessible and unsafe built environments; inappropriate and inadequate support services; inadequate policies and legislation; the non-recognition and non-involvement of parents, and inadequately and inappropriately trained education managers and educators.

The Guidelines for Full-service/ Inclusive Schools call these set of factors "cultural and systemic barriers" (DoBE 2010c:9). It is interesting to note that these are in actuality barriers to learning that impede the satisfaction of learning needs rather than factors giving rise to different learning needs. It is odd to name these barriers just as factors that give rise to different learning needs (instead of factors that impede learning). For instance, how can inadequate policies and legislation, inappropriate and inadequate support services and inaccessible and unsafe built environments give rise to different learning needs? In fact, it is fair to say that these factors (as barriers) unfairly impose similar learning needs on learners with different learning needs. If what these factors indeed give rise to is just "different learning needs" – as formulated in White Paper 6 – why do we make efforts to change these factors? Is a different *learning need* necessarily an unwanted attribute?

White Paper 6 retains what it calls "internationally acceptable terms of 'disability'[18] and 'impairment'" when referring to "those learners whose barriers to learning and development are rooted in organic/medical causes" (DoE 2001a, para 1.2.3). Here, the terminology suddenly turns personal or biomedical: "learners ***whose*** barriers to learning and development" [emphasis added], blaming the individual for creating and possessing the barriers.

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[18] The claim to accept international terms, and by extension models, contrasts sharply with White Paper 6's claim of its own local models: what it calls the "South African models of inclusion" (see DoE 2001a, para 1.5.5).

In terms of defining inclusive education, according to paragraph 1.4.1 of White Paper 6, inclusive education and training:

- Is about acknowledging that all children and youth can learn and that all children and youth need support.
- Is accepting and respecting the fact that all learners are different in some way and have different learning needs which are equally valued and an ordinary part of our human experience.
- Is about enabling education structures, systems and learning methodologies to meet the needs of all learners.
- Acknowledges and respects differences in learners, whether due to age, gender, ethnicity, language, class, disability or HIV status.
- Is broader than formal schooling and acknowledges that learning also occurs in the home and community, and within formal and informal modes and structures.
- Is about changing attitudes, behaviour, teaching methodologies, curricula and the environment to meet the needs of all learners.
- Is about maximising the participation of all learners in the culture and the curricula of educational institutions and uncovering and minimising barriers to learning; and,
- Is about empowering learners by developing their individual strengths and enabling them to participate critically in the process of learning.

This definition has a number of important attributes; firstly, it adheres to the principle of "respect for difference" and valuing difference on an equal basis. It is clearly embedded in the Social Model as it focuses on changing the structures, systems and learning methods as well as challenging attitudes, behaviours, curricula, culture and the environment rather than changing the child. The human difference appealed to here is not just disability, but also age, gender, ethnicity, language, class or HIV status. The definition also rightly extends the notion of inclusion well beyond the formal classroom setting into the social realm. This notion is elaborated by Sayed *et al.* (2003:244-245):

> Educational inclusion … presumes a broad-based collective will to effect transformation at every level of society. It requires grand schemes within an architecture that frames and facilitates transformation as well as political will at a sectoral, institutional and classroom level to create truly inclusive spaces.

The need to strengthen school-community linkages, as an important feature of inclusion is underscored by the Inclusive Education Directorate through a model of educational support termed "Community-based education support". This is a support system comprising all the human resources and services that could support the education system and work collaboratively to address priorities. Accordingly, such a system is expected to benefit from the human resources, including,

> teachers; learners; parents; community members; psychologists; health workers; available therapists; community organisations such as disabled people's organisations; parent organisations; school governing bodies; school management staff; social workers; department of education personnel; community-based rehabilitation (CBR) workers; school nurses; medical doctors; community leaders; traditional healers; nutritionists; service, youth, religious and welfare organisations; other government services, NGOs; and the private sector (DoE 2005:18).

Further, the definition equates inclusion with empowerment and "critical" participation, not just the kind of tokenistic or decorative participation where participation is either imposed, or is just mechanical not involving genuine buy-in, or ownership. Merriam-Webster Dictionary (2012, s.v. 'critical') defines the term *critical* as "exercising or involving careful judgment or judicious evaluation". Hence, the kind of participation promoted here is one that is carefully judged, evaluated and valued by the participants as to its merit and veracity.

5.1.4 Discourses of segregation in full-service schools

The education reform efforts in South Africa have the goal of both systemic transformation and change of special and ordinary schools:

> Transformation and change must therefore focus on the full range of education and training services: the organisations - national and provincial departments of education, further and higher education institutions, schools - (both special and ordinary), education support services, curriculum and assessment, education managers and educators, and parents and communities (DoE 2001a, para 2.1.14).

Among the levers of change stated in White Paper 6 to achieve the requisite change and transformation is the qualitative improvement of special schools and settings (see Figure 10). This "qualitative improvement", stated under paragraph 1.5.6 of White Paper 6, can be read to include not just bestowing a qualitatively different educational function for special schools, but baptising these schools with a novel identity, where the apartheid-tainted marks and the racial ravages that have been mingled with the very fabric of these schools is to be erased. This would, therefore, have far-reaching implications to nation building.

It is thus apparent that both systems of education are likely to survive parallel to – and complementing – one another, until the role of special education is fully and qualitatively altered. The still persistent duality [special and ordinary] of the South African education system is clearly reflected in its policy documents, although the special education system is portrayed as an alternative or last resort maintained in anticipation of some children's failure in ordinary classes. For instance, in Consultative Paper 1, we read:

> Given this situation, we have little choice but to pursue the establishment of an inclusive education and training system first by strengthening the capacities of ELSEN – within special and ordinary schools, colleges, adult and early childhood learning centres and higher education – so that we can provide an appropriate alternative for learners who are failing in ordinary classes (DoE 1999, chap 2, para 1.1.6).

Another indication of this duality [special-inclusive] of the education system is seen in the fact that many of the elements of a special needs education such as placement, continuum of services, intensive support services, and screening and identification are alive in the envisaged inclusive educational dispensation, albeit at times couched in a slightly different vocabulary.

Figure 10 Six levers of change for establishing an inclusive education and training system in South Africa

The qualitative improvement of special schools and settings	1
The mobilisation of out-of-school disabled children and youth	2
The designation and conversion of primary schools to full-service schools	3
The general orientation and introduction of relevant professional staff to the inclusion model and early identification of disabilities and interventions	4
The establishment of district-based support teams	5
The implementation of a national multi-stakeholder advocacy and information programme in support of the inclusion model	6

Source: DoE 2001a, para 5.6, sub-paras 1.5.6.1-1.5.6.6

White Paper 6, in its introductory remarks, makes it clear that special schools will be "strengthened rather than abolished". The Guidelines for the Implementation of Inclusive Education: Special Schools as Resource Centres clarify that

> [t]he notion of strengthening special schools does not necessarily mean that more and more special schools should be built. Within the framework of delinking site from support, it would be much better to make more support programmes available at local level in full-service schools and through site-based support teams to ordinary neighbourhood schools (DoE 2005, foreword).

On the contrary, the White Paper also likened special education to apartheid itself by branding it as an instrument of apartheid which carries the scars of apartheid: "Special needs education is a sector where the ravages of apartheid remain most evident" (DoE 2001a, chap 1.1). The education and training system is expected to "transform itself to contribute to establishing a caring and humane society," as stated in paragraph 1.1.6, and that transformation is to be undertaken upon the evident ravages of apartheid.

Hence, strengthening such a system of schooling would amount to strengthening apartheid, or allowing it to live on being incarnated in such a system of schooling. Indeed, the adjective "apartheid" is pre-fixed in the special schools of the era: "Apartheid special schools" – referring to extremely well-resourced schools, which "accommodated white disabled learners" while "the few schools for black disabled learners were systematically under-resourced" (DoE 2001a, Executive Summary).

This is substantiated by the following statistics: the per learner expenditure varied from R28, 635 in the Western Cape, to R11, 049 in Gauteng. While the Western Cape has 5.47% of the disabled population, it has 21.58% of the special schools. The Eastern Cape constituted 17.39% of the disabled population, yet it has only 10.79% of the total number of special schools (DoE 2001a, para 1.3.3).

Therefore, given this fact, there is doubt as to whether or not the "transformation" rhetoric is indeed true as far as the old ingredients of the education system are not only left in place but also strengthened. Yet, in a contradictory vein, White Paper 6 criticises "segregated education", calling it a place of isolation, and likening it to darkness, and to even apartheid itself.

For instance, White Paper 6 (DoE 2001a, para 3.2.7) claims to "systematically move away from using segregation according to categories of disabilities as an organising principle for institutions", but again places "an emphasis on supporting learners through full-service schools that will have a bias towards particular disabilities depending on need and support" as well as noting that the incorporation of learners into full-service and ordinary schools will be done in "an incremental manner". It is also noted that "some degree of targeting on the basis of poverty/income/socioeconomic status would be required". Hence, an in-built system of differentiation (segregation) among learners with disabilities is at work to prioritise some before others.

It should also be noted, that tendencies at categorising learners, an important attribute of segregated education, is still evident in White Paper 6 (DoE 2001a, para 1.3.7):

> In an inclusive education and training system, a wider spread of educational support services will be created in line with what learners with disabilities require. This means that learners who require low-intensive support would receive this in ordinary schools and those requiring moderate support would receive this in full-service schools. Learners who require high-intensive educational support would continue to receive such support in special schools.

Paragraph 1.4.2 of the White Paper 6 has a similar tone:

> It is clear that some learners may require more intensive and specialised forms of support to be able to develop to their full potential. An inclusive education and training system is organised so that it can provide various levels and kinds of support to learners and educators.

This section does not discount the possibility of promoting "more intensive and specialised forms of support" to some learners. Although the White Paper does not mention *continuum of services*, it seems that it is promoting it when it suggests that the system "be organised so that it can provide ***various levels and kinds of support*** to learners and educators" [emphasis added]. Consultative Paper 1, in defining inclusion in education and training, mentions the phrase ***continuum of learning contexts and resources*** but avoids using the phrase ***continuum of services***:

> the promotion of the equal participation of and non-discrimination against all learners in the learning processes, irrespective of their disabilities, within a single, seamless system, and a continuum of learning contexts and resources according to need (DoE 1999, chap 2, para 1.1.1).

The Merriam-Webster dictionary (2012, s.v. 'context') defines the term *context* as "the interrelated conditions in which something exists or occurs: environment, setting". Hence, the term *continuum of contexts* mentioned in the Consultative Paper 1, in effect, refers to continuum of settings or environments, which in special education vocabulary are actually the different educational placements in a continuum that runs from the most restricted (the least ideal) to the least restricted (most ideal) settings. The principle *least restrictive environment* – as its name implies – legitimises restrictiveness and espouses the assumption that learners with disabilities must earn the right to graduate to the next less restrictive environment in a continuum of educational settings when they are ready despite the fact that segregated schooling may never prepare them for integrated schooling. It also assumes that least restrictive, most integrated settings, are not capable of providing the intensive services needed by learners with severe disabilities – relegating these learners to the most restrictive settings (Taylor 2004: 222-224).

We find in the literature that specialised service of greater intensity are often associated with facilities more removed from the mainstream of education, hence highly segregated (Sage & Burrello 1986:18).

According to Taylor (2004:220), depending on his/her individual needs, every person with a disability can be located somewhere along this continuum between the most restrictive and least restrictive placements: placements that are referred to as the most restrictive are the most

segregated and where the most intensive services are offered, while the least restrictive placements offer the most opportunity for integration and independence and provide the least intensive services. It should be noted that the term *restrictiveness* is defined as "a gauge of the degree of opportunity a person has for proximity to, and communication with, the ordinary flow of persons in our society" (Champaign 1993:5). Therefore, a more restrictive educational environment is likely to end up being one which ghettoises and "spatialises" learners with severe disabilities. The above special education discourse of *continuum of services* is further strengthened by the overtones of the SIAS to the notion of placement, denoted in the Strategy as "not a placement process but support provision process" (DoE 2008b:33). The SIAS defines *support* to include "all activities in a school [involving all staff] which increase its capacity to respond to diversity" and further elaborates:

> Providing support to individuals is only one way of making learning contexts and lessons accessible to all learners. Support also takes place when schools review their culture, policies and practices in terms of the extent to which they meet individual educator, parent and learner needs. Support takes place when educators plan lessons in such a way that they accommodate all learners. Support then, must focus broadly on the learning and teaching process by identifying and addressing learner, educator and institutional needs.

Although the Strategy document (DoE 2008a:81) provides that "educators must take care not to label learners who are identified for additional support" so as not to promote "exclusionary practices", it mentions the word *site* (DoE 2008b:85):

> When choices have to be made about the learner's enrolment into a **site** where additional support is available, parents/caregivers need to have full information about all options so that they can make informed choices... The financial situation of the family and their capacity to pay (especially in terms of transport) for the choice of school should be taken into account [emphasis added].

At this juncture, it would be instructive to contrast the term *full-service schools* with the terms *continuum of services* and *cascade of services*[19] (terms that were common in the early years of the evolution of Special Needs Education). Firstly, the term *full-service schools* is service-oriented and promises the provision of "full" services – or "a full range of learning needs". In addition to the commercialisation and marketisation overtones of the term *service*, which automatically invokes notions of products and customers, the term *full-service* sounds like it is making a promise to bring in what is traditionally referred to as "continuum of services" mechanically under the same roof. This may be yet another indication of the perpetuation of segregated, special needs education practice couched in an inclusive vocabulary.

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[19]   The term *cascade* refers to services that move from the most fully integrated to the least integrated or alternatively from least restrictive to more restrictive environment (Cengage Learning Australia 2010).

It is also noteworthy that the Guidelines for the implementation of Full-Service schools call Special education a "'service, not a place" (DoBE 2010c, para 9.5.3). This challenges the traditional placement notion of special needs education as well as linking it to the concept of "Full-Service schools", demonstrating that this "service" is also available to "full-service schools". At the same time, it negates the fact that placement decisions are often made on the basis of the service needs of a learner with disability (Dornbush & Pruitt 2005:173). Secondly, an inference can be made from White Paper 6 that there are more intensive, highly specialised and less intensive and less specialised services offered to learners (DoE 2001a, para 1.4.2) further reinforcing my argument that the system allows for a *continuum of services*.

Thirdly, the full-service model comes very close to *whole school approach* to inclusion, which implies a proactive approach to maximising on the collaborative efforts of existing resources and staff towards meeting diverse learning needs within the regular school (Theoharis & Causton-Theoharis 2011:102). The Oxford English Dictionary (2002, s.v. 'full') presents the word *full* as the synonym for the word *whole*, though the word *whole* might have a far richer meaning of "completeness" or "an unbroken state" than the word *full* – which simply means "containing or holding as much or as many as possible". It is instructive to contrast this term with the term *comprehensive* used in the World Programme of Action (1982, item 122), where it is required that educational services be:

> *(c) Comprehensive,* i.e. serving all persons with special needs irrespective of age or degree of disability, and such that no child of school age is excluded from educational provision on grounds of severity of disability or receives educational services significantly inferior to those enjoyed by any other students;

Yet, it is clear from the Consultative Paper 1 (DoE 1999, chap 2, para 1.1.2) that the *whole-school approach* is not what is intended in the country's inclusive education and training model. The Consultative Paper 1 states that the intended model:

> ... differs from whole school approaches that have sought to merge ordinary and special schools, and so, to accommodate all learners, irrespective of their disabilities, social difficulties or learning needs within ordinary schools or learning contexts. Whole school approaches, which carry some support locally, have been informed by strong value statements and commitments, but have shown to flounder at the stage of implementation. This has been so since both 'ordinary' and special schools and settings have resisted change given their historic practices. Group teaching, comprehensive education and the learning of academic knowledge and intermediate to high level skills has dominated the education practices of ordinary schools and settings, while individualised teaching, and the teaching of basic literacy and low level skills has dominated those of special schools and settings. The experience has been for special schools to simply be replicated as segregated units in 'ordinary' schools, thus defeating the purpose of whole school approaches.

The existence of separate White Papers on Education and Training, one being the White Paper on Education and Training (1995), and the other, the White Paper on Special Needs Education and Training (2001), is yet another indication of the special-ordinary dichotomy that still operates in the minds of policy makers and technicians. Yet, it is interesting to make a parallel of this with the justification given by the Ministry for coming up with a separate document that relates to *Inclusive Outcome Based Education,* which is apparently an attempt at dispelling any illusions of such a dichotomous thinking:

> This document has been distributed **separately** to highlight the need for inclusivity and to enable educators to be conscious of the issues and translate them into action thus addressing the needs of learners who experience barriers to learning [emphasis added] (DoE 2002:2).

Thus, far from a total inclusion, and despite its discursive silence on the special education notions of *least restrictive environment* and *continuum of services*, White Paper 6 still embeds a number of elements of these notions, hence giving room for the possibilities of segregated learning that runs from most restrictive to least restrictive. In paragraph 1.1.1, White Paper 6 (DoE 2001a) notes:

> In establishing an education and training system for the 21st Century, we carry a special responsibility to implement these values and to ensure that **all learners, with and without disabilities**, pursue their learning potential to the fullest [emphasis added].

Van Rooyen, Le Grange and Newmark (2002:8) read into this paragraph a clear sense of hesitancy implied in qualifying the term *all learners* by adding *with and without disability,* while the term all learners could have sufficed, hence betrays a deep-seated intent of differentiation. In the same vein, Van Rooyen and Le Grange (2003a:154) posit that White Paper 6 predicates "mainstreaming or allocation to ordinary schools" upon assessment of the severity of the barriers to learning and the degree of support needed". The implication is that learners who require highly specialised, more intensive services may not be allowed to enter full-service schools, hence their argument that White Paper 6 "constitutes conditional rather than unconditional acceptance of inclusion".

5.1.5 "Hidden" curriculum, critical pedagogy and learners with disabilities

In today's education system that is highly commercialised, competitive and selective and one that requires its learners to adapt into it or cope with it, children with disabilities have often been considered "unfit" for the ordinary school system (Vlachou 1997:13). As a result they have been offered sub-standard, separate, curriculum, in a segregated educational system, akin to a medical setting. The South African government has acknowledged that the way the formal

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(surface) curriculum is organised and delivered can be a factor for inclusion or exclusion (DoE 2001a, para 1.5.3). Even where there is formal recognition of inclusion through laws and regulations, and a single curriculum is applied for all, the actual inclusion of learners with disabilities into the "mainstream" is sure to be affected by the "hidden" curriculum. The "hidden" curriculum", as its name implies, is not easily noticeable:

> because it is about values, principles and practices that learners are supposed to follow or learn intuitively. It is about attitudes and beliefs that … educators attach to learning and teaching, roles and responsibilities of the various stakeholders in the learning process (Väyrynen 2003:6).

South African society, like in other parts of the continent, is not free from cultural and attitudinal prejudices towards children with disabilities, in which case, the "hidden" curriculum – being the tacit force that induces learners to conform to "dominant ideologies and social practices" as well as culturally-accepted attitudes, beliefs and values (McLaren 1989 quoted in Pinar & Bowers 1992: 167-168; Väyrynen 2003:6) – is likely to work to their detriment.

The exclusionary influences of the "hidden" curriculum are often mitigated through what is referred to as critical pedagogy, which focuses on the "subtle workings of racism, sexism, class bias, cultural oppression, and homophobia" (Kincheloe 2008:9). Calling education a "referent for change", Macedo (1985: xiii), citing Paulo Frere, notes that education involves making "the political more pedagogical, that is to make a critical reflection and action a fundamental part of a social project that … engages forms of oppression".

The South African government has been keenly aware of this political and ideological function of education and its role in perpetuating or reversing inequality and exclusion as it is evident in its various policy statements. The path of critical pedagogy pursued in post-apartheid South Africa – manifest in some of the country's education policy documents – reaffirms the assumptions made of critical pedagogy entertained in the literature. These include emancipation and cultural transmission as the goals of the educational process and the acknowledgment that "schooling and every form of educational practice" are politically contested spaces (Kincheloe 2008:2).

For instance, the Schools Act, in the Preamble, states:

> …this country requires a new national system for schools which will redress past injustices in educational provision, provide an education of progressively high quality for all learners and in so doing lay a strong foundation for the development of all our people's talents and capabilities, advance the democratic transformation of society, combat racism and sexism and all other forms of unfair discrimination and intolerance, contribute to the eradication of poverty and the economic well-being of society, protect and advance our diverse cultures and languages, uphold the rights of all learners, parents and educators, … (RSA 1996b).

This critical awareness on the role of education in political and social transformation of the country and in effecting a break from a gloomy past, led to "the most significant" curricular reform South Africa has ever seen (Review Committee on C2005 2000:9). This curricular reform offered a "pedagogical route out of apartheid education" (Chisholm 2003:3) as education in immediate post-apartheid South Africa symbolised the apartheid political system itself (Harley & Wedekind 2004:196). The Review committee of C2005 had this to say:

> Deliberately intended to simultaneously overturn the legacy of apartheid education and catapult South Africa into the 21st century, it was an innovation both bold and revolutionary in the magnitude of its conception. As the first major curriculum statement of a democratic government, it signalled a dramatic break from the past.

Readings into the country's post-apartheid policy instruments also reveal how the government acknowledges this role of critical pedagogy in perpetuating ideological hegemonies and collective values. For example, the White Paper on Education and Training recognises that:

> [i]n a democratically governed society, the education system taken as a whole embodies and promotes the collective moral perspective of its citizens, that is the code of values by which the society wishes to live and consents to be judged. From one point of view, South Africans have had all too little experience in defining their collective values. From another, our entire history can be read as a saga of contending moralities, which in our era has culminated in a historic agreement based on the recognition of the inalienable worth, dignity and equality of each person under the law, mutual tolerance, and respect for diversity (DoE 1995, para 3(3)).

The White Paper on Education and Training further notes how State policy was always allied to education policies (as well as language and cultural policies) and how dominant State ideologies were faced with political resistance in the struggles for educational, language and cultural rights (DoE 1995, para 4(17)).

It is good that education - schools as its vehicle - is envisaged as the purveyor of change, redress and transformation in the new South Africa. But the challenge remains that extant schools may not – by their configuration – be the ideal instrument for translating into action the equity policy rhetoric as they are inherently implicated in an exclusionary process (Sayed *et al.* 2007:39).

The school is more than an institutional site, playing a role in the reproduction and transmission of a "dominant culture with its selective ordering and privileging of specific language, modes of reasoning, social relations, and cultural forms and experiences" (Macedo 1985: xv). This was strongly more so in South African context:

> The new educational system, scripted as it might be in the language of inclusion, retains its structural – geographic, infrastructural and physical – identity. The new post-apartheid school is in exactly the same place, the same neighbourhood and the same social environment as it had been during the old order. Given the racial and class nature of this context, and the limited degree to which it has changed during the new democracy – comprising either poor and straitened communities or a rich and thriving one – schools have had to work with their inherited legacies. These are profoundly decisive in shaping the school and leave it with its history largely intact and reproduced, continuing to define the school as an exclusionary space. Given these constraints, privileged children are not suddenly going to want to go to poor schools. Thus while constitutionally, schools are now open, practically they are not, and continue to be governed by the modalities of their pasts (Sayed *et al.* 2007:39).

In a nutshell, the role of education as a political and ideological instrument has ever been very much present – in both tacit and explicit ways – in the South African education policy environment. This function of education as an instrument of emancipation, as the apparatus of social engineering agendas and as a palpable force behind social justice – "critical pedagogy"– was duly acknowledged. From the attempt to use curricular reform efforts as a "pedagogical route out of apartheid" to the altered (or transformed or reformed) role of educators as the foot soldiers of social justice and inclusion and as the vanguards in the march towards a truly rainbow nation, there is ample evidence to suggest that the South African educational terrain has attempted to employ critical pedagogy for ideological and inclusionary ends. To these one can add the country's recognition – albeit inadequate – of the role of the "hidden" curriculum as a triple-edged sword of exclusion – based on race, class and disability.

In such a state of affairs, children with disabilities – and more so black children with disabilities – are more likely to be excluded because of the ethos manifesting in the "hidden" curriculum. The current thrust in South Africa to counteract the effects of the hidden curriculum through critical pedagogic orientations is laudable, but far from enough.

5.1.6 Ministry (of Education) as pioneer, crusader and commander

Van Rooyen and Le Grange (2003a:154) elaborate what they termed the "military" and "missionary" discourses embedded in White Paper 6. In the military discourse, the Ministry (of Education) assumes the role of a military commander, waging war against attitudes and practices that run counter to its vision, launching targeted campaigns, and then ensuring unconditional surrender to its will. In its assumed role as a military commander, the Ministry "uncovers negative stereotypes, launches an information and advocacy campaign, targets parents and mobilises community support" (paras 2.2.7.1-2.2.7.3). Still on the military discourse, the Ministry (DoE 2001a, para 2.2.7.1) invites an unconditional surrender to the values enshrined therein as it states:

> … advocating unconditional acceptance and winning support for the policies put forward in this White Paper will be essential to the establishment of the inclusive education and training system.

"War is declared" against any social constructions that run counter to the Ministry's vision (Van Rooyen & Le Grange 2003a:154). This call for "unconditional acceptance" might give the impression that little narrative space is allowed for entertaining lay discourses – hence is a dominating discourse. Thus, power imbalances and social oppressions created and maintained through discourses are themselves tackled through the imposition of official discourses – through forcing other social constructions to surrender to the power of the Ministry and the discourse it espouses. Yet, in retrospective terms, there is some evidence of lay discourse being entertained in the formulation of White Paper 6, which passed through a consultative process, leading to the receipt of "fifty-nine written submissions by individuals, organisations, institutions and many national and provincial departments" (DoE 2001a, Annexure A).

It can also be argued that with a change in the political dynamic, the policy makers and the masses have become one and the same. This is seen in instances where policy makers actively identify themselves with the discriminated mass: "These exclusions echo the discriminatory practices which far too many of *us* experienced in the Apartheid years …" [emphasis added] (DoE 2003:2). Put bluntly, the *crusaders* and the *heathens*, the *commanders* and *the conquered* as well as the *pioneers* and the *followers* blend seamlessly. This can be construed as a powerful rhetorical device of persuasion of the reader of policy texts to be converted and take up a subject position desired by the Ministry.

At the same time, in other instances, we see the same people distancing themselves from the marginalised. For instance, in the Foreword of the Disability Strategy (ODP 1997), it is stated that

> the concept of a caring society is strengthened and deepened when **we** recognise that disabled people enjoy the same rights as **we** do and that **we** have a responsibility towards the promotion of **their** quality of life [emphasis added].

The other problem is the interface between the personal pioneer, crusader or commander versus the institutional one. The then Minister of Education, Professor Kader Asmal, in his introductory remarks to White Paper 6, mentions his contentment for taking personal ownership of a critical process:

> I am especially pleased that I have had the opportunity to take personal ownership of a process so critical to our education and training system which begun some five years ago in October 1996 with the appointment of the National Commission on Special Needs in Education and Training and the National Committee on Education Support Services (DoE 2001a, introduction).

In this connection, one might ask: what is it that is affirmed as "we" in the White Paper 6 when Imbeki, Asmal and others say "I", "we", "our", or "us"? (Bulley 2009:29). Does not this entity – which takes upon itself the responsibilities of fulfilling the promises made in the White Papers – change over time? Is it the same always even as White Paper 6 or the Disability Strategy will be there always (until of course it is changed, which may be very unlikely in the short term)? If not, what are the implications of the presence of the subject stated as "I" or "we" for the understanding and implementation of White Paper 6 or the Disability Strategy? If said subject leaves the scene[20] – which has happened in South Africa many times since the adoption of White Paper 6 – how does the other subject replacing him/her legitimise its position as a pioneer, crusader or commander, and as being responsible for taking the baton forward? Indeed, different subjects are invoked at different times – though the text remains frozen over time – which might well be a rhetorical manoeuvre intended to send a message that continuity, in terms of both substance and execution, is ensured despite ministerial turnover, and that the institutional and the personal crusader, commander and pioneer are always one and the same.

However, the missionary discourse, according to Van Rooyen and Le Grange (2003a:154) is manifested in the outreach gesture of the Ministry to the public by disseminating information, advocating for unconditional acceptance and willing support for the cause. This is seen in the

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[20]   Kader Asmal served as Minister of Education between 1999 and 2004. He was then was replaced by Naledi Pandor (2004-2008). Now the Ministry has two ministers, Minister of Basic Education, Angie Motshekga (2009- present) and Minister of Higher Education (2009-present). Hence, there is a ministerial turnover that spans five years.

following words of the then Minister of Education where he described the agenda of White Paper 6 of redeeming children with disabilities from their captivity imposed upon them by their apparently *ignorant* "mothers":

> I hold out great hope that through the measures that we put forward in this White Paper we will also be able to convince the thousands of mothers and fathers of some 280,000 disabled children - who are younger than 18 years and are not in schools or colleges – that the place of these children is not one of isolation in dark backrooms and sheds. It is with their peers, in schools, on the playgrounds, on the streets and in places of worship where they can become part of the local community and cultural life, and part of the reconstruction and development of our country (DoE 2001a, introduction).

In what Van Rooyen and Le Grange (2003b:11) call "a pioneering discourse", the Ministry takes upon itself the role of a saviour, or a pioneer, mobilising the "lay public" behind a noble cause. In this regard, White Paper 6 is littered with action verbs such as "building", "providing a framework", "establishing", "developing", "implementing", and "transforming", showing the dominating agency of the passive voice (the Ministry). The use of the "passive voice" is also reminiscent of tendencies of removing or diffusing accountability, as all these lofty action verbs become the responsibility of all or none. According to Armstrong (2003:129), the passive voice positions learners with barriers to learning and development as having things done to them.

In many places, White Paper 6 uses *must* and *shall* signifying an obligatory tone of voice, but the use of the passive seems to dilute that determination by not mentioning where the obligation lies such as under paragraph 1.1.7 where it is stated:

> Particular attention **shall** be paid to achieving these objectives through a realistic and effective implementation process that moves responsibly towards the development of a system that accommodates and respects diversity [emphasis added].

Modal adverbs such as **must, shall** and **should** are used for expressing authority obligation and necessity (Baker & Ellece 2011:71). A noteworthy usage of the modal adverb **must** in conjunction with the pronoun **we** – hence with a powerful stylistic value – is found under paragraph 1.5.5 of White Paper 6:

> It is this approach that lies at the heart of this White Paper: a determination to establish an inclusive education and training system as our response to the call to action to establish a caring and humane society, and a recognition that within an education and training system that is engaging in multiple and simultaneous policy change under conditions of severe resource constraints, **we must** determine policy priorities, identify key levers for change and put in place successful South African models of inclusion [emphasis added].

This distinction becomes even more complex when *the ministry* and *we* appear distinct as in the following paragraph of White Paper 6.

> … *The Ministry believes* that for *us* to pursue successfully the agenda outlined in this White Paper, *we must recognise* that learning difficulties are located and experienced within all bands of education and training - general, further and higher education and training - and across the curriculum and instruction [emphasis added] (DoE 2001a, para 13).

Yet, interestingly, wherever the modal adverb *must* is used, there is a more pronounced de-focalisation and the use of the passive voice, which diminishes the authoritative use of *must*. The following paragraphs offer good examples:

> The White Paper outlines how the education and training system *must* transform itself to contribute to establishing a caring and humane society, how it *must* change to accommodate the full range of learning needs and the mechanisms that should be put in place [emphasis added] (DoE 2001a, para 1.1.6).

> Transformation and change *must* therefore focus on the full range of education and training services: the organisations – national and provincial departments of education, further and higher education institutions, schools – (both special and ordinary), education support services, curriculum and assessment, education managers and educators, and parents and communities [emphasis added] (DoE 2001a, para 2.1.14).

> … Policies, legislation and frameworks for the school and college systems *must* provide the basis for overcoming the causes and effects of barriers to learning [emphasis added] (DoE 2001a, para 2.2.1.2).

Shall is used for instance in reference to the review of all existing policies and legislation for general, further and higher education and training so that "these would be consistent with the policy proposals put forward in this White Paper" and in reference to the obligation of "all advisory bodies to provide the Ministry with advice on how to implement the policy proposals contained in this White Paper" (para 2.2.1.1); in relation to the revision of age grade norms (para 2.2.1.2); and vis-à-vis the creation of barrier-free physical environments (DoE 2001a, para 2.2.1.5).

Shall is also used in reference to the establishment of institution-level support teams (para 2.2.2.3); in relation to the provision for teachers of appropriate pre-service and in-service education and training and professional support services (para 2.2.2.5); the conversion of primary schools into full-services schools (para 2.2.3.3) and that of special schools and settings to resource centres (para 2.2.2.6); in relation to curriculum development, assessment and instructional development programmes (para 4.3.8.1); and in reference to partnership with parents (para 4.3.10.3).

It is interesting to observe that all the above statements contain the major elements of the full-service model, namely barriers to learning, curricular and instructional arrangements, the role of special schools, educator supply and development, parental involvement, and the elements required for implementing White Paper 6 such as the establishment of institutional support systems.

By contrast, the modal adverb *will* is used consistently in reference to the Ministry's public education and advocacy programmes under paragraphs 1.5.6.6, 2.2.3.2, 2.2.7.2 and 4.3.10.1:

> the Ministry *will* put in place a public education programme to inform and educate parents of these children and youth, and will collaborate with the Department of Social Development to develop a programme to support their special welfare needs, including the provision of devices such as wheel chairs and hearing aids [emphasis added] (DoE 2001a, para 2.2.3.2).

The modal adverb *will* is also used vis-à-vis the mobilisation of out-of-school children with disabilities in order to accommodate them in schools:

> As part of its information, advocacy and mobilisation campaign, and subject to the expansion of provision and access described in this White Paper, the Ministry will target the recruitment of those learners of compulsory school-going age who are not yet accommodated in our schools (DoE 2001a, para 2.2.7.4).

White Paper 6 also uses another rhetorical device to strengthen its redemptive, missionary pioneering messages, namely repetition. Johnstone *et al.* (1994:13) argue that repetitions may help in refreshing memory, forestalling silence and dispelling possible ambiguities about the intent of the author/speaker and ensure the message's unmistakeable reception by the reader. Repetition also plays the cognitive function of directing the hearer's attention in instructive terms, especially in the classroom setting, towards the message at hand (Johnstone *et al.* 1994:13). The latter function of repetition might connote hierarchy as the one that prevails between the teacher [as the possessor of discursive resources] and his/her learners [as subjects or passive recipients of these resources] in a teacher-controlled, classroom setting - an indication of calculated firmness and authority by the author or speaker. Similarly, according to Short (1996), "repeated structures become perceptually more prominent, and as a result they are stylistically significant" (cited in Baker & Ellece 2011). In White Paper 6, emphasis is placed – for instance – by reproducing word-for-word – in an almost poetic repetition – on a number of issues such as the Ministry's intent of undertaking public advocacy and education campaigns, and its assertion of the presence of a broad range of learning needs among the learner population.

For instance, in the case of the latter, there is a word-for-word repetition of an entire paragraph except that in the other paragraph the word **accepts** is used instead of **appreciates**, which is an important distinction:

> The Ministry **appreciates** that a broad range of learning needs exists among the learner population at any point in time, and that where these are not met, learners **may** fail to learn effectively or be excluded from the learning system" [emphasis added] (DoE 2001a, para 11)

> The Ministry **accepts** that a broad range of learning needs exists among the learner population at any point in time, and that where these are not met, learners **may** fail to learn effectively or be excluded from the learning system [emphasis added] (DoE 2001a, para 1.5.1)

It is also important to note that the places where these paragraphs appeared have a different context. In the former, the paragraph is used in the context of defining inclusive education, while in the latter it is stated in the context of building inclusive education. Hence, the phrase **to appreciate**, which is defined by Merriam-Webster Dictionary (2012, s.v. 'appreciate') as "to grasp the nature, worth, quality, or significance of something", is more appropriate for the paragraph where concepts are discussed, while the phrase **to accept** is defined as "to give admittance or approval to something" (Merriam-Webster 2012, s.v. 'accept'), is more fitting for the paragraph where the steps of building an inclusive education are spelt out. In both cases, repetition is used to demonstrate an admittance that is born of full cognizance of what is at stake vis-à-vis the existence of broad learning needs.

It is also worth noting the use of the modal adverb *may*, which like similar modal adverbs such as *perhaps, probably, necessarily* and *inevitably* express epistemic modality or ways of expressing possibility and can also construct different representations of the world (Baker & Ellece 2011:71). The implication of this is that, as much as White Paper 6 is littered with the Ministry's pioneering and redemptive voices, through its assertive and authoritative discourses, it also contains expressions that betray a sense of the Ministry's uncertainty. This is manifest in the consistent choice of epistemic words such as *believe*, *think* and *argue*, expressing mental processes and indicating that the author is expressing a perception instead of an objective account of events (Baker & Ellece 2011:105). For instance, under paragraph 2.2.2.1, it is stated that

> [T]he Ministry **believes** that the key to reducing barriers to learning within all education and training lies in a strengthened education support service [emphasis added] (DoE 2001a).

Lack of assertiveness and certainty about the need for a strengthened education support service are implied therein. A similar reticence is observed under paragraph 1.3.7, where the

word *will* instead of *shall* is used in relation to the creation of "a wider spread of educational support services … in line with what learners with disabilities require" [emphasis added](DoE 2001a, para 1.3.7).

Similarly, the terms *transformation* and *change* are used together in paragraphs 2.1.11, 2.1.13 and 2.1.14 of White Paper 6 (DoE 2001a). For instance, under paragraph 2.1.11:

> … the Ministry puts forward a framework for *transformation* and *change* which aims to ensure increased and improved access to the education and training system for those learners who experience the most severe forms of learning difficulties and are most vulnerable to exclusion [emphasis added] (DoE 2001a).

The Oxford English dictionary defines the term *transformation* as "a thorough or dramatic change in form or appearance", while the word *change* is defined as "to make or become different" (Oxford English Dictionary 2012, s.v. 'transformation'). Interestingly, the term *transform* is also given as a synonym for change. Hence, the use of these similar words is for rhetorical purposes of stressing the depth and breadth of the envisaged reform.

5.1.7 Human rights discourse

> Among the yardsticks by which to measure a society's respect for human rights, to evaluate the level of its maturity and its generosity of spirit, it [i]s by looking at the status that it accords to those members of society who are most vulnerable, disabled people, the senior citizens and its children (Thambo M Mbeki in ODP 1997, Foreword).

The Human Rights discourse is basically anchored in the principles of equality and non-discrimination. This discourse acknowledges that disability is a consequence of social organisation and relationship of the individual to society, hence it advocates for the removal of legislative, socio-economic and cultural barriers that stand in the way of inclusion of children with disabilities (Rioux & Valentine 2006:49). This discourse recognises that children with disabilities are rights holders, with a claim on a range of rights on duty bearers such as the State. Hence, a failure to fulfil these rights on the part of the duty bearers, notably the state, is considered a human rights violation.

In line with the provisions related to non-discrimination and education as a right enshrined in the UNCRC (a 2(1)), the ACRWC (a 3) and the Convention against Discrimination in Education (a 1), the South African government has recognised education as a right in its Constitution (s 29).

The human rights principles of equality and non-discrimination have a special significance for post-apartheid South Africa which inherited untold levels of inequality:

> While apartheid's legacy is complex, the brute fact that we have relatively entrenched patterns of inequality in primary and secondary education is not. Some public schools have cutting-edge computer labs and manicured cricket pitches. Other schools offer classes under trees (Woolman & Fleisch 2009:35).

On the equality front, the Human Rights discourse holds that

> schools have to ensure that all learners are provided with the full repertoire of skills [as a human right] to be able to understand, negotiate their way through and contribute to the society in which they live (Soudien, Jacklin & Hoadley 2001:81).

South Africa's policy and legislative texts also follow a similar reading of this discourse. According to the Disability Strategy (ODP 1997, chap 1), a "human rights and development approach to disability focuses on the removal of barriers to equal participation and the elimination of discrimination based on disability".

Section 9 of the Constitution deals with the issue of equality mainly from the perspectives of non-discrimination and affirmative action:

> 2. Equality includes the full and equal enjoyment of all rights and freedoms. To promote the achievement of equality, legislative and other measures designed to protect or advance persons, or categories of persons, disadvantaged by unfair discrimination may be taken.
> 3. The state may not unfairly discriminate directly or indirectly against anyone on one or more grounds, including race, gender, sex, pregnancy, marital status, ethnic or social origin, colour, sexual orientation, age, disability, religion, conscience, belief, culture, language and birth.

White Paper 6 (DoE 2001a, paras 1.1.1-1.1.4) also clearly endorses the human rights discourse by declaring basic education as the fundamental right of all South Africans and invokes the Constitution to uphold the principles of equality, non-discrimination, equity and redress of past imbalances. Section 1(1)(ix) of the Promotion of Equality and Prevention of Unfair Discrimination Act 4 of 2000 defines "equality" to include the full and equal enjoyment of rights and freedoms as contemplated in the Constitution and includes *de jure* and *de facto* equality and also equality in terms of outcomes (RSA 2000b). This provision upholds that equality is to be ensured not just at the starting line, but also in the race itself so that equality is also ensured in the outcome of the race (Nieuwenhuis 2005:192). Section1(1)(viii) of the Promotion of Equality and Prevention of Unfair Discrimination Act defines "discrimination" as any act or omission, including a policy, law, rule, practice, condition or situation which directly or indirectly -

> (a) imposes burdens, obligations or disadvantage on; or
> (b) withholds benefits, opportunities or advantages from, any person on one or more of the prohibited grounds (RSA 2000b).

With specific reference to disability discrimination, section 9 of the Promotion of Equality and Prevention of Unfair Discrimination Act provides that "no person may unfairly discriminate against any person on the ground of disability, including –

(a) denying or removing from any person who has a disability, any supporting or enabling facility necessary for their functioning in society;
(b) contravening the code of practice or regulations of the South African Bureau of Standards that govern environmental accessibility;
(c) failing to eliminate obstacles that unfairly limit or restrict persons with disabilities from enjoying equal opportunities or failing to take steps to reasonably accommodate the needs of such persons" (RSA 2000b).

Section 28(3)(a) of the Act stipulates the duty and responsibility of the State, institutions performing public functions and all persons to take special steps to prevent and eliminate discrimination based on race, gender and disability. It provides for the duty of these stakeholders to –

i. eliminate discrimination on the grounds of race, gender and disability;
ii. promote equality in respect of race, gender and disability (RSA 2000b).

Further specifying the kinds of special steps to be taken, section 28(3) (b) of the Promotion of Equality and Prevention of Unfair Discrimination Act states that "the State, institutions performing public functions and, where appropriate and relevant, juristic and non-juristic entities, must -

i. audit laws, policies and practices with a view to eliminating all discriminatory aspects thereof
ii. enact appropriate laws, develop progressive policies and initiate codes of practice in order to eliminate discrimination on the grounds of race, gender and disability;
iii. adopt viable action plans for the promotion and achievement of equality in respect of race, gender and disability; and
iv. give priority to the elimination of unfair discrimination and the promotion of equality in respect of race, gender and disability.

In the area of educational non-discrimination, the Promotion of Equality and Prevention of Unfair Discrimination Act (RSA 2000b, ss 29(2)(a), (b), (c)) prohibits unfair exclusion of learners from educational institutions, including learners with special needs; unfair withholding of scholarships, bursaries; or any other form of assistance from learners of particular groups identified by the prohibited grounds; and criminalises the failure to reasonably and practicably accommodate diversity in education.

Education as a human right is enshrined in the Constitution of South Africa and other legislative instruments, as well as being, in some instances, enforced in a court of law. Section 29(1) of the Constitution (RSA 1996a) entitles everyone the right-

(a) to a basic education, including adult basic education; and
(b) to further education, which the state, through reasonable measures, must make progressively available and accessible.

Some authors stress the manner in which this right is granted without being qualified by "standard socio-economic tropes such as 'available resources', 'progressive realization', or 'reasonable legislative measure'", making the commitment to basic education "unswervingly egalitarian" (Woolman & Fleisch 2009:9).

This has been confirmed in a 2012 court case concerning the right to basic education and in particular the issue of the provision of text books to learners (South Africa: North Gauteng High Court, Pretoria, section 27 and 2 others and Minister of Education and another, case 24565/2012) where the court passed the following judgment:

> It is important for the purpose of this judgment to understand the nature of the right to basic education under Section 29 (1)(a). Unlike some of the other socio-gravic(sic) 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 basic education in Section 29 (1)(a), may be limited only in terms of the 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. Accordingly the obligation exists for the **immediate realisation of the right** on the part of the respondents [emphasis added] (North Gauteng High Court 2012, para 21).

With specific reference to children with disabilities, the right to basic education for all has been upheld in a 2011 court case in the Western Cape Province. In a court case referred to as the *Western Cape Forum for Intellectual Disability v Government of the Republic of South Africa 2011 5 SA 87 (WCC)*, the Western Cape Forum for Intellectually Disabled, brought an application to court to enforce the constitutional rights to education of children with intellectual disabilities. The facts revealed that children with severe (IQ levels of 20 – 30) or profound (IQ levels of less than 20) intellectual disabilities are not admitted to special schools or to any other government school. Neither the national government nor the provincial government provides schools for such children in the Western Cape (Western Cape High Court 2010:1).The court held that the respondents had failed to take reasonable measures to make provision for their educational needs in breach of the rights of severely and profoundly intellectually disabled

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children in the Western Cape (Western Cape High Court 2010, para 52(1)). The court concluded that:

> …the applicant has established that the respondents are infringing the rights of the affected children, both in respect of the positive dimension of the right, by failing to provide the children with a basic education and also in respect of the negative dimension of the right, by not admitting the children concerned to special or other schools. As I have attempted to show, there is in my view no valid justification for the infringement of the rights of the affected children to a basic education and to equality (Western Cape High Court 2010, para 45 at 108).

The Disability Strategy lists the following key action areas to provide disabled persons *equal access to education opportunities*, irrespective of the severity of their disability-

1. The development of clear policy that includes all stakeholders and which is understood and accepted at school level and by the wider community.
2. Curriculum development to ensure flexibility, addition and adaptation according to the needs of individual learners, regardless of the category to which they seem to belong.
3. On-going pre-service and in-service teacher and support teacher training.
4. Parent empowerment programmes to encourage parent involvement in assessment and decision-making concerning their children.
5. Appropriate technology development in education and training.
6. The development of effective inter-sectoral collaborative mechanisms at national, provincial and school level.
7. The development a long-term vision for educators fluent in Sign Language and Sign Language instruction in all centres of learning.
8. Adequate and appropriate education support services to all learners.

5.1.8 Economic efficiency and human capital discourses

Despite the fact that South Africa subscribes to the *Human Rights* perspective of disability, as revealed in the constructions of disability discussed in the foregoing sections, a number of other discourses that are not necessarily compatible with this perspective abound in the country's legislative and policy texts, including White Paper 6. From among such discourses, this section takes a look at the economic efficiency and human capital discourses.

The *economic efficiency discourse* and the *human capital discourse* are very much interrelated notions as both tend to reduce the role of education into a mere economic instrument, not as a human right but as a means for creating human capital (referring to persons belonging to the working-age population who possess economically relevant attributes knowledge, skills and competence) (Beiter 2006:607).

The economic efficiency discourse has two aspects: one is that the curriculum is expected to reflect – and be dictated by – the knowledge and skill demands of the labour market, in which

case a worthwhile investment in the education of children is one which results in productive individuals later in life;[21] this aspect of the economic efficiency discourse matches well especially with the "human capital approach" – a reductionist notion that strips education of its basic purpose and substance and lends it an economic subservient role as a means of merely structuring the supply of qualified people over a long period in accordance with economic demands. In short, both discourses emphasise the "economic value of education, the rate of return on schools and the productive utility of human knowledge" (Beiter 2006:607). The following provision of the Consultative Paper 1 (DoE 1999, chap 6, para 2.6) juxtaposes the above-noted two apparently distinct economic efficiency arguments:

> Rates of return on a high per capita investment of public resources in 'special or specialised schools' are low, and few disabled learners are able to secure jobs on completion of learning. This is so since learning has until now not imparted the generic competencies that allow for transferable skills and lifelong learning, and few employers have taken the employment of the disabled as their responsibility.

The overlap of these two discourses is aptly captured in the following words, written in the context of the UK, where it is remarked that the concern in the funding of the education of disabled children has for long been on

> how to make as many of the handicapped [sic] productive, while keeping the cost of any provision low so that the central and local government do not have to use too much money provided by non-handicapped [sic] tax-and rate-payers (Tomlinson 1982:38).

The overall policy orientation of the country towards tailoring the aim of education in the direction of feeding trained labour force into the economy starts from the titles of the major education policies, which couple education with training: *Education White Paper 6: Special Needs Education, Building an inclusive education and training system*. This has been echoed in the report of the committee tasked with reviewing the now defunct C2005:

> In seeking a curriculum solution for schools separate from the world of training, it broke the umbilical cord that had hitherto existed in all references to the apparently integrated worlds of 'education and training.' This Report was unequivocally about education and schools which were presented as needing distinct attention from the world of training, no matter how important this world is. The concerns could not be subordinated to the concerns of the economy and the industrial training: a general education required differed curricula and modalities from those in industry (Chisholm 2003:11).

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[21]   This is not to deny the role of education in preparing persons to make their share of contribution to economic progress nor to imply that disabled persons can never be economically productive enough as to make the human capital argument tenable. This is not the thrust of this argument simply because economic progress provides the resources badly needed for implementing human rights standards. Instead, it is to argue that "education should not be moulded solely towards economically relevant knowledge". It should also prepare pupils for fulfilling their role, *inter ali*a, as parents, as political activists, as agents of social cohesion and tolerance and as equal members of society (Beiter 2006:607).

On the curricular front, the White Paper on Education and Training (1995, para 4(18)) yet again contains a provision with similar overtones:

> Curriculum choice, especially in the post-compulsory period, must be diversified in order to prepare increasing numbers of young people and adults with the education and skills required by the economy and for further learning and career development.

Paragraph 4(23) of the White Paper on Education and Training (DoE1995) re-echoes the efficiency and productivity purpose of education:

> The productivity of the system [of education and training] – what it produces in terms of personal learning, marketable skills, and examination results, in relation to what it has cost – is very low in much of the system. Improving efficiency and productivity is essential in order to justify the cost of the system to the public, to secure more funds for development when they are needed, to raise the quality of performance across the system, and thus improve the life chances of the learners.

Interestingly, White Paper 6 (DoE 2001a, para 2.1.3) argues in favour of the human capital discourse as a means of combating economic and charitable dependence and as means of attaining economic efficiency:

> Given the serious human resources constraints in the country and the demands for justice, there is an onus on the Government to ensure that all human resources are developed to their fullest potential. In the long run such a policy will lead also to a reduction in the Government's fiscal burden as the inclusive education and training system increases the number of productive citizens relative to those who are dependent on the state for social security grants.

The Disability Strategy (ODP 1997, chap 3) also re-echoes this economic efficiency discourse shrouded in an emancipatory rhetoric where it states that "Access to ABET [Adult Basic Education and Training] is the key to the economic liberation of adults with disabilities". Paragraph 4.4.12.1 of White Paper 6 also states that:

> …The important features of this strategy are its emphasis on cost-effectiveness and exploiting the economies of scale that result from expanding access and provision within an inclusive education and training system.

Acedo *et al.* (2008:9) argue in favour of inclusive education as an educational approach that is more cost-effective than special education and one that ensures an optimal use of resources:

> Schools are likely to be less expensive when all pupils are educated together, thus giving governments an economic justification to move towards an inclusive education.

Paragraph 2.2.6.3 further shows the pervasiveness of this discourse in White Paper 6, where it is suggested that the move away from special needs education to inclusion is partly justified by cost-effectiveness criteria.

Furthermore, the cost-effectiveness rationale of the inclusion agenda is evident in paragraph 3.2.4 of White Paper 6 (DoE 2001a):

> The policies outlined in this White Paper will lead to the more cost-effective usage of resources in the long-term when the proposed model is fully operational.

The other common fallout of both the economic and human capital discourses is the drive towards commercialisation of education services including through privatisation. This aspect is about giving communities and individuals the right to make their consumer choices about education and enjoy their tastes of the same. Within this discourse,

> Schools are projected as sites of choice. The education one pays for is the education one receives. Education is thus, fundamentally, a commodity which one transacts privately in a world where demand and supply factors determine the quality of what is available and might be competed for (Soudien, Jacklin & Hoadley 2001:81).

According to Soudien *et al.* (2001:83), the right to set user fees granted to schools through the South African Schools Act is tantamount to "instating financial practices which embody the principle of consumer choice" or what Woolman and Fleisch (2009:35) called quasi-marketisation of schools (cf Chap 4 section 4.1.2.1). The right granted to school governing bodies to set school fees – a (proxy) price for their good or commodity (i.e. education) sends a market signal of both quality and demand. In this state of affairs wherein education is presented as a marketable good, "South Africa as a whole could constitute the market for educational goods", disabled children, the majority of which come from poor families, are likely to be left out from education services (Woolman and Fleisch 2009:36).

5.1.9 Social welfare versus charity discourses

One can observe that, while many countries endorse the human rights and inclusive rhetoric, and clearly promise a departure away from the charity and deficit discourses, they still unwittingly revert to it in another sense. This is seen in countries explicitly promising in their policy or law documents to implement their inclusive projects and disability agendas by relying on external sources of funding. Related to this, there is the complex tension between government support [an obligation under a number of human rights instruments – hence a human rights issue] given to persons with disabilities through social security funds borne mostly by the non-disabled tax payer and the requirement imposed upon disabled persons to bear a certificate attesting to their incapability of supporting themselves, hence worthy of social security benefits. The latter is a recipe for heightened discrimination of persons with disabilities [hence a violation of the State's duty to ensure non-discrimination] (Tremain 2008:16).

In a number of places, White Paper 6 (DoE 2001a) reiterates the importance of donor funding to implement the envisaged policy of inclusion. For instance paragraph 3.6.2 states:

> For the short- to medium term, that is the first five years, a three-pronged approach to funding is proposed with new conditional grants from the national government, funding from the line budgets of provincial education departments and donor funds, constituting the chief sources of funding.

This reliance on external funding to implement an inclusive policy is tantamount to the *charity discourse* as it throws the lot of children with disabilities seeking education services on the hands of the foreign tax payer. Such a tendency also renders vacuous the rights commitment as such an important endeavour becomes ad hoc, dependent on the goodwill of western donors. There is also a danger that the indigenous models on inclusion, such as the one the White Paper 6 dubbed as "the South African model", as well as local cultural traditions and educational practices might be supplanted by Eurocentric models. Thus, by frowning at the charity discourse from within, the White Paper actually embraces the charity discourse from without. In fact, the State, which presents itself as a crusader of inclusion, a pioneer, and an agent of transformation (we shall see more on this below) – oddly enough – abrogates itself of its responsibility to allocating funds to implement the policy:

> In the context of the current low growth rate of the South African economy and the relatively large slice of the budget that is allocated to education in nominal terms, it is unlikely that significantly more public resources in real terms will be allocated to the sector in the next few years (DoE 2001a, para 3.2.3).

There is a striking trans-textual discordance and distance between White Paper 6 and Consultative Paper 1 (as the legislative draft of the former) in terms of the treatment of funding in that, while the White Paper backs outside charity, the Green Paper is vividly inward looking for funding focusing on "the assistance of other sectors of our society":

> … the central issues for financing the policy proposals that are contained in this Green Paper are how to promote efficiency and optimise the contributions of government, organised business and labour, other civil society based organisations and households. While government will prioritise the provision of general education and training, it should be clear that it alone cannot meet the full spectrum of demands for further and higher education and training. Consequently, we will require the assistance of other sectors of our society to fulfil our promise of an inclusive democracy and improve the quality of life of all our people (DoE 1999, chap 6, para 3.7).

The decision of the government to impose school fees, and its concomitant quasi-total shift of financial responsibility of running schools to parents, is yet another indication of the government's tendency to relieve itself of its financial responsibilities (Woolman & Fleisch 2009:167). This failure of the Ministry or the State to make budgetary commitments to concretise its professed "missionary", "pioneering" and "military" roles projects a contrary image

of the Ministry that is hypocritical – as that of a missionary who fails "to live what it preaches" or of a military commander who declares war without furnishing the badly-needed arsenals.

On the social welfare front, the dilemma is that when persons with disabilities resort to their "disabled identity" to access benefits from the state, the public discrimination against them is heightened:

> ... when marginalised constituencies appeal to an 'injured identity' in order to justify their claims upon the state, they recuperate the values and beliefs that cast that identity in a demeaned social location in the first place (Tremain 2008:16).

The Disability Strategy (ODP 1997, chap 3) has attempted to overcome this tension between avoiding discrimination and accessing social welfare by introducing a number of ingenious steps. Firstly, it tries to minimise the dependence of disabled persons for social welfare and rehabilitation solely on the non-disabled tax payer by encouraging financial contributions to social welfare by associations of disabled persons. This is to be achieved by ensuring that rehabilitation subsidies reflect the contribution made by disabled peoples' organisations. Secondly, it does so by facilitating the provision of more disability sensitive services by training people with disabilities as service providers.

Thirdly, it aims to change "the way people regard disability from a purely health and welfare issue to a primarily human rights and development issue" so that it reflects positively on "the principles, objectives and goals of existing welfare services" (ODP 1997, chap 3).

Fourthly, the Disability Strategy (ODP 1997, chap 6) aims to achieve that through "the development of national guidelines to move people with disabilities receiving social benefits into self- or open labour market employment by linking them with training opportunities". Fifthly, through what it termed "reverse integration" where "non-disabled people in search of pre-employment training [are] accommodated within vocational rehabilitation centres". The latter tends to minimise the visibility and isolation of persons with disabilities in such centres, although it might also lead to a transfer of stigmatisation to the non-disabled trainees by the outside public.

5.1.10 Post-structural paradigmatic elements of disability and education

Although the intention is not explicitly noted in White Paper 6, in the Disability Strategy and in other related policy documents, there are strong allusions made to a post-structural theoretical orientation in these documents. As already indicated (cf section 3.3.3) the post-structural approach to disability attempts to address the critique brought against the Social Model. It is to be noted, however, that White Paper 6 has been criticised for failing to address the role of discourse in exclusion and inclusion of learners with barriers to learning and development, which is otherwise an important element of post-structural theories.

For Soudien and Baxen (2006:160), while White Paper 6 focuses on the need to change social practices and built environments to ensure inclusion, it is silent about the discursive resources that sustain and nurture the physical and material environments. Although it should be acknowledged that a change in such environment would ultimately impact on modifying the associated discourse, leaving intact the prevailing, hegemonic discourse complicate the efforts at reshaping and rebuilding our physical and material worlds.

Two major points of critique are brought against the Social Model. Firstly, the Model is criticised for its denial of the relevance of the body as well as the role of impairment in the discussion of disability, hence its tendency to consider primary and secondary prevention as a taboo subject to be left for biomedical theorists (Barnes & Mercer 2010:96). Secondly, the Model claims to be able to explain notions such as inclusion and disability through a unitary, universal model that applies to all cultures, traditions and individuals (Corker & Shakespeare 2006:15), hence leaves little or no room to entertaining alternative narratives: in brief, the fact that made the Model itself a "sacred cow" (Shakespeare & Watson 2002:5).

On the first point, namely on the relevance of the body, two examples can be cited. The first is the Report issued in 1997 by the National Committee on Education Support Services (NCESS) and the National Commission on Special Needs in Education and Training (NCSNET) entitled *Quality education for all: Overcoming barriers to learning and development* (DoE 1997:11), where it is noted that barriers to learning can be located within the learner as well as "with the centre of learning, within the education system and within the broader social, economic and political context".

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Still on the relevance of the body in disability discourse, there is the issue of prevention, The Disability Strategy states that "one of the cornerstones of disability policy is prevention" (ODP 1997, chap 3). It defines primary prevention as "trying to prevent the diseases and accidents which may cause impairments and disabilities". Policy objectives under this include the promotion of a healthy lifestyle in the home, at school, in the workplace and on the sports field; taking specific protective measures such as immunisation, protection against accidents, and protection against occupational hazards. Prevention of primary impairments is often considered as a sordid retreat into the biomedical discourse. The focus of the Social Model is on secondary prevention rather than primary prevention (Rioux 1997 cited in Krogh 2004:117). The Disability Strategy defines "secondary prevention" to mean

> early identification of impairments and disabilities followed by prompt treatment (or early intervention) [which] may result in a cure; a slower rate of progression of the impairment; and the prevention of complications (ODP 1997, chap 3).

This approach is different from the one adopted by the UNCRPD as reflected under article 25 of the Convention:

> States Parties recognize that persons with disabilities have the right to the enjoyment of the highest attainable standard of health without discrimination on the basis of disability. States Parties shall take all appropriate measures to ensure access for persons with disabilities to health services that are gender-sensitive, including health-related rehabilitation. In particular, States Parties shall:
> (*b*) Provide those health services needed by persons with disabilities specifically because of their disabilities, including ***early identification and intervention*** as appropriate, and services designed to minimize and ***prevent further disabilities***, including among children and older persons [emphasis added].

It should also be noted that the UNCRPD, while mentioning prevention of secondary impairments, is silent on the issue of primary prevention. The wording of the Convention, namely "preventing further disabilities" is ambiguous as it seems to focus on preventing the barriers in the social environment that further debilitate persons with disabilities. But, in line with the Social Model definition of disability adopted by the UNCRPD, it is unlikely that the expression "preventing further disability" be construed to refer to the environmental barriers and service arrangements. Yet, in actuality, this provision aimed at "preventing further impairments". This is a provision where the UNCRPD uses the term *disability* in a biomedical sense, in an apparent deviation from the overall spirit of the Convention and its theoretical basis, which is the Social Model.

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Hence, apart from being weak in its treatment of prevention, the Convention presents "prevention of disabilities" in a biomedical light. The Social Model understanding of prevention of disabilities focuses on

> changing societal attitudes that now restrict employment opportunities for persons with functional limitations, by modifying the buildings in which the people work, or by providing accessible modes of transportation (Lanska 2009:19).

For other authors, primary and secondary prevention (the prevention and early treatment of health conditions in the individual) is considered the domain of the biomedical discourse, while tertiary prevention (the promotion of functional capacity and the achievement of full participation in the physical and social environment) is the domain of the Social Model (Solarsh & Hofman 2006:125).

The second example comes from White Paper 6 (para 1.5.1) which acknowledges that different learning needs – which the *Guidelines for Full-service/ Inclusive Schools* refer to as "intrinsic barriers" (DoBE 2010c, para 3.3.3) – arise from: "physical, mental, sensory, neurological and developmental impairments, psycho-social disturbances, differences in intellectual ability, particular life experiences or socioeconomic deprivation".

The third point where we observe a post-structural paradigmatic orientation of the South African education policy context is in its readiness to entertain multiple narratives instead of clinging to one-size-fits-all model of inclusion. For instance, under paragraph 1.5.5., the White Paper 6 uses the phrase "South African models of inclusion". The term *model* is in the plural, hence giving an indication that South Africa is planning to pursue not a single inclusion model, but multiple ones.

> … it will be important to pursue our policy goal of inclusion through the development of **models of inclusion** that can later be considered for system-wide application [emphasis added] (DoE 2001a, para 1.5.5).

The incidental mention of other *models* without describing what they are might leave the reader unsettled as to the present and the future. In terms of the present, it might betray a sense of official uncertainty about and lack of complete trust on the model at hand, hence generating a sense of public insecurity, tentativeness and a public resentment for officials for presenting a half-baked recipe though it was claimed that the policy "has benefited the most from our early experience and knowledge of the complex interface of policy and practice" (DoE 2001a, introduction). In terms of the future, it might trigger both hope for a better model or fear of a

weaker one. Although it is not clear why multiple models are needed, the White Paper's inclination to shy away from sticking to one super model applying to the whole nation and across time and instead subscribe to multiple, contextually relevant models is witness of its progressiveness, and its constant openness to new, emerging paradigms and alternative narratives. This is also important because changes in discourses and practices in both disability and inclusion occur at a crushing speed: it often happens that one model is seldom internalised fully before a new one emerges, with or without the elements of the old model. This can be one of the indications of a post-structural theoretical orientation of the White Paper which is a perspective that disputes "totalising metanarratives that seek to offer only one interpretation, or one explanation of social phenomena" and gives room for micro level, local, perspectives for understanding social processes (Marston 2004:26).

5.1.11 Concluding remarks

This chapter presented the findings of the discourse analysis conducted mainly on the corpus of three legal and policy documents, completed by a trans-textual referencing to other relevant legal and policy texts as well as related body of literature. Under this part of the chapter, I discussed issues related to constructions of disability, the role race plays in creating double discrimination for black disabled children, and the theoretical underpinnings of the South Africa education and disability landscape. In the chapter, it was noted that the social model of disability is fully endorsed by the country's policies, but there are apparently some deficit notions which tend to equate disability with impairment. The section also focused on the human rights discourse, the economic efficiency discourse and the charity discourse as reflected or nuanced in the country's legal and policy texts with implications for funding the education of disabled children. The duality of the education system (special and inclusive) was also noted in greater detail, which might be a cause for concern given the impressions given by the policy instruments on the strengthening instead of "abolition" of special schools.

Furthermore, I noted that inclusive model envisaged by the country is a plural one instead of a one-size-fits all model, seen in the language of South African models of inclusion used in – White Paper 6 – the main policy document relating the education of disabled children.

The ministry is portrayed in the policy documents as having both an authoritative and assertive voice and a pioneering and crusader's voice. The ministry identifies itself with the oppressed

masses that have been denied educational opportunities, and is a good sign of the level of political commitment.

In this chapter, I also showed that the existing legal and policy environment had paid significant attention to efforts aimed at reforming the (surface) curriculum but failed to properly address the role of the so-called "hidden" curriculum – the implicit, value-laden, features the school – that play an exclusionary role, in a society like South Africa still ridden with rampant inequality and racialised differentiation.

CHAPTER SIX

SUMMARY OF FINDINGS, CONCLUSIONS AND RECOMMENDATIONS

In this chapter, a summary of the findings of the thematic content analysis and critical discourse analysis are presented followed by conclusions and recommendations.

6.1 SUMMARY OF FINDINGS AND CONCLUSIONS

In this section, the major findings discussed in Chapters 4 and 5 are distilled and summarised followed by conclusions in order to pave the way for the formulation of the lessons.

6.1.1 The South African education policy landscape: Policy zeal and its implications

South Africa has laid down an elaborate legal and policy framework to protect and ensure the right to education of children with disabilities. The country's policy environment recognises education is a right not subject to available resources, or other conditions. Hence, children with disabilities are given the unequivocal right to benefit from education on an equal basis with their non-disabled peers.

But unlike the case for a number other African countries where the human rights of children with disabilities are ensured in specific disability legislation, South Africa attempted to do so through the country's Disability Strategy which addresses the issue of children with disabilities inadequately. Notwithstanding the fact that children with disabilities and adults with disabilities share a great deal of commonalities in terms of their needs and the challenges they face, children with disabilities do have peculiar challenges that make them far more vulnerable than adults on account of their age and level of maturity.

Furthermore, two features are noticeable in the South African legal and policy-making landscape, as it relates to education and disability. The first is that the country's disability law and policy-making process is predominantly a White Paper process. Two of the most significant policy instruments on disability and education, namely the Disability Strategy and White Paper

6are White Papers, with no legal force. This is significant because the other two relevant legislative instruments, namely the Schools Act and the Children's Act did not sufficiently address the issues of children with disabilities, including their right to education.

The second issue is the very swift successive pace of policy formulation with its own ramifications. Post-apartheid South Africa has been characterised by the formulation of laws and policies that came out in rapid succession, some of which are the most progressive by international standards. Despite the fact that the law and policy-making process in South Africa involves elaborate consultation processes, there are some concerns raised by experts about this rapid policy turnover. Notable among these concerns is that such policy zeal and hysteria might betray some sense of policy-making by trial-and-error, with the potential to adversely affect structural continuity. Also, the policy influx insufficiently practical as it failed to take into account existing capacities and availability of budget and historical backlogs, and might be cumbersome for those responsible for implementing them.

On a positive note, the policy rush can be seen as a symbolic move and an attempt to quickly break away from the debilitating apartheid education policies towards a new age of equality, social justice, non-discrimination, redress, unity and diversity.

6.1.2 Ratification and domestication of relevant treaties of South Africa: Implications to the right to education

One of the many ways through which domestic law and policy-making is influenced is the international normative framework and the readiness of a country to accede to those frameworks.

Although South Africa ratified most of the international human rights instruments relating to education and disability, the non-ratification of the ICESCR – dubbed as the "primary United Nations instrument" in respect of socioeconomic rights – is very conspicuous (cf section 4.1.2).

However, even without ratifying the ICESCR, as it can be seen from the host of human rights treaties related to disability and education which South Africa ratified, it is clear that the country was able to entrench the right to education of children with disabilities in its domestic legislation. Basic education is a right under the country's Constitution to be provided without discrimination and on the basis of equality. The law and policy instruments adhere to the human rights

discourse of disability and education, as well as the Social Model of disability. Thus, the country's education policy environment unequivocally upholds the principle of the Social Model which requires adapting the education system, its structures and organisation, instead of the child.

In conclusion, the country's failure to ratify the ICESCR might have ramifications in respecting, protecting, respecting and fulfilling economic, social and cultural rights. First, it affects the sheer comprehensiveness of the country's policy or legislative environment in terms of covering economic, social and cultural rights. It also affects the implementation of these rights through legislation and jurisprudence and as the same time it is a setback to the country's image in terms of promoting a culture of accountability to international norms. Second, non-ratification of the Covenant has automatically resulted in the non-ratification of its Optional Protocol, which is seen as an especially important tool in empowering the poor and vulnerable and marginalised groups - issues upheld by the South African Constitution.

6.1.3 Children with disabilities and discrimination based on race

Disability and race are both social constructions. The apartheid regime was notorious for its segregationist practice of effectively excluding black people (with and without disabilities) from certain public spaces, much as disabled people are now excluded from getting access to public spaces because of their disabilities.

The South African legal and policy instruments draw attention to the interface between disability and race. They note that although all children with disabilities face discrimination and exclusion of varying degrees, black children with disabilities face double discrimination based on race and disability. The social structures that debilitate them and impose restrictions because of their impairment also impose restrictions – although of a different nature – based on a race.

The apartheid educational system offered good quality "special" education to white disabled children, leaving a very large number of black children with disabilities without educational access. It was very rare to find a black disabled child attending those special schools. The current educational dispensation acknowledges the role played by race in further complicating exclusion on the basis of disability.

In conclusion, although this double-edged discrimination faced by black children with disabilities is duly acknowledged in the post-apartheid legal and policy instruments, there have not, however, been enough measures to redress it. There are good steps being taken to address the black-white disparity in terms of access to education and other services, but not enough is done to narrow the disparity that prevails between white disabled children and black disabled children. Still, ordinary schools are mainly formed along racial lines. The school-fee policy has, according to some authors, exacerbated this race-based differentiation of schools.

6.1.4 Social Model versus deficit models of disability

The inclusive education model adopted by the country is clearly anchored in the Social Model of disability as it accepts and respects difference and calls for dealing with the different learning needs that arise from that difference, and appreciates the need for fostering home-community linkages towards improving the education of learners with barriers to learning and development.

The departure from the deficit, biomedical models of disability is also seen from the shift away from personalised terminologies such as *special needs* and *learners with special needs* to "barriers to learning and development" (cf section 5.2.1). The use of the plural in *barriers* is witness of the fact that disability is regarded as just one of many barriers, consequently widening the scope of the inclusive agenda.

However, a closer look at the policy documents reveals some invasive orientations towards deficit models such as charity and economic efficiency models of disability, and even biomedical discourses. These discourses, which are not necessarily concordant with the human rights discourse, run through a number of the country's policy documents. For instance, in one of the policy documents, it is noted that barriers to learning and development can be located not only with the centre of learning, within the education system and within the broader social, economic and political context but also within the learner (cf section 5.2.10).

White Paper 6 argues in favour of the human capital and efficiency discourses as a way of combating dependence of citizens on the government for social security and to provide cost-effective learning experiences. The Disability Strategy argues in favour of inclusive education from an economic efficiency perspective. This economic efficiency argument might disadvantage learners with barriers to learning – who may not necessarily be economically

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productive in the future – by placing them at the end of the resource prioritisation queue. This is especially so when considered in light of the often costly investments in assistive and adaptive devices for the benefit of the education of disabled learners, which might quickly be dismissed as an "irrelevant luxury" in the face of competing demands for scarce resources.

The other area where the human capital and economic efficiency discourses are seen is in the risk of commercialisation and commodification of education services made possible by the imposition of fees granted by the Schools Act. The right granted to school governing bodies to fix school fees sends a market signal of both quality and demand, which enables parents (the consumers) to react by deciding whether the product offered, is worth the current price. That might trigger unbridled price hikes as governing bodies aim to provide a better product for a higher fee, acting on the relative position of their school vis-à-vis other schools. Most parents and learners, notably those with disabilities, who are more likely to be poor, cannot exercise the choice relative to the products offered in that educational market because the costs associated with entrance into the market are beyond their reach.

One of the features of both the human rights discourse and the Social Model of disability is their distance from charity models that portray disabled persons as economically dependent on the non-disabled tax payer. Unfortunately the charity discourse is glaringly seen in White Paper 6, where donor funds are stated as one of the three sources of funding for financing the inclusive agenda for the short to medium term (the first five years). Firstly, this leaves the fate of children with disabilities in the hands of western donors, and at the same time impedes implementation because of the gross unpredictability of most external funding, which are as easy to turn on as to turn off. Secondly, the reliance on external funding might result in the "South African models of inclusion" being supplanted by other models (not necessarily compatible with the South African cultural and socio-economic context) as those "who pay the piper" exercise their influence to call the tune.

Further, this charity discourse defeats the progressive and pro-poor, equitable funding policy with a complementary objective of redressing past inequalities that the government claims to have adopted. The government argues that some degree of inequality in spending in favour of the poor is required to attain educational equity (cf section 4.1.4.1).

6.1.5 Full-service schools and segregated education

The inclusive school model adopted by South Africa is the full-service school model (cf section 5.2.3). The use of the term *full* invokes the concept of whole-school approach to inclusion. The latter approach has been rejected by Consultative Paper 1 because it would lead to the simple replication of special schools as segregated units in ordinary schools. The word *full* also invokes the important principle of *comprehensiveness*, which is cited in the World Programme of Action (cf section 5.2.4) referring to an education system serving all persons with disabilities irrespective of age or degree of disability.

But, as it is rightly noted in White Paper 6, the transition into full-service schools is gradual, implying the parallel existence for some time of special and full-service (inclusive) schools. Yet, from White Paper 6, one can clearly read that a number of elements of special needs education will continue to be maintained in the full-service schools. Such special education notions such as *categorisation, placement, continuum of services, intensive support services, screening* and *identification* are very much present in the envisaged full-service schools. The concept of continuum of contexts (read services) invokes the special education notion of restrictive environment. This is because one cannot think of a continuum of services without putting services in a continuum that run from more restrictive to least restrictive (cf section 5.2.4).

The impression obtained from White Paper 6 of special schools being labelled as "a sector where the ravages of apartheid remain most evident" - and hence something to do away with - contrasts with the statements in White Paper 6 where special schools are to be strengthened (instead of abolished) and to undergo qualitative improvement. Yet, it should be noted that the special schools of tomorrow will not be the traditional segregated educational settings they were once, but schools with a qualitatively different function as resource centres, and educational support centres for severely disabled learners.

The other issue with the full-service model is the use of the term *service* and its commercialisation and consumerist overtones. These are reductive notions that invoke future economic productivity as being the sole purpose of education and run counter to the human rights of learners with barriers to learning, who may not necessarily be productive enough.

It was also noted that since admittance into full-service schools is dependent on the degree of disability of a learner in terms of White Paper 6 the inclusive model adopted by the country can be viewed as a conditional one. The implication is that learners with highly specialised, more intensive support needs may not be allowed to enter full-service schools and instead spend their time in segregated settings (cf section 5.2.4).

Another interesting conclusion one can draw from the critical review of White Paper 6 is its explicit mention of *South African models of inclusion.* Firstly, the use of the plural in *models* is a demonstration of the post-structural paradigmatic philosophical orientation of the South African education policy landscape as regards inclusion, namely its interest to pursue multiple models instead of a one-size-fits-all model of inclusion. This policy subscription to multiple, contextually relevant models is also witness of the policy's progressiveness, and its constant readiness to embrace new, more effective alternative(s). On the contrary, it can be concluded that the incidental remark about other models without specifying their essence might illustrate a sense of official uncertainty about the future and might generate a sense of tentativeness about and a lack of complete trust on the model at hand (full-service schools). It might also create a sense of hope for a better model or fear of a weaker one.

6.1.6 The ministry and its commitment rhetoric

One of the critical ingredients in any educational enterprise is the deep personal commitment of the leadership. In this regard, the South African Ministry of Education has shown – at least through its policy pronouncements – that it is playing the role of a pioneer for change and transformation. This is seen in the use of active identification of the education officials with the education policy instruments manifested in the use of "I" and "we" and verbs such as "establishing", "building a framework", and "transforming" as well as in the use of modal adverbs with an obligatory tone of voice such as "must", "should" and "shall". This is, however, diluted by the use of the passive voice and by the use of modal auxiliaries such as "may" and "will" and verbs such as "believes" and "appreciates" with a less assertive tone of voice – hence potentially distancing the ministry from taking direct responsibility. And most importantly, the ministry relegates the financial responsibilities of funding the inclusive agenda to external donors.

6.1.7 Economic accessibility of schools versus school differentiation

South Africa took a series of steps to ensure the economic and physical accessibility of schools. On the economic accessibility front, the country took steps ranging from enshrining the equity principle in its policy documents and also implementing partial or total fee exemptions to designation of schools as fee-paying and no-fee schools. The latter constituted all those schools in the poorest two quintiles, which account for 40 per cent of learners nationally (cf section 4.1.4.1).

The school fee regime was praised for preserving the existing stock of good schools; for ensuring some access to well-resourced schools by members of historically-disadvantaged communities; and for permitting the state to divert funds away from schools in wealthier communities to schools in the greatest need. The imposition of school fees was also able to stem black and white middle class flight to private schools, as well as enabling the system to secure elite political support (cf section 4.1.4.1).

On the funding equity front, the Schools Act (RSA 1996b, s 34(1)) ensures the right of equal access to public funds of learners based on the recognition of the right of redress, while the NSSF provide that this equality provision contained in the Schools Act should follow an equity approach (DoE 1998, para 44). Further, the Amended NSSF recognises that the poor are not equally poor and a differential treatment of the poor and inequality in spending in favour of the very poor would help to reach out to those who are poorer (DoE 2006b, s 91(d)). The imposition of school fees also has equity and redress as one of its rationales (cf section 4.1.4.1).

However, it can be concluded that the school fee regime that still operates in rich schools might be seen as unconstitutional, in terms of violating the right to basic education (see RSA 1996a, s 29(1)), and the right to equality (see RSA 1996a, s 9).

In terms of funding equity, the claim for ensuring pro-poor, equitable funding is likely to suffer from two weaknesses: overreliance on donor funding, and the lack of funding norms for inclusive education.

6.1.8 Making schools physically accessible

In terms of physical accessibility, the policy frameworks give due recognition to the adverse implications of the current poor state of the physical environment for the effective delivery of the curriculum. Hence, they put forth policy measures to create a safe and convenient learning environment including through specifying the sites to avoid when building schools such as cemeteries, business/shopping centres, railway stations, busy roads, taxi ranks, sewage, hotels, hospitals and fire stations.

Further, the policy instruments (cf section 4.1.4.2) promise to make progressively available disability-friendly sanitation facilities, materials and equipment, and in particular, devices such as portable ramps or fitted seats, and wheelchairs. It is recommended in the policy documents that at least one toilet per school has to be made available for use by a person using a wheelchair. The policy instruments also call for adjustments of some furniture to allow for easy movement and seating as well as lighting, ventilation and acoustics (cf section 4.1.4.2).

The appropriate *planning norms* for schools are spelt out in the relevant policy documents, which include the maximum distance of a school from learners that are eligible to attend that school or distance from a school's catchment area. They also specify learners' maximum walking time to school, alternative means of bringing schools close to learners such as hostels and/or learner transportation. In terms of the distance, every school is required to have a catchment area to the radius of up to 3 kilometres and a total walking distance to and from school of up to 6 kilometres. Transport or hostel accommodations are to be provided for learners who fall beyond the set catchment area (cf section 4.1.4.2).

The policies promise to develop an accessible, affordable multi-modal public transport system that will meet the needs of the largest numbers of people at the lowest cost (cf section 4.1.4.2). Access to communication is also considered as an important issue of access, and strategies are to be developed to provide people with communication disabilities with equal opportunities to access information, as well as public and private services (cf section 4.1.4.2).

The policy documents make a number of additional suggestions to ensure accessibility such as the possible introduction of tax incentives to owners of existing private sector buildings that require upgrading. They also suggest the preparation of appropriate curricula and updating of

handbooks focusing on integrated and barrier-free design as a part of the professional training of architects, town planners and engineers. The development of national guidelines and minimum norms and standards for access in airport buildings (including equipment and communication access), training of personnel in the transport industry, and the possibility of tax incentives for the importation and local manufacturing of wheelchair lifts for buses, e.g. taxi subsidies, dial-a-ride, training of transport personnel are also recommended (cf section 4.1.4.2).

In conclusion, the law and policy documents are a good departure point for ensuring physical accessibility of schools to learners with disabilities and address every aspect of accessibility, including the availability of disability-friendly infrastructure and facilities and transport. This is one of the areas where the South African legal and policy environment is strong and comprehensive enough offering an excellent example for other countries to follow.

6.1.9 Reform of "surface" curriculum but not of "hidden" curriculum

South Africa undertook one of the most tremendous curricular reforms the world has ever seen which started off with the "cleansing" of the curriculum of its racist and sexist elements – legacies of the apartheid era. This was followed by the implementation of outcomes-based education through C2005, which soon triggered a litany of criticisms that resulted in its revision by a Ministerial Review Committee appointed in 2000.

The curricular reform had in mind diversity and the educational needs of both disabled and non-disabled learners. As it is stated in the various policy documents (cf section 4.1.5.1), a common – not separate – curriculum is what is aimed at. Furthermore, the policy instruments (cf section 4.1.5.1) recommend flexibility in teaching approaches in order to customise and adapt the existing curriculum to ensure that every individual child benefits from the learning experience.

The policy instruments also stress the need for "individualisation" of instruction and provision of educational support to learners with barriers mainly through what are referred to as Individual Support Plans (cf section 4.1.5.1).

The policy documents also suggest teaching methods such as small group or peer-mediated learning and differentiated instruction as well as flexibility in class timetables which are to be dictated by learner engagement, self-determination and choice and individualisation (cf section

4.1.5.1). The need for preparing learners for post-school options, including for transition into the world of work providing multiple options for learners to acquire, store, and demonstrate learning are also recognised (cf section 4.1.5.1). The principle of universal design for learning is underscored. Under this approach, teachers are encouraged to design curriculum, learning environments and assessments having in mind a diverse group of learners (cf section 4.1.5.1).

The policy documents emphasise the critical importance of the provision of learning support and adaptive and assistive devices including Braille, Augmentative and Alternative Communication Methods and sign language instruction and support for learners with visual impairments, those with hearing impairments and those with limited or no functional speech, respectively. Learning through a second language and mobility devices, hearing aids, Braille writers, adapted access computers, magnifying glasses and voice synthesisers are also to be made available (cf section 4.1.5.1).

In terms of curricular content, the policy instruments suggest that emphasis be laid on "more functional, vocational and skills orientated content in the delivery of the curriculum" for identified learners. They stress the need for teaching to address not just learners' academic needs but also their social, emotional, behavioural, and cultural needs. Particular emphasis is laid on social skills – including education about disabilities and diversity, and the development of positive attitudes – which are to be offered as subjects in their own right and at the same time be infused in all learning areas (cf section 4.1.5.1).

A good deal of emphasis is laid in the education policy instruments on the need for flexibility in assessment – as important aspect of the curriculum – in diverse classrooms. They stress the need for involving learners actively using relevant knowledge in real-life contexts as well as the need to adopt individualised, performance-based assessments that allow expression or demonstration of knowledge in multiple ways (cf section 4.1.5.2).

The policy instruments introduce *alternative or adaptive methods of assessment* for use in three groups of learners: Alternate Assessments Based on Alternate Attainment of Knowledge for learners with intellectual disabilities and for those who are currently enrolled in special and ordinary schools*;* Alternate Assessment Based on Modified Attainment of Knowledge for learners with moderate intellectual disability, for learners who are deaf, and for some learners on skills programmes; and alternate Assessments Based on Grade-level Attainment of

Knowledge for learners who are blind, have communication disabilities, physical disabilities, dyslexia or hearing loss (cf section 4.1.5.2).

In conclusion, the South African education policy landscape is rich in terms of offering possibilities of curricular adaption and instructional flexibility as well as multiple approaches to assessing learners with disabilities in line with current thinking and practice. This is the other area which proved the progressiveness of the South African education policy environment from which other countries of similar socio-economic contexts can learn.

However, despite the attempt to address the ostensible features of the curriculum – "surface curriculum" – it has yet to contend with the challenge posed by the so-called *hidden curriculum*. The *hidden curriculum* still plays a significant role in perpetuating exclusion and marginalisation based on disability, race and class in the country. As a country that just came out of one of the worst forms of racial segregation and inequality, the curricular reform could employ critical pedagogy as a tool to ensure equality well beyond mere physical access to the school gate. Critical pedagogy and the *hidden curriculum* become especially important in the context of South Africa where the discourses of disability and race blend to form a distressing mixture. Black learners with disabilities have been subjected to a double-edged discrimination based on race and disability (cf section 5.2.5) that also plays out in the school system and its ethos.

6.1.10 Inadequate teacher supply and quality: A challenge for the inclusive agenda

South Africa embarked upon a tremendous curricular reform and there has been a concomitant attempt at reforming teacher education and development. The reform in the area of teacher development also included the alteration of the roles of teachers as well as the introduction of a range of new teacher competencies in the area of curriculum and pedagogy.

White Paper 6 and accompanying guidelines (cf section 4.1.3.2) promised to avail teachers in good quality and quantity through both in-service and pre-service educator development, and to equip them with skills in teaching a diverse classroom and to serve as the foot soldiers of the social transformation agenda (cf section 4.1.3.2).

The National Qualifications Framework Act (cf section 4.1.3.2) recommend teacher training to follow an integrated and applied knowledge approach where teachers are to be equipped with

skills that would enable them to flexibly respond to changing contexts in the moment of practice instead of techno-rational, skills-based, approaches to teacher training.

Teachers are expected to be well-grounded in the knowledge, skills, values, principles, methods and procedures relevant to the discipline, subject, learning area, phase of study or professional or occupational practice, as well as in different approaches to teaching and learning such as individualisation and differentiated teaching. They are expected to have the ability to adapt their teaching depending on the learner's context (cf section 4.1.3.2). Teachers are also expected to foster a positive attitude towards diversity and difference and be well-versed in discerning how identity, difference, privilege and disadvantage are played out in the school and through the school system (cf section 4.1.3.2).

An important step in improving educator quality has been the requirement upon teachers to get registered with SACE as their licence to teach (cf section 4.1.3.2). The country also embarked upon a number of educator quality improvement measures such as ensuring adequate supply of teachers such that excessively large classes are avoided; improving the professionalism, teaching skills, subject knowledge and computer literacy of teachers throughout their entire careers; and striving for a teacher workforce that is healthy and that enjoys a sense of job satisfaction (cf section 4.1.3.2).

In terms of teacher roles, teachers were given roles congruent with the recognition of diversity and multiple forms of barriers to learning. These roles of teachers are a pastoral role; the role of a specialist in a particular learning area, subject or phase, in teaching and learning, in assessment; the role of a curriculum developer, a leader, an administrator and a manager; and the role of a scholar and lifelong learner. With these multiple roles, teachers were given higher order responsibilities as the torch bearers of the country's change and transformation agenda. In short, teachers were expected to be no less than the agents of the country's social justice project, and teacher training institutions were to act accordingly to inculcate such a mindset.

In conclusion, despite very good progress in preparing teachers for the inclusive agenda, teachers are in disproportionately short supply compared with the demands of the massive curricular reform efforts and the move towards inclusive education. Most teachers lack the range of competencies involved in living up to the demands of full-service schools. The rapid policy influx the country has gone through has also left teachers in a state of change fatigue and

frustration. Teachers and other school personnel are expected to implement one new policy after another without having time for reflection on the success or failure of each. Further, the drastic change in teacher roles and the curricular and pedagogic demands born of a highly progressive inclusive education system are not accompanied by proper teacher induction and training.

There are also big challenges in terms the level of teacher qualifications. Teachers were reported as saying that they are not fit to teach in inclusive classrooms given the complex demands of full-service schools. The staggering rapidity of educational reform efforts of which the educator is at the centre has also taken its toll on teacher morale and readiness. This is so especially when educator performance is measured against the fast-evolving standards born of the policy reforms.

6.1.11 Involvement of parents and expert power

The country's legal and policy documents such as the Schools Act and White Paper 6 (cf section 4.1.5.3) – in a rather stark contrast with similar law and policy documents in other countries – have given extraordinary attention to the role of parents and the potential contribution they can make to education of their children. These instruments have not only tried – at least in principle – to dissipate the traditional expert power over parents exerted by teachers, psychologists, or counsellors, but – thanks to the introduction of school governing bodies – have also invested in parents extraordinary autonomy and financial and legal discretion. This has mainly been done through the establishment of school governing bodies (cf section 4.1.5.3).

As members of the school governing body, parents are given the functions – among others – of adopting a school's constitution, administering and controlling the school's property, and buildings and grounds occupied by the school and charging a fee or tariff which accrues to the school (cf section 4.1.5.3). The Schools Act ensures the representation of learners with barriers to learning and development through their parents, representatives of parents of learners with special education needs, representatives of organisations of disabled persons, disabled persons themselves, experts in appropriate fields of special needs education and learners attending the eighth grade or higher, if reasonably practicable. Similarly, a governing body of an ordinary

public school is required by law to establish a committee on special education needs (cf section 4.1.5.3).

In addition to school governing bodies, the legislative and policy framework (cf section 4.1.5.3) calls for schools to empower parents to make a more meaningful participation in both the preparation and implementation of the Individual Support Plans and in the creation of inclusive education communities. It also obliges parents to provide information regarding developmental history, health, home behaviour, emotional state and personality of the learner at home, as well as to monitor and report on his/her and progress (cf section 4.1.5.3).

In conclusion, although the legislative and policy instruments offer a good starting point in terms of parental involvement in the education of their children, there are no sufficient mechanisms to allow meaningful contribution of parents, including through creating a level playing field among parents and school personnel and proper training that would assist parents to contribute to their children's education. For instance, the apparently extraordinary power invested in parents through school governing bodies has been seen as being a reflection of the state's consideration of parents as powerless, and as less organised and less politically threatening group. Others have drawn attention to the power struggle between school governing bodies and school personnel that in some instances debilitated school management (cf section 4.1.5.3). The risk of elite capture of school governing bodies – notably by middle-class parents – was also highlighted by some studies, leading to the conclusion that mostly black, low income parents did not have a say in school affairs (cf section 4.1.5.3).

6.1.11 Lack of guidelines for disciplining learners with disabilities

In the area of discipline, some of the policy instruments suggest that schools use positive behaviour supports that include school wide plans, classroom plans, individual learner plans, and intensive interventions for learners needing them. Such plans also include functional behaviour assessment with the active involvement of all learners and parents and on the basis of the principles of self-regulation and mutual respect (cf section 4.1.5.4).

The policy documents also promote behaviour support that include strategies for addressing behavioural challenges, including preventative steps, positive behaviour support interventions, reinforcement techniques, and "buddy" systems and circles of friends. They also recognise the

fact that some medications might trigger behaviour problems and that school staff members should be aware of (cf section 4.1.5.4).

The principles of self-regulation and mutual respect are espoused as well as the need for individualisation of reinforcement strategies. The policy documents call for zero tolerance of name calling, bullying and marginalisation of learners who are different or individualistic in whatever way (cf section 4.1.5.4). Bullying might be a major cause for fights among children in schools, which might lead to misconduct and disciplining. Some experts also cite as a good practice the involvement of parents – through school governing bodies – in developing a code of conduct for schools in terms of helping the school to adopt more positive disciplinary procedures for dealing with misconduct.

Teachers are called upon to use the appropriate type of reinforcement – verbal, activity or tangible – for each learner, while schools are urged to challenge the use of abuse against children with disabilities as part of school behaviour policy. Suspensions and expulsions are to be used as last-resort strategies, and schools should devise systems that would allow distressed children to take "time-out" (cf section 4.1.5.4). But, in conclusion, the policy instruments fell short of explicitly appreciating the possible links between disabilities and apparent misconduct. There is also lack of elaborate guidelines that help teachers and other teachers in dealing with the complexities involved in administering disciplining to learners with disabilities. There is, therefore, a visible risk of learners with disabilities being disciplined or punished or even be expelled from school for misconduct that may be somehow linked to their disability.

6.2 RECOMMENDATIONS

From the foregoing discussion of the findings and conclusions, the following recommendations can be made with a particular relevance to South Africa.

- There is a need for sober reflection and contemplation before policies are put out and some time has to lapse to clearly see the practical ramifications of a policy before related policies are issued. Further, a gradual and slow – but sure-footed – approach to policy-making should be adopted to give those responsible for putting the policies into practice some time for internalisation and preparation and more importantly, to secure the badly-needed political buy-in from the foot soldiers (implementers) of laws and policies.

- The government should not be complacent about the fact that its socio-economic rights are modelled after the 4 'A' scheme, which is drawn from the ICESCR. Instead, it should ratify the covenant and its optional protocol so that it widens the chances of its citizens to enjoy a wide range of economic, social and cultural rights and also ensure enforcement of these rights in a court of law. The ratification would also help to enhance the country's accountability to international norms and its standing in the world of human rights.

- It is crucially important for the government to be more inward looking in terms of generating funds to fund its inclusive agenda. Firstly because public funding is a right of all children; and secondly because too much reliance on external funding could jeopardise the fulfilment of the education rights of disabled children, given the fact that foreign aid is highly unpredictable as it is susceptible to changes in economic and political temperatures of both donating and receiving countries.

- Clarification needs to be given by the government (or the Ministry of Education) in its legal and policy documents about the extent to which and the pace at which special schools are to be "qualitatively transformed" as well as how it plans to implement its professed multiple "South African models of inclusion", including the practical implications of the steps to be taken.

- Education law and policy makers need to take into account the existence of discrimination based not just on disability but also on race and class in their deliberations and also put in place appropriate measures of redress that target such double-edged discrimination.

- The government needs to translate into action its recognition in its policy instruments of the need to have a funding model anchored in the principles of equity and redress; cost reduction (efficiency); increase in productivity levels; the elimination of an unsystematic pattern of user charges while meeting the commitment to free and compulsory education; and the creation of new funding partnerships for educational development. It should come up with a funding model that is inclusive and that is compatible with the socio-economic realties of the country.

- It is symbolically important to officially acknowledge in policy statements the role played by the "hidden" curriculum in exclusion of learners with disabilities and make more aggressive use of the school as a vehicle to combat race and disability-based discrimination. Schools should take it upon themselves to go beyond bylaws and other official dictums towards creating an inclusive school culture which can be felt in the general atmosphere of the school, in the way people interact and in what is valued or not in the school. Schools can also use role models and positive images to counteract negative stereotypes towards

children with disabilities and create the environment for disabled learners to befriend non-disabled learners and play and study together.

- The country's drive towards inclusive education should be accompanied by a similar drive to ensure that teachers become inculcated in skills and attitudes that ensure diversity in the inclusive classroom. The teacher training system – apparently still embedded in the apartheid system – should be overhauled – in both words and deeds – to ensure that it produces teachers and other educators that can cope with the demands of the full-service school. The teaching profession should also be organised in such a way that it attracts outstanding students with the right attitude and who cherish diversity and inclusion.

- The government should devise mechanisms to ensure a more significant participation of parents – one is that is as much as possible, free from elite capture and undue race and class-based influence. Poor, black parents of children with disabilities should, more importantly, be empowered to take part meaningfully in the education of their children and in school governance.

- A clear policy guideline – perhaps as a guideline accompanying White Paper 6 – should be developed to draw attention to the challenges associated with the disciplining of learners with disabilities and to lay down the required norms and standards and the care to be taken in disciplining learners with disabilities in an inclusive classroom. Such a guideline would give direction and instruction to teachers and other educators in line with current thinking and practice on this issue of utmost sensitivity.

6.3 LESSONS: TOWARDS A FRAMEWORK FOR ANALYSING THE RIGHT TO EDUCATION OF DISABLED CHILDREN

> [No] one can reveal to you nothing but that which already lies half-asleep in the dawning of your knowledge ~ Khalil Gibran

6.3.1 Introduction

The review of the literature has revealed that existing frameworks for analysing the education rights of learners fell short of fully addressing both the human rights and educational needs of children with disabilities. This is mainly because they were developed with an eye on non-disabled children. The lack of such a framework affects law and policy-making not only in South Africa, as the study country, but also other countries. Therefore, it becomes pertinent to develop a new framework for analysing the right to education of disabled children marrying both human rights standards and educational principles. The following section is devoted to such a

framework which is a very important lesson from the study. The development of this framework addresses Research Question 6.

6.3.2 SAVE Framework: Principles and elements

The summary of findings and conclusions coupled with the review of literature led me to develop what I call the SAVE Framework after the initial letters of its three core elements, namely **Suitability, AVailability and Equitability** (see Figure 11 below). The various constituting principles underlying each of the core elements are discussed below.

Figure 11 The SAVE Framework for analysing the right to education of disabled children

Center diagram labels:
- **E**quitability
- **Av**ailability
- **S**uitability

Availability (left box):
- Making inclusive schools available in good quality and quantity in close proximity
- Allocation of adequate public funding for ensuring inclusion
- Availing teachers in good quantity and quality for inclusion
- Equipping teachers with skills of "pedagogy of disruption" of disability stereotypes
- Respecting the rights and duties of teachers
- Developing teachers as foot soldiers of social justice
- Equipping teachers to play a pastoral role
- Supplying teachers with disabilities as role models
- Providing textbooks, uniforms and educational supplies at lower and affordable prices
- Providing disability-friendly adaptive and assistive devices at lower and affordable prices
- Availing disability-friendly school transport services at lower and affordable prices

Equitability (right box):
- Ensuring equality of access and results and non-discrimination
- Recognition of education as a civil and political right and as an economic, social and cultural right
- Recognition of the educability of disabled children
- Freedom of choice and involvement of parents/caregivers
- Creating an inclusive schools with inclusive culture, ethos and organisation
- Making schools economically affordable
- Allocating equitable public funding
- Political commitment to take affirmative action and for redress
- Respect for difference
- Listening to the voice of disabled children

Suitability (bottom box):
- Adapting the system instead of the child
- Using appropriate "language"' and discourse
- Cultural and local sensitivity to disability
- Safe and appropriate location of schools
- Individualisation of curricula and other support services
- Disability- and age-appropriate transition plan
- Curricular and instructional sufficiency, flexibility, relevance and appropriateness
- Proper academic testing/assessment of disabled learners
- Effective school-community relations
- Tackling the exclusionary potential of the hidden curriculum through equity pedagogy
- Care in disciplining disabled learners
- Universal design of facilities, services and products

6.3.2.1 SUITABILITY

The Cambridge English Dictionary (2012, s.v. 'suitability') defines the term *suitability* as the state of something being "acceptable or right for someone or something". The Oxford Dictionary defines it as the state of being "right or appropriate for a particular person, purpose, or situation" (Oxford English Dictionary 2012, s.v. 'suitability'). The term, therefore, signifies a more enriched meaning that includes both principles of *acceptability* and *adaptability* of the 4 'A' scheme as well as stressing the need for education of disabled children to be appropriate or right. The various principles of **suitability** – discussed in the following section – are:

- Adapting the system instead of the child
- Using appropriate "language" and discourse
- Cultural and local sensitivity to disability
- Safe and appropriate location of schools
- Individual Support Plans
- Disability- and age-appropriate transition plan
- Curricular and instructional sufficiency, flexibility, relevance and appropriateness
- Proper academic testing/assessment of disabled learners
- Effective school-community linkages
- Tackling the exclusionary potential of the *hidden curriculum* through equity pedagogy
- Care in disciplining disabled learners
- Universal design of facilities, services and products

Adapting the school system instead of the child

The element of suitability primarily espouses the fundamental principle of the Social Model of disability where the emphasis is on adapting the school system, its curriculum and pedagogy, its ethos and structures to accommodate the child instead of on adapting the child to the school system. In other words, the principle of adapting the school system instead of the child acknowledges that the deficit resides in the school and its elaborate system instead of the child. This school deficit approach stresses the fact that the primary responsibility for any lack of fit between the child and the school would rest with the school. This principle rejects the conventional, blame-the-child discourse of considering the child as incapable of coping within the ordinary educational system. This child deficit model holds that the child's impairments are to blame for

preventing him/her from making use of educational facilities, hence makes efforts to "fix" the child instead of the system.

It is thus the responsibility of professionals to create structures which can respond to children's differences while respecting their individuality, maintaining their full dignity, and keeping them connected to the broader school community.

Use of appropriate language and definition

The use of culturally appropriate and acceptable terms and discourses – both spoken and written – and the avoidance of labelling are important principles on which the *suitability* element is based. Language and discourse often empower and dis-empower, privilege and exclude, mainly through labelling.

Learners should not be categorised since categorisation often leads to placement of learners in a particular learning environment merely because of the category they are put in and not because of their particular learning needs. In many cases, categorisation is convenient for the system and not in the best interests of the learner. Labelling of learners should never be tolerated since it makes it difficult for learners to grow beyond the limitations of the label.

Therefore, categorisation and labelling should be avoided as well as the use of terms such as "special" learner or "special" school, because they do tend to instantly result in closing some doors and opening others. Caution also has to be exercised when putting children with disabilities into groups such as the mentally-retarded group or *the disabled*. The use of impairment-related metaphors such as "turning a blind eye", "fell on deaf ears", "blind rage", "lame excuse" should be avoided. The normal-abnormal dichotomisation has to be avoided when referring to disabled and non-disabled children. Instead, as the South African experience reveals, use of the term *learners* or *children with barriers to learning and development* is encouraged as it (a) is impersonal; (b) draws attention to barriers not just to learning but to the larger notion of development; and c) regards disability as one of the barriers, not the sole barrier, hence with a broader ambit.

Further, there has to be a proper definition of disability and disabled children (persons) that is consistent with the Social Model of disability, notably the one used in the UNCRPD, the most update disability human rights instrument (see UN 2006b, a 1). Such a definition helps to identify the rights and entitlements of persons (children) with disabilities as well as their obligations, and if

applied consistently in legislation or policy instruments, has the potential to overcome exclusion and combat labelling and categorisation.

Curricular appropriateness and flexibility

An important requirement under this principle is that of one curriculum for all and not a separate curriculum for children with and without disabilities. Yet, the use of a unified curriculum has to be accompanied by additional assistance and support when it is required. Any extra attention that might be required for children with disabilities in the ordinary classroom should not make them more visible than their non-disabled peers. Such support has to be given generally during the lessons.

Individuation as a requirement for the curricular appropriateness and flexibility principle can be complied with by means of individual support plans and in particular individual education plans (cf section 2.5.8, section 2.5.9 and section 4.1.5.1). The Individual Support Plan (ISP) of the learner is not just a support plan, but it is an individualised support plan that outlines a learner's needs, goals and progress and the corresponding support to be provided to the child (cf section 4.1.5.1).

Such individuation efforts should not make the child unhealthily visible and conspicuous and expose him/her to bullying and stigma. Curricular and pedagogic adaptations are dictated by four underlying imperatives: sufficiency, flexibility, relevance and appropriateness.

The pedagogic styles should be flexible and able to address diversity, without making some learners appear weak or less competent. This involves the individualisation of instruction and small group or peer-mediated learning approaches. A mix of both universal approaches to teaching and differentiated teaching are to be adopted. Suitability in this sense also requires that teaching styles allow full learner engagement; self-determination and choice. For instance, Augmentative and Alternative Communication Methods and sign language instruction and support should be given to learning with visual impairments, and those with hearing impairments and those with limited or no functional speech should be taught through a second language (cf section 2.5.9 and section 4.1.5.1).

The curriculum has to be designed in such a way that it is of direct relevance to the child's social, cultural, environmental and economic context and to his or her present and future needs and take

full account of the child's evolving capacities. The curriculum should be able to strengthen positive self-awareness, and self-worth making sure that the child feels he/she is respected by others as a human being without any limitation of dignity, and he/she has respect for human rights, fundamental freedoms and human diversity.

Children with disabilities, who need activities such as physical therapy, occupational therapy, speech therapy, and adaptive physical education, should not be denied of taking part in such activities. But, the provision can and should be integrated into the subject curricula and "into the ebb and flow of classroom activities", instead of in a separate arrangement.

This principle also holds that learners with barriers to learning should be given the opportunity to learn Braille, alternative script, augmentative and alternative modes, means and formats of communication and orientation and mobility skills, and facilitating peer support and mentoring, as well as sign language.

Assessment – as an essential part of providing learning support – should be inclusive, meaning it should offer a variety of vehicles to assess multiple views of intelligence and learning styles, and avoid implying, establishing, confirming or reinforcing difference. Assessment should aim at achieving the balance between meeting individual needs while maintaining assessment validity – i.e. to address the barrier, not to compensate for it, with both remedial and enrichment functions. It should instead aim at assisting learners to reach their full potential. Inclusive assessment may at times involve modifying expectations for some learners, including adapted objectives or outcomes. The overall objective should be to use the results of the assessment to reliably reveal the needs of some learners to be supported in the teaching and learning process. This exercise should offer information that feeds into the individual support plans.

Assessment adaptations may include, among others, audio-taping the material well in advance; allowing learners to dictate their answers on a cassette; enlarging the print of assessment papers; transcribing assessment tasks into Braille; supplying assistive devices and special equipment; giving sufficient time to demonstrate competency in the assessment tasks; and using a practical component so that learners can demonstrate their competence without having to use language (especially for learners with language problems) (cf section 2.5.12 and section 4.1.5.2).

This principle includes the recognition that the learner is the focal point of all teaching, learning and assessment; that all learners are equally valuable regardless of their differences and that learner differences are an important resource for teaching, learning and assessment. It is also important to have high and clear expectations for all learners and always taking into account interests of the learners.

Disability and age-appropriate transition planning

This principle requires that the curriculum should not be just appropriate but also fully sufficient and flexible enough in its content to address critical outcomes such as skills in problem solving and critical thinking, communication, self-awareness, self-management and organisation. It should cover skills such as respect towards others, technological awareness, and knowledge of the world around us. It should also focus on development outcome such as skills of learning "how to learn", entrepreneurship and career opportunities, citizenship, cultural and aesthetic sensitivity (cf section 2.5.10 and section 4.1.5.1).

The tailoring of the curriculum to emphasise life and vocational skills and linkages between schools and the workplace as well as to using relevant knowledge in real-life contexts is an important aspect of the element of suitability. This means the curriculum should address skills related to the world of employment and work in order to prepare learners to function as independent, contributing members of their communities after leaving school. This principle also holds that schools assist learners with disabilities in senior classes to become economically active and provide them with the skills needed in everyday life, offering training in skills which respond to the social and communication demands and expectations of adult life (cf section 2.5.10 and section 4.1.5.1).

Disability-friendliness of services: The notion of universal design

The other critical element of this principle is the need to adapt existing school transport services, the public transport infrastructure, and the school environment (such as classrooms, toilets, sporting facilities) to make them disability-friendly or take actions at the design phase of new facilities to ensure that they are disability-friendly.

The element of suitability advocates for the design and construction of the built environment, including schools and public transport and other services, to follow the concept of universal design where the focus on designing products, environments, programmes and services to be used by all

people without the need for adaptation or specialised design (UN 2006b, a 2). Designs should aim at being accessible to all, regardless of their ability, sex, age or religion, both disabled and non-disabled persons, but without precluding the provision and use of assistive devices for particular groups of persons with disabilities where this is needed. Proper adaptation and modification has to be made to already-built infrastructure to allow physical mobility and full enjoyment of the services, including ensuring good positioning of learners; clearing pathways; and organising tables in the classroom for mobility and access (cf section 2.5.7 and section 4.1.4.2).

Putting up hand rails on the walls, banisters on verandas, embossed signs, indicator lights or flags for break bells as well as lighting and light paint as well as white edging on stairs and counter tops and fitting blinds at windows to eliminate glare are some of the measures that can support the orientation of learners who have visual impairments (cf section 2.5.7 and section 4.1.4.2).

For instance, transit terminals can be modified to have well-located signs with high-contrast large print to assist deaf and visually impaired passengers; a low ticket counter for use by wheelchair users and short persons; and tactile warning strips at curbs and platform edges to assist blind persons (cf section 2.5.7 and section 4.1.4.2).

The principle of suitability also espouses the need for special accomodations to be made for girls with disabilities especially as it relates to toileting and the management of menstruation. This is crucially important in light of the modesty and privacy of many cultures and the limited openness associated with such biological processes.

Under this principle is also included the appropriateness of the location or site for schools, including the need to avoid locating schools near sites with the potential to hamper physical and acoustic learner safety.

Caution in taking disciplinary measures against learners with disabilities

The element of suitability also deals with the care to be exercised in disciplining children with disabilities as their apparent disruptive behaviour may – directly or indirectly – relate to their disability. Some disruptive tendencies might be the result of some medications (cf section 2.5.11 and section 4.1.5.4).

According to this principle, three considerations need to be taken into account: First, a learner with a disability cannot be punished for being disabled. Second, each learner with a disability is protected from any disciplinary procedure that results in a unilateral change in his/her educational setting. If the disabled child's educational setting is not changed by a disciplinary action, the school generally may use the same disciplinary measures on learners with disabilities as on all other learners. Third, a child with a disability cannot be disciplined for reasons resulting from the disability.

6.3.2.2 AVAILABILITY

This core element overlaps in many respects with a principle in the 4 'A' scheme bearing the same name in such areas like the availability of schools in good quantity and quality nearby; the allocation of adequate funding for public education; and the provision of well-qualified teachers in good quantity and quality. But the principle is expanded to include novel elements with a bearing on the education of disabled children such as equipping teachers with skills in critical pedagogy, making inclusive schools available close by, and providing disability-friendly adaptive and assistive devices.

The underlying principles of this core element – discussed in the next section – are the following:

- Making inclusive schools available in good quality and quantity in close proximity
- Allocation of adequate public funding for ensuring inclusion
- Availing teachers in good quantity and quality for inclusion
- Equipping teachers with skills of "pedagogy of disruption" of stereotypes of deviancy/disability
- Respecting the rights and duties of teachers
- Developing teachers as foot soldiers of social justice and equality
- Equipping teachers to play a pastoral role
- Supplying teachers with disabilities as role models
- Providing disability-friendly textbooks, uniforms and educational supplies lower and affordable prices
- Providing disability-friendly adaptive and assistive devices at lower and affordable prices
- Availing disability-friendly school transport services at lower and affordable prices

Making inclusive schools available in residential vicinity

As a matter of priority, this principle calls for the availability of schools close-by. This means, according to the South African education policy, that "every school is required to have a catchment area to the radius of up to 3 kilometres and a total walking distance to and from school of up to 6 kilometres" (cf section 2.5.7 and section 4.1.4.2).

This principle upholds the gradual elimination or qualitative alteration of the function of special schools and ensuring that all newly built schools are built and managed as inclusive schools where there is no special-regular dichotomy. Children should be educated in an inclusive school in their neighbourhood with their peers, and not in a segregated special school away from home. The efforts aimed at establishing inclusive schools should not use the extant regular school as the ideal model and should aim at creating a school that serves all children regardless of their ability, age, sex, religion, or socio-economic background.

Special schools must be used cautiously in circumstances where there is a relevant demand from parents, learners and stakeholders especially those attempting to promote deaf culture. There is the argument that special schools offer a unique opportunity for guaranteeing the right of "deaf" people to education in sign language and access to deaf culture, and reap the fruits of the ensuing self-enhancement.

There is also room for special schools to contribute as resource centres, giving support to teachers in inclusive schools that include building the capacity within the schools to support learners, teachers, parents, and the community through, for instance, setting up and developing site-based support teams that involve all teachers and stakeholders (cf section 5.2.4).

The requirement of school availability under this principle demands that special provisions be made to prioritise the construction of schools in areas that have been historically marginalised, and underdeveloped – areas which count a larger number of out-of-school children. It is known that children with disabilities account for a good majority of out-of-school children (cf section 4.1.3.1). The geographic dispersion of schools should not – by default or by design – lead to racialised or class-based stratification of schools.

This also includes building new classrooms in areas where schools already exist but are so overcrowded as to hamper the possibility of teachers giving one-to-one support – and additional support as the case may be to learners with barriers to learning and development – to learners and would make free movement difficult especially for learners using wheelchairs.

Provision of educational assistive and adaptive devices

The other principle underlying the core element of availability relates to the provision of disability-friendly adaptive and assistive devices such as Braille, Braille writers, mobility devices, hearing aids, adapted access computers, magnifying glasses and voice synthesisers as well as wheelchairs and crutches – equipment or adaptations to equipment that facilitate learning and the independence of learner freely or at a lower and affordable cost.

This can be approached in two ways. It can be achieved through providing such devices and facilities free of charge or at an affordable, low price. This can be further ensured through tax exemptions on importations of such devices and/or through local manufacturing of low-cost devices. Most adaptive and assistive devices in Africa are imported from outside, making them prohibitively expensive.

Textbooks, uniforms and educational supplies – wherever it is affordable and applicable – and school feeding programmes should be made available to cushion children from marginalised background from missing out from education services. Learners with disabilities often come from poor backgrounds and may lack basic amenities such as food and educational supplies.

Making disability-friendly transport services available free of charge or at discounted rate is the other crucial, aspect of this principle. This is especially important in areas where schools are far from home, and existing public transport system is inadequately accessible by disabled children.

Ensuring appropriate funding model and adequate allocation

Adequate funding is the other crucial requirement under this principle. Firstly, the right of all children to benefit from the allocation of public funding must be recognised. The adequacy threshold of public funds from which all schools should benefit equally should be set, and a funding model that is appropriate for the particular context and that is easy to understand and that reduces local reporting burden may be the most effective at allocating limited special education resources

where they are most needed. The funding formula adopted should – as much as possible – be free from generating incentives and disincentives that directly influence the orientation, quantities, and types of services provided at the local level. Such incentives at times might work towards excluding some children with certain types of disabilities or those with severe or multiple disabilities from education services.

In terms of appropriate funding model, this principle advocates for a model that satisfies the following three criteria (cf section 2.5.2):

- **Adequacy and political acceptability**

  - Funding must be sufficient to provide appropriate programmes for learners with barriers to learning;
  - implementation should avoid any major short-term loss of funds; and
  - implementation must involve no major disruption of existing services.

- **Identification neutrality**

  - Formulas must avoid incentives which might influence classification on other than optimal programming choices;
  - the practice of basing funding on service options rather than disability classifications permits a reduced emphasis on labels; learners do not have to be labelled "disabled" (or any other label) in order to receive services; and
  - the number of learners identified as eligible for special education should not be the only, or primary, basis for determining the amount of special education funding to be received.

- **Connected to regular education funding**

  - The special education funding formula should have a clear conceptual link to the regular education finance system. Funding mechanisms, whether for specific services, personnel, or learners, should not have the potential to differentiate education funding for disabled children from that of their non-disabled peers, hence earmarking funds for special education must be avoided as it may reinforce the special-regular dichotomy of the education system and give the impression that the education of children with disabilities is an annex to an already existing system of education.
  - Integration of funding should be designed as to encourage "unified" schooling services.

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There is, therefore, a need for a clear, funding model that is flexible, transparent, simple to understand, and with less potential to impose cumbersome paper work on implementers. More importantly, such a funding model has to be one that does not leave room for fiscal incentives and disincentives that would ultimately disadvantage children with disabilities.

Supply of teachers in good quality and quantity

Teacher training should aim at eliminating the ordinary-special education dichotomy, and instead move towards a fruitful and seamless marriage of both and create teachers for all learners regardless of their ability, age, race or other attributes.

One principle underlying the element of availability is that enough, qualified teachers should be supplied. Teachers should be qualified to fully cope with the inclusive classroom with all its complexities. Teacher training institutions should thus be able to equip teachers to deal with diversity in their classrooms by imparting context-specific skills, instead of train them through techno-rational approaches to "apply" received wisdom or prescriptive knowledge. Teaching in an inclusive classroom is a complex intellectual, moral, theoretical, and political work. It is important to recognise that it is practically impossible – and even unnecessary – for any teacher education programme to prepare pre-service teachers for every curriculum and every child.

Teachers are required to assume a "pastoral" role, which may include supporting learners coming from a deprived socio-economic background and giving them moral and emotional care and guidance. Teachers should also be prepared to serve as the foot soldiers of the struggle for emancipation of the marginalised and the excluded and as social agents. A related aspect is the recruitment of persons with disabilities into the teaching profession who would potential serve as role models for the school community.

Teachers must be qualified in not just academic skills but also in sign language and Braille and in pedagogic practices of teaching in a diverse classroom environment. Teachers are thus expected to be aware of how, where and when exclusion works, and be well-versed in discerning how identity, difference, privilege and disadvantage are played out in the school and through the school system. A critical, committed and ethical attitude has been inculcated in teachers to enable them to develop a sense of respect and responsibility towards others. Preparing teachers for inclusion is tantamount to preparing teachers as activists for social justice and to make them to be keenly

aware of the fact that the (hidden) curriculum, the classroom, and the school may conspire to perpetuate cultural and social hierarchies, inequality and injustice.

It is unthinkable for teachers to serve a diverse learner population if they are themselves still entrapped in misunderstandings, negative attitudes and stereotypes towards disability and disabled learners. Hence, it is the duty of teacher training institutions to prepare teachers towards challenging prejudices and stereotypes and equipping them with what is called "pedagogy of disruption". The latter enables teachers to disrupt hegemonic discourses and resist and transform oppressive practices, and adopt a multidisciplinary orientation.

Teacher training with an inclusive orientation should, therefore, prepare teachers on how "to teach against the grain" of mainstream, pervasive deficit narratives of disability such as those that consider human difference as pathological, and those that expect classrooms ideally to be places of homogeneity. Teachers should also be trained to take on a counter-narrative to the deficit narrative where human differences are expected, and where the starting points of the curriculum are diversity and pluralism (cf section 2.5.3 and section 4.1.3.2).

Assistive and adaptive devices that facilitate mobility such as wheelchairs should be made available free of charge or at low and affordable price. Low cost inclusive design features such as level pathways of adequate width and curb ramps can be incorporated in pedestrian pathways and buildings serving wheelchair users and all other pedestrians.

6.3.2.3 EQUITABILITY

Equity in education has two dimensions: fairness and inclusion. The former is about making sure that personal and social circumstances – for example gender, disability, socioeconomic status or ethnic origin – should not be an obstacle to achieving educational potential.

Inclusion is defined as a broad-based collective commitment to effect transformation at every level of society. It requires grand schemes within an architecture that frames and facilitates transformation as well as political will at a sectoral, institutional and classroom level to create truly inclusive spaces.

In a nutshell, the elements that constitute this principle are:

- Ensuring equality of access and results and non-discrimination
- Recognition of education as a basic human right
- Making schools economically affordable
- Allocating equitable public funding
- Political commitment to affirmative action and redress
- Recognition of the educability of disabled children
- Freedom of choice and involvement of parents/caregivers
- Creating an inclusive schools with inclusive culture, ethos and organisation
- Respect for difference
- Listening to the voice of disabled children.

These elements are discussed in the following section.

Upholding equality of access and results and non-discrimination

This principle demands the inclusion of disability as a forbidden ground for discrimination in constitutional provisions or specific anti-discrimination laws or legal provisions and also to sensitise the lay public and professionals towards preventing and eliminating *de facto* discrimination against children with disabilities.

All learners should enjoy equivalent learning conditions in terms of scholastic infrastructures, quality and quantity of teachers, and didactic tools. The education they are offered should, once they left school, give them the same chance of using their acquired skills to realise their individual or group aspirations (cf section 2.5.1, section 2.5.4, section 2.5.5 and section 5.2.7).

The principle recognises that every disabled child is primarily a child, with the same rights to acceptance, and education as any other child who has or does not have a disability, hence entitled to education and other services on an equal basis, and without discrimination and at times by bringing in more opportunities – through affirmative action – to bring about equal outcomes.

A crucial precondition for this principle to be enforced and implemented, including in a court of law, is its entrenchment in national legislation. Such legislation should explicitly address issues related

to children and their unique needs that are often different from adults. Legislation that is meant exclusively for adults with disabilities will leave out the special needs of children with disabilities.

This principle draws attention to the need for education law and policy makers to take into account the existence of discrimination based not just on disability but also on race and class in their deliberations and also put in place appropriate measures of redress that target such discrimination.

This principle constitutes both equality of access and equality of results. Equality of access to education addresses the responsibility of the state to provide equal opportunities to participate in education, while equality of results focuses on ensuring that children from different social groups successfully take advantage of that access. From this perspective, the provision of different kinds of opportunity and support is needed for children with different economic, social and cultural backgrounds in order to be successful. Equality of results can be achieved by addressing the difference at the starting line (when entering school) through inequality of provisions and resources (cf section 2.5.4 and section 2.5.5).

Equity and redress can be achieved by allocating public spending specifically targeting the needs of the poorest. Equitable funding can address inequalities that arise from past discriminatory investment through sharply progressive state funding policy for ordinary public schools in poor communities. Thus, what is required is, as rightly put by the Department of Education, to address poverty differentially as not all poor people are equally poor in which case some inequality in spending is required in favour of the poor (cf section 4.1.4.1).

Both *de jure* and *de facto* forms of discrimination should be prevented or addressed, wherever they happen. These may take the forms of the denial of access to educational opportunities, and segregation and isolation achieved through the imposition of physical and social barriers, or denial of reasonable accommodation based on disability.

Under this principle, States are called upon to take immediate steps to abolish any discriminatory laws, regulations and practices, and to allocate adequate resources or refrain from making regression in allocations.

Acknowledging educability of children with disabilities

This element of the equity principle underscores that every child can benefit from education; all children are educable regardless of the severity of their disability. In the past, it used to be the case that children with disabilities are a lost case when it comes to education. Today, with numerous examples that irreversibly discarded deficit notions about the uneducability of children with disabilities, the question on the educability of children with disabilities is about what they should learn and how they should learn, instead of whether or not they are educable, or whether it is advisable or plausible to educate them. So, there is no such a thing as an uneducable child – all children are educable and all are entitled to education. Failure to ensure the right to education of children with disabilities on the basis of unfounded claim that they are uneducable is a violation of the rights of children with disabilities and amounts to injustice.

Ensuring equitable funding: Making schools economically accessible

One of the important elements of the principle of equity is equitable funding, which may include measures of fee abolition and the provision of free education. Studies have shown that fee may pose a major barrier to accessing education. As a general principle fees should not be introduced in schools. Instead of resorting to fees for funding education, governments should allocate budgets to ensure that all children – regardless of their socio-economic background – benefit from education services.

Although schools fees play a major role in impeding access to education, other secondary costs such as those associated with school uniforms, transport, books and stationery play an even more important role in doing so.

Furthermore, as the South African experience revealed, simply designating some schools as no-fee schools would not suffice for a number of reasons. Firstly, the imposition of school fees runs contrary to the basic right to access of education of children; and secondly, it might trigger racial, class-based stratification of schools, with stark quality differentials. Secondly, the imposition of school fees nullifies the other crucial principle of "compulsory education" (cf section 4.1.4.1).

Respect for difference and diversity in an inclusive school culture

The South African Department of Basic Education recognises that an inclusive school culture is "about recognising and respecting the differences among all learners and building on their similarities". The creation of an inclusive school culture involves "changing attitudes, behaviours, teaching methodologies, curricula and the environment to meet the needs of all learners". It is also about supporting all learners in order to meet their full range of learning needs. It is not about a *laissez faire* approach of leaving learners with barriers to learning and development to wallow in the dark without any support to meet their learning needs (cf section 2.5.1 and section 5.2.3).

In schools with an inclusive culture, differences among children are seen as both natural and enriching and a hierarchy of difference does not exist – either between disability and non-disability or within disability. It is not necessary or helpful to equate difference with deviance; rather, the ways in which we respond to differences reflect our own values about diversity. The best interests of all people would be served by encouraging their interaction with a broad range of other people. This principle acknowledges that purposive, thoughtful heterogeneity is enriching and it requires that diversity and heterogeneity be encouraged in a structured and deliberate way. In such schools there is a single teaching staff and a single teacher-parent association for all learners regardless of their difference and individual needs, and all children are given equal chance to participate in school activities, both curricular and extracurricular such as fund-raising, assemblies and field trips (cf section 2.5.1 and section 5.2.3).

This principle dictates that more than just acknowledging and respecting differences in learners, whether due to age, gender, ethnicity, language, class, disability or HIV status, sexual preference, schools should create welcoming environments and embark on positive awareness campaigns about difference and the value of celebrating diversity. The principle upholds the right of children with barriers to learning to be able to preserve their distinct identity within diversity without suffering because of those identities.

Schools do need to combat discrimination and exclusion that emanate from both the visible aspects of school culture and ethos as well as from the *hidden curriculum*. School-level ethos and cultures that may not be explicitly manifested should be addressed through both explicit school policies and bylaws and through sensitisation and enhanced interaction between disabled and non-

disabled learners, and through strategies that build disabled learners' self-awareness and self-esteem.

Therefore, structural modifications to the school environment and curriculum will not suffice; the school's deep culture, its *hidden curriculum* of fundamental value systems, ritual and routines, initiations and acceptance which forms the fabric of daily life have to be tackled through critical pedagogy and through creating awareness on how to live in diversity.

The following principles taken from the South African inclusive model of full-service schools is helpful in this regard:

- Everyone in the site of learning is responsible for the education of each learner regardless of their learning needs;
- Everyone in the site of learning is focused on meeting the needs of all learners in a unified system of education;
- All educators have skills and knowledge that can and should be used to support the efforts of each educator to ensure the success of all learners and students;
- All learners benefit from participation in mainstream institutions and should be shown respect for their unique, personal forms of growth and contribution.
- Children learn sign language
- All teachers should aim to teach all children

According to this principle, schools and their respective communities should aspire to learn about the culture of a certain disability, say deafness, and learners learn to take sign language as a subject, and that they do not have some classrooms marked as "special education class".

Involving parents/caregivers

The other element of the principle of equity is the genuine involvement of parents or caregivers and not just expert power dictation, which is crucial to further the education of learners with barriers to learning and to ensure the continuity of their education into the community through school-community linkages. This might involve supporting them so that they would be able to make meaningful contributions in their children's educational activities both at school and home.

This principle envisages parental involment in four general areas (cf section 2.5.13):

- **Concrete and contextual**: covers the ways in which parents may assist in the supplementation of resources through fundraising and voluntary help in classrooms, under the direction of teachers
- **Pedagogical and problem-solving**: this includes 'parent evening' discussions on children's strength and matters of concern and contributions to overcome them. It could also cover co-tutoring where the parent takes on a limited teaching role as in the case of home reading initiative
- **Policy and governing**: here parents contribute to decisions affecting the school as a whole. At its most direct this will be as a parent governor themselves, but in order to exert a more representative influence there is a need for wider consultative mechanisms
- **Communal**: the school tries to address itself to the needs of parents as well, by for example, giving them learning opportunities.

Wherever there is a strong parental involvement in school affairs, there is more likely to be a good school-community relationship with enriching experiences for children with disabilities. Under such circumstances, each member of the community – the clerk, the co-worker, and the bus driver with whom children will routinely interact – fits into an important position to contribute to the education of children with disabilities in casual and on-going ways. This calls for a recognition of the fact that a learner with disabilities simultaneously occupies a space within a regular classroom, as being a member of a school, including its governance, management structure and philosophy, and as a member of the a broader society of which the school is a part (cf section 2.5.1 and section 2.5.13).

6.3.3 SAVE FRAMEWORK AND 4 'A' SCHEME: SIMILARITIES AND DIFFERENCES

In this section, I highlight the major similarities and differences between the 4 'A' Scheme and the SAVE Framework, in order to give readers an insight into the added value of the new framework presented in this thesis. One of the points of commonality between the 4 'A' Scheme and the SAVE Framework is the element of *Availability* which is referred to as a principle in the 4 'A' scheme and an element in the SAVE Framework. Despite the terminological similarity, there are quite a number of elements that differentiate the usage of this principle in both frameworks. The SAVE Framework has expanded the use of this principle by introducing new elements which have

a particular bearing on the education of disabled learners. These differences and similarities are shown in Table 7 below.

Table 7 The Principle of AVAILABILITY in the 4 'A' scheme and SAVE Framework

AVAILABILITY	
4 'A' scheme	**SAVE Framework**
- Schools must be established - Schools must not be closed - States Parties must not neglect the public education system, including through funding - Teachers must be made available - Teachers must be properly qualified - Labour and trade union rights of teachers must be guaranteed - Academic freedom and institutional autonomy must be ensured - The right to establish and direct private schools must be guaranteed	- Making inclusive schools available in good quality and quantity in close proximity - Allocation of adequate public funding to ensure inclusion - Availing teachers in good quantity and quality for inclusion - Equipping teachers with skills of 'pedagogy of disruption' of disability stereotypes - Respecting the rights and duties of teachers - Developing teachers as foot soldiers of social justice and equality - Equipping teachers to play a pastoral role - Supplying teachers with disabilities as role models - Providing disability-friendly textbooks, uniforms and educational supplies at lower and affordable prices - Providing disability-friendly adaptive and assistive devices at lower and affordable prices - Availing disability-friendly school transport services at lower and affordable prices

The most important difference between these two frameworks lies in the fact that the 4 'A' scheme is drawn entirely from article 13 of the ICESCR, hence lacks comprehensiveness in addressing other rights enshrined in other relevant instruments (Beiter 2006:476-478).

The 4 'A' scheme did not also rely on any disability-related treaty in formulating its principles. This has been acknowledged by Right to education project 2008:

> Whilst they [the 4 'A's] are an extremely useful way of explaining the right to education in terms of tangible factors, they are not necessarily the standard used in every international treaty and as such should not be treated as a generic, comprehensive guide to what the right to education means under every law.

However, the SAVE Framework is drawn from a range of instruments relevant to both disability and education.

Although the 4 'A' scheme is considered to be a rights based approach, it is written from a State obligation standpoint and not necessarily from the perspective of children as rights holders. In terms of its structure, the 4 'A' scheme remains by and large a framework that focuses on inputs such as schools and teachers, much like the conventional input-output-outcome models. This is despite its mention of other elements not necessarily related to outputs such as non-discrimination (Beiter 2006:476-478).

The absence of an explicit mention of *equity* in the 4 'A' scheme has serious implications on the applicability of the scheme to children with disabilities. This is addressed in the SAVE framework as *equitability* and includes principles such as ensuring equality of access and results and non-discrimination; recognition of the educability of disabled children; creating an inclusive schools with inclusive culture, ethos and organisation; respect for difference and listening to the voice of disabled children (see Figure 12). The 4 'A' Scheme mentions *children with special needs* under its principle of *adaptability* (Beiter 2006:476-478) and addresses issues related to the flexibility of curricula and instructional techniques for the benefit of all children (Tomaševski 2004:vi). This is far from being sufficient to ensure that children with disabilities benefit fully from the range of rights to education. The fact that children with disabilities are explicitly mentioned just under a single principle betrays the fact that the scheme added these children as an afterthought instead of as a principal issue.

Although the 4 'A' scheme mentions physical accessibility under *accessibility*, it fell short of requiring that schools be accessible for disabled learners. It also mentions the need to make teachers available in good quantity and quality but fails to note the critical role teachers could play in bringing about social justice and in ensuring diversity within inclusive classrooms (Beiter 2006:476-478). Although the 4 'A' scheme simply requires that schools should be made available, it does not tell whether or not these schools should be inclusive. In addition to addressing these

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issues that were not sufficiently addressed in the 4 'A' scheme, the SAVE Framework introduces a number of novel elements with a bearing on learners with barriers to learning and development such as respect for difference and cultural and local sensitivity to disability; the principle of adapting the school system and its structures instead of the child; the role of the *hidden curriculum* and critical pedagogy; and universal design of facilities, services and products.

Further, the very use of the term *access(ibility)* of the 4 'A' scheme brings to mind commercialising overtones where education is considered a service to be purchased from the free market. This runs the risk of removing the issue of education as a basic right of children. If education is reduced to such purely economic logic, children with disabilities and other marginalised children will totally miss out.

The other crucial differences between the SAVE Framework and the 4 'A' scheme is the way the role of discourse, culture and language are treated in both. While the 4 'A' scheme is entirely silent on the role played by discourse, the SAVE Framework addresses the role of social structures, social justice, power, ideology and discourse. The role played by critical pedagogy and the *hidden curriculum* in perpetuating exclusion and the potential role of critical pedagogy are also addressed in the SAVE Framework, and not in the 4 'A' Scheme.

6.4 SUGGESTIONS FOR FUTURE RESEARCH

From the findings of this study the following areas need further research:

- The issue of the "hidden curriculum" and "critical pedagogy" and how these two issues affect the educational right of children with disabilities in the South African context where race, class and disability interact.
- How existing laws and policies on the education of children with disabilities are implemented and the challenges faced in doing so. Such a study would also reveal the effects of policy influx on policy implementation, including in curricular reform and teacher development for inclusion.
- The effect on educational access of the country's reliance on external funding to implement the Full-service model of inclusion.

- How class and race influence education law and policy-making processes in South Africa, including the country's attempt to break away from its past and to move forward in its transformation agenda.
- The role of teachers with disabilities in promoting the education of children with disabilities, including their potential pastoral role and role modelling influence.
- A qualitative study involving interviewing law and policy makers who were involved in the drafting of White Paper 6 as to what they had in mind when they referred to "South African models of inclusion".
- A study into how the SAVE Framework can find its way into the South African education landscape, including on ways of applying it to assess policy implementation.

6.5 FINAL WORDS

Children with disabilities are found in every community in Africa and South Africa is no exception. It is estimated at least one in ten persons in anyone country lives with a disability. This includes children. Despite the significant number of children with disabilities, a good majority of them have been excluded from education services, which is estimated at one in every ten children being excluded from education. Lack of up-to-date laws, policies and strategies are one of the crucial factors behind this high degree of exclusion. The reason behind these laws falling behind current thinking and practice on the education of disabled children is partly attributed to the lack of comprehensive frameworks for informing law and policy formulation. The existing frameworks treat elements of inclusive education and human rights standards related to education of disabled children in isolation.

Although South Africa's laws and policies on the education of disabled children are relatively advanced, a critical analysis of those laws and policies reveals that there are some gaps. In this study, I captured the progressive elements of the South African education and disability landscape and complemented it by reviewing the related literature to come up a framework that integrates both the educational principles pertaining to disabled children and the human rights standards that uphold their educational and disability rights. The framework lays downs the ingredients for law and policy-making on the education of disabled children in line with current thinking and practice that can be used by South Africa and other countries with similar socio-economic contexts to refine their respective laws and policies or to develop new ones.

REFERENCES

Acedo, C., Amadio, M. & Opertti, R. (eds.). *Defining an Inclusive Education Agenda: Reflections around the 48th session of the International Conference on Education* (pp 87-91). Geneva: UNESCO.

ACPF (African Child Policy Forum) 2011. *Educating children with disabilities in Africa: Towards a policy of inclusion.* Addis Ababa: ACPF.

ActionAid 2007. *Education Rights. A guide for practitioners and activists.* [Online] URL: http://www.actionaid.org/sites/files/actionaid/1._education_rights__a_guide_for_practitioners_and_activists.pdf. Accessed 10 March 2010.

African Child Policy Forum 2008. *The African Report on Child Wellbeing: How child-friendly are African governments?* Addis Ababa: The African Child Policy Forum.

Ainscow, M. 2003. "Using teacher development to foster inclusive classroom practices". In Booth, T., Nes, K. & Strømstad, M. (eds.). *Developing Inclusive Teacher Education* (pp.15-32). London: Routledge/Falmer.

Ainscow, M. 1993. "Teacher development and special needs: some lessons from the UNESCO project, 'Special Needs in the Classroom'". In Mittler, P., Brouillette, R. & Harris, D. (eds.). *World Yearbook of Education 1993: Special Needs Education* (pp.239-251). London: Kogan Page.

Ainscow, M., Booth, T. & Dyson, A. 2006. *Improving schools, developing inclusion.* Oxon/New York: Routledge.

Ainscow, M & Florek, A. 1989. "A Whole School Approach." In Ainscow, M. & Florek, A. (eds.).*Special Educational Needs: Towards a Whole School Approach* (pp.1-6). London: David Fulton Publishers.

Ainscow, M. et Miles, S. 2008. "Vers Une Education Pour L'inclusion Pour Tous: Prochaine Étape?" *Perspectives* 38(145): *17-47.*

Albert, B., Dube, A.K., Hossain, M. & Hurst, R. 2005. *Research gap analysis report.* Disability Knowledge and Research Programme.UK Department for International Development. [Online] URL: http://www.research4development.info/SearchResearchDatabase. asp?OutPutId=173434. Accessed 10 July 2008.

Allan, E.J. 2008. *Policy discourses, gender, and education: Constructing women's status.* New
    York/London: Routledge.

Allan, J. 1999. *Actively seeking inclusion: pupils with special needs in mainstream schools*. Philadelphia:
    Falmer Press.

Allan, J. 2003. "Inclusion and exclusion in the university". In Booth, T., Nes, K. & Strømstad, M. (eds.).
    Developing Inclusive Teacher Education (pp.130-144). London: Routledge/ Falmer.

Alper, S., Schloss, P.J., Etsheidt, S.K. & Macfarlane, C.A. 1995*. Inclusion: Are we abandoning or helping
    students?* California: Corwin Press.

Amsterdam, C. 2006. Adequacy in the South African context: A concept analysis. *Perspectives in
    Education* 24(2): 25-34.

Antelmi, D. 2007. "Manifest ideology and hidden ideology in legal language: Definitions and terms". In
    Garzone, G. & Sarangi, S. (eds.). *Discourse, ideology and specialized communication* (pp.101-118).
    Bern: Peter Lang.

Armstrong, F. 2003. *Spaced out: Policy difference and the challenge of inclusive education.*
    Dordrecht/Boston/London: Kluwer Academic Publishers.

Artiles, A. & Dyson, A. 2005. "Inclusive education in the globalization age". In Mitchell, D. (ed.).
    Contextualizing Inclusive Education: Evaluating Old and New International Perspectives (pp.37-62).
    New York: Routledge.

AU (African Union) 2001. *Africa Fit for Children: Pan-African Forum for Children. Africa Common Position.
    Cairo Declaration and Plan of Action.* Cairo: AU.

Bagarette, N. 2011. Power relations in school governing bodies: Implications for effective school governance.
    Journal of Social Sciences 29(3): 223-236.

Baker, P. & Ellece, S. 2011. *Key terms in discourse analysis.* London/New York: Continuum International
    Publishing House.

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. Paris: UNESCO. [Online] URL: http://unesdoc.unesco.org/images/0014/001459/145940e.pdf Accessed 11 July 2008.

Ball, S.J. 1994. *Education reform: A critical and post-structural approach*. Buckingham/Philadelphia: Open University Press.

Ballard, K. 2003. "The analysis of context: Some thoughts on teacher education, culture, colonisation and inequality". In: Booth, T., Nes, K. & Strømstad, M. (eds.). *Developing Inclusive Teacher Education* (pp. 59–77). London: Routledge/ Falmer.

Barnes, C. 1992. Qualitative research: Valuable or irrelevant? *Disability, Handicap and Society* 7 (2):115-24.

Barnes, C. & Mercer, G. 2010. *Exploring disability*. (2nd ed). Cambridge: Polity Press.

Bart, D.S. 1984. "The differential diagnosis of special education". In Barton, L. & Tomlinson, S. (eds.). 1984. *Special Education and Social Interests* (pp.81-121). London and Sydney: Croom Helm.

Bartolomé, L. 2007. "Critical pedagogy and teacher education: Radicalizing prospective teachers". In McLaren, P. & Kincheloe, J. (eds.). *Critical Pedagogy: Where Are We Now?* (pp. 263-286). New York: Peter Lang.

Barton, L. 2003. *Inclusive education and teacher education: A basis of hope or a discourse of delusion*. Hertfordshire: Pear Tree Press.

Barton, L. 2008. *Inclusive education, teachers, educators and the politics of possibility*. Paper presented at the Inclusive Festival, the University of Utrecht Holland. 21 January 2008.

Beecham, J. & Knapp, M. 1999. "Inclusive and special education: Issues of cost-effectiveness". In OECD. *Inclusive Education at Work: Students with Disabilities in Mainstream Schools* (pp. 327-345). Paris: OECD Publications Service.

Beiter, K.D. 2006. *The Protection of the right to education by international law.* Leiden: Martinus Nijhoff Publisher.

Berg, B.L. 2001. *Qualitative research methods for the social sciences*. (4thed). Long Beach: Allyn and Bacon.

Bhatia, V. 1993. *Analyzing genre: Language use in professional settings*. London: Longman.

Biklen, D.P. 1989. "Redefining schools". In Biklen, D.P., Ford, A. & Ferguson, D. (eds.). *Schooling and Disability: Eighty-eight Yearbook of the National Society for the Study of Education* (pp.1-24). Chicago: University of Chicago Press.

Blackmore, J. 2000. Big change questions: Can we create a form of public education that delivers high standards for all students in the emerging knowledge economy? *Journal of Educational Change* 1:381-387.

Brand, D. 2005. "Introduction to socio-economic rights in the South African Constitution". In Brand, D. & Heyns, C. (eds.). *Socio-economic rights in South Africa* (pp. 1-56). Pretoria: Pretoria University Law Press.

Brantlinger, E. 1997. Using ideology: cases of non-recognition of the politics of research and practice in special education. *Review of Educational Research* 67:425-59.

Brent, J. 2009. *Searching for community: Representation, power and action on an urban estate*. Portland: Policy Press.

Brown, S. A. 2007. *A critical discourse analysis of identity development and literacy practices: Latino English learners at home and in the primary classroom*. Ann Arbor: ProQuest.

Bulley, D. 2009. *Ethics as foreign policy: Britain, the EU and the other*. Oxon/New York: Routledge.

Bulmer, M. 1982. *The uses of social research: Social investigation in public policy-making*. London: Allen & Unwin.

Caelli, K., Ray, L. & Mill, J. 2003. 'Clear as mud': Toward greater clarity in generic qualitative research. *International Journal of Qualitative Methods* 2 (2):1-24.

Cambridge English Dictionary 2012. s.v. 'suitability'. Cambridge: Cambridge University Press.

Cengage Learning Australia 2010.*A cascade model of special education services from New South Wales*. [Online] URL: http://www.cengage.com/education/book_content/0170181812_krause/go_further/pdf/krause3e_gf_0903.pdf Accessed 11 July 2012.

Center for International Rehabilitation 2003. *International Disability Rights Compendium 2003. International Disability Rights Monitor*. Chicago: Center for International Rehabilitation.

Champaign, J.F. 1993. Decisions in sequence: How to make placements in the least restrictive environment. *EdLaw Briefing Paper* 9 &10: 1-16.

Cheek, J. 2004. "At the margins? Discourse analysis and qualitative research". *Keynote Address: Fourth International Advances in Qualitative Methods Conference. Qualitative Health Research*, 14 (8): 1140-1150. [Online] URL: http://qhr.sagepub.com/content/14/8/1140 Accessed 19 May 2011.

Chimombo, M. & Roseberry, R.L. 1998. *The power of discourse: An introduction to discourse analysis*. New York: Erlbaum Associates.

Chisholm, L. 2003. *The Politics of curriculum review and revision in South Africa*. Presented at the 'Oxford' International Conference on Education and Development, 9-11 September 2003 at the session on Culture, Context and the Quality of Education. [Online] URL: http://intranet.hsrc.ac.za/research/output/outputDocuments/2285_Chisholm_PoliticsofCurriculumReview.pdf Accessed 23 February 2012.

Chisholm, L. 2004. *The Quality of Primary Education in South Africa*. Background Paper Prepared for UNESCO Education for All Global Monitoring Report. Paris: UNESCO.

Clark, L. & Marsh, S. 2002. *Patriarchy in the UK. The language of disability*. [Online] URL: http://www.leeds.ac.uk/disability-studies/archiveuk/Clark,%20Laurence/language.pdf Accessed 11 July 2012.

Coffey, A. & Atkinson, P. 1996. *Making sense of qualitative data*. Thousand Oaks: Sage.

Combrinck, H. 2008. "The hidden ones: Children with disabilities and the right to education". In Sloth-Nielsen, J. (ed.). *Children's Rights in Africa: A Legal Perspective* (pp. 299-321). Hampshire: Ashgate Publishing.

Community Law Centre 2010. *Support our campaign to ratify the 'International Covenant on Economic, Social and Cultural Rights' and its 'Optional Protocol'!* Cape Town: University of the Western Cape.

Consortium for Research on Education, Access, Transitions and Equity see CREATE

Corbett, J. 2001. *Supporting inclusive education: A connective pedagogy*. New York: Routledge/Falmer.

Corbett, J & Slee, R. 2000. "An international conversation on inclusive education". In Armstrong, F, Armstrong, D. & Barton, L. (eds.). *Inclusive Education: Policy, Contexts and Comparative Perspectives* (pp.133-146). London: David Fulton Publishers.

Corbett, J. & Norwich, B. 2005. "Common or specialised pedagogy?" In Nind, M., Rix, J., Sheehy, K. & Simmons, K. (eds.). *Curriculum and Pedagogy in Inclusive Education* (pp.13-30). Abingdon: Routledge/Falmer.

Corker, M. 2005. "Disability discourse in a postmodern world". In Shakespeare, T. (ed.). *The Disability Reader: Social Science Perspectives* (pp. 221-233). London/New York: Continuum.

Corker, M. & Shakespeare, T. 2006. "Mapping the terrain". In Corker, M. & Shakespeare, T. (eds.). *Disability/Postmodernity: Embodying Disability Theory* (pp.1-17). London/New York: Continuum.

Court of Appeal (England) 1985. *Gillick v West Norfolk and Wisbech Area Health Authority and another [1985] 1 All ER 533.*

Cousin, G. 2010. "Positioning positionality". In Savin-Baden, M. & Major, C.H. (eds.). *New Approaches to Qualitative Research: Wisdom and Uncertainty* (pp. 9-18). Oxon/New York: Routledge.

CREATE 2009. *'No Fee' Schools in South Africa*. Policy Brief, Number 7, August 2009. [Online] URL: http://www.create-rpc.org/pdf_documents/Policy_Brief_7.pdf   Accessed 14 March 2012.

CRIN 2007. *Human rights-based approaches to programming. Glossary of human rights terms* [Online] URL: www.crin.org Accessed 22 July 2009.

Crockett, J.B. & Kauffman, J.M. 1999. *The Least restrictive environment: Its Origins and interpretations in special education*. Mahwah, New Jersey: Lawrence Erlbaum Associates.

Davie, R. 1989. "Special educational needs: policy into practice". In Evans, R. (ed.).*Special Educational Needs: Policy and Practice* (pp.3-11). Oxford: Basil Blackwell.

Declercq, F. 2000. *Policy interpretation, analysis and monitoring*. Module 3. Lecture Presented to Gauteng Department of Education. University of Witwatersrand. Wits Education Policy Unit.

deFur, S.H. & Russell, D.L. 1997. "Transition planning with an inclusive philosophy". In Power-deFur, L.A. & Orelove, F.P. (ed.). *Inclusive Education: Practical Implementation of the Least Restrictive Environment* (pp. 215-224). Maryland: Aspen Publishers.

Degener, T. 2004. *Definition of disability.* EU Network of Experts on Disability Discrimination. [Online] URL: http://www.nuigalway.Ie/law/disability_summer_school/docs/2006/marc%20de%20vos%20teaching%20materails%202%20-%20definition%20of%20disability.rtf Accessed 23 February 2010.

De la Rey, C. 1997. "On political activism and discourse analysis in South Africa". In Levette, A., Kottler, A., Birman, E. & Parker, I. (eds.). *Culture, Power and Difference: Discourse Analysis in South Africa* (pp. 189-197). Cape Town: University of Cape Town.

Denzin, N. K. & Lincoln, Y.S. 2011. "Introduction: The discipline and practice of qualitative research". In Denzin, N. K. & Lincoln, Y.S. (eds.). *The SAGE Handbook of Qualitative Research* (pp.1-20). London/Thousand Oaks: SAGE.

Denzin, N. K. 1994. "Post modernism and deconstructionism". In: Dickens, D.R. & Fontana, A. (eds.). *Postmodernism and Social Inquiry* (pp. 182-202). London: The Guilford Press.

Devlin, R. & Pothier, D. 2006*. "*Introduction: Toward a critical theory of dis-citizenship". In Pothier, D. & Devlin, R. (eds.). 2006. *Critical Disability Theory: Essays in Philosophy, Politics, Policy, and Law* (pp. 1-22). Vancouver/Toronto: UBC Press.

Disabled People South Africa 2000. *Pocket guide on disability equity: An empowerment tool. In support of The Africa Decade of Disabled Persons.* Cape Town: DPSA Parliamentary Office.

DoBE (Department of Basic Education) 2005. *Guidelines for Inclusive Learning Programmes.* Pretoria: Department of Basic Education.

DoBE 2010a. *Dictionary of concepts and terms.* Notice 250 of 2010. Pretoria: Department of Basic Education.

DoBE 2010b. *Report on the implementation of the Convention on the Rights of Persons with Disabilities in education.* Pretoria: Department of Basic Education.

DoBE 2010c. *Guidelines for Full-service/Inclusive Schools.* Pretoria: Department of Basic Education.

DoBE 2010d. *The National Policy for an Equitable Provision of an Enabling Environment School Physical Teaching and Learning Environment.* Government Notice No 33283. Pretoria: Department of Basic Education.

DoBE 2011a. Amended *National Norms and Standards for School Funding*. Government Notice No 992 of
2011. Pretoria: Department of Education.

DoBE 2011b. *Curriculum and assessment policy statement: Home language Grades 7-9*. Pretoria:
Department of Basic Education.

DoBE 2011c. *National protocol for assessment Grades R-12*. Department of Basic Education: Pretoria.

DoBE 2012a. *The Department of Basic Education*: *History.* Pretoria: Department of Basic Education. [Online]
URL: http://www.education.gov.za/TheDBE/tabid/54/Default.aspx Accessed 18 September 2012.

DoBE 2012b. *Action Plan to 2014: Towards the realisation of schooling 2025*. Pretoria: Department of
Basic Education.

DoBE & DoHET (Department of Higher Education and Training) 2011. *Integrated Strategic Planning
Framework for Teacher Education and Development in South Africa, 2011–2025*. Department of
Basic Education / Department of Higher Education Pretoria.

DoE (Department of Education) 1995. *White Paper on Education and Training.* Notice 196. Cape Town:
Department of Education.

DoE 1997. *Quality Education for All: Overcoming barriers to learning and development. Report of the
National Commission on Special Needs in Education and Training (NCSNET) National Committee
on Education Support Services (NCESS)*. Pretoria: Department of Education.

DoE 1998. *The Norms and Standards for School Funding*. *Notice 2362 of 1998. Pretoria*: Department of
Education.

DoE 1999. *Consultative Paper No 1 on Special Education: Building an Inclusive Education and Training
System, First Steps.* Pretoria: Department of Education.

DoE 2001a. *Education White Paper 6.Special Needs Education. Building an inclusive education and
training system*. Pretoria: Department of Education.

DoE 2001b. *Education in South Africa: Achievements since 1994*. [Online] URL:
http://www.dhet.gov.za/LinkClick.aspx?fileticket=sOiQt9GSMpk%3D&tabid=92&mid=495   Accessed
27 July 2012.

DoE 2002. *Curriculum 2005: Assessment guidelines for inclusion.* Pretoria: Department of Education.

DoE 2003. *Review of the Financing, Resourcing and cost of Education in Public Schools*. Government
   Gazette. Vol. 543. Pretoria: Department of Education.

DoE 2005. *Inclusive education: Conceptual and operational guidelines for the implementation of inclusive
   education: Special schools as resource centres*. Pretoria: Department of Education.

DoE 2006a. *The National Policy Framework for Teacher Education and Development in South Africa*.
   Pretoria: Department of Education.

DoE 2006b. *Amended National Norms and Standards for School Funding*. Government Notice No 869 of
   2006. Pretoria: Department of Education.

DoE 2008a. *National Minimum Uniform Norms and Standards for School Infrastructure*. Notice 1439 of
   2008. Government Gazette. 21 November 2008. Pretoria: Department of Education.

DoE 2008b. *National Strategy on Screening, Identification, Assessment and Support- School Pack.*
   Pretoria: Department of Education.

Doherty, R. 2007. "Critically framing education policy: Foucault, discourse and governmentality". In Peters,
   M.A. & Besley, T. (eds.). *Why Foucault? New Directions in Educational Research* (pp.192-204). New
   York: Peter Lang.

DoHET (Department of Higher Education and Training) 2011. *National Qualifications Framework Act
   (67/2008): Policy on the Minimum Requirements for Teacher Education Qualifications*. Notice
   Number 583. Department of Higher Education and Training: Pretoria.

Dornbush, M.P. & Pruitt, S.K. 2005. *Teaching the tiger: A handbook for individuals involved in the
   Education of students Attention Deficit Disorders, Tourette Syndrome or Obsessive Compulsive
   Disorder*. California: Hope Press.

Dossa, P. 2009. *Racialised bodies, disabling worlds: storied lives of immigrant Muslim women*.
   Toronto: University of Toronto Press.

Dowell-Jones, M. 2004. *Contextualising the international Covenant on Economic, Social and Cultural Rights:
   Assessing the economic deficit*. Martinus Leiden: Nijhoff Publishers.

Dube, A.K. 2005. *The role and effectiveness of disability legislation in South Africa*. East London: Samaita Consultancy and Programme Design.

Dube, T. 2007. *The EU-Africa strategy to include disability as a key development area*. [Online] URL: http://www.africandecade.org/humanrightsafrica/newsletter.2007-10-03.9852651239. Accessed 29 January 2009.

Du Plessis, E. 2012. Introduction to CAPS. Pretoria: UNISA.

Dyson, A. 2005. "Philosophy, politics and economics the story of inclusive education in England". In Mitchell, D. (ed.). *Contextualizing Inclusive Education: Evaluating Old and New International Perspectives* (pp.62-88). New York: Routledge.

Eisner, E.W. 1991. *The enlightened eye: Qualitative inquiry and the enhancement of educational practice*. Oxford: MacMillan.

Emerson, E. & Einfeld, S.L. 2011. *Challenging behaviour*. Cambridge: Cambridge University Press.

Engen, T.O. 2003. "'Sometimes I two-times think…': Competing interpretations of inclusion for language minority students". In Booth, T., Nes, K. & Strømstad, M. (eds.). *Developing Inclusive Teacher Education* (pp.78-96). London: Routledge/Falmer.

Evans, I.M. & Weld, E.M. 1989. "Evaluating special education programs: Process and outcome". In Biklen, D., Ferguson, D. & Ford, A. (eds.). *Schooling and Disability. Eighty-eighth Yearbook of the National Society for the Study of Education* (pp.232-255). Chicago: The University of Chicago Press.

Evans, L. 2007. *Inclusion*. London: Routledge.

Fairclough, N. 1992. *Discourse and social change*. Cambridge: Polity Press.

Fairclough, N. 2002. "Linguistic and intertexual analysis within discourse analysis". In Jaworski, A. & Coupland, N. (eds.). *The Discourse Reader* (pp. 183-212). Oxon/New York: Routledge.

Fairclough, N. 2003. *Analysing discourse: Textual analysis for social change*. London/New York: Routledge.

Ferguson, D.L. 1989. "Severity of need and educational excellence: Public school reform and students with disabilities". In Biklen, D., Ferguson, D. & Ford, A. (eds.). *Schooling and Disability. Eighty-eighth Yearbook of the National Society for the Study of Education* (pp. 25-58). Chicago: The University of Chicago Press.

Ferguson, P.M. & Asch, A. 1989. "Lessons from Life: Personal and parental perspectives on school, and disability". In Biklen, D., Ferguson, D. & Ford, A. (eds.). *Schooling and Disability* (pp.108-140). Chicago: The University of Chicago Press.

Ferri, B. 2006. "Teaching to trouble". In Danforth, S. & Gabel, S. (eds.). *Vital Questions Facing Disability Studies in Education* (pp. 290-306). New York: Peter Lang.

Finch, J. 1985. "Social policy and education: Problems and possibilities of using qualitative research". In Burgess, R.G. (ed.). *Issues on Educational Research: Qualitative Methods* (pp. 109-128). London/Philadelphia: The Falmer Press.

Foley, D. 1998. "On writing reflexive realist narratives". In Shacklock, G. & Smyth, J. (ed.). *Being Reflexive in Critical Educational and Social Research* (pp. 110-129). London: Falmer.

Ford, A. & Black, J. 1989. "The community-referenced curriculum for students with moderate and severe disabilities". In Biklen, D., Ferguson, D & Ford, A. (eds.). *Schooling and Disability. Eighty-eighth Year book of the National Society for the Study of Education* (pp. 141-167). Chicago: University of Chicago Press.

Forlin, C. 2010. "Reframing teacher education for inclusion". In Forlin, C. (ed.). *Teacher Education for Inclusion: Changing Paradigms and Innovative Approaches* (pp. 3-12). New York: Routledge

French, S. 1993. "Disability, impairment or something in between". In Swain, J., Finkelstein, V., French, S. & Oliver, M. (eds.). *Disabling Barriers, Enabling Environments* (pp. 17-25). London: Sage.

Furlonger, B. E., Sharma, U., Moore, D.W. & King, B.S. 2010. A new approach to training teachers to meet the diverse learning needs of deaf and hard-of-hearing children within inclusive Australian schools. *International Journal of Inclusive Education* 14(3):289–308 [Online] URL: http://www.informaworld.com Accessed 02 December 2011.

Gargiulo, R.M. & Kilgo, J.L. 2011. An introduction of young children with special needs birth through age eight. Belmont: Cengage Learning Inc.

Gee, J.P. 2011. *An introduction to discourse analysis: Theory and method*. New York/Oxon: Routledge.

Gerrish, K. 2003. "Self and others: the rigour and ethics of insider ethnography". In Latimar, J. (ed.). *Advanced Qualitative Research for Nursing* (pp. 77-94). Oxford: Blackwell Science Ltd.

Gibbons, J. 2004. "Taking legal language seriously". In Gibbons, J., Prakasam, V., Tirumalesh, K.V. & Nagarajan, H. (ed.). *Language in the Law* (pp. 1-16). New Delhi: Orient Longman.

Gillies, D. 2010. *Brief Critical Dictionary of Education*. [Online] URL: http://dictionaryofeducation.co.uk/A.aspx) Accessed 15 July 2010.

Glesne, C. & Peshkin, A. 1992. *Becoming qualitative researchers.* White Plaines: Longman.

Goodley, D. 2011. *Disability studies: An interdisciplinary introduction*. London/Thousand Oaks: SAGE.

Government of Sierra Leone 2007. *Child Rights Act 7 of 2007*. Freetown: Government Printer.

Government of Sierra Leone 2011. *The Sierra Leone Persons with Disabilities Act 3 of 2011*. Freetown: Government Printer.

Government of Zambia 1996. *Persons With Disabilities Act No. 33 of 1996*. Lusaka: Government Printer.

Government of Zimbabwe 1996. *State Law of Zimbabwe, Ch. 17:01, 51-54 (1996).* Harare: Government Printer.

Hall, J.T. 1997. *Social devaluation and special education: The right to full mainstream inclusion and an honest statement.* London: Jessica Kingsley Publishers.

Hallahan, D.P. & Kauffman J.M. 1997. *Exceptional learners: Introduction to special education*. (7[th]ed). Boston: Allyn and Bacon.

Halliday, M.A.K. & Hasan, R. 1985. *Language, context and text: Aspects of language in a socio-semiotic perspective.* Geelong: Deakin University press.

Hannam, M. 2008. "'On *Human Rights'*" by James Griffin". A book review. *Democratiya* 15: 115-122.

Hapanyengwi, O. 2005. *A Synoptic View of the History of Special Needs Education in Zimbabwe*. [Online] URL: http://www.thefreelibrary.com Accessed 05 March 2010.

Hardman, M.L. & Nagle, K. 2004. "Public policy: From access to accountability in special education". In Sorrells, A.M., Rieth, H.J & Sindelar, P.T. (eds.). 2004. *Critical Issues in Special Education: Access, Diversity and Accountability* (pp. 280-292). Boston: Pearson Education.

Harley, K. & Wedekind, V. 2004. "Political change, curriculum change and social formation, 1990 to 2002". In Chisholm, L. (ed.). *Changing Class: Education and Social Change in Post-Apartheid South Africa* (pp. 195-220). Cape Town: HSRC Press.

Harry, B. 1992. *Cultural diversity, families, and the special education system.* New York: Teachers College Press.

Harry, B., & Klingner, J. 2007. Discarding the deficit model. *Educational Leadership* 64(5):16-21.

Hay, J.F., Smit, J. & Paulsen, M. 2001. Teacher preparedness for inclusive education. *South Africa Journal of Education* 21(4): 213-218.

Heck, R.H. 2004. *Studying educational and social policy: Theoretical, conceptual and research methods.* New Jersey: Erlbaum Associates.

Hegarty, S. 1993. "Education of children with disabilities". In Mittler, P., Brouillette, R. & Harris, D. (eds.). *World Yearbook of Education 1993: Special Needs Education* (pp.16-28). London: Kogan Page.

Hegarty, S. 1995. *Educating children and young people with disabilities: Principles and the review of practice.* Paris: UNESCO.

Hicks, D. 1995. Discourse, learning and teaching. *Review of Research in Education* 21:49-95.

Hodgson, D. 1998. *The Human right to education.* Vermont: Ashgate Publishing.

Hofmeyr, J. 2010. "Is this a new curriculum I see before me?" *Independent Education.* Spring 2010 Edition. [Online] URL: http://www.ieducation.co.za/is-this-a-new-curriculum-i-see-before-me/ Accessed 19 September 2012.

Howell, C., Chalklen, S. & Alberts, T. 2006. "A history of the disability rights movement". In Watermeyer, B., Lorenzo, T., Schneider, M. & Priestley, M. (eds.). *Disability and Social Change: A South African Agenda* (pp. 46-84). Cape Town: Human Science Research Council.

Hughes, B. & Paterson, K. 1997. The Social Model of Disability and the disappearing body: Towards sociology of impairment. *Disability & Society* 12: 325-40.

Hunt, P. 1966. "A critical condition". In Hunt, P. (ed.). *Stigma: The Experience of Disability* (pp. 143-159). London: Geoffrey Chapman.

Hurst, A. 1984. "Adolescence and physical impairment: An Interactionist view". In Barton, L. & Tomlinson S. (eds.). *Special Education and Social Interests* (pp.192-227). London/Sydney: Croom Helm.

Inclusion International 2006. *Hear our voices: A global report: People with an intellectual disability and their families speak out on poverty and exclusion*. Toronto: Inclusion International. [Online] URL: www.inclusion-international.org Accessed 6 October 2008.

Inclusion International 2009. *Better Education for All: When we're included too*: *People with an intellectual disability and their families speak out on Education for All, disability and inclusive education: A global report*. London: Inclusion International.

Isaacs, P. 1996. "Disability and the education of persons". In Christensen, C. & Rizvi, F. (eds.). *Disability and the Dilemmas of Education and Justice* (pp. 27-45). Buckingham/Bristol: Open University Press.

Jaeger, P.T. & Bowman, C.A. 2002. *Disability matters: Legal and pedagogical issues of disability in education.* Connecticut: Bergin and Garvey.

Jäger, S. 2005. "Discourse and knowledge: Theoretical and methodological aspects of a critical discourse analysis and dispositive analysis". In Wodak, R. & Meyer, M. (eds.). *Methods of Critical Discourse Analysis* (pp. 32-62). London: Sage.

James, M.L. 2008. *Parent Involvement in their child's education*. Doctoral Thesis. Capella University. Ann Arbor: ProQuest.

Jones, M. & Marks, L.A.B. 1999. "Law and the social construction of disability". In Jones, M. & Marks, L.A.B. (eds.). *Disability, Divers-ability and Legal Change* (pp. 1-24). The Hague: Kluwer law International.

Jones, L.W. & Power-deFur, L.A. 1997. "Financing inclusive education programs". In Power-deFur, L.A. & Orelove, F.P. (ed.). *Inclusive Education: Practical Implementation of the Least Restrictive Environment* (pp. 63-72). Maryland: Aspen Publishers.

Johnstone, B., Freedle, R.O. & Kirk, A. 1994. "Repetition in discourse: A dialogue". In Johnstone, B. (ed.). *Repetition in Discourse: Interdisciplinary Perspectives* (pp. 1-20). Norwood: Ablex.

Joubert, R., De Waal, E. & Rossouw, J.P. 2005. "A South African perspective on the impact of discipline on access to equal educational opportunities". In Russo, C.J., Beckmann, J. & Jansen, J.D. (eds.). *Equal opportunities: Comparative perspectives in education law. Brown v Board of Education at 50 and democratic South Africa at 10* (pp.208-221). Pretoria: Van Schaik.

Kanter, A.S. 1999. "Toward equality". In Jones, M. & Marks, L.A.B. (eds.). *Disability, Divers-ability and Legal Change* (pp. 227-250). The Hague: Kluwer Law International.

Kincheloe, J.L. 2008. *Critical pedagogy primer*. New York: Peter Lang.

Kincheloe, J.L., McLaren, P. & Steinberg, S.R. 2011. "Critical pedagogy and qualitative research: Moving to the bricolage". In Denzin, N.K. & Lincoln, Y.S. (eds.). *The SAGE Handbook of Qualitative Research* (pp. 163-178). Thousand Oaks/London: SAGE.

Kincheloe, J.L. & McLaren, P. 2002. "Rethinking Critical Theory and qualitative research". In Zou, Y. & Trueba, E.T. (eds.). *Ethnography and Schools: Qualitative Approaches to the Study of Education* (pp. 87-138). Boston: Rowman & Littlefield Publishers.

King, M.B., Schroeder, J. & Chawszczewski, D. 2001.*Authentic assessment and student Performance in inclusive schools*. No.5 Brief. September, 2001. [Online] URL: http://www.wcer.wisc.edu/riser Accessed 02 December 2011.

Kress, T.M. 2011. *Critical praxis research: Breathing New York life into research methods for teachers*. London/New York: Springer.

Krogh, K. 2004. "Redefining home care for women with disabilities: A call for citizenship". In Grant, K.R., Amaratunga, C., Armstrong, P., Boscoe, M., Pederson, A. & Willson, K. (eds.). *Women, Home care and Unpaid Care giving* (pp.115-146)*.* Ontario: Garamond Press.

Kumar, R. 2011. *Reach methodology: A step-by-step guide for beginners*. London: SAGE.

Kurz, N. & Paul, P.V. 2005. Toward an inclusive teacher education program. *Journal of Teaching and Learning* 3(2):15-27.

Lakomski, G. 1999. "Critical theory and education". In Keeves, J.P. & Lakomski, G. (eds.). *Issues in Educational research* (pp.174-183). Oxford: Elsevier Science.

Lancaster, I.M. 2008. *Racing, classing, and gendering school-related violence in three Johannesburg secondary schools.* Ann Arbor: ProQuest LLC.

Lansdown, G. 2002. *Disabled children in South Africa: Progress in implementing the Convention on the Rights of the Child.* London: The International Human Rights and Disability Network.

Lanska, D.J. 2009. "The historical origins of stroke rehabilitation". In Stein, J., Harvey, R.L., Mako, R.F., Winstein, C.J. & Zorowitz, R.D. (eds.). *Stroke Recording and Rehabilitation.* New York: Demos Medical Publishing.

Lather, P. 1991. *Feminist Research in Education.* Geelong: Deakin University Press.

Lather, P. 1993. Fertile obsession: Validity after poststructuralism. *The Sociological Quarterly* 34(4):673-93.

Lawrence, J. 2004. *The right to education for persons with disabilities: Towards inclusion.* Conceptual paper prepared for the World Bank. Washington: World Bank.

Leonard Cheshire Disability and Inclusive Development Centre 2007. *The Situation of Disabled People in the Republic of South Africa.* London: Leonard Cheshire Disability and Inclusive Development Centre*.*

Lichtman, M. 2010. *Qualitative research in education: A user's guide.* Thousand Oaks/London: SAGE.

Lincoln, Y.S., Lynham, S.A. & Guba, E.G. 2011. "Paradigmatic controversies, contradictions, and Emerging confluences, revisited". In Denzin, N.K. & Lincoln, Y.S. (eds.). *The SAGE Handbook of Qualitative Research* (pp. 97-128). London/Thousand Oaks: SAGE.

Lingard, B. 2010. "Impact of research on education policy". In Thompson, P. & Walker, M. (eds.). *The Routledge Doctoral Student's Companion: Getting to Grips with Research in Education and the Social Sciences* (pp. 377-389). New York: Routledge.

Linton, S. 1998. *Claiming disability: Knowledge and disability.* New York: New York University Press.

Lloyd, C. 2000. Excellence for all children- false promises! The failure of current policy for inclusive education and implications for schooling in the 21st century. *International Journal of Inclusive Education* 4(2):133-151.

Locke, T. 2004. *Critical discourse analysis.* London/New York: Continuum International Publishing Group.

Longman Dictionary of Contemporary English 2012. s.v. 'inclusivity'. New York: Pearson Longman.

Lord, J.E. & Guernsey, K.N. 2003. "International Norms and Standards relating to the Human Rights of Persons with Disabilities". In Center for International Rehabilitation. *International Disability Rights Compendium 2003* (pp. 55-62). Chicago: Centre for International Rehabilitation.

Luke. A. 1995. Text and discourse in education: An introduction to critical discourse analysis. *Review of Research in Education* 21:47.

Luke, A. 1999. "Critical discourse analysis". In Keeves, J.P. & Lakomski, G. (eds.). *Issues in Educational Research* (pp. 161-173). Oxford: Elsevier Science.

Lungu, G.F. 2001. "The educational policy process in post-apartheid South Africa". In Jansen, J.D. & Sayed, Y. (eds.). *Implementing Education Policies: The South African Experience* (pp. 92-97). Cape Town: UCT.

Macedo, D. 1985. *Paulo Freire: The politics of education: Culture, power and liberation.* Westport: Bergin & Garvey.

Malen, B. & Knapp, M. 1997. Rethinking the multiple perspective approach to education policy analysis: Implications for policy practice connections. *Journal of Education Policy* 12(5):419-447.

Mambane, M.S. 2000. *Parent involvement as an aspect of school management: Implication for whole school development.* Unpublished MEd dissertation: Rand Afrikaans University.

Marks, D. 1999. *Disability: Controversial debates and psychological perspectives.* New York/London: Routledge.

Marston, G. 2004. *Social policy and discourse analysis: Policy change in public housing.* Aldershot: Ashgate Publishing.

Mays, B.E. 1969. *Disturbed about man.* Richmond: John Knox Press.

McKee, A. 2003. *A textual analysis: A beginner's guide*. London/Thousand Oaks: SAGE.

McLaren, P. 1989. *Life in schools: An introduction to critical pedagogy in the foundations of education*. New York: Longman.

McLaren, P.L. & Giarelli, J.M. 1995. "Introduction: Critical theory and educational research". In McLaren & Giarelli, J.M. (eds.). *Critical Theory and Educational Research* (pp. 1-22). New York: State University of New York.

Mda, T. & Mothata, S. 2000. "Introduction". In Mda, T. & Mothata, S. (eds.). *Critical issues in South African Education – After 1994* (pp. vi-viii). Kenwyn: Juta.

Mercer, G. 2004. "From critique to practice: Emancipatory disability research". In Barnes, C. & Mercer, G. (ed.). *Implementing the Social Model of Disability: Theory and Research* (pp. 118-137). Leeds: The Disability Press.

Mercer, G. 2002. "Emancipatory disability research". In Barnes, C., Oliver, M. & Barton, L. (eds.). *Disability Studies Today* (pp. 228-249). Cambridge: Polity Press/Blackwell Publishers.

Merriam, S. B. 1998. *Qualitative research and case study applications in education*. San Francisco: Jossey-Bass.

Merriam-Webster Dictionary 2012. s.v. 'accept', 'appreciate', 'context'. Springfield: Merriam-Webster Inc.

Merritt, M. 1994. "Repetition in situated discourse -Exploring its forms and functions". In Johnston, B. (ed.). *Repetition in Discourse: Interdisciplinary Perspectives* (pp. 23-36). Norwood: Ablex.

Miles, C. & Miles, M. 1993. "Children with learning difficulties". In Mittler, P., Brouillette, R. & Harris, D. (eds.). *World Yearbook of Education 1993: Special Needs Education* (pp.53-64). London: Kogan Page.

Misgeld, D. 1988. "Education and cultural invasion: Critical theory, education as instruction and the pedagogy of the oppressed". In Forester, J. (ed.). *Critical Theory and Public Life* (pp. 77-120). Massachusetts: Massachusetts Institute of Technology.

Mitchell, D. 2005. "Introduction: Sixteen propositions on the contexts of inclusive education". In Mitchell, D. (ed.). *Contextualizing Inclusive Education: Evaluating Old and New International Perspectives* (pp.1-21). New York: Routledge.

Mitchell, D. 2010. *Education that fits: Review of international trends in the education of students with special education needs*. Background paper prepared for the New Zealand Ministry of Education. [Online] URL: http://www.educationcounts.govt.nz/publications/special_education/education-that-fits-review-of-international-trends-in-the-education-of-students-with-special-educational-needs/chapter-seven-funding-and-resourcing Accessed 28 August 2012.

Mittler, P. 2004. " Intégrer les enfants handicapés ". Dans Ducret, J-J. (red.). *La petite enfance? Perspectives* (pp. 385-396). Paris: UNESCO.

Mittler, P. 1993. "Childhood disability: a global challenge". In Mittler, P., Brouillette, R. & Harris, D. (ed.). *World Yearbook of Education 1993: Special Needs Education* (pp. 3-15). London: Kogan Page.

Mokhaba, M.B. 2005. *Outcomes-based education in South Africa since 1994: Policy objectives and implementation complexities*. Doctoral thesis. University of Pretoria.

Mongon, D. 1985. "Patterns of delivery and implications for training". In Sayer, J. & Jones, N. (eds.). *Teacher Training and Special Educational Needs*. Beckenham: Croom Helm.

Motala, S., Dieltiens, V., Carrim, N., Kgobe, P., Moyo, G. & Rembe, S. 2007. *Educational access in South Africa: Country analytic review*. Brighton: Centre for International Development.

Mothata, S. 2000. "Developments in policy and legislation in the education and training system". In Mda, T. & Mothata, S. (eds.). *Critical issues in South African Education – After 1994* (pp. 1-20). Kenwyn: Juta.

Murphy, D. 1994. Implications of inclusion for general and special education. *Elementary School Journal* 96(5):469-493.

Mwalimu, C. 2003. "Comparative analysis: National laws protecting people with disabilities in selected foreign countries". *International Disability Rights Compendium* 2003 (pp. 67-119). Chicago: Centre for International Rehabilitation.

Naicker, S.M. 2005. "Inclusive education in South Africa: An emerging pedagogy of possibility". In Mitchell, D. (ed.). *Contextualizing Inclusive Education: Evaluating Old and New International Perspectives* (pp.230-252). New York: Routledge.

Nes, K. & Strømstad, M. 2001. "Creating structures for inclusive development in teacher education". In Booth, T., Nes, K. & Strømstad, M. (eds.). *Developing Inclusive Teacher Education* (pp. 116-129). London: Routledge Falmer.

Niemi-kiesilainen, J., Honkatukia, P. & Ruuskanen, M. 2006. "Legal texts as discourses". In Gunnarsson, A., Svensson, E-M. & Davies, M. (ed.). *Exploiting the Limits of Law: Swedish Feminism and the Challenge to Pessimism* (pp. 69-88). Aldershot: Aldershot Publishing.

Nieuwenhuis, J. 2005. "From equality of opportunity to equality of treatment as a value-based concern in education". In Russo, C.J., Beckmann, J. & Jansen, J.D. (eds.).*Equal opportunities: Comparative perspectives in education law. Brown v Board of Education at 50 and democratic South Africa at 10* (pp.182-197). Pretoria: Van Schaik Publishers.

Nisbet, J. 1999. "Policy-oriented research". In Keeves, J.P. & Lakomski, G. (eds.). *Issues in Educational Research* (pp.64-75). Amsterdam: Pergamon.

North Gauteng High Court (South Africa) 2012. *Section 27 and 2 others and Minister of Education and another, case 24565/2012*. Pretoria: Gauteng Province.

O'Brien, G. 2000. "Learning disability". In Gillberg, C. & O'Brien, G. (eds.). *Developmental Disability and Behaviour*. Lavenham: The Lavenham Press Ltd.

OECD (Organisation for Economic Co-operation and Development) 2008. *Review of national policies on education: South Africa*. Paris: OECD.

ODP (Office of the Deputy President) 1997. *Integrated National Disability Strategy White Paper*. Pretoria: Government Printer.

Office of the Education Ombudsman Governor's Office / State of Washington 2011. *Family Dictionary of Education Terms* 2010-2011. (2[nd]ed). [Online] URL: www.waparentslearn.org Accessed 11 July 2012.

OHCHR (Office of the High Commissioner for Human Rights) 2012. *South Africa's country report to the human rights council's universal periodic review mechanism*. [Online] URL: http://lib.ohchr.org/HRBodies/UPR/Documents/Session1/ZA/A_HRC_WG6_1_ZAF_1_E.pdf Accessed 14 February 2012.

OHCHR 2007. *Human Rights Committee - General Comments.* [Online] URL: http://www2.ohchr.org/english/bodies/hrc/comments.htm Accessed 11 May 2012.

OHCHR 2006. *The Rights of Children with Disabilities. General Comment No. 9. Committee on the Rights of the Child (2006*). United Nations.

OHCHR 1994. *CESCR General comment 5: Persons with disabilities.* [Online] URL: http://www2.ohchr.org/english/bodies/cescr/comments.htm Accessed 18 Oct 2011.

OHCHR 1991. *CESCR General Comment No. 3: The Nature of States Parties' Obligations (a 2, para 1 of the Covenant).* Adopted at the Fifth Session of the Committee on Economic, Social and Cultural Rights, on 14 December 1990 (Contained in Document E/1991/23). [Online] URL: http://www.unhcr.org/refworld/docid/4538838e10.html Accessed 18 Oct 2011.

Orend, B. 2002. *Human rights: Concept and context.* Ontario: Broadview Press.

Oxford English Dictionary 2012. s.v. 'full', 'inclusivity', 'suitability', 'transformation', 'whole'. Oxford: Oxford University Press.

Oyler, C. 2011. Teacher preparation for inclusive and critical (special) education. *Teacher Education and Special Education: The Journal of the Teacher Education Division of the Council for Exceptional Children* 34: 201. [Online] URL: http://tes.sagepub.com/content/34/3/201 Accessed 02 December 2011.

Ozga, J. & Gewirtz, S. 1994. "Sex, lies and audio tape: Interviewing the education policy elite". In Halpin, D. & Troyna, B. (eds.). *Researching Education Policy: Ethical and Methodological Issues* (pp 121-135). London: The Falmer Press.

Paltridge, B. 2006. *Discourse analysis: an introduction.* London: Continuum.

Pandor, N. 2001. "The role of the state in the governance of the education system". In Jansen, J.D. & Sayed, Y. (eds.). *Implementing Education Policies: The South African Experience* (pp. 74-77). Cape Town: University of Cape Town Press.

Parks, A.M.W. 2008. *Doing social justice: Narratives of struggle, transformation and belief.* Ann Arbor: ProQuest Information and Learning Company.

Parliamentary Monitoring Group (South Africa) 2010. *Inclusive education: Status, accompanying challenges and strategic response: Briefing by Basic Education Department.* [Online] URL: http://www.pmg.org.za/print/24333 Accessed 31 May 2012*.*

Parliamentary Monitoring Group (South Africa) 2010. *Questions and replies: Question No.1225.* Submitted on 4 May 2010. Online] URL: http://www.pmg.org.za/node/21347. Accessed 31 August 2012.

Patton, M.Q. 1990. *Qualitative evaluation and research methods*. (2nd ed). Newbury Park: SAGE.

Patton, J.R. 2004. "Transition issues: Process, practices and perspectives". In Sorrells, A.M., Rieth, H.J & Sindelar, P.T. (ed.). *Critical Issues in Special Education: Access, Diversity and Accountability* (pp.180-204). Boston: Pearson Education.

Pecorari, D. 2010. *Academic writing and plagiarism: A linguistic analysis*. London/New York: Continuum.

Peters, S. J. 2004. *Inclusive Education: An EFA Strategy For All Children*. [Online] URL: www.worldbank.org Accessed 6 October 2008.

Pfeiffer, D. 2002. The philosophical foundations of disability studies. *Disability Studies Quarterly* 22(2)3-23 [Online] URL: http://dsq-sds.org/issue/view/19 Accessed 03 July 2012.

Pieterse, M. 2004. Possibilities and pitfalls in the domestic enforcement of social rights: Contemplating the South African experience. *Human Rights Quarterly* 882: 902-903.

Pinar, W. F. & Bowers, C. A. 1992. Politics of curriculum: Origins, controversies, and significance of Critical perspectives. *Review of Research in Education* 18:163-190.

Pothier, D. & Devlin, R. 2006. "Introduction: Toward a critical theory of dis-citizenship". In Pothier, D. & Devlin, R. (eds.). *Critical Disability Theory: Essays in Philosophy, Politics, Policy and Law* (pp. 47-69). Vancouver: The University of British Columbia.

Pottas, L. 2005. *Inclusion education in South Africa: The Challenges posed by the teacher of the child with a hearing loss.* Doctoral Thesis. Pretoria: University of Pretoria.

Powers, P. 2001. *The Methodology of discourse analysis*. London: Jones and Bartlett Publishers.

Priestley, M. 2006. "Developing disability studies programmes: The international context". In Watermeyer, B., Lorenzo, T., Schneider, M. & Priestley, M. (eds.). *Disability and Social Change: A South African Agenda* (pp. 19-30). Cape Town: Human Science Research Council.

Puri, M. & Abraham, G. 2004. "Why inclusion?" In Puri, M. & Abraham, G. (eds.). *Handbook of Inclusive Education for Educators, Administrators, and Planners* (pp. 22-27). New Delhi: Sage.

Putnam, W.H. 2010. *Legal research, analysis and writing*. New York: Cengage Learning.

Quinn, G. & Degener, T. (eds.). 2002. *Human Rights and Disability*. Geneva: United Nations.

Randall, M. 2001. *Pragmatic plagiarism: Authorship, profit and power*. Toronto/London: University of Toronto.

Ransom, B. 2008. *Missing voices: Children with disabilities in Africa*. Addis Ababa: The African Child Policy Forum.

Rao, V.K. 2004. *Special Education*. New Delhi: S.B. Nangia A.P.H. Publishing Corporation.

République centrafricaine 2010a. *Loi Portant Statut, Protection et Promotion de la Personne Handicapée et son Décret d'Application*. Loi No 00.007 du décembre 2000. Bangui: Government Printer.

République centrafricaine 2010b. *Loi Portant Orientation de l'Education*. Loi No 97.014 du 10 décembre 1997. Bangui: Government Printer.

Republic of Uganda 1995. *The Constitution of the Republic of Uganda*. Kampala: Government Printer.

Rice, N. 2006. "Teacher education as a site of resistance". In Danforth, S. & Gabel, S. (eds.). *Vital Questions Facing Disability Studies in Education* (pp.17-31). New York: Peter Lang.

Rieth, H.J., Colburn, L.K. & Bryant, D.P. 2004. "Trends and issues in instructional and assistive technology". In Sorrells, A.M., Rieth, H.J & Sindelar, P.T. (eds.).*Critical Issues in Special Education: Access, Diversity and Accountability* (pp. 205-225). Boston: Pearson Education.

Right to Education Project 2008. *Education and the 4 'A's*. [Online] URL: http://www.right-to-education.org/node/226 Accessed 27 July 2012.

Robinson, M. & Christie, P. 2008. "South Africa". In O'Donoghue, T. & Whitehead, C. (eds.). *Teacher Education in the English-Speaking World: Past, present and future* (pp. 137-154). Charlotte: Information Age Publishing.

Roithmayr, D. 2002. "The constitionality of school fees in public education". Education Rights Project, Issue Paper 1. [Online] URL: http://www.erp.org.za/htm/issue1-1.htm Accessed 12 April 2012.

Rousso, H. 2003. *Education for All: A Gender and Disability Perspective.* [Online] URL: http://unesdoc.unesco.org/images/0014/001469/146931e.pdf Accessed 20 April 2010.

Rioux, M.H. 2007. "Disability rights in education". In Florian, L. (ed.). *The SAGE Handbook of Special Education* (pp. 107-116). Thousand Oaks/London: SAGE.

Rioux, M.H. & Valentine, F. 2006. "Does theory matter? Exploring the nexus between disability, human rights and public policy". In Pothier, D. & Devlin, R. (eds.). *Critical Disability Theory: Essays in Philosophy, Politics, Policy, and Law* (pp. 47-69). Vancouver: The University of British Columbia.

RSA (Republic of South Africa) 1996a. *Constitution of the Republic of South Africa 108 of 1996.* Pretoria: Government Printer.

RSA 1996b.*The South African Schools Act 84 of 1996.* Pretoria: Government Printer.

RSA 2000a. *Norms and Standards for Educators. National Education Policy Act, 1996.Government Gazette.* Vol. 415. No. 20844. Pretoria: Government Printer.

RSA 2000b. Promotion of Equality and Prevention of Unfair & Discrimination Act 4 of 2000. *Government Gazette.* Vol. 416. No. 20876. Pretoria: Government Printer.

RSA 2006. *Children's Act 38 of 2005 of South Africa.* Pretoria: Government Printer.

Rugg, G & Petre, M. 2007. *A gentle guide to research methods.* Berkshire: Open University Press.

Sagade, J. 2005. *Child marriage in India: Socio-legal and human rights dimension.* Oxford: Oxford University Press.

Sage, D. D. & Burrello, L.C. 1986. *Policy and management in special education.* Englewood Cliffs: Prentice-Hall.

Sapon-Shevin, M. 1989. "Mild Disabilities: In and out of special education". In Biklen, D., Ferguson, D. & Ford, A. (eds.). *Schooling and Disability* (pp. 77-107). Chicago: The University of Chicago Press.

Sayed, Y., Soudien, C. & Carrim, N. 2003. Discourses of exclusion and inclusion in the South: Limits and possibilities. *Journal of Educational Change* 4:231-248.

Sayed, Y., Subrahmanian, R., Soudien, C., Carrim, N., Balgopalan, S., Nekhwevha, F. & Samuel, M. 2007. *Education exclusion and inclusion: Policy and implementation in South Africa and India. Researching the Issues.* London: Fuller-Davies.

Schaeffer, S. 2009. "Realizing inclusive education through applying a rights-based approach to education." In Acedo, C., Amadio, M. & Opertti, R. (eds.). *Defining an Inclusive Education Agenda: Reflections around the 48th session of the International Conference on Education* (pp 87-91). Geneva: UNESCO.

Schaller, J. Yang, N.K. & Chang, S.C-H. 2004. "Contemporary issues in rehabilitation counselling". In Sorrells, A.M., Rieth, H.J & Sindelar, P.T. (eds.). 2004. *Critical Issues in Special Education: Access, Diversity and Accountability* (pp. 180-204). Boston: Pearson Education.

Scott, D. 1996. "Ethnography and education". In Scott, D. & Usher, R. (eds.). *Understanding educational Research* (pp. 143-158). London/New York: Routledge.

Schane, S.A. 2006. *Language and the law.* London: Continuum.

Seale, C. 1999. *The quality of qualitative research: Introducing qualitative methods.* London/Thousand Oaks: SAGE.

Shakespeare, T. 2007. "Disability, normality and difference". In Cockburn, J. & Pawsen, M.E. (eds.). *Psychological Challenges in Obstetrics and Gynaecology* (pp. 51-60). London: Springer.

Shakespeare, T. & Watson, C. 2002. The social model of disability: An outdated model? *Research in Social Sciences* 2: 9-28.

Shore, K. 1986. *The Special education handbook: A comprehensive guide for parent and educators.* New York: Teachers College Press.

Sigston, A. 1987. "Investing in successful parental partnership". In Bowers, T (ed.). *Special Educational Needs and Human Resource Management* (pp. 136-148)*.* Croom Helm.

Singh, K. 2005. "Non-discrimination and equal educational opportunities: UNESCO's normative action". In Russo, C.J., Beckmann, J. & Jansen, J.D. (eds.). *Equal Opportunities: Comparative Perspectives in Education Law. Brown v Board of Education at 50 and Democratic South Africa at 10* (pp. 55-76). Pretoria: Van Schaik Publishers.

Slee, R. 2010. "Political economy, inclusive education and teacher education". In Forlin, C. (ed.). *Teacher Education for Inclusion: Changing Paradigms and Innovative Approaches* (pp. 13-22). London: Routledge.

Small, R. 2005. *Marx and education.* Aldershot: Ashgate Publishing Ltd.

Smit, B. 2012. *Trustworthiness.* Lecture on research methods delivered at UNISA. Pretoria.

Smith, P. 2010. "Future directions". In Smith, P. (ed.). *Whatever Happened to Inclusion? The Place of Students with Intellectual Disabilities in Education* (pp. 221-255). New York: Peter Lang.

Smith, D.E. 1990. *Texts, facts, and femininity: Exploring the relations of ruling.* London: Routledge.

Söder, M.1984. "The Mentally Retarded: Ideologies of Care and Surplus Population". In Barton, L. & Tomlinson S. (eds.). 1984. *Special Education and Social Interests* (pp. 15-34)*.* London/ Sydney: Croom Helm.

Solarsh, G. & Hofman, K.J. 2006. "Developmental disabilities". In Jamison, D.T., Feachem, R.G., Makgoba, M.W., Bos, E.R., Baingana, F.K., Hofman, K.J. & Rogo, K.O. (eds.). *Disease and Mortality in Sub-Saharan Africa* (pp. 125-148). Washington: World Bank.

Soodak, L.C. 2003. Classroom management in inclusive settings. *Theory into Practice* 42(4):327-333. [Online] URL: http://www.jstor.org/stable/1477396. Accessed 02 December 2011.

Spooner, F., Browder, D.M. & Uphold, N. 2011. "Transition to adult life". In Browder, D.M. & Spooner, F. (eds.). *Teaching Students with Moderate and Severe Disabilities*. (pp. 364-382). New York: The Guilford Press.

Soudien, C. & Baxen, J. 2006. "Disability and schooling in South Africa". In Watermeyer, B., Lorenzo, T., Schneider, M. & Priestley, M. (eds.). *Disability and Social Change: A South African Agenda* (pp. 149-163). Cape Town: Human Science Research Council.

Soudien, C., Jaklin, H. & Hoadley, U. 2001. "Policy values: Problematising equity and redress in education". In Jansen, J.D. & Sayed, Y. (eds.). *Implementing Educational Policies: The South African Experience* (78-91). Cape Town: University of Cape Town Press.

Squelch, J.M. 2000. *Discipline.* Pretoria: CELP.

Statistics South Africa 2010. *General household survey 2009.* [Online] URL: www.statssa.gov.za/publications/P0318/P0318June2009.pdf Accessed 8 March 2012.

Stayton, V. D. & McCollun, J. 2002. Unifying general and special education: What does the research tell us? *Teacher Education and Special Education* 25 (3): 211-218.

Stone, E. & Priestley, M. 1996. Parasites, pawns and partners: Disability research and the role of non-disabled researchers. *British Journal of Sociology* 47 (4): 699-716.

Streubert, H.J. 2011. "Designing data generation and management strategies". In Speziale, H.S., Streubert, H.J. & Carpenter, D.R. (eds.). *Qualitative Research in Nutrition: Addressing the Humanistic Imperative* (pp. 33-52). Philadelphia: Wolters Kluwer Health.

Swart, E. 2004. "Inclusive education". In Eloff, I. & Ebersöhn, L. (eds.). *Keys to Educational Psychology* (pp. 230-246). Cape Town: University of Cape Town Press.

Tardy, C.M. 2011. "Genre analysis". In Hyland, K. & Paltridge, B. (eds.). *The Continuum Companion to Discourse Analysis* (pp. 54-68). London/New York: Continuum International Publishing Group.

Taylor, S.J. 2004. "Caught in the continuum: A critical analysis of the principle of the Least Restrictive Environment". *Research & Practice for Persons with Severe Disabilities* 29(4): 218–230.

Taylor, S., Rizvi, F., Lingard, B & Henry, M. 1997. *Education policy and the politics of change.* London/New York: Routledge.

Terman, D.L., Larner, M.B., Stevenson, C.S. & Behrman, R.E. 1996. Special education for students with disabilities: Analysis and recommendation. *Future Child 6*(1):4-24.

Theoharis, G. & Causton-Theoharis, J. 2011. "When all really means all: Schools of promise, school reform, and innovative professional development". In Cohan, A. & Honigsfeld, A. (eds.). *Breaking the Mold of Preservice and Inservice teacher Education: Innovative and Successful Practices for the 21st Century* (pp. 101-112). Maryland: Rowman & Littlefield Publishers.

Thomas, D. 1982. *The Experience of handicap*. London: Methuen.

Tiersma, P.M. 2000. *Legal language*. London: The University of Chicago Press.

Titchkosky, T. 2003. *Disability, self, and society*. Toronto: University of Toronto Press.

Tomaševski, K. 2004. *Manual on rights-based education: Global human rights requirements made simple*. Bangkok: UNESCO.

Tomaševski, K. 2003. *Education denied: Costs and remedies*. London/New York: Zed Books.

Tomaševski, K. 2001. Human rights obligations: Making education available, accessible, acceptable and adaptable. Primer 3. Lund: Raoul Wallenberg Institute. [Online] URL: http://www.huridocs.org/resource/human-rights-obligations-making-education-available/ Accessed 8 March 2012.

Tomlinson, S. 1982. *A sociology of special education*. London: Routledge and Kegan Paul.

Tregaskis, C. 2002. Social Model Theory: The story so far. *Disability and Society* 17 (4):457-470.

Tremain, S. 2006. "On the subject of impairment". In Corker, M. & Shakespeare, T. (eds.). *Disability/Postmodernity: Embodying Disability Theory* (pp. 32-47). London/New York: Continuum.

Tremain, S. 2008. "Foucault, governmentality, and critical disability theory". In Tremain, S. (ed.). *Foucault and the Government of Disability* (pp. 1-26). Michigan: The University of Michigan.

Trent, J.W. 1994. *Inventing the feeble mind: A history of mental retardation in the United States*. Berkeley: University of California Press.

Triano, S. 2003a. *The politics of naming. A note about language*. [Online] URL http://www.disabledandproud.com/selfdefinition.htm. Accessed 14 July 2008.

Triano, S. 2003b. *The Politics of Naming. 'Special Needs', 'Physically Challenged', 'disABILITY', etc.* [Online] URL: http://www.disabledandproud.com/selfdefinition.htm. Accessed 14 July 2008.

Trosberg, A. 1997. *Rhetorical strategies in legal language: Discourse analysis of statutes and contracts.* Tübingen: Gunter Narr verslag Tübingen.

Trowler, P. 2003. *Education policy.* (2nded). London: Routledge.

UN 1966a. *International Covenant on Civil and Political Rights.* [Online] URL: http://www.unhcr.org/refworld/docid/3ae6b3aa0.html Accessed 04 February 2010.

UN 1966b. *International Covenant on Economic, Social and Cultural Rights.* [Online] URL: www.un-documents.net/icescr.htm Accessed 04 February 2010.

UN (United Nations) 1982. *World Programme of Action Concerning Disabled Persons.* [Online] URL: http://www.un.org/disabilities/?id=23 Accessed 04 February 2010.

UN 1987. *The Limburg Principles on the Implementation of the International Covenant on Economic, Social and Cultural Rights.* UN Document E/CN.4/1987/17. [Online] URL: http://www.acpp.org/RBAVer1_0/archives/Limburg%20Principles.pdf Accessed 18 October 2011.

UN 1989. *Convention on the Rights of the Child. Adopted 20 Nov 1989.* GA Res 44/25(1989), UN Doc. A/RES/44/25 (1989). [Online] URL: http://www2.ohchr.org/english/law/crc.htm Accessed 11 March 2010.

UN 1993. *UN Rules on the Equalization of Opportunities for Persons with Disabilities. New York: United Nations.* [Online] URL: http://www.un.org/esa/socdev/enable/dissre00.htm. Accessed 11 March 2010.

UN 1997. *Maastricht Guidelines on Violations of Economic, Social and Cultural Rights.* [Online] URL: http://www1.umn.edu/humanrts/instree/Maastrichtguidelines_.html Accessed 1 August 2012.

UN 1999a. *Implementation of the International Covenant on Economic, Social and Cultural Rights. General Comment No 13: The right to education (Article 13 of the International Covenant on Economic, Social and Cultural Rights).* 21st Session. UN Doc E/C/ 12/1999/10 [Online] URL: http://www.unhchr.ch/tbs/doc.nsf/0/ae1a0b126d068e868025683c003c8b3b?Opendocument Accessed 16 March 2010.

UN 1999b. *United Nations Economic and Social Council, Committee on Economic, Social and Cultural Rights: General Comment No 11: Plans of Action for Primary Education (Article 14 of the ICESCR). 20th session. UN Doc. E/C.12/1999/4.*

UN 2001. *The Aims of Education. General Comment No. 1. Committee on the Rights of the Child.CRC/GC/2001/1* [Online] URL: http://www.unhchr.ch/tbs/doc.nsf/(symbol)/CRC.GC.2001.1.En?OpenDocument Accessed 11 March 2009.

UN 2006a. *The Rights of Children with Disabilities. General Comment No 9. Committee on the Rights of the Child.* [Online] URL: http://www.unhchr.ch/tbs/doc.nsf/(Symbol)/CRC.C.GC.9.En Accessed 11 March 2010.

UN 2006b. *Convention on the Rights of Persons with Disabilities and Optional Protocol (2006).* [Online] URL: www.un.org/esa/socdev/enable Accessed 23 December 2009.

UN 2006c. *Committee on the Rights of the Child forty-first session. Consideration of reports submitted by States Parties under Article 44 of the Convention.CRC/C/SAU/CO/2.* 17 March 2006. [Online] URL: www.unhchr.ch. Accessed 30 December 2008.

UN 2008. *The Statement of the Millennium Development Goals and Disability.* Africa Regional Conference, Held at the Panafric Hotel, Nairobi, Kenya 15th to 17th September, 2008*.* [Online] URL: http://www.un.org/disabilities/default.asp?id=1432 Accessed 22 July 2009.

UNESCO (United Nations Educational, Scientific and Cultural Organisation) 1960. *Convention against Discrimination in Education*. Adopted by the General Conference at its eleventh session, Paris, 14 December 1960. [Online] URL: http://www.unesco.org/education/pdf/DISCRI_E.PDF Accessed 04 February 2010.

UNESCO 1994a. *World Declaration on Education For All: Meeting Basic Learning Needs.* Adopted by the World Conference on Education for All. Jomtien, Thailand, 5-9 March 1990. [Online] URL: http://www.unesco.org/education/wef/en-conf/jomtien%20declaration%20eng.shtm Accessed 04 February 2010.

UNESCO 1994b. *Salamanca Statement and Framework for Action on Special Needs Education*. World Conference on Special Needs Education: Access and Quality, 7-10 June 1994, Salamanca, Spain.

UNESCO 1995. *The Beijing Declaration and Platform for Action. Adopted at the Fourth World Conference on Women. Beijing, China - September 1995*. [Online] URL: http://www.unesco.org/education/information/nfsunesco/pdf/BEIJIN_E.PDF Accessed 15 March 2010.

UNESCO 2000. *The Dakar Framework for Action. Education for All: Meeting our Collective Commitments: Including Six Regional Frameworks for Action*. Adopted by the World Education Forum Dakar, Senegal, 26-28 April 2000. [Online] URL: http://unesdoc.unesco.org/images/0012/001211/121147E.pdf Accessed 04 Feb 2010.

UNESCO 2003. *Overcoming exclusion through inclusive approaches in education: A challenge & a vision*. Conceptual paper. Paris: UNESCO.

UNESCO 2006. *Positive discipline in the inclusive, learning-friendly classroom: A guide for teachers and teacher educators. Embracing diversity: Toolkit for creating inclusive, learning-friendly environments*. Bangkok: UNESCO.

UNESCO 2009. *Teaching children with disability in inclusive settings*. Paris: UNESCO.

UNESCO 2010. *Towards a UNESCO culture and development indicators suite. Dimension n° 5: Cultural dimension in human rights and development.* Working document. Paris: UNESCO.

UNICEF (United Nations Children's Fund) 2007a. *The State of the world's children 2008: Child survival*. Paris: UNICEF.

UNICEF 2007b. *A Human rights-based approach to education*. Paris: UNICEF.

Usher, R. 1996a. "Texuality and reflexivity in educational research". In Scott, D. & Usher, R. (eds.). *Understanding Educational research* (pp. 33-51). London/New York: Routledge.

Usher, R. 1996b. "A Critique of the neglected epistemological assumptions of educational research". In: Scott, D. & Usher, R. (eds.). *Understanding Educational Research* (pp.9-32). London/New York: Routledge.

Van Dijk, T.A. 1997. "The study of discourse". In Van Dijk, T.A. (ed.). *Discourse Analysis: A Multidisciplinary Introduction: Discourse as Structure and Process* (Volume 1) (pp. 1-34). London/Thousand Oaks: SAGE.

Van Dijk, T.A. 1992. Discourse and the denial of racism. *Discourse & Society* 3(1): 87-118.

Van Dijk, T.A. 1995. Aims of critical discourse analysis. *Japanese Discourse,* 1:17-27.

Van Rooyen, B. & Le Grange, L. 2003a. Interpretive discourses in South Africa's Education White Paper No. 6: Special Needs Education. *South African Journal of Education* 23(2):152-156.

Van Rooyen, B. & Le Grange, L. 2003b. Pioneering and business discourses in South Africa's Education White Paper 6: Special Needs Education. *International Journal of Special Education* 18(1):7-16.

Van Rooyen, B., Le Grange., L. & Newmark, R. 2002. (De)constructions of functionalist discourses in South Africa's Education White Paper 6: Specials Needs Education. *International Journal of Special Education* 17(2)1-13*.*

Van Wyk, N. 2007. The rights and roles of parents on school governing bodies in South Africa. *International Journal about Parents in Education* 1(0): 132-139.

Väyrynen, S. 2003. *Observations from South African classrooms: Some inclusive strategies. South African – Finnish co-operation programme in the education sector (SCOPE).* Cape Town: National Institute for Higher Education Northern Cape.

Vidovich, L. 2003. "Methodological framings for a policy trajectory study". In O'Donoghue, T. & Punch, K. (eds.). *Qualitative Educational Research in Action: Doing and Reflecting* (pp. 70-96). London/New York: Routledge/Falmer.

Vlachou, A.D. 1997. *Struggles for Inclusive Education.* Buckingham/Philadelphia: Open University Press.

Volio, F. 1979. "The child's right to education: A survey". In Mialaret, G. (ed.). *The Child's Right to Education* (pp. 19-33). Paris: UNESCO.

Wa-Mungai, M. 2009. "'For I name thee…': Disability Onomastics in Kenyan folklore and popular music". *Disability Studies Quarterly* 29(4)). [Online] URL: http://www.dsq-sds.org/article/view/984/1172 Accessed 15 March 2010.

Ware, L. 2003. "Understanding disability in schools". In Booth, T., Nes, K. & Strømstad, M. (eds.). *Developing Inclusive Teacher Education* (pp.146-165). London: Routledge Falmer.

Weiss, C. 1979. The many meanings of research utilization. *Public Administration Review* 39(5):426-31.

Western Cape High Court (South Africa) 2010. *Western Cape Forum for Intellectual Disability v Government of the Republic of South Africa 2011 5 SA 87. Cape Town: Western Cape Province.*

Westwood, P. 2011. *Commonsense methods for children with special educational needs*. New York: Routledge.

Wildeman, R.A. & Nomdo, C. 2007. *Implementation of inclusive education: How far are we?* IDASA Occasional Paper. [Online] URL: http://www.idasa.org.za. Accessed 26 January 2009.

Williams, B.A.O. 1997. "The idea of equality". In Pojman, L. & Westmoreland, R. (eds.). *Equality: Selected Readings* (pp.91-101). Oxford: Oxford University Press.

Willig, C. 2008. *Introducing qualitative research in psychology*. New York: Open University Press.

Woolman, S. & Fleisch, B. 2009. *The Constitution in the classroom: Law and education in South Africa.* Pretoria: Pretoria University Law Press.

World Vision 2007. *Education's missing millions: Including disabled children in education through EFA/FTI processes and national sector plans.* Main report of study findings. Milton Keynes: World Vision UK.

APPENDIX A PLAGIARISM: CONFIRMATION NOTICE

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Plagiarism: Confirmation notice

Candidate: 44448481

To whom it may concern

I hereby confirm that Mr Tesemma's thesis was run through the Turn-it-in programme to determine whether he had plagiarised. He received an overall positive report. Only a few instances of possible plagiarised content were indicated and he addressed those.

Prof SA Coetzee

Department Educational Leadership and Management

012 429 4881 (office)

012 429 4919 (fax)

Coetzsa1@unisa.ac.za

APPENDIX B RESEARCH ETHICS CLEARANCE CERTIFICATE

UNISA | college of education

Research Ethics Clearance Certificate

This is to certify that the application for ethical clearance submitted by

Shimels Tsegaye Tesemma [44448481]

for a D Ed study entitled

A critical analysis of law and policy on the education of disabled children in South Africa.

has met the ethical requirements as specified by the University of South Africa College of Education Research Ethics Committee. This certificate is valid for three years from the date of issue.

Prof CS le Roux   24 May 2012
pp Prof L Nyaumwe
CEDU REC (Chairperson)
lrouxcs@unisa.ac.za

REGISTRATION NUMBER 2012/44448481/...010......

APPENDIX C LETTERSTO POTENTIAL USERS OF THE RESEARCH FINDINGS AND RECOMMENDATIONS

APPENDIX C1: **LETTER TO THE MINISTER OF BASIC EDUCATION, THE REPUBLIC OF SOUTH AFRICA**

APPENDIX C2: **LETTER TO THE SOCIAL AFFAIRS COMMISSION OF THE AFRICAN UNION**

APPENDIX C3: **LETTER TO THE AFRICAN COMMITTEE OF EXPERTS ON THE RIGHTS AND WELFARE OF THE CHILD**

APPENDIX C4: **LETTER TO DISABLED PEOPLES' ORGANISATIONS, CIVIL SOCIETY GROUPS AND NGOS WORKING ON DISABILITY ISSUES**

APPENDIX C1

LETTER TO THE SOUTH AFRICAN DEPARTMENT OF EDUCATION

Date: **04 Dec 2012**

To: **The South African Department of Basic Education**
From: **ST Tesemma, Doctoral Student Researcher**

Subject: <u>**PRESENTING THE SAVE FRAMEWORK FOR ANALYSING THE RIGHT TO EDUCATION OF DISABLED CHILDREN**</u>

This study entitled, "***A critical analysis of law and policy on the education of disabled children in South Africa",*** was undertaken in fulfilment of the requirements for a degree of Doctor of Education in Education Management. I critically reviewed the laws and policies relevant to the education of disabled children in South Africa using critical discourse analysis and thematic content analysis as modes of inquiry.

After analysing the relevant laws and policy I captured the progressive elements of the South African education and disability landscape and identified the gaps therein. Thereafter I compiled a framework that integrates both the educational principles pertaining to disabled children and the human rights standards that uphold their educational and disability rights. This framework, called the ***SAVE Framework***, marries the two types of frameworks that have so far been operating in silos and lays out the essential ingredients of laws and policies on the education of disabled children drawn from both the child rights literature and educational literature.

Three elements are contained in the SAVE Framework: ***Suitability, Availability and equitability***. ***Suitability*** refers to principles including adapting the system instead of the child, using appropriate "language" and discourse; cultural and local sensitivity to disability; disability- and age-appropriate transition and support plans; curricular and instructional sufficiency, flexibility, relevance and appropriateness; proper academic testing/assessment of disabled learners; effective school-community linkages; tackling the exclusionary potential of the *hidden curriculum* through equity pedagogy; care in disciplining disabled learners; and universal design of facilities, services and products.

The element of ***Availability*** contains principles including making inclusive schools available in good quality and quantity in close proximity; allocation of adequate public funding for ensuring inclusion; availing teachers in good quantity and quality for inclusion; developing teachers as foot soldiers of social justice and equality; equipping teachers to play a pastoral role; supplying teachers with disabilities as role models; providing disability-friendly textbooks, uniforms and educational supplies lower and affordable prices; providing disability-friendly adaptive and assistive devices at lower and affordable prices; and availing disability-friendly school transport services at lower and affordable prices.

Under the element of **Equitability** are included principles related to ensuring equality of access and results and non-discrimination; recognition of education as a basic human right; making schools economically affordable; allocating equitable public funding; political commitment to affirmative action and redress; recognition of the educability of disabled children; freedom of choice and involvement of parents/caregivers; creating an inclusive schools with inclusive culture, ethos and organisation; respect for difference; and listening to the voice of disabled children.

Please find the SAVE Framework and a summary of the findings and recommendations attached for your perusal. I call upon you to consider the findings and recommendations of this study, mainly captured through the Framework, for improving the existing South African education policy landscape as it relates to learners with barriers to learning and development.

Finally, your feedback on the content of the Framework itself is welcomed.

Kind regards,

ST Tesemma

APPENDIX C2

LETTER TO THE SOCIAL AFFAIRS COMMISSION OF THE AFRICAN UNION

Date: **04 Dec 2012**

To: **Social Affairs Commission of the African Union**
From: **ST Tesemma, Doctoral Student Researcher**

Subject: <u>**PRESENTING THE SAVE FRAMEWORK FOR ANALYSING THE RIGHT TO EDUCATION OF DISABLED CHILDREN**</u>

This study entitled, "***A critical analysis of law and policy on the education of disabled children in South Africa",*** was undertaken in fulfilment of the requirements for a degree of Doctor of Education in Education Management. I critically reviewed the laws and policies relevant to the education of disabled children in South Africa using critical discourse analysis and thematic content analysis as modes of inquiry.

After analysing the relevant laws and policy I captured the progressive elements of the South African education and disability landscape and identified the gaps therein. Thereafter I compiled a framework that integrates both the educational principles pertaining to disabled children and the human rights standards that uphold their educational and disability rights. This framework, called the **SAVE Framework**, marries the two types of frameworks that have so far been operating in silos and lays out the essential ingredients of laws and policies on the education of disabled children drawn from both the child rights literature and educational literature.

Three elements are contained in the SAVE Framework: ***Suitability, Availability and equitability***. ***Suitability*** refers to principles including adapting the system instead of the child, using appropriate "language" and discourse; cultural and local sensitivity to disability; disability- and age-appropriate transition and support plans; curricular and instructional sufficiency, flexibility, relevance and appropriateness; proper academic testing/assessment of disabled learners; effective school-community linkages; tackling the exclusionary potential of the *hidden curriculum* through equity pedagogy; care in disciplining disabled learners; and universal design of facilities, services and products.

The element of ***Availability*** contains principles including making inclusive schools available in good quality and quantity in close proximity; allocation of adequate public funding for ensuring inclusion; availing teachers in good quantity and quality for inclusion; developing teachers as foot soldiers of social justice and equality; equipping teachers to play a pastoral role; supplying teachers with disabilities as role models; providing disability-friendly textbooks, uniforms and educational supplies lower and affordable prices; providing disability-friendly adaptive and assistive devices at lower and affordable prices; and availing disability-friendly school transport services at lower and affordable prices.

Under the element of **Equitability** are included principles related to ensuring equality of access and results and non-discrimination; recognition of education as a basic human right; making

schools economically affordable; allocating equitable public funding; political commitment to affirmative action and redress; recognition of the educability of disabled children; freedom of choice and involvement of parents/caregivers; creating an inclusive schools with inclusive culture, ethos and organisation; respect for difference; and listening to the voice of disabled children.

Please find the SAVE Framework and a summary of the findings and recommendations attached for your perusal. I call upon you to

- make effective use of the Framework for pushing for progressive law and policy reforms on the education of disabled children in Africa.
- use the Framework to promote the education rights of disabled children and to integrate the principles contained therein in your related areas of work

Finally, your feedback on the content of the Framework itself is welcomed.

Kind regards,

ST Tesemma

APPENDIX C3

LETTER TO THE AFRICAN COMMITTEE OF EXPERTS ON THE RIGHTS AND WELFARE OF THE CHILD

Date: **04 Dec 2012**

To: **African Committee of Experts on the Rights and Welfare of the Child**
From: **ST Tesemma, Doctoral Student Researcher**

Subject: **PRESENTING THE SAVE FRAMEWORK FOR ANALYSING THE RIGHT TO EDUCATION OF DISABLED CHILDREN**

This study entitled, "***A critical analysis of law and policy on the education of disabled children in South Africa",*** was undertaken in fulfilment of the requirements for a degree of Doctor of Education in Education Management. I critically reviewed the laws and policies relevant to the education of disabled children in South Africa using critical discourse analysis and thematic content analysis as modes of inquiry.

After analysing the relevant laws and policy I captured the progressive elements of the South African education and disability landscape and identified the gaps therein. Thereafter I compiled a framework that integrates both the educational principles pertaining to disabled children and the human rights standards that uphold their educational and disability rights. This framework, called the **SAVE Framework**, marries the two types of frameworks that have so far been operating in silos and lays out the essential ingredients of laws and policies on the education of disabled children drawn from both the child rights literature and educational literature.

Three elements are contained in the SAVE Framework: ***Suitability, Availability and equitability***. ***Suitability*** refers to principles including adapting the system instead of the child, using appropriate "language" and discourse; cultural and local sensitivity to disability; disability- and age-appropriate transition and support plans; curricular and instructional sufficiency, flexibility, relevance and appropriateness; proper academic testing/assessment of disabled learners; effective school-community linkages; tackling the exclusionary potential of the *hidden curriculum* through equity pedagogy; care in disciplining disabled learners; and universal design of facilities, services and products.

The element of ***Availability*** contains principles including making inclusive schools available in good quality and quantity in close proximity; allocation of adequate public funding for ensuring inclusion; availing teachers in good quantity and quality for inclusion; developing teachers as foot soldiers of social justice and equality; equipping teachers to play a pastoral role; supplying teachers with disabilities as role models; providing disability-friendly textbooks, uniforms and educational supplies lower and affordable prices; providing disability-friendly adaptive and assistive devices at lower and affordable prices; and availing disability-friendly school transport services at lower and affordable prices.

Under the element of **Equitability** are included principles related to ensuring equality of access and results and non-discrimination; recognition of education as a basic human right; making schools economically affordable; allocating equitable public funding; political commitment to affirmative action and redress; recognition of the educability of disabled children; freedom of choice and involvement of parents/caregivers; creating an inclusive schools with inclusive culture, ethos and organisation; respect for difference; and listening to the voice of disabled children.

Please find the SAVE Framework and a summary of the findings and recommendations attached for your perusal.

I call upon you to use the Framework as a reference when reviewing State Party reports and promote the same in your Concluding Observations towards encouraging countries to integrate the principles contained therein in their efforts to provide education services for disabled children.

Finally, your feedback on the content of the Framework itself is welcomed.

Kind regards,

ST Tesemma

LETTER TO DISABLED PEOPLES' ORGANISATIONS, CIVIL SOCIETY GROUPS AND NGOS WORKING ON DISABILITY ISSUES

Date: **04 Dec 2012**

To: **Disabled Peoples' Organisations, Civil Society Groups and NGOs working on disability issues**

From: **ST Tesemma, Doctoral Student Researcher**

Subject: **PRESENTING THE SAVE FRAMEWORK FOR ANALYSING THE RIGHT TO EDUCATION OF DISABLED CHILDREN**

This study entitled, "*A critical analysis of law and policy on the education of disabled children in South Africa",* was undertaken in fulfilment of the requirements for a degree of Doctor of Education in Education Management. I critically reviewed the laws and policies relevant to the education of disabled children in South Africa using critical discourse analysis and thematic content analysis as modes of inquiry.

After analysing the relevant laws and policy I captured the progressive elements of the South African education and disability landscape and identified the gaps therein. Thereafter I compiled a framework that integrates both the educational principles pertaining to disabled children and the human rights standards that uphold their educational and disability rights. This framework, called the **SAVE Framework**, marries the two types of frameworks that have so far been operating in silos and lays out the essential ingredients of laws and policies on the education of disabled children drawn from both the child rights literature and educational literature.

Three elements are contained in the SAVE Framework: *Suitability, Availability and equitability*. **Suitability** refers to principles including adapting the system instead of the child, using appropriate "language" and discourse; cultural and local sensitivity to disability; disability- and age-appropriate transition and support plans; curricular and instructional sufficiency, flexibility, relevance and appropriateness; proper academic testing/assessment of disabled learners; effective school-community linkages; tackling the exclusionary potential of the *hidden curriculum* through equity pedagogy; care in disciplining disabled learners; and universal design of facilities, services and products.

The element of **Availability** contains principles including making inclusive schools available in good quality and quantity in close proximity; allocation of adequate public funding for ensuring inclusion; availing teachers in good quantity and quality for inclusion; developing teachers as foot soldiers of social justice and equality; equipping teachers to play a pastoral role; supplying teachers with disabilities as role models; providing disability-friendly textbooks, uniforms and educational supplies lower and affordable prices; providing disability-friendly adaptive and assistive

devices at lower and affordable prices; and availing disability-friendly school transport services at lower and affordable prices.

Under the element of **Equitability** are included principles related to ensuring equality of access and results and non-discrimination; recognition of education as a basic human right; making schools economically affordable; allocating equitable public funding; political commitment to affirmative action and redress; recognition of the educability of disabled children; freedom of choice and involvement of parents/caregivers; creating an inclusive schools with inclusive culture, ethos and organisation; respect for difference; and listening to the voice of disabled children.

Please find the SAVE Framework and a summary of the findings and recommendations attached for your perusal. I call upon you to use the Framework to promote and advocate for the education rights of disabled children in your respective area of work and to integrate the principles contained therein in your efforts to provide education services for disabled children.

Finally, your feedback on the content of the Framework itself is welcomed.

Kind regards,

ST Tesemma