The Education of Children with Impairments in South Africa: A Capability Approach

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List of Abbreviations

CRPD Committee on the Rights of Persons with Disabilities

CRC Committee on the Rights of the Child

DoE Department of Education

DSD Department of Social Development

DBE Department of Basic Education

GOSA Government of South Africa

HRW Human Rights Watch

LER Learner Educator Ratio

RECDA The Right to Education for Children with Disabilities Alliance

UN United Nations

UNHRC United Nations Human Rights Council

UPIAS Union of Physically Impaired People Against Segregation

WP6 Education White Paper 6: Special Needs Education

Abstract

This thesis explains and defends the capability approach articulated by Amartya Sen and applies the capability approach to evaluate South African education policy and its implementation in respect of children with impairments, with specific reference to the Education White Paper 6 on Special Needs Education 2001.

The 'introduction' presents evidence that children with impairments in South Africa continue to experience a lack of access to education, which the government has an obligation to address. Sen's capability approach is then defended as the best theory for framing what this obligation involves. In chapter one, the key terms of Sen's capability approach are analysed, including: functionings and capability, agency and well-being, and basic capability equality. The distinction between impairment and disability drawn by the social model of disability is then used to enhance Sen's capability approach.

Chapter two applies this enhanced capability approach to education. In the case of children, a capability approach requires public policy to prioritise the functionings that make up the personal well-being of the child. It should prioritise basic pedagogical and non-pedagogical functionings for all children. However, because these functionings takes place in schools, the capability approach to education must consider more than just a child's functionings. It must consider the capability of parents to participate in how a school is run, and so ensure public accountability, as well as the capability of teachers to teach inclusively.

In chapters three and four, the Education White Paper 6 and its implementation are analysed, focusing on the pedagogical functionings of children with impairments. This White Paper contains some comments in line with Sen's approach, and the social model of disability. But its general vision is modest. As it contains specific targets for 2021, assessment can focus on whether or not these targets are likely to be achieved. Sadly, none are likely to be achieved. A large number of children with impairments remain out of school. Data collection is poor. The rate of school conversions is too slow. The quality of education for learners with impairments remains low. Attitudes in government reports about the accommodation of children with impaired intellectual development are concerning. The problem of fees is not mentioned.

Finally, chapter four offers some policy recommendations - on data collection, admissions, funding and training - to improve the education of children with impairments. More reliable data is needed on the numbers of out-of-school children and children who transfer between different types of school, and academic achievement. Services could be used to collect data, and weighting systems introduced. Provincial education departments should make more use of the 1996 Schools Act to ensure governing bodies carry out admission policy. Additional funding is needed to promote equality across a range of pedagogical and non-pedagogical functionings, and more training in inclusive education is recommended for teachers and officials.

Introduction

In South Africa, children with impairments (that is, any loss or defect in body structure or body function, whether physical or psychological)[1] continue to experience a lack of access to education, which the government has an obligation to address. This report will argue that the capability approach developed by Amartya Sen is the best theory for framing what this obligation involves. It will do this by discussing the strengths of the capability approach as an account of justice and apply this approach to frame what justice requires in education. I will then use this approach to criticise government policy in South Africa on educating children with impairments, and finally conclude by making some recommendations to improve this current policy.

Three facts help to bring out the lack of access that children with impairments currently face. First, according to the Department of Basic Education's *Report on the Implementation of Education White Paper 6 on Inclusive Education*, published in May 2015, there are hundreds of thousands of children with impairments who are out of school (DBE, 2015b, p. 21). Second, a recent submission by Human Rights Watch (HRW) to the United Nations Committee on the Rights of Persons with Disabilities revealed that many public schools in South Africa attended by children with impairments are not free. While many public schools are no-fee schools, "no special schools fall into that category" (HRW, 2018). Even at the age of compulsory basic education, children with impairments often stay at home if their families cannot afford to send them to a special school, which they are often referred to. Third, the UN Committee on the Rights of Persons with Disabilities reported in 2015 that "only five" of South Africa's nine provinces "have used the funds available for the expansion of inclusive education" (UN CRPD, 2015, p. 43-44).

These facts show that there is a widespread lack of free access for children with impairments to basic education in South Africa, and provincial governments are not using the resources at their disposal. This suggests, fundamentally, a lack of political will or imagination on this issue. A theoretical approach to the benefits of an inclusive education system can help to strengthen this will, and expand our imagination.

[1] Following the social model of disability, I distinguish individual impairment from the disability that society imposes on people with impairments. I discuss the social model, and this distinction, in chapter 1. 2.

Furthermore, the government has a legal obligation to address this lack of free access. In the South African Constitution, section 9.3 of the Bill of Rights states: "the state may not unfairly discriminate directly or indirectly on one or more grounds, including … disability" (GOSA, 1996a). It may have been more accurate to use the term "impairment", because disability is the result of discrimination on the basis of impairment.[2] But the point stands that direct and indirect discrimination towards people with impairments is prohibited.

Supporting this position, section 9.2 of the Bill of Rights states that, to promote the "equal enjoyment of all rights", the state may take measures "to protect or advance persons, or categories of persons, disadvantaged by unfair discrimination" (GOSA, 1996a). If people with impairments fair badly because of how others react to their impairments, then the Constitution requires that laws be made to correct this unfair disadvantage.

Aside from the South African context, globally there are two international Conventions that South Africa has signed and ratified that also require steps to be taken to address the present lack of access to education for children with impairments.

One is the United Nations Convention on the Rights of the Child, which South Africa signed in 1993 and ratified in 1995. This Convention states in Article 23.1 that: "States Parties recognize that a mentally or physically disabled child should enjoy a full and decent life, in conditions which ensure dignity" (UN, 1989). Article 23.3 states that the assistance that a child with an impairment requires "shall be provided free of charge, whenever possible" and that it "shall be designed to ensure that the disabled child has effective access to and receives education … in a manner conducive to the child's achieving the fullest possible social integration and individual development" (UN, 1989). In Article 28.1, there is also specific recognition of "the right of the child to education" (UN, 1989). Primary education should be "free to all", and secondary education should be made "available and accessible to every child" (UN, 1989).

[2] Impairment is the loss or defect in the body structure or function of the individual. People are discriminated against on the basis of their impairment. Disability is the result of this discrimination. The distinction between impairment and disability is discussed in chapter 1. 2.

The second is the United Nations Convention on the Rights of Persons with Disabilities, which South Africa signed and ratified in 2007, which states in point (r) of the Preamble that "children with disabilities should have full enjoyment of all human rights and fundamental freedoms on an equal basis with other children" (UN, 2006). Article 2 states that "discrimination on the basis of disability" includes "denial of reasonable accommodation", where "reasonable accommodation" means "necessary and appropriate modification and adjustments not imposing a disproportionate or undue burden" (UN, 2006).

These international positions expand upon what is stated in the South African Bill of Rights, that unfair discrimination on the grounds of disability is prohibited. By signing and ratifying the Convention on the Rights of Persons with Disabilities, unfair discrimination includes not actively making "necessary and appropriate modification and adjustments", e.g. in the area of access to education. It also includes any failure to ensure that "persons with disabilities can access an inclusive, quality and free primary education and secondary education on an equal basis with others" (UN, 2006).

These ratified international obligations, and our own Constitution, establish the legitimacy of asking what is problematic about inclusive education policy in South Africa, and why it is not being implemented effectively. One way in which this question can be addressed is to reconceptualise the nature of inclusion in South Africa, using Sen's capability approach.

The main reason to use Sen's capability approach is that this approach focuses on "the significance of human lives" (2009, p. 213), and on how impairment can have an impact on the lives that people can lead. "The relevance of disability in the understanding of deprivation" is, Sen claims, "one of the most important arguments for paying attention to the capability perspective" (2009, p. 258). He argues that "other standard approaches … tend to fail to do justice to the problem that is illustrated by this case" (1992, p. 28). From his early writings on capability, Sen uses the case of a "cripple" (1980, p. 215), or in acceptable language, a person with an impairment, to argue for the capability approach.

According to Sen, the case of a person with an impairment illustrates why we should pay attention to human lives in terms of *functionings* and *capability*, rather than just look at utility or primary goods, as other theories of justice argue (1980, p. 215-6). Sen's position is thus developed as a critique of the theory of justice offered by John Rawls, which focuses on the notion of primary goods (such as rights and opportunities) (Rawls, 1971), and as a critique of utilitarian theories of justice, which focus on utility (happiness as a state of mind). The focus of Sen's capability approach, by contrast, is on functionings and capability.

Because of human diversity, people have different abilities to convert primary goods, i.e. "'rights, liberties and opportunities, income and wealth, and the social bases of self-respect'" (Rawls, 1971, p. 62, cited in Sen, 1980, p. 214), into activities and states of being. For example, a person with an impairment may find it difficult to do the same things with the same amount of income as a person without an impairment. A person with coeliac disease may need more money to be nourished, if it is more expensive to eat a gluten-free diet than to eat a diet that may contain glutens. A person with paraplegia may need more money to be mobile, if it is an extra expense to buy a wheelchair, or if it is more expensive to use wheelchair-accessible forms of transport.

The aim of Rawls's "difference principle" is to give priority to "furthering the interests of the worst-off" (Sen, 1980, p. 214).[3] But people with impairments, who are already more than likely to be among the worst-off because of the difficulty of finding work, may also find it difficult to do the same things with the same amount of income as other people (Sen, 1992, p. 113). A focus on primary goods is therefore a "partially blind morality" (Sen, 1980, p. 216). Giving everyone the same primary goods will not translate into equal concern for the lives that people with impairments actually lead. Some people with impairments may "get less from primary goods than others" (Sen, 1992, p. 83) no matter what their objectives are. A theory of justice ought to be concerned with the lives that people lead. In particular, it ought to be concerned with the lives led by people who are the worst-off. The case of people with impairments shows that, to ensure a good life for all people, we cannot focus exclusively on primary goods. As we shall see, Sen's capability approach offers a way to make the quality of the lives that people lead the focus of concern.

The case of a person with an impairment also illustrates the problem with focusing on utility, or desire-fulfilment. Sen asks us to think of a person with an impairment who has either a "jolly disposition" or a "low aspiration level" or who "cheerfully accepts" his position as "just penalty

[3] Rawls's 'difference principle' is that 'an equal distribution is to be preferred' (1971, p. 76), unless an unequal distribution makes everyone better off.

for misdeeds in a past incarnation" (1980, p. 217). This person may fulfil as many desires as a person without an impairment who has learnt to have higher aspirations for themselves. If we compare the utilities of these two people, then, we would have to say that there is no inequality between them.

The problem is that, even if two people have the same utility, one person may not be able to do as many of the things that the other person is able to do, if they have an impairment. For example, a person with a speech impediment may be happy if they do not speak at a public meeting that they attend, while a person without a speech impediment may be happy if they do speak at a public meeting, and also happy if they do not speak. The person with a speech impediment may have accepted the lower aspiration of attending public meetings, but without speaking in them, although there is no good reason for them to accept this lower aspiration.

We can relate this to the finding that traditional views of disability include the idea that disability is the expression of sin, witchcraft or punishment from ancestors (Donohue & Bornman, 2014, p. 6). If the person with a speech impediment has internalised this idea, then they may be just as happy as the person without a speech impediment, even though they have fewer real opportunities. But these traditional views do not stand up to reason. Alternatively, a person with a speech impediment may have learnt to expect to feel ashamed of themselves if they speak in a public meeting. This may be because of social attitudes of disrespect towards people with speech impediments. They may then feel relieved at not speaking, and fearful of speaking at a public meeting. Again, in this case, they have fewer real opportunities than the person without a speech impediment, even if both individuals are happy. A focus on utility lets these inequalities off the hook because it does not consider the causes of people's aspirations.

The capability approach improves on these two theories (Rawls and utilitarianism). Unlike the Rawlsian approach, the capability approach focuses directly on the lives that people lead. If a person with coeliac disease needs more money to be as well-nourished as a person without this disease, then, in the capability approach, that is a reason to give a person with coeliac disease more money, so that they can be as well-nourished as anyone else. What matters is their ability to achieve the functioning of being well-nourished. Equality in the state of being well-nourished may require an unequal distribution of primary goods.

Unlike utilitarianism, the capability approach focuses on the entire life of a person. It does not reduce the lives people lead to their “mental reaction” (Sen, 1980, p. 218), or their state of happiness. There is more to life than the fulfilment of desires. Life includes reasoning, and reasoning sometimes leads us to question the society in which we live, including social conditions that influence desires.

Sen defines capability in terms of functionings that a person “has reason to value” (2009, 231). This acknowledges the fact that human lives cannot be reduced to desires, but includes reflection on desires. For example, a person who suffers from depression may at times desire very little or nothing from life. However, a person who desires very little because of a bout of depression, and has the little they desire, may not be doing well in terms of capability, because capability is measured by what they have reason to value. What someone has reason to value depends on critical reflection, after comparing their judgements with the judgements of others.

In sum, the South African government is under an obligation to make more effort to address the continuing lack of access to education among children with impairments. The capability approach is the most promising theoretical framework for thinking about what could be done to improve the situation of children with impairments. Functionings and capability reflect the direct importance that people put on living a good life.

I will therefore begin, in chapter one, by outlining Sen’s theory of capability in more detail, and then relate it to the distinction between impairment and disability. Chapter two will then apply this capability approach to the context of education. Chapter three summarises existing education policy in South Africa. Finally, chapter four will use the capability approach to evaluate this policy, and make some recommendations for improving it.

Chapter 1
The Capability Approach

1.1 The Capability Approach of Amartya Sen

Sen has developed a capability approach to justice in a number of works. My first aim in this chapter is to explain Sen's capability approach. I focus on Sen's account of the capability approach in *Inequality Reexamined* (1992) and *The Idea of Justice* (2009), as well as Sen and Drèze's account of education in *India: Development and Participation* (2002). The first two works are systematic accounts of justice and inequality from a capability perspective. In addition, *The Idea of Justice* is quite recent. It is therefore likely to contain any revisions that Sen has made to the capability approach, and to respond to criticisms. For example, it is outdated to say that "the capability approach … does not amount to a theory of justice" (Robeyns, 2005, p. 96) now that Sen has published a book called *The Idea of Justice*. Another example is Lorella Terzi's criticism of Sen's capability approach in *Development as Freedom* (1999) for its "unspecified nature" (2009, p. 96). Harry Brighouse and Elaine Unterhalter also claim in respect of education that Sen's capability approach is "underspecified" (Brighouse & Unterhalter, 2010, p. 200). By examining *The Idea of Justice*, it may be possible to respond to these criticisms.

I shall use the term "capability approach" to refer to Sen's general approach. Other theorists, such as Martha Nussbaum (2011), also offer a capability approach. My focus, however, is always on Sen. "Equality of capability" or "equal capability" is the idea that it is of value for everyone to have equal capability. The capability approach includes this idea, but it is wider than this in that Sen also views efficiency from a capability perspective (1992, p. 136-138). In the capability approach, justice is sometimes about equal capability, and sometimes about other values, such as efficiency.

The capability approach also includes elements of a social theory. It describes human lives in terms of functionings and capabilities. It also includes claims about the social conditions for justice. For example, Sen argues that public debate is more likely to give voice to "systematic biases", the more "economic and social inequalities" there are (2002, p. 376). It therefore seems too hasty to conclude that the capability approach only supports judgements about policy "when the capability approach is used with a complementary social theory" (Unterhalter, 2008, p. 503). The capability approach already includes a few elements of social theory.

The capability approach to justice has two general features. It is concerned with avoiding injustice, and with human lives as a whole. For Sen, what is central to the theory of justice is not "the characterization of perfectly just societies", but "redressable injustice" (2009, p. vi-ix). What we should think about, in our approach to justice, is what changes to society are possible and will result in less injustice than at present. We may not all be able to agree on what is perfectly just (Sen, 2009, p. 9). But we may still try to remove from society what we all reasonably agree is unjust. Moreover, for Sen, justice is concerned "with the way people's lives go, and not merely with the nature of the institutions surrounding them" (2009, p. x). It makes a difference to people's lives if unjust behaviour is avoided. It is not only institutions (legal rules) that may need to change, but also the behaviour that occurs within these rules.

These features are attractive in the context of South Africa because there is much injustice in this country. It should be possible to identify this injustice even if it is not possible for us all to agree on a single view of the perfectly just society. As Sen notes, "agreements on particular justice-enhancing moves are material enough for public action" (2009, p. 135).

In studying human lives, "we have reason to be interested not only in the various things we succeed in doing, but also in the freedoms that we actually have to choose between different kinds of lives" (Sen, 2009, p. 18). Two things are important in human life. The first, the things we succeed in doing or being, are what Sen calls "functionings" (Sen, 1992, p. 39). "Functionings" are the "*constitutive* elements of human well-being" (Sen, 1992, p. 150). The second, freedom, is related to functionings. It is defined as "the *real opportunity* that we have to accomplish what we value" (Sen, 1992, p. 31). Sen's term for the effective opportunity to achieve valued functionings is capability. Capability stands for "the alternative combinations of things a person is able to do or be - the various functionings he or she can achieve" (Sen, 1993, p. 30). At any point in life, a person is doing a number of things. But what a person actually does is just one of the possible combination of functionings that was open to them. The entire set of accomplishments that a person has the power to achieve, from which they can select options to pursue, is called their "capability set" (Sen, 1992, p. 150).

For example, one type of functioning is being nourished, and another type of functioning is being entertained. A person may spend all their income on food, and leave no money over for entertainment. Their well-being then depends on the quality of the food they eat. If they had the option of spending less money on cheaper food, and leaving some over to pay for entertainment, they also have the freedom to choose a life of being nourished and being entertained. Their actual choice, which was to spend all their money on being nourished, is just one of the possible combinations of functionings that belongs to their capability set. Their well-being consists of just one type of functioning: being nourished. But their capability set includes two options: being nourished by food that costs them all their money, or being nourished by less expensive food and being entertained.

The capability approach "sees the evaluative space in terms of functionings and capabilities to function" (Sen, 1992, p. 43). Why does the capability approach look at two factors rather than one? The reason is that the capability approach is concerned directly with human life. In looking at the life that a person leads, we must look at what they are or do, i.e. functionings. But, except in extreme cases, such as being kidnapped, we also make a conscious choice about what to do. "Deciding and choosing are also parts of living" (Sen, 1992, p. 42) and part of what we value about human life. If we had a choice between being kidnapped or forced into doing something, and doing it freely, we would, on reflection, choose to do it freely, to remain in control.

In fact, the capability approach is more complicated than this.[4] It makes a distinction not only between capability (or the freedom to achieve) and functionings (or achievements), but also between agency and personal well-being: "agency encompasses all the goals that a person has reasons to adopt, which can inter alia include goals other than the advancement of his or her own well-being" (Sen, 2009, p. 287).

As an example (Sen, 1992, p. 60), imagine that you are walking along the street in which a crime is committed. Because you are nearby, you have the opportunity to try to confront the attackers. You would not have the freedom to confront the attackers if you were not there. It is risky, however, to confront the attackers. You may get hurt. If you are the sort of person who prides themselves on helping innocent people under attack, being near to the attackers will

[4] I discuss "conversion factors" in ch. 1.2.

widen your capability set. However, it may also decrease your personal well-being. You may stop the attack, but get hurt in the process. This case shows how an increase of capability need not always lead to an increase in well-being for that person. People may have goals that include an element of self-sacrifice or generosity. By giving such people more chance to pursue their goals, you may be giving them more of a chance to be self-sacrificing or generous. In that case, their agency may increase, but not necessarily their own well-being: "freedom and well-being achievement can, thus, move in opposite directions" (Sen, 1992, p. 62).

In the capability approach, then, "there are different ways of judging advantage" (Sen, 1992, p. 62). However, Sen argues that some aspects of capability and functioning may be more relevant than others when it comes to public policy:

> in determining the extent to which a person is deprived in a way that calls for assistance from others or from the state, a person's well-being may be, arguably, more relevant than his or her agency success (e.g. the state may have better grounds for offering support to a person for overcoming hunger or illness than for helping him to build a monument to the person's hero) (2009, p. 288).

It is up to adults to decide on what goals they want to pursue. But when it comes to public policy for adults, the capability approach emphasises that public policy should aim to enhance the capability to achieve functionings that contribute to a person's own well-being, e.g. being nourished. It is not reasonable to expect everyone to have the same heroes. But it is reasonable to agree that we should all have an effective opportunity to be nourished.

Sen notes that there are "two general approaches in assessing achievement" (1992, p. 89). Achievement can either be measured positively, as "the level of achievement", or negatively, as "the *shortfall vis-à-vis*" (ibid.) what a person could maximally achieve. The two approaches "can yield different results", because of "variations in maximal potentials" (1992, p. 90). Human beings are diverse, e.g. what Einstein or Mandela are capable of differs from what the average person is capable of. Sen favours equalising the capability for positive achievement. The reason for this is that it is better to make the worst off as well off as possible (1992, p. 91).

Sen acknowledges that equalising the capability for positive achievement may not always be possible. But in this case, we should try to "maximize … below-par functioning ability" (Sen, 1992, p. 91). For example, a person with spinal cord injury will not be able to "move about as freely as others" (ibid.). They will not be able to climb a mountain or cross a room full of people at a party as easily as others. But efforts can be made to maximise their below-par capability for mobility. In this way, the case for favouring positive achievement "can survive the difficulties in achieving it *fully*" (Sen, 1992, p. 93).

So far, I have described the "informational focus" (Sen, 2009, p. 232) or "evaluative space" (Sen, 1992, p. 20) of the capability approach. The capability approach focuses on capability and functionings. Thus, it views equality in relation to capability and functionings. However, it does not do so mechanically. Sen writes: "[t]he capability perspective does point to the central relevance of the inequality of capabilities in the assessment of social disparities, but it does not, on its own, propose any specific formula for policy decisions" (2009, p. 232). We cannot say, automatically, that because the capability approach is a good approach to justice, just policies in education must therefore seek to equalise capability: "the use of the capability approach for evaluation does not demand that we sign up to social policies aimed entirely at equating everyone's capabilities, no matter what the other consequences of such policies might be" (ibid.).

There are two reasons that the capability approach does not automatically say that the goal of policy should be to equalise everyone's capability. One is the need for "fairness to other people" (Sen, 2009, p. 207). There may be "decent rules of behaviour" that "restrain" us in the pursuit of our goals (Sen, 2009, p. 192). This may apply to the goal of equalising capability. Some universal rights and liberties may constrain the actions that we may take to equalise capability. For example, it is not fair to lie or to manipulate people for the sake of equalising capability. The other reason is "the aggregate progress of a society" (Sen, 2009, p. 232). Making a society more equal in terms of capability is different from increasing aggregate capability, and "a policy may be defended not on the grounds that it enhances capability equality, but for the reason that it expands the capabilities of all (even if there is no distributional gain)" (Sen, 2009, p. 298). For example, it is possible that people who take risks in inventing new technologies must be given incentives to enjoy a lot of capability in order for all of us to enjoy a bit more quality of life. "Capability equality" is "very important" (Sen, 2009, p. 298), but not the only element of social justice.

At this point, one might ask: does the capability approach tell us anything about policy? One answer is "basic capability equality" (Sen, 1980, p. 220). The notion of basic capabilities is "a person being able to do certain basic things" (Sen, 1980, p. 218). Something is basic relative to something more complex. For example, moving about is basic relative to playing basketball (Sen, 1992, p. 45). Playing basketball involves a more refined use of the ability to move about. Writing a Masters thesis is a more refined use of the ability to write.

The term "basic capability equality" aims "to separate out the ability to satisfy certain elementary and crucially important functionings up to certain levels" (Sen, 1992, p. 45). Basic capability equality is where everyone has certain basic capabilities for personal well-being, including the capabilities to read, write and count; to be nourished, clothed and sheltered; and to avoid premature mortality and unnecessary morbidity (Sen, 1980, p. 218; Sen 1992, p. 5). Basic capability equality removes poverty, "if poverty is seen as the deprivation of some minimum fulfilment of elementary capabilities" (Sen, 1992, p. 9). Sen suggests that "in the context of some types of welfare analysis, e.g. in dealing with extreme poverty in developing economies, we may be able to go a fairly long distance in terms of a relatively small number of centrally important functionings" (1992, p. 44).

One indication that Sen takes the capability approach to prioritise basic capability equality is that Sen seems to reject an approach that "gives total priority to the minutest gain of the worst-off group even when this entails huge losses for groups that are not the worst-off but are very badly off" (Sen, 2009, p. 103-4). In other words, Sen thinks that there are desirable outcomes, such as efficiency, that we may reasonably want, even when we know that they will produce a small amount of inequality. Basic capability equality captures the importance of equality, without supposing that we are unhealthily obsessed by equality to the exclusion of everything else.

Secondly, basic capability equality is consistent with giving importance to public discussion. Sen says: "the valuations and weights to be used" in comparing capabilities "may reasonably be influenced by our own continued scrutiny and by the reach of public discussion" (2009, p. 242). However, this "influence" may be recognised without leaving absolutely everything up to public discussion, because public discussion can only take place in certain conditions. Public discussion cannot occur if an epidemic has broken out and people cannot move around. It cannot occur if people cannot read newspapers in which world events are reported. Sen adds:

"severe undernourishment of children … causes immediate agony as well as underdevelopment of cognitive capabilities, including reduction of the ability to reason" (Sen, 2009, p. 243). Thus, being nourished is a condition of public discussion. Even if public discussion is important in influencing priorities, the capability approach requires policies that honour basic capability equality. As Terzi points out, "the capabilities essential to democratic participation would themselves need to be protected as a matter of prior constitutional principle" (2009, p. 101).

It is possible, therefore, to respond to the criticism that the capability approach is vague because it does not set clear general priorities. In the capability approach, we can distinguish between basic functionings and complex functionings, and thus between basic capabilities and other capabilities (Sen, 2004, p. 78). The capability approach has general policy priorities, because, for adults, it requires that basic capability equality for personal well-being be treated as a priority. If, for example, the wealthy must be taxed to fund public schools and hospitals to achieve universal literacy and healthcare, then basic capability equality requires this. On the top of that, it requires public discussion about what everyone, on reflection, has reason to value, to influence what further capabilities to promote. In chapter 2, I consider whether, in the case of children, a capability approach requires public policy to prioritise the functionings that make up the personal well-being of the child.

1.2 The Capability Approach and the Impairment/Disability Distinction

As noted in the introduction, Sen appeals to the "relevance of disability in the understanding of deprivation" (2009, p. 258) to support the capability approach. However, the capability approach does not itself include an account of disability. In this section, I argue that a version of the social model of disability complements the capability approach's focus on functionings and capability. The social model of disability can complement the capability approach by emphasising the distinction between impairment and disability, and by insisting that disability should be abolished. The capability approach complements the social model of disability, by specifying its aim (the abolition of disability) in terms of functionings and capability, and by emphasising the importance of democracy. The oppression of disabled people is abolished when people with impairments have an equal chance to participate in society, in other words, equal capability with people without impairments. However, the social model of disability also warns us that the idea of conversion factors should not be central, in applying the capability approach to determine what justice requires in the case of people with impairments. Some authors present the capability approach as a way to advance beyond the social model of disability (Mutanga & Walker, 2015, p. 502; Mutanga, 2017, p. 149; Riddle, 2014, p. 14-25; Terzi, 2004). By contrast, I shall argue that the social model of disability, which emphasises the abolition of disability as an aim, is needed to complement *and correct* the capability approach.

I will start by outlining the social model of disability, or "social model" for short. The social model began with the Union of Physically Impaired People Against Segregation (UPIAS):

> In our view, it is society which disables physically impaired people. Disability is something imposed on top of our impairments, by the way we are unnecessarily isolated and excluded from full participation in society. Disabled people are therefore an oppressed group in society. It follows from this analysis that having low incomes, for example, is only one aspect of our oppression. It is a consequence of our isolation and segregation, in every area of life, such as education, work, mobility, housing, etc. (UPIAS, 1976, p. 3-4)

> [W]e define impairment as lacking part of or all of a limb, or having a defective limb, organ or mechanism of the body; and disability as the disadvantage or restriction of activity caused by a contemporary social organisation which takes no or little account of people who have physical impairments and thus excludes them from participation in the mainstream of social activities. (UPIAS, 1976, p. 14)

The main idea of the social model is that disability is an oppression that should be abolished (Thomas, 2002, p. 38; Finkelstein, 2001). Disability consists in the unfair and unnecessary exclusion of people with impairments from participation in society. The social model therefore distinguishes between impairment and disability. *Impairment* refers to the physical or mental property of the individual that describes a loss or defect in body structure or body function. *Disability* refers to the unjust disadvantage or restriction that society imposes on people with these properties.

This distinction is a response to the medical model of disability. The medical model assumed that impairment, if it is not medically treated, must lead to disadvantages for the individual. For example, the International Classification of Impairments, Disabilities and Handicaps

(World Health Organization, 1980) uses a diagram to represent its model of disability that "shows one-way arrows linking disease to impairment to disability to handicap" (Bickenbach, Chatterji, Badley & Üstün, 1999: 1175). By contrast, the social model stresses the distinction between impairments and disability. Impairment does not cause disability; disability is caused by society.

The impairment/disability distinction is important, because one goal of a just education policy is to ensure that children with impairments are given a fair chance to develop into adults who are as able to participate in society as anyone else, whether in work, family life or as critical citizens. In other words, the social model formulates the goal of a just education policy in respect of children with impairments as the abolition of disability. The social model does not state that it is possible to abolish impairments. However, it does insist that it is possible to remove the ways in which society unfairly discriminates against or neglects people with impairments, including in the area of education. This also reveals the relevance of the capability approach for the social model. One aim of the capability approach to justice is to show that equal capability is a value that should inform public policy.

1.2.1. Democracy and the Social Model

The relation between the capability approach and the social model has been viewed in two ways. Tania Burchardt has argued that there is "complementarity" (2004, p. 735) between the capability approach, and the social model. This is because, for Burchardt, they both see justice as about removing social barriers that go beyond issues of income, and both aim to give a voice to disabled people to shape public policy (Burchardt, 2004). The passages cited above support these claims. It is possible to say more, however, about how the capability approach's account of democracy supports the social model.

According to Sen, a functioning democracy is a system where political power is subject to "regular elections, opposition parties, basic freedom of speech and a relatively free media" (2009, p. 342). Democracy is important because it influences "what values most compel our loyalty and determination" (Sen, 2002, p. 28), and therefore our capability. Unfortunately, "the quality of democracy can be seriously compromised by economic and social inequality" (Sen, 2002, p. 28), because these inequalities prevent disadvantaged groups from having a political voice. According to Sen, “disabled persons” are a section of the population who are often “voiceless” (2002, p. 29).

Sen highlights two factors in this: “lack of formal education” and “lack of adequate collective organizations” (2002, p. 29). The lack of formal education can prevent disadvantaged sectors of the population, such as people with impairments, from intervening in public life or making “effective use of the media, the courts, and other democratic institutions” (Sen, 2002, p. 29). This political marginalization is increased if there is a lack of collective organization, which is much harder for people with impairments to sustain, than it is for people without impairments.

Sen adds: “some groups are often better placed than others to attract solidarity, based for instance on how their cause fits with particular ideologies, or on the extent to which they offer a potential power base to political leaders and social activists” (2002, p. 30). This claim highlights the lack of power enjoyed by people with impairments. There is little glamour in receiving the endorsement of an organization of disabled people. People with impairments have little money to contribute to electoral campaigns. Impairments themselves are also diverse, so that political promises to help one constituency of impaired people may not be seen to benefit people with a different type of impairment.

Sen writes: “given what can be achieved through intelligent and humane intervention, it is amazing how inactive and smug most societies are about the prevalence of the unshared burden of disability” (2009, p. 259-60). This comment reveals that Sen recognises that the problem of disability is not as easy for a functioning democracy to correct as a famine. Sen writes that “democracy prevents famines” because “the general population has no particular reason to entertain any hardened hostility - or exploitable animosity - towards potential famine victims” (2009, p. 352). Unfortunately, the same may not be true of society’s attitude to people with impairments. People with impairments are often stigmatised and regarded as less than equal to other people.

Thus, the conditions under which people with impairments might, as equals, exchange and debate their views about disability with others, are not in place. Given this fact, it is necessary to consider deliberate policies to increase the capability of people with impairments to take part in public discussions, over and above freedom of speech and freedom of the press. Policies must be devised so that it is in the interest of all political groups to allow the voice of people with impairments to be heard in public debate, including on disability policy. There is a need "to go beyond the voices of governments, military leaders, business tycoons and others in commanding positions, who tend to get an easy hearing", and "to pay attention to the civil societies and less powerful people" (Sen, 2009, p. 409). Only then may people with impairments no longer be "unnecessarily isolated and excluded from full participation in society" (UPIAS, 1976, p. 3-4).

1.2.2. Defending the Social Model from Criticisms

In contrast to Burchardt (2004), who argues that the capability approach and the social model are complementary, Terzi (2009), like others, suggests that the capability approach, applied to disability, *improves* on the social model. Terzi has criticised the social model for overemphasising the social aspect of disability, and for its "critique of the idea of normality" (2009, p. 90). I fundamentally disagree with this position. In my view, the *social model* helps us to improve on what the capability approach offers simply by itself. First, I will show that Terzi's criticisms are not convincing. Then, I will discuss how the social model helps to correct the capability approach.

To begin, it is important to note that Terzi does not correctly identify the original statement of the social model. Terzi claims that the social model was "originally conceptualized by the sociologist Michael Oliver" in the 1980s (2009, p. 89). However, as Burchardt notes, the "first articulation" of the social model was offered by the Union of Physically Impaired People Against Segregation in 1976 (2004, p. 735). This articulation was presented above. The point is important, because the social model has been developed since UPIAS by authors besides Oliver, such as Carol Thomas (1999; 2002). Thomas defends the social model, but she does not defend all of the features of Oliver's version of the social model (see Thomas, 1999, p. 43). Terzi's criticisms may not apply to all versions of the social model.

Terzi claims that, "at the core of the social model of disability", there "lies a rejection not only of any necessary causal relation between individual impairment and disability – seen as caused by social structures – but also of any idea of normality" (2009, p. 87). According to Terzi, the social model is questionable in two respects. On the one hand, it insists that there is no causal relation between impairment and disability. On the other hand, it rejects the idea of normality. Neither of these criticisms is convincing.

As we saw in the passage written by UPIAS, the social model does allow for a causal relation between impairment and disability. Disability is imposed on top of impairment. For disability to exist, it is necessary for there to be people with impairments. Otherwise, there is no one for disability to be imposed on.

Terzi's view that the social model rejects the idea of normality is also misleading. Terzi cites Oliver to support this view. According to Oliver, normality "'is a construct imposed on a reality where there is only difference'" (1996, p. 88, cited in Terzi, 2009, p. 90; see also Oliver, 1983). From this, Terzi concludes that the social model rejects the idea of normality. To be sure, Oliver is a defender of the social model, and he rejects the idea of normality. But Oliver is not the only author to defend the social model. Other authors who defend the social model do not share Oliver's view of normality. For example, Carol Thomas has proposed the idea of "impairment effects" (2002, p. 43-4) to describe the pain and limits that may result from an impairment, whatever the social conditions. It is better to have a body and mind that do not cause pain irrespective of the society one lives in. On Thomas's account, there is a way to accept the social model, and the idea of normality.

Because the social model need not reject the idea of normality, it can be combined with the capability approach. The capability approach is not relativist in its evaluation of societies. It provides a criterion for development: the enhancement of capability. For example, a society where everyone has the capability to read and write is a better society, in terms of quality of life, than a society in which no one has the capability to read and write. It is better to live in a society where everyone has this capability, because that gives everyone more freedom. It is not permissible to try to make everyone equal by making everyone illiterate. The reason is not that this is impossible. There have been societies in which the capability to read and write was not one of the "minimally acceptable capabilities to function" (Sen, 1992, p. 116). If we were very destructive perhaps we could return to this illiterate state. However, "the importance of the freedom in question militates against that" (Sen, 2002, p. 9). It is better, in terms of quality of human life, to live in a society where "social interactions include the written media" (Sen, 2002, p. 143). At an individual level, too, it is better, in modern society, to be educated, because "an educated person is better equipped to overcome vulnerability and marginalization in modern society" (Sen, 2002, p. 145). For example, an educated person will find it easier to find out information for themselves, or to make their voice heard, or to avoid bad working conditions (ibid.).

1.2.3. Using the Social Model to Enhance the Capability Approach

I shall now move on to how the social model can be used to enhance the capability approach. The first thing to say here is that Sen does not use the language of the social model. He does not make use of its distinction between impairment and disability. However, the capability approach can be strengthened if this distinction is adopted in the context of analysing functionings and capability.

For example, in discussing the "variations" in different people's abilities to "*convert*" income into beings and doings, Sen writes: "[f]or example, a disabled person can do far less with the same level of income and other primary goods than can an able-bodied human being" (2009, p. 66). Here, Sen contrasts an "able-bodied human being" with a non-able-bodied human being, who he calls a "disabled person". But a non-able-bodied human being is not, according to the social model, the same thing as a "disabled person". A non-able-bodied human being is only a disabled person if they live in a society that imposes disability on them. For instance: why are the items a person with a physical impairment needs not available at the same price as the items that an able-bodied person needs? People with impairments have not decided on the prices of the items they use. If these prices are systematically higher, then that is an aspect of their oppression, and hence of their disability.

The distinction between impairment and disability shows that there are two issues in the case Sen discusses. The fact that a non-able-bodied person may not be able to use a particular item as readily as an able-bodied person is a fact about that individual. The fact that they cannot use their money to do as many things as other people can with the same amount of money is a fact about society. It is possible to decrease disability by subsidising the prices of items that people with impairments need. The problem for a person with coeliac disease is not that they cannot convert the food they need into nutrition. It is that this food is more expensive. The distinction between impairment and disability reminds us, when analysing the conversion of resources into capabilities, not to present social conditions as individual properties. This is one advantage of combining the capability approach with the social model.

It is possible to outline a method by which the capability approach can support the distinction between impairment and disability. It is first necessary to consider that there may be multiple ways to enjoy a type of functioning.

Sen writes that “some functionings may be easy to describe, but of no great interest in most contexts (e.g. using a *particular* washing powder - much like other washing powders)” (1992, p. 44). In most societies, it is important to know if someone has the capability to wash their clothes. Unless they wash their clothes, they will not be able to appear in public without shame. However, nothing rests on the capability to buy a particular washing powder, because capability is “not necessarily enhanced by a multiplication of trivial choices” (Sen, 1992, p. 63). Likewise, suppose a person with a physical impairment regards it as trivial whether they get to work using the London Underground or bus transport. The fact that they “cannot make a choice between Underground and bus transport” because the London Underground is “largely inaccessible to wheelchair users” (Shakespeare, 2014, p. 38-9) is not relevant to whether they can enjoy equality of capability. Shakespeare uses this example to support the idea that “it is impossible to remove every obstacle” (2014, p. 38). But, contrary to Shakespeare, equal capability to commute, which is what matters here, is not impossible. It may be enough to make the bus network as good an option as the London Underground.

One way for the capability approach to support the impairment/disability distinction is as follows. The first step is to identify what an impairment prevents an individual from doing, e.g. the loss of both legs prevents an individual from walking. The second step is to think of a more general type of functioning of which the prevented activity is a sub-type, and which the impairment need not prevent, e.g. walking is a sub-type of moving about, and the functioning of moving about can be performed in ways that the impairment of losing both legs need not prevent. An individual who has lost both of their legs can be given the opportunity to move about by means of a wheelchair in a wheelchair-adapted environment.

The third step is to declare that an effective opportunity should be given to each person to function in this more general type of way. For example, every individual, both individuals who have legs and those who do not, should have an effective opportunity to perform the function of moving about. These steps can be used to identify every disability that may result from impairments in social environments that discriminate against people with impairments. The capability approach says that discrimination is bad for two reasons: the individual has no effective opportunity to perform a type of functioning, and they also suffer from the fact that they know that they lack an effective opportunity to perform it. Disability is a restriction of functionings, and therefore of capability, as a result of the unfair and unnecessary social exclusion of people with impairments.

This leads to a warning not to make conversion factors central to the capability approach. As noted in the introduction, "the distinction between the means, such as goods and services, on the one hand, and functionings and capabilities on the other hand", is "a crucial distinction in the capability approach" (Robeyns, 2005, p. 98). For this very reason, the idea of conversion factors should not be central. "Conversion factors", for Robeyns, are factors that influence "the relation between a good and the functionings to achieve certain beings and doings" (2005, p. 99). If we promote conversion factors as *the* central way to interpret the relation between means and capabilities/functionings, we lose sight of the human diversity that the capability approach prides itself on acknowledging.

Consider an example that Walker uses to support the idea that human diversities "affect our ability to convert the resources we have into capabilities to function" (2006, p. 166). Walker writes: "a disabled child with the same resources and opportunities as an able-bodied child will nonetheless find it more difficult to convert these resources and opportunities into capabilities" (2006, p. 166). One example that Walker gives is: "the capability for enjoying literature for someone who is blind" (2006, p. 166). Walker here expresses an ableist prejudice. As I know from personal experience, a person who is blind may be able to read a braille book *quicker* than a person who is sighted can read the same book in script format. In this case, a person who is blind has no difficulty in converting the resources they need for a type of functioning (braille books) into a capability (capability to read literature).

The ableist prejudice that Walker expresses is a result of approaching the distinction between means and functionings/capabilities *solely* in terms of conversion factors. Sometimes, an impairment does not lead to difficulty in converting the appropriate means into a functioning. Sometimes, a person with an impairment just requires *a different means* to achieve a type of functioning than a person without an impairment, e.g. a braille format of a book to read, rather than a script format of a book to read. Of course, it is currently the case that books in braille format are less available than books in script format. But this is not a fact about the *conversion* of means to functionings. It is a fact about the nonrecognition of difference in the *provision* of means for functionings. Suppose that books in braille format were as available as books in script format, and that books in braille format could only be read much slower. *That* would be a case of a disadvantage (e.g. the amount of time required for the same homework) related to a "personal conversion factor" (Robeyns, 2005, p. 99). But that is not the problem. The problem here is the nonrecognition of difference in respect of the *means* for functionings.

In short, the social model corrects the capability approach. Firstly, it allows us not to present social conditions as individual properties. Secondly, without the social model, we may be tempted to make the idea of conversion factors central to the capability approach. As a result, an aspect of difference would not receive recognition. Human diversity in the means required for functionings would be ignored. As I use the term "capability approach" in this project, the capability approach takes on board the distinction between impairment and disability drawn by the social model. By doing this, I am going beyond Sen's account, which does not use the language of the social model. However, the capability approach is enhanced by taking on board this distinction, as we shall see when we apply it to education, and use it to evaluate education policy in South Africa.

Chapter 2
Applying the Capability Approach to Education

Freedoms, understood as capabilities, are important in themselves, or ends. But because there are various aspects to human freedom that are causally connected, freedoms are "also means" (Sen, 2002, p. 3). This is true of the capabilities that result from education. For example, the capability to read, for which an education is necessary, is a direct enhancement of capability. It allows us to take pleasure in reading. But the capability to read also allows us to increase our capability to avoid illness, for example, by allowing us to read public health warnings. An education is therefore of value both as an end and as a means. An education leads directly and indirectly to an enhancement of capability.

Moreover, the education of one person can benefit other people, besides that person. For example, being educated may allow a person to explain a public announcement to another person (Sen, 2002, p. 40). It may also allow a person to draw the attention of the wider public to the cause of the whole community where they live (ibid.). It may also allow others to apply the knowledge that a person demonstrates, e.g. in agriculture, "one family can benefit from the knowledge and experiences of neighbouring families" (ibid.).

According to Sen, these effects strengthen the case for "social intervention" in the provision of education, because "private decisions often overlook the positive externalities" that come with improved education (2002, p. 41). In other words, the capability approach points to a capability-enhancing justification for funding public schools, in addition to basic capability equality. The state should fund public schools not only to ensure that every child reaches a basic level of education, and so enjoys the corresponding basic capabilities. The state should also fund public schools for the reason that it is to the general public's benefit that a person has an education.

This point illustrates Sen's claim that we do not need complete agreement on values for the capability approach to produce some definite answers.[5] For example, taking steps to improve elementary schooling would have the effect of both increasing overall growth, due to a more

[5] As noted in chapter 1.1, even if it is not possible for everyone to agree on a single view of the just society, Sen thinks that "agreements on particular justice-enhancing moves are material enough for public action" (2009, p. 135)

educated workforce, and serve to redistribute wealth, by giving the worst off more of an opportunity to find employment. We do not need to agree on which is more important, to agree that we should take steps to improve elementary schooling. Sen repeatedly makes this sort of argument himself. He writes that as economic growth makes a "considerable demand on widely shared skills and education, the instrumental role of basic education in these development experiences can hardly be overlooked" (2002, p. 13). Later on in the same work, he remarks that "conflicts between efficiency and equity" have "little force" in addressing the inequality of the "divide between the literates and the non-literates" (Sen, 2002, p. 357).

One starting point for further discussion of how the capability approach can be applied in the context of educational policy is provided by Tristan McCowan and Elaine Unterhalter (2013). McCowan and Unterhalter distinguish two ways in which capabilities bear on education:

> 1. Capabilities as a framework for conceptualising equality in educational institutions and experiences
> 2. Capability enhancement as an overarching aim for education (2013, p. 143)

The capability approach can be used to analyse the *outcome* and the *process* of education. Capability is a goal or intended outcome of education, and both capability and functioning are possible metrics for assessing the process of education. In terms of outcome, capability is an intrinsic outcome of education (e.g. the capability to read) and an instrumental outcome (e.g. the capability to read is a means to get a job). In terms of process, the capability approach can be applied to learning itself. If education takes place in public schools, as the capability approach recommends, this adds other features to the process. A school is not just a site of learning. It is also a site of other valued functionings besides learning, such as being safe (e.g. not being sexually assaulted) and being nourished (e.g. eating lunch). In terms of process, the capability approach can examine pedagogical and non-pedagogical capabilities and functionings.

With this starting point, three issues will be discussed: how the capability approach permits public policy in respect of children to be guided by different assumptions to public policy aimed primarily at adults; how the capability approach distinguishes between education and schooling; and how the capability approach justifies inclusive education.

2.1 The Importance of a Child's Functionings

As noted in chapter 1, in the capability approach, "there are different ways of judging advantage" (Sen, 1992, p. 62). Different measures of advantage may be relevant in different contexts. In the context of public policy, "a person's well-being may be, arguably, more relevant than his or her agency success" (Sen, 2009, p. 288). This is because agency success relates to the social causes that a person values. Public policy cannot be expected to promote agency success, because different people value different social causes, which often conflict with one another. What matters in this context is personal well-being. To some extent, public policy can try to promote each person's own well-being.

Moreover, in the context of public policy, the way in which the well-being of children is judged may differ from the way in which the well-being of adults is judged. For Sen, "well-being" is "especially important" in "the pursuit of social justice" (1992, p. 71). In particular, "in the making of state policy for adult citizens, well-being freedom may be of greater interest, in this context, than well-being achievement" (Sen, 2009, p. 288). One example is fasting, i.e. "choosing to starve when one does have other options" (Sen, 1992, p. 52). Public policy for adults may legitimately include the offer of food to people starving. This gives them the capability to be nourished. But it is not legitimate for there to be "a state ban on fasting" (Sen, 2009, p. 288). A state ban on fasting ensures that people are nourished, by punishing people who choose not to eat. But it is not legitimate, if adults have the capability to decide on what personal goals they have reason to value. Someone who fasts is not harming anyone else.

Not all public policy is made for adult citizens, however. Some public policies affect children. In this context, well-being achievement may be more important than well-being freedom, if children have yet to develop the capacity to decide on what goals they have reason to value. In terms of the above example, while it may be wrong for a state to force feed adults who choose to starve, or to punish them, it might be acceptable for a state to force feed children who have chosen to starve, or to punish their parents, because a child may not understand the full implications of what they are doing. A child may not understand that they risk permanently damaging their body by starving themselves. As children may behave in ways that harm themselves without fully understanding the implications, public policy in respect of children should focus more on well-being achievement than is necessary in the case of adults.

The point of enhancing capability is that it "makes us accountable for what we do" (Sen, 2009, p. 19). In the case of adults, we can rely on "the knowledge and the ability of the persons to understand and intelligently choose from the alternatives they really do have" (Sen, 1992, p. 149). However, a child is not yet an adult who can be expected to "take personal responsibility for what results from his own choices" (Sen, 2009, p. 213). If a child is not yet a responsible adult, some of the point of focusing public policy on their capability rather than on their functioning is taken away. It is proper for the state to focus on a child's well-being achievement rather than their well-being freedom.

The process of education, moreover, is a functioning, not a capability. According to the UN Human Rights Council, education consists in the "acquisition of knowledge, values, skills and competencies" (UNHRC, 2012, p. 19). If it may be the case that a child does not fully appreciate the consequences for themselves of not getting an education, then it does not serve accountability to give them the choice of whether or not to go to school. In the context of education, the capability approach may require that a child is given no choice but to perform a type of functioning, for example, no choice but to go to school up to a certain age.

This means that Jonathan Wolff's statement that "in normal circumstances all goods – or at least all the goods a government can legitimately offer – are opportunities" (2009, p. 117) is acceptable only if by "normal circumstances" we mean circumstances where government policy is concerned with adults. If not, the claim needs revising. There is nothing abnormal about going to school. In schooling children, it is legitimate for the government to ensure functionings, as well as enhance capabilities. It is legitimate for the government to make some schooling compulsory.

The reason for this is that some functionings, and *not just the capability for them*, prepare a child for adulthood, and receiving an education is one of these. As Sen notes, the "freedoms enjoyed by a person at a particular point of time may have been the result of achievements in the past" (1992, p. 36). There is a connection between functionings at one time and capability at a later time, for the same individual. For example, the capability to study for a university degree as a young adult is in part the result of having learnt up to a certain level at school. Someone who, as a child, had the capability to learn up to a certain level at school, but who played truant, will not have the capability to study for a university degree.

This connection between the functionings and the capability of the same individual at different stages in their life is important. It is necessary, in the capability approach, to focus on functionings in the period of schooling. The functionings that take place in a person's school years shape their capability for the rest of their life, or "what kind of a life a person can lead" (Sen, 1992, p. 37). Therefore, if the capability approach includes a demand for basic capability equality in the case of adults, it must include a demand for basic capability equality in the case of children. We need a public policy "requiring certain types of functioning in children so as to produce a mature adult capability" (Pendleburg & Enslin, 2004, p. 40).

It is worth noting that focusing on functionings in the process of educating children makes it simpler to collect the relevant data. It may be possible to get information about a basic functioning. It is much harder to identify a person's capability set. We cannot just observe what they actually do. A person's capability set always includes the choices that they made as one combination of functionings. But it includes all the other combinations of functionings that they could have chosen to pursue, but did not. These other combinations of functionings, or possible lives, cannot be observed, e.g. we cannot observe the learning that a truant had the capability to do. Also, we may not have the relevant personal information to decide whether a functioning belongs to a person's capability set, e.g. information about whether a person "lacks the courage to choose" what "would be valued if chosen" (Sen, 1992, p. 149). A woman who has been conditioned into believing that she does not deserve to go to university may opt not to go to university even if she has a right to go, as well as all the necessary qualifications. Thus, there is more "difficulty" in "getting information regarding the capability set as opposed to the observed functionings" (Sen, 1992, p. 52).

In the case of adults, Sen suggests some ways around this information problem. For instance, he suggests "basing the evaluation of a capability set exactly on the assessment of the chosen combination of functionings from that set" (1992, p. 50). Sen calls this "elementary evaluation" (1992, p. 51). The justification Sen gives for elementary evaluation is that, "if the person does in fact choose in a way that maximizes his or her well-being", the "*chosen* functioning combination" will "coincide" with "a best element of the capability set" (ibid.). We do not need to explore this issue, however. In the case of children, there is a reason to focus on functionings in the process of education. The outcome of education will also depend on these functionings. What we need to find, in order to evaluate public policy on children's education, are indices for personal well-being achievement in school. These indices are specified in the conclusion to this chapter, and will guide the analysis of education policy and its implementation in chapter three. First, however, we must distinguish between education, and schooling.

2.2 Education and Schooling

Sen distinguishes between education, and schooling. As Sen notes, in many countries, “the law allows for education outside the schooling system” (2002, p. 185), i.e. home education. I shall use “education” as a term for the “acquisition of knowledge, values, skills and competencies” (UNHRC, 2012, p. 19), or gaining skills and a social identity through a learning process. The “schooling system” is a term for an institutionalised setting in which the mass of learners learn, and perform other functionings, such as eating lunch or being safe; and that raises issues of indirect parental participation.

Because going to school is a means for education, in applying the capability approach to education, it is necessary to focus on the functioning of receiving an education as well as the functionings related to school. We should consider the functioning of learning (for which resources at school are the main means), as well as the functioning of attending school (for which resources outside of a school, e.g. income or transport, are the main means).

The distinction between schooling and education also implies that we cannot use attendance at school as a proxy for learning. Children can attend school but not learn, if teachers are absent, or not trained in adequate pedagogical approaches. A different measure will have to be used as a proxy for learning. For example, successful entry into a secondary school could be used as a proxy for learning in a primary school.

Because of human diversity, which impairment is one dimension of, different children have (i) needs for different provisions, and (ii) different abilities to convert what a school offers into learning. As Tikly puts it, “learners require different kinds and levels of resource in order to develop their capabilities” (2011, p. 91). With regard to (i), different children may respond equally only if they are exposed to different pedagogical strategies, or to teachers who have different knowledge. A child with attention deficit hyperactivity disorder (ADHD) may require more “working to strengths, while also focusing on programmes to reduce inattentiveness and impulsiveness” (Lewis & Norwich, 2005, p. 209). A child who is blind needs the braille format of a book, not the script format, and as well as a teacher who can read braille. With regard to (ii), as Brighouse and Unterhalter note, “children, like adults, vary enormously in what they will achieve from a given level of educational input” (2010, p. 196). A child with learning difficulties may need more scaffolding or positive reinforcement than others, “more intense and focused teaching” (Lewis & Norwich, 2005, p. 5), to learn the same material, in a smaller class size (Vaughn & Linan-Thompson, 2003, p. 142-3). A child with a physical impairment may need more equipment than others to move around school.

If we adopt the capability approach, we cannot be satisfied with the fact that public schools are open to all, and offer everyone the same curriculum. Making a single public school system available to each child need not translate into equal concern for the quality of lives that children with impairments lead, compared to children without impairments. The fact that a child with an impairment needs a different type of provision, or may require more lesson time or more infrastructure to learn, is not something for which that child is responsible. They should not experience a violation of their human rights on account of something for which they are not responsible. It is part of a decent human life that a child should be able to achieve a certain basic level of education (e.g. literary and numeracy). If education policy was guided by the idea of spending the same amount of money or lesson time on each child’s education, some children will be left at a disadvantage, in terms of what they can do or be. To meet this human rights obligation, we need to apply the capability approach to education policy.

We can give another example. As noted above, a school is not just a site of learning, but also a site of non-pedagogical functionings, such as being safe. In a school context, children may be subject to abuse or violence to different extents. A girl or a child with a visible impairment may require more monitoring of public spaces in a school to enjoy the functioning of not being abused or attacked. Again, a girl or a child with a visible impairment is not responsible for the fact that they belong to a group that is more likely to be preyed on by others. They should not have to put up with a violation of their human rights on account of something for which they are not responsible. According to Article 19 of the Convention of the Rights of the Child, it is a right of a child to be free from abuse and violence (UN, 1989). If education policy was guided by the idea of using the same resources on protecting each child at school, some children would be left at a disadvantage, in terms of what they could do or be. Again, we need to apply the capability approach to education policy.

A child's lack of personal well-being achievement is particularly serious, because it produces "cross-category" effects (Wolff, 2009, p. 121). Cross-category effects are knock-on effects on other functionings if one functioning is compromised. Both the denial of learning and the denial of non-pedagogical functionings that a school is responsible for are likely to have cross-category effects. A child with learning difficulties who does not receive extra attention at the start of school will continue to struggle later on in school, and will find it harder to get a job. A child who is abused or sexually assaulted at school may be stigmatised as a result, or be infected with HIV.

What has been stressed, up to now, is the focus, in the capability approach to education, on a child's personal well-being achievement. However, because this achievement takes place in a schooling system, the capability approach to education must also consider how decisions are arrived at in a school. It must consider not just the functioning of learning as well as non-pedagogical functionings on the part of the child, but also capability on the part of parents.

The capability approach asks whether adults have the capability to achieve the functionings they have reason to value. Typically, we have reason to value not just an activity or state of being, but also the fact that we chose it. Even if a child should not have a choice whether to go to school, parents may have a reason to value the capability to participate in deciding on how a local school is run. Generally speaking, the choice to determine what education a child receives in school is not seen as a trivial choice, like the choice of what washing powder to use. It is not a burden. It is an enhancement of capability, assuming that the information to make an informed choice is available.

There is evidence that parental choice over which school to send their child to, through a free market, only increases inequality, including inequality in the capability to place one's child in a well-resourced school (Perry, 2009, p. 440-1). That is not what is being considered here, however. Here we are considering the equal capability of all parents to participate to some extent in how a school is run, including in its admissions policy. We are not discussing choices in the market place, but public accountability in a school's decision-making process.

Sometimes it is sufficient that a local authority undertakes policy "on the grounds that this is what the people want and would, given the option, choose" (Sen, 2009, p. 303). It is not necessary always to make decisions oneself, to have agency, if there is accountability. But accountability requires parents to be able to voice concerns and receive a response on matters relating to their child's schooling, whether from school management, or a school inspector, or an education minister. This accountability of education officials for the important decisions they take is a part of the capability of parents to participate in the life of their community. This part of "local democracy represents one means of participation in the larger democratic system, which is relatively accessible to the disadvantaged" (Sen, 2002, p. 359). It does not require an investment of resources in travelling beyond the locality, and it focuses attention on facts that can be observed without extensive use of the media. The capability of parents to hold school officials to account is therefore a capability that it is possible to achieve for all.

2.3 The Capability Approach and Inclusive Education

The capability approach views human diversity as an important fact that a theory of justice should take into account. The capability approach to justice in education takes account of the effect of human diversity on the learning process. It takes account of the fact that different learners have different means and modes of learning, different rates of learning, and different interests. By taking account of this diversity, the capability approach highlights the importance of having teachers trained in inclusive education, and its pedagogical approach of "differentiated instruction" (Tomlinson, Brighton, Hertberg Callahan et al., 2003, p. 121).

Tomlinson et al. define differentiation as the "modification of teaching and learning routines to address a broad range of learners' readiness levels, interests, and modes of learning" (Tomlinson et al., 2003, p. 121). A teacher trained in differentiated instruction is trained to adapt their lessons to cater for children with different readiness levels, different interests and different modes of learning all being in the same class. If a teacher trained in differentiated instruction is provided with the various resources that allow them to use these skills, then we would expect that learners will not be held back in their learning. No learner would be left behind or neglected due to a lack of training on the part of the teacher or a lack of preparation on the part of the school or government in providing resources.

Learning guided by a teacher trained in differentiated instruction, and supported with various resources, is the kind of learning process that the capability approach recommends. It also requires *more* teaching time to be given to children with learning difficulties than to children without learning difficulties, in teaching basic education skills. This need not take the form of teachers trained in differentiated instruction giving more of their attention to these children. It may take the form of supporting teachers with assistants who have the special role of helping children with learning difficulties. But in either case, the capability approach recommends a learning process that requires an investment in training teachers in differentiated instruction, and providing the various resources to support this. This requires a government to collect data on the number of teachers receiving this training, and on the resources available in schools to support this teaching.

Someone might respond: why not instead separate children who learn at different rates, and with different modes and means, into different classes? Different teachers can then be trained to teach these different classes, without differentiated instruction. Why isn't this an option, in the capability approach? The answer has to do with the environment of an inclusive classroom, and its impact on how we reason.

For Sen, rationality consists in "subjecting one's choices - of actions as well as objectives, values and priorities - to reasoned scrutiny" (2009, p. 180). We subject our choices to reasoned scrutiny when we "investigate the reasons underlying the choice" and consider whether "these reasons survive" examination (ibid.). The reasons for a choice survive this examination if we can sustain them after "taking note of more information if and when it is relevant and accessible" (ibid.). This is not to say that a person "must undertake" (2009, p. 181) this examination each time they make a choice. That would make life "intolerable" (ibid.). Nevertheless, a choice only counts as rational "if it would be sustainable had a reasoned critical scrutiny been undertaken" (ibid.).

This applies to our thinking about justice. In Sen's view, "people can respond to reasoning not merely in their day-to-day behaviour, but also in thinking about bigger questions, such as the nature of justice" (2009, p. 178). What is specific about thinking about justice is that, to be rational, it must survive scrutiny from a fully inclusive point of view: "justice, by its very nature, has to have a universal reach, rather than being applicable to the problems and predicaments of some people but not of others" (2009, p. 117). A claim about a policy being unjust is rational only if it survives scrutiny that puts aside "vested interests" or "personal priorities or eccentricities or prejudices" (Sen, 2009, p. 54). We must put aside our personal interests and prejudices to think impartially about what everyone could accept. We must also be ready to test our conclusion against the views that others voice when they put aside their personal interests and prejudices to think about the issue (Sen, 2009, p. 197).

In the capability approach, the aim of public policy is to enhance everyone's capability for functionings that can be valued impartially. But public policy is made by people. Therefore, people must be trained to think impartially. In an ideal democracy, anyone can stand for election, and anyone can voice an opinion on public policy. Therefore, everyone must be encouraged to think impartially. This is an educational task, and therefore a task in schools. Schools must encourage people to think about others as equals. This suggests that educators should seek to enhance the capability "for other-interestedness, for some degree of self-control, and for scrutinizing evidence and argument" (Brighouse & Unterhalter, 2010, p. 204). This can be achieved by teaching various subjects. It can be done by teaching mathematics, or science, or English. But it is important to teach subjects in a way that values everyone.

The capability approach therefore recommends an inclusive pedagogy. If education aims to encourage people to think impartially, the process of education must be in harmony with this aim. The means of education must "embody the same principles as are contained in the ends" (McCowan & Unterhalter, 2013, p. 151). If the "aim is to create an inclusive society, then the educational preparation that students undergo will itself be inclusive" (McCowan & Unterhalter, 2013, p. 151). This sentiment is also expressed in the General comment no. 4 of the UN Committee on the Rights of Persons with Disabilities: "inclusive education is central to achieving high-quality education for all learners, and including those with disabilities, and for the development of inclusive, peaceful and fair societies" (UN CRPD, 2016, p. 1).

Inclusive education provides a way to counter "stigmatization and discrimination" because "a mixed learning environment that includes persons with disabilities allows their contributions to be valued, and prejudices and misconceptions to be progressively challenged and dismantled" (UNHRC, 2013, p. 5). A study on an initiative to promote inclusion in the school system in Brazil found that "students developed highly inclusive attitudes towards peers with disabilities through their exposure to practices of inclusion in the classroom" (McCowan & Unterhalter, 2013, p. 148; Donohue & Bornman, 2014, p. 10; Perry, 2009, p. 437).

The capability approach values the participation of all in public reasoning, including people with impairments. An education process can enable this if its process is inclusive of children with impairments. It follows that, in the capability approach, as many children as possible should have the capability to attend a mainstream school. It will therefore also be important for a government to collect data on this.

2.4 Response to Criticism

We shall now respond to a criticism of applying the capability approach to education. This criticism is raised by Brighouse and Unterhalter, who ask: “imagine that you are a newly appointed education minister for a revolutionary government” with “a free hand to reconstruct the education system at will” (2010, p. 193). Brighouse and Unterhalter conclude that “our putative education minister could not simply derive any conclusions from the approach as Sen defines it” (2010, p. 200). They give two reasons for this conclusion. Firstly, the freedom to achieve functionings that a person has “reason to value”, on Sen’s capability approach, is said to be “underspecified” (Brighouse & Unterhalter, 2010, p. 200). According to Brighouse and Unterhalter, the phrase “has reason to value” is either “redundant” or “very perfectionist”, i.e. prescriptive (2010, p. 200). Secondly, Brighouse and Unterhalter claim that educators “cannot think of ourselves as continually opening up ever widening ranges of (valuable) possibilities and opportunities” (2010, p. 201). This is because “learning some things precludes learning others” due to “time and budget constraints” (ibid.). There may be a “conflict between good potentials”, so that a child cannot develop them all (ibid.).

Sen’s *The Idea of Justice* (2009), which Brighouse and Unterhalter were not in a position to consult, offers a way to reply to these criticisms. Firstly, an education minister makes public policy. Hopefully, they try to make a just public policy. In the context of justice, functionings that a person has a reason to value are functionings that a person can affirm from an impartial point of view. There are different opinions that can be defended from an impartial point of view. For example, from an impartial point of view, it is possible to have differences of opinion on what subjects should be taught in school. So, this is not a “very perfectionist” position. But it does require us to avoid certain things. For example, from an impartial point of view, it is not possible to justify teaching history to indoctrinate people into racial discrimination. This must be avoided. The phrase “has reason to value” is useful, therefore, in the context of what an education minister should do.[6]

Turning to the second issue, it is true that there are some conflicts between potentials. A child cannot learn to be better at ballet dancing, and sumo wrestling. But the aim of education, in the capability approach, is not to develop every single potential to the fullest. It is to enhance capability in a context of democracy. Different children can prioritise different subjects over others, while they all enhance their capability to learn, find a job, and be a critical citizen. So, an education minister can allow a child to choose different subjects, and make sure that the skills required for basic capability equality are acquired by all children. An education minister must also ensure that the non-pedagogical functionings performed at school (e.g. being safe, and being nourished) complement the functioning of learning.

Brighouse and Unterhalter claim that an education minister cannot derive “any” conclusions from Sen’s capability approach. This criticism, as we have seen, is not very convincing. The capability approach offers a “framework” (Sen, 2009, p. 89) for public reasoning. It does not try to decide every detail. But it does give an education minister some direction. Looking at functionings from an impartial point of view does rule some things in, and some things out. It is possible to enhance capability in a context of democracy without developing every single capability to the fullest.

2.5. Conclusion

In respect of public policy on the education of children, the capability approach emphasises a learner’s personal well-being achievement. It prioritises basic pedagogical functionings for all, such as learning to read, write and count, and basic non-pedagogical functionings for all, such as being safe and being nourished in school. Many of the other valued functionings that education policy should promote for all are left to be settled by public discussion in a given context. But without specifying these valued functionings, the capability approach requires teachers to be trained in inclusive education, and to be provided with the various resources that support them. In other words, it requires the capability (the real opportunity) of teachers to

[6] Some authors who write about the capability approach ignore this phrase, and instead discuss what a person wants or values. See, for example, Robeyns, 2005, p. 95, or Mutanga & Walker, 2015, p. 503.

teach inclusively. It also requires parents to have the capability to hold public officials to account for how they decide to run a school. It also requires parents of as many children with impairments as possible to have the capability to send their child to a mainstream school. Finally, it requires the functioning (and capability) of collecting data on all of these issues.

In the rest of this project, I will consider the direction that these requirements can give to current education policy in South Africa, focussing on the pedagogical side of things. If these requirements can give our education policy direction, then this shows that “particular justice-enhancing moves are material enough for public action” (Sen, 2009, p. 135) without an “absolutely complete” and “totally fixed” list of capabilities, which Sen rejects (Sen, 2004, p. 78).

Chapter 3
Inclusive Education Policy in South Africa

3.1 The Education White Paper 6

The Education White Paper 6 on Special Needs Education (DoE, 2001), prepared by the Ministry of Education, is the fundamental statement of the government's policy approach to educating children with impairments. It seeks to apply the principles of the Constitution to the education of children with impairments (DoE, 2001). The first aim in this chapter is to summarise the policy approach outlined in the White Paper 6 (WP6). The aim here is not to explain the process by which the WP6 was adopted. It is simply to report the WP6's general vision and specific targets, and consider the logic that the WP6 puts forward for them. So, in this first part, the focus is on analysing this White Paper.

The aim in the second part of this chapter is to assess the WP6's implementation. If "policy goals explicitly have been stated", then "the correct standard of implementation success is loyalty to the prescribed goals" (Matland, 1995, p. 155). Because the WP6 contains specific targets as well as a general vision, the assessment of the WP6's implementation can focus on whether or not its targets have been achieved. To do this, I will use the 2015 Department of Basic Education Report on the Implementation of Education White Paper 6 on Inclusive Education (DBE, 2015b). I have compared this DBE report with reports of human rights and disability organisations in South Africa that are discussed more fully in chapter 4, and to UN documents written by the CRC and CRPD.

Before discussing the WP6's general vision, it is worth noting that the WP6 contains comments in line with Sen's approach, and the social model of disability. This suggests that success in implementing the WP6 will be a welcome outcome, while failure to implement the WP6 will be a disappointing outcome. I am not suggesting that authors of the WP6 deliberately tried to apply a capability approach, or that everything the WP6 says is consistent with it. But in some places, the WP6 contains comments in line with the capability approach defended here.

The WP6 says:

> In this White Paper we outline how the policy will … Base the provision of education for learners with disabilities on the intensity of support needed to overcome the debilitating impact of those disabilities (DoE, 2001, p. 10).

This is one thing that a government White Paper should say, if it is adopting a capability approach. The reason for this is that one feature of the capability approach is to draw attention to the fact that learners differ in their ability to convert resources into functionings. To promote equality in education, what public policy should consider, in the capability approach, are learners' functionings, and distribute resources accordingly. "Per learner expenditure" (DoE, 2001, p. 13) can only be an imperfect guide to functionings, because different learners have different abilities to convert income spent on educational materials into functionings.

Points 11 and 12 of the WP6 also roughly mark the distinction between what the social model calls impairment (point 11), and disability (point 12):

> 11. … different learning needs arise from a range of factors including physical, mental, sensory, neurological and developmental impairments …
>
> 12. Different learning needs may also arise because of:
>
> 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.
> Inadequately and inappropriately trained education managers and educators (DoE, 2001, p. 7).

In point 11, different categories of "impairments" are listed: physical, mental, sensory, neurological and developmental. Then, point 12 lists some ways in which society can oppress learners with impairments as a result of how the social learning environment is organised. On

Thomas's account (2002), the social model argues that, whatever the effects of impairment, we ought to abolish the ways in which society oppresses people with impairments. Even if we cannot abolish the impairments listed in point 11, we should abolish all the things in point 12. If we abolish all the things in point 12, we abolish disability in education. If so, then, in the language of the UN, we replace exclusion (e.g. "negative attitudes"), segregation (e.g. "inadequate policies and legislation") and integration (e.g. "an inflexible curriculum") with inclusion (UNHRC, 2013, p. 3-4).

More generally, the "vision" of the WP6 is for "all learners to participate actively in the education process so that they could develop and extend their potential and participate as equal members of society" (DoE, 2001, p. 5). There are three main features of this vision.

The first feature is that only "learners with severe disabilities" will be educated in "special schools" (DoE, 2001, p. 3). Learners with mild or moderate impairments will be included in "ordinary schools" or "full-service schools" (DoE, 2001, p. 15).[7] Second, the "expertise and resources that are invested in special schools" will be made "available to neighbourhood schools, especially full-service schools" (DoE, 2001, p. 3). In other words, special schools will become "resource centres" (DoE, 2001, p. 43). Third, "following the completion of our audit of special schools, we will develop investment plans to improve the quality of education across all of them" (DoE, 2001, p. 3). Ultimately, improving the quality of education of children with impairments consists in abolishing all the factors of disability listed by the WP6 in point 12 (see above).

The WP6 does not see the need for further legislation to implement its vision. Existing acts of parliament "already provide the basis for the establishment of an inclusive education and training system" (DoE, 2001, p. 27). Action needs to come from the Ministry of Education, or from provincial departments of education, on the basis of existing legislation (DoE, 2001, p. 22-3, 46).

In the WP6's vision, an inclusive education system in South Africa will include all but the most severely impaired learners in mainstream schools, use the resources and expertise of

[7] Full-service schools are schools designed for learners requiring either no educational support, low-intensive support or moderate support (DoE, 2001, p. 15). Special schools are schools designed for learners requiring 'high-intensive educational support' (ibid.).

professionals based in special schools to help learners with mild or moderate impairments complete schooling at ordinary or full-service schools, and improve the learning experience of all children with impairments. In this way, the WP6 hopes, children with impairments will become “part of and not isolated from the flowering of our nation” (DoE, 2001, p. 4). In other words, the WP6 presents inclusive education as a means to achieve an inclusive society.

This is some way off, however: “our vision of an inclusive education and training system can only be developed over the long term” (DoE, 2001, p. 6). Therefore, the WP6 lists some targets to be achieved within twenty years, i.e. by 2021. 20 years is a long period of time. But the general vision of WP6 - including abolishing all the factors of disability in point 12 - will take even longer than 20 years to achieve. It is not presented as achievable within 20 years. This is also clear from the WP6’s targets for 2021.

One specific target of the WP6 is to have created 500 full-service schools and support teams by 2021 (DoE, 2001, p. 43). However, this “phased conversion” will still only represent “500 out of 20,000 primary schools” (DoE, 2001, p. 6), in other words, 2.5% of all primary schools in South Africa. Even if everything goes to plan, 97.5% of primary schools in 2021 will not be inclusive.

It is not accurate, therefore, for the UN Committee on the Rights of the Child to claim that the WP6 “provides the legal framework for the equalisation of educational opportunities for children with disabilities” (UN CRC, 2015, p. 15). The target of 500 conversions is only one small step in this direction. Equal educational opportunities would require 100% of primary schools to be inclusive, not merely 2.5% of them. It is also inaccurate for the South African Human Rights Commission (SAHRC) to claim that the WP6 is “attempting to develop an inclusive education system by 2021” (SAHRC, 2018, p. 21). The WP6’s targets for 2021 are far more modest than its general vision.

One factor behind the modest nature of this target is that the WP6 notes that many children with impairments are out of the school system altogether. In 2001, the WP6 reported that “only about 64,200 learners with disabilities or impairments are accommodated in about 380 special schools” (DoE, 2001, p. 9). The WP6, using the World Health Organisation’s estimate that “between 2.2% and 2.6% of learners in any school system could be identified as disabled or impaired”, suggests “an upper limit of about 400,000 disabled or impaired learners” in South

Africa (DoE, 2001, p. 9). From these figures, the WP6 concluded that up to “280,000 learners with disabilities or impairments are unaccounted for” (DoE, 2001, p. 9) in the school system in South Africa, whether in special schools or in mainstream schools.

The WP6’s second specific target for 2021, therefore, is “expanding provision to reach … the 280,000 out-of-school children” (DoE, 2001, p. 43). Its third specific target for 2021 is to make the existing 380 special schools into “resource centres” (DoE, 2001, p. 43).

One wonders how the authors of the WP6 imagine reaching 280,000 out of school children by 2021, while only modifying existing schools (converting them into full-service schools or resource centres). Existing schools can only increase their enrolment by so much. If 280 learners attend a school, it is necessary to build 1,000 new schools by 2021, to include all 280,000 extra learners by 2021. However, the WP6 does not state that any new mainstream schools will be built within this timeframe.

One problem is financial constraints. The WP6 refers to a “low growth rate” and “relatively large slice of the budget” allocated to education (DoE, 2001, p. 37). It comments that it is “unlikely that significantly more public resources in real terms will be allocated to the sector in the next few years” (DoE, 2001, p. 37). It concludes that expanding provision to reach out-of-school children “implies a steep increase in demands placed on these professionals” (DoE, 2001, p. 37), i.e. professionals in the schooling system. It is inevitable that learner: educator ratios (LERs) will rise, if an extra 280,000 learners must be enrolled in schools. But there is no clear plan to provide schools and classrooms for them.

The WP6 hopes for “progress” in the “short term” through “more effective usage of current skills in the special needs sector” (DoE, 2001, p. 37). This “more effective usage” seems to involve a more “uniform resourcing strategy” (DoE, 2001, p. 15) and “exploiting the economies of scale that result from expanding access and provision” (DoE, 2001, p. 43).

At the end of apartheid, special schools were concentrated in the Western Cape and Gauteng (DoE, 2001, p. 14). The “per learner expenditure” was also over twice as much in the Western Cape (28,635) than in Gauteng (11,049) (DoE, 2001, p. 13). This is not a fair distribution of resources. But it is not possible to make existing resourcing more “uniform”, *and* to do more to exploit “economies of scale”. If, for example, special schools in Gauteng become resource centres, perhaps more can be done to exploit economies of scale in Gauteng. But that will prevent more uniform resourcing. If there is no money for extra teachers, more uniform resourcing requires some teachers to move away from these resource centres, to be relocated evenly across the country. But that reduces economies of scale. The WP6's short term strategies to raise efficiency conflict with one another.

Judged by the capability approach, which supports inclusive education, the inclusive vision of the WP6 is a step forward. But the lack of financing, the WP6's reasoning in response to this, and the modesty of its specific targets, are already a cause for concern. However, it is at least possible to assess whether the policy has been implemented. We must ask:

[1] How many of the missing out-of-school learners have been enrolled?
[2] Are learners with mild and moderate levels of impairment going to ordinary and full-service schools, or are they still sent to special schools?
[3] Have 500 schools been converted into full-service schools?
[4] Have 380 special schools been upgraded into resource centres?
[5] To what extent has the quality of schooling for learners with impairments improved; in other words, to what extent have the factors of disability in point 12 been abolished?
[6] What other effects has the implementation of the WP6 had?

Regarding question [5], the pedagogical issues include: in what percentage of lessons in full-service schools is "multi-level classroom instruction" (DoE, 2001, p. 18) practised? In what percentage of full-service schools are teachers satisfied with the curriculum assistance provided to them by district support teams? Does this assistance "provide for the full range of learning needs"? (DoE, 2001, p. 22). In response to "inadequately and inappropriately trained education managers and educators" (DoE, 2001, p. 7), the WP6 requires educators' "80 hours annual in-service education and training requirement" to "include the requirement to complete courses relating to policies and programmes put forward in this White Paper" (DoE, 2001, p. 50). Do educators now receive this training? Is it adequate?

Questions about accessibility under question [5] include: has "urgent attention" been given to "the creation of barrier-free physical environments" (DoE, 2001, p. 28) in all schools? Has the Department of Social Development provided "devices such as wheel chairs and hearing aids" (DoE, 2001, p. 30) to all children who request them?

Questions about accountability under question [5] include: what percentage of full-service or special schools have established “partnerships” with parents of children with impairments so that parents can “participate more effectively in the planning and implementation of inclusive activities”? (DoE, 2001, p. 50).

What questions [1] to [5] have in common is that they can all be asked on the basis of the recommendations in the WP6. However, some aspects of question [5] can only be answered after school inspections or after interviews with inclusive education teachers or parents, and some questions require public officials to be held accountable. As we shall see, it is not possible to answer all aspects of question [5] on the basis of the 2015 DBE report on the implementation of the WP6.

3.2. Implementation of the White Paper 6

To assess the implementation of the WP6, the questions set out above, related to its specific targets, will be addressed. The first question is: [1] how many of the missing out-of-school learners have been enrolled?

The 2015 DBE report provides contradictory information. One positive relates to the increase in learners at special schools, from 64,200 in 2001 (DoE, 2001, p. 9) to 111,598 in 2012 (DBE, 2015b, p. 11). Assuming that learners enrolled in special schools have impairments, approx. 47,000 more learners with impairments were enrolled in schools in 2012 than the statistics for 2001 show. This represents an increase of just over 4,000 learners per year. However, 47,000 learners still only represent around 17% of the WP6’s estimated number of missing learners with impairments in 2001 (280,000).

Besides the 111,598 learners in special schools in 2012, 84,924 learners with impairments are in ordinary schools (DBE, 2015b, p. 14) while 24,724 learners with impairments are in full-service schools (DBE, 2015b, p. 17). Unfortunately, these figures cannot be compared with 2001. There are no equivalent figures for 2001. For all we know, the same number of learners with impairments could have been in mainstream education in 2001, but unidentified.

It is instructive to examine the estimates of out-of-school learners in the 2015 DBE report. The 2015 DBE report states: “according to the General Household survey of 2013, there are 25.9% of children with disabilities in the 5 to 15 year old group who are not attending” school (DBE, 2015b, p. 7). Actually, the figure in this survey is “25.7%” (DBE, 2015b, p. 20). The DBE report also states that, according to the 2011 national census results, 5.8% of children have impairments (DBE, 2015b, p. 7). From these two percentages, it concludes: “this could imply that more than 500 000 children with disabilities may in fact be out of school” (DBE, 2015b, p. 20). The figure given later in the report is 597 953 (DBE, 2015b, p. 21). This figure, of “nearly 600,000”, has been repeated by both the South African Human Rights Commission (SAHRC, 2018, p. 22) and the Right to Education for Children with Disabilities Alliance (RECDA, 2016, p. 4).

It is hard to understand how DBE arrived at this figure. According to the 2012 Annual School Survey referred to in the DBE report, there were 12.4 million learners in mainstream schools in 2012 (DBE, 2015b, p. 13). Adding the approx. 100 000 children in special schools and the 500 000 suspected missing learners gives a rough total of 13 million children of learning age in South Africa. If 5.8% of children are impaired, there are approx. 750 000 children with impairments of learning age. If 25.7% of these children are not in school, approx. 190 000 children with impairments are not in school. The percentages of 25.7% and 5.8%, together with a rough total of 13 million children of learning age, do not support the DBE report’s conclusion that “more than 500 000 children with disabilities” (DBE, 2015b, p. 20) may be out of school. For 500 000 children with impairments to be out of school, either the percentage of children with impairments not in school must be significantly higher than DBE’s figure of 25.7%, or the percentage of children with disabilities must be significantly higher than DBE’s figure of 5.8%, or a combination of both.

There is another inconsistency. The DBE report contains results of the “General Household Survey, 2009-2013”, which states that “25.7%” of “children aged 5-15 with disabilities” are not in school (DBE, 2015b, p. 20). But it also includes the results of the “General Household Survey, 2009-2013, DBE own calculations”, which states that “92.5%” of “7-15 year old children with disabilities” (DBE, 2015b, p. 10) attend school. This implies that only 7.5% are out of school. These percentages of 25.7% and 7.5% could only be consistent if almost all of the out-of-school children were out of school between 5-6 and not after. But that is not likely. There is no reason to think that the factors that affect attendance at school suddenly disappear at age 7. It is more likely that one of the figures is wrong. The DBE report itself notes of the figure of 92.5% that “this percentage of the GHS also does not tally with the real enrolment figures” (DBE, 2015b, p. 10).

The DBE report also states that “according to the General Household Survey of 2013 and population estimates of the DBE, an estimated 400 000 vulnerable children (including children with disabilities) are currently out-of-school” (DBE, 2015b, p. 52). The GOSA report therefore offers two contradictory estimates of the number of children with impairments out of school: (1) almost 600 000; and (2) around 400 000. However, as argued above, the percentages used for the first estimate actually support a figure of (3) 190 000.

Interestingly, the Draft First Periodic Country Report on the United Nations Convention on the Rights of Persons with Disabilities, signed by the Minister of Social Development in April 2015, states: “the estimated number of children with disabilities out of school is 197 517” (DSD, 2015, p. 38). The report offers no explanation of the estimate, however.

Finally, in the same month that the DBE report was published, May 2015, the Department of Basic Education wrote to Human Rights Watch claiming “not more than 30 000 learners” with impairments are “out of school” (HRW, 2015, p. 118). Therefore, we have the following government estimates:

(a) around 600 000
(b) around 400 000
(c) around 200 000
(d) no more than 30 000

Here is what seems likely. The estimate of 5.8% of children having an impairment seems reasonable if *mild and moderate* impairments (not just severe impairments) are counted. This follows the Department of Social Development’s claim that “2.5 percent of the total child population were reported to have some form of serious disability during Census 2001” (DSD, 2012, p. 30). Adding mild and moderate impairments, we can get to 5.8%. This is in line with the U.S. Census Bureau American Community Survey, which states that for 2008-10, 4% of children aged 0-17 in the U.S. had one or more impairments (Child Trends, 2012, p. 1-3). This is in line with the 5.8% estimate for all levels of impairment in South Africa, because rates of impairment are usually higher in lower or middle income countries than in higher income countries.

The figure of 5.8% represents around 750,000 children with impairments of learning age in South Africa. If, adding up the figures above, there are approximately 220,000 children with impairments recorded in school (special, full-service or ordinary) in 2012, then there are over 500,000 children who are *either* (a) in a mainstream school and their impairment has not been identified, *or* (b) out of school. No matter which of these groups a child belongs to, they are not receiving an education designed for their learning needs.

There are two conclusions to draw. First, we cannot say whether or not the government has made any progress in reaching out-of-school children. Due to the lack of transparency in how it arrives at its estimates, we cannot say which estimate, (a), (b) or (c), is likely to be correct, even if little supports estimate (d). If we go by (a) or (b), 600 000 or 400 000, the government has not made progress: there are more out-of-school children in 2012 than estimated in 2001. Put alongside this statistic, a small annual increase of 4 000 children attending special schools is not a significant improvement. By contrast, if we go by (c), 200 000, some progress has been made. The number of out-of-school learners has dropped, from 280 000 to 200 000. Even by this figure, however, the WP6 target to reach all out-of-school learners by 2021 is still far from achieved.

The second conclusion is that the government is failing to satisfy General Comment No. 4 on the Right to Inclusive Education, written by the UN CRPD (UN CRPD, 2016). According to this Comment, a government must adopt a plan to implement an inclusive education system that is

> informed by a comprehensive analysis of the current context pertaining to inclusive education in order to provide a baseline from which to progress, including data on, for example, current budgetary allocations, quality of data collection methods, numbers of children with disabilities out of school (UN CRPD, 2016, p. 18).

As we have seen, the government does not have reliable data on the numbers of children with impairments who are out of school. It therefore has no “baseline from which to progress”. The

UN Committee on the Rights of the Child is right to express concern over a "lack of accurate and comprehensive data on children with disabilities" in South Africa (UN CRC, 2016, p. 12).

The next question is: [2] are learners with mild and moderate levels of impairment going to ordinary and full-service schools, or are they still sent to special schools?

The DBE report contains the results of the 2014 Snap Survey on enrolment in special schools in 2014 (DBE, 2015b, p. 12). However, the categories used in this survey are mostly not suited to answer question [2]. Mostly, the results are organised by "category of disability", e.g. "behavioural disorder", "cerebral palsied", etc., and not by severity, i.e. the extent of the learner's needs. For example, of the 3,975 children counted as having a behavioural disorder and enrolled in a special school (DBE, 2015b, p. 12), we do not know if their behavioural disorder is mild, moderate, severe or profound. If their behavioural disorder is mild or moderate, then, according to the WP6, they ought not to be in a special school. As the DBE report states: "no learners who do not have a high level of support needs may be admitted to a special school" (DBE, 2015b, p. 51). Just going by the category of behavioural disorders, we cannot use this survey to find out whether the WP6 policy is being implemented.

The only categories distinguished by severity are: intellectual impairment, sightedness and hearing. The survey reports 31 594 children with "mild to moderate intellectual disability" and 26 388 children with "severe to profound intellectual disability" enrolled in a special school (DBE, 2015b, p. 12). It also reports 2 483 partially sighted/low vision children and 1184 blind children enrolled in a special school, as well as 1 239 "hard of hearing" and 6 503 "deaf" children enrolled in a special school (DBE, 2015b, p. 12). In the cases of intellectual impairment and sightedness, more children with a mild to moderate level of impairment are in a special school than children with a severe to profound level of impairment. If these categories of impairment are anything to go by, the policy of admittance to a special school outlined in the WP6 has not been implemented.

The DBE report also has a table for "enrolment in ordinary schools in 2013 by category of disability" (DBE, 2015b, p. 14). In general, the table is organised by type and not by severity of impairment, with the same exceptions: intellectual disability, sightedness and hearing. There are 20 609 children with "mild to moderate intellectual disability" and 3 344 children with "severe to profound intellectual disability" in an ordinary school (DBE, 2015b, p. 14). There are 6 077 “partially sighted/low vision” children and 197 blind children plus 3 075 children who are “hard of hearing” and 465 “deaf” children in an ordinary school (DBE, 2015b, p. 14). Again, the WP6 policy on admittance to ordinary schools is not being followed. There are children with severe levels of impairment attending schools where there is no plan to train teachers to teach them, and no plan to adapt the curriculum to their needs.

The DBE report states that a policy on Screening, Identification, Assessment and Support (SIAS) will be implemented “from 2016” to ensure that “no learners are admitted to special schools” who have not been assessed through it (DBE, 2015b, p. 59). It is too early, however, to know whether the SIAS policy has led to a more successful implementation of the WP6. At present, the evidence is that the WP6 policy on admittance to special schools and ordinary schools has not been properly implemented. There is “no consistent admissions procedure” (DBE, 2015b, p. 46).

The next question is: [3] have 500 schools been converted into full-service schools?

The DBE report contains a table of the “number of learners with disabilities enrolled in full-service schools in 2014” (DBE, 2015b, p. 14). The total number of full-service schools listed is “793” (DBE, 2015b, p. 17). The comment besides this table is: “there is a steep increase in the number of full service schools and the number of learners with disabilities enrolled in them from 664 in 2013 to 787 in 2014” (DBE, 2015b, p. 17). This comment is not quite the same as the table. The table states 793, while the comment states 787. However, either figure implies that there are now more than 500 full-service schools.

Unfortunately, there are two concerns. Firstly, the DBE report also contains a table of “full-service schools that have been designated but not yet physically upgraded (2012-2014)” (DBE, 2015b, p. 27). The total number of full-service schools listed as not yet physically upgraded is 407 (DBE, 2015b, p. 28). Subtracting 407 from 793 leaves up to 386 schools that are in reality full-service schools, rather than just full-service schools in name only. 386 full-service schools are less than the target of 500. However, if 386 schools can be converted into full-service schools in 13 years (2001 to 2014), then, by the same rate, more than 500 full-service schools (around 593) could be converted by 2021. This projection suggests that the government might still meet the WP6 target.

The second concern, however, is that physically upgraded schools are not genuinely full-service schools if they admit a *very high* proportion of learners with impairments. The DBE report says of the table of the number of learners at full-service schools that there is

> serious concern about the fact that some schools enrol more than 150 learners with disabilities. In terms of the rule of natural proportion, the full-service schools should ideally not enrol more than 5% learners with disabilities … full-service schools should never be seen as a new type of special school (DBE, 2015b, p. 17).

Unfortunately, the table is organised by district, rather than by individual school. As a result, it is not possible to determine exactly how many full-service schools meet this "rule of natural proportion". But some guidance is given by the Eastern Cape province, which often has only one full-service school in each district (DBE, 2015b, p. 15). Assuming that a school has 300 learners, more than 30 learners with impairments enrolled per district, and therefore per school, equals more than 10% of learners at that school. Let us say that a full-service school in which more than 10% of learners have impairments has an unnatural proportion of learners with impairments. Going by this standard, which is more generous than DBE's 5% rule, only 3 of the 26 full-service schools in the Eastern Cape have a natural proportion of learners with impairments (DBE, 2015b, p. 15). Only 3 are genuinely full-service schools, rather than "a new type of special school" (DBE, 2015b, p. 17). If this sample is representative, then the majority of the 386 physically adapted full-service schools in 2012 are not genuinely full-service schools. They are really "a new type of special school". Going by this sample, the government will not meet its target of converting 500 schools into genuinely full-service schools by 2021.

It is worth stressing that 500 primary schools only represent 2.5% of primary schools in South Africa. The UN Committee on the Rights of Persons with Disabilities notes that a 2006 survey of ordinary schools in South Africa "revealed that 97.1% had no accessible toilets and 97.8% had no ramps" (UN CRPD, 2015, p. 45). This suggests that, besides the schools converted since 2001, few other schools in South Africa can already claim to be physically accessible.

The next question is: [4] have 380 special schools been upgraded into resource centres? A resource centre is a special school that has been upgraded so that it can make its materials and human resources available to other schools in the district.

The 2015 DBE report claims: “since 2002 the number of special schools has increased from 295 to 436” (DBE, 2015b, p. 23). This is bizarre, given the WP6’s claim in 2001 that “current statistics show that … learners with disabilities or impairments are accommodated in about 380 special schools” (DoE, 2001, p. 9). The figure of “380 special schools” (DoE, 2001, p. 36) is repeated elsewhere in the WP6. Going by the WP6, the number of special schools cannot have increased to the extent claimed in the 2015 DBE report. Special schools have increased not by 48%, but by 15%, from 380 to 436.

Only a fraction of the 436 special schools have been upgraded into resources centres. The 2015 DBE report states that “285” special schools “have been strengthened” in some way or other by February 2015 (DBE, 2015b, p. 24). It states that by this date, only “80” special schools have been converted into resource centres (DBE, 2015b, p. 25). It is possible that the real number of special schools upgraded is higher, because three provinces (Eastern Cape, Limpopo and Mpumalanga) provided “no information” (DBE, 2015b, p. 25). Relatedly, over 90% of the money listed as spent on these conversions is listed as spent in one province, KwaZulu-Natal (DBE, 2015b, p. 25). Most likely, this is not a reflection of the facts on the ground, but of the lack of data collection. But even allowing for the missing data, the pace at which the government has converted special schools into resources centres is nowhere near what it would have to be if 380 special schools are to be upgraded by 2021. I will return to this point in the policy recommendations in chapter 4.

The next question is: [5] to what extent has the quality of schooling for learners with impairments been improved?

There is a difference between question [5], and questions [1] to [4]. Questions [1] to [4] all concerned measurable targets or numbers. By contrast, question [5] concerns the quality of schooling, rather than the quantity of learners or schools.

Quantitative statistics are merely indicators of quality. For example, the learner educator ratio (LER) is one indicator of the quality of schooling (Sen, 2002, p. 185). It is an indicator of the time available to an educator to adjust their instructions to the individual needs of each learner. Indicators could in principle be developed for all of the qualitative factors listed in point 12 of the WP6. There is no need to do so in this project, however, because the data in the 2015 DBE report is too limited to use to see if progress has occurred by such indicators. I shall only discuss issues of quality of education that this report gives information about.

Before analysing this data, it is important to remember that the vision of the WP6 is to improve the quality of education for children with impairments “following the completion of our audit of special schools” (DoE, 2001, p. 3). This audit, conducted in 2002, “found 135 special schools”, i.e. 36% of them, “badly neglected and dysfunctional … and, in many instances, a total breakdown in the culture of learning” (UN CRPD, 2015, p. 43).

The DBE report provides no information about the LER in classes attended by learners with impairments in ordinary schools or full-service schools. It only contains the LER for special schools. The LER for special schools in 2012 was 11.5 learners per educator (DBE, 2015b, p. 11). This is roughly the same as the “average staffing ratios in special schools of around 1:10” (DoE, 2001, p. 39) reported by the WP6 in 2001. Using this indicator, there is no evidence of progress in the quality of education at special schools from 2001 to 2012.

Exam results may be an indicator for the quality of schooling in the years prior to the exam. The 2015 DBE report contains no data on the exam results of learners with impairments in ordinary or full-service schools. It states that 752 learners in special schools obtained a certificate in the National Senior Certificate Examinations in 2012 (DBE, 2015b, p. 30). The number of learners in special schools is over 100,000. So, less than 1% of learners in these schools obtained a certificate. This is an indication that the schooling that most learners with impairments receive in special schools continues to be of low quality.

The WP6 promised that educators would be required to “complete courses relating to policies and programmes put forward in this White Paper” (DoE, 2001, p. 50). The 2015 DBE report implies that, by March 2015, some teachers were trained in curriculum differentiation in up to 2947 different schools (DBE, 2015b, p. 36). A Snap Survey of 2013 records 25,720 mainstream schools (primary and secondary) in South Africa (DBE, 2015a, p. 4). Going by this data, some teachers in around 11% of ordinary schools have some training in curriculum differentiation. It is not stated how extensive this training is, however.

The WP6 refers to “inadequately and inappropriately trained education managers” (DoE, 2001, p. 7). The 2015 DBE report implies that little “provincial training of officials on inclusive education guidelines" (DBE, 2015b, p. 36) has been done. In Limpopo, Northern Cape and Mpumalanga, the "number of officials trained in guidelines for full service schools" is reported as 0, 0 and 0 (DBE, 2015b, p. 36). This is consistent with the fact that RECDA reports "discriminatory attitudes, especially among government officials, regarding inclusive education" (RECDA, 2016, p. 9).

Finally, there is the question: [6] what other effects has the implementation of the WP6 had? This is an open-ended question. However, I shall focus on one point: the relative budgets for special schools and for inclusive schools. The WP6's vision of an inclusive education system in the challenging context of post-apartheid South Africa is a "cautious" (Evans & Lunt, 2002, p. 1) form of inclusion: it retains a role for special schools. But even so, to implement this vision faithfully, it is necessary to give support first and foremost to inclusive schools, rather than to prioritise special schools, even if they are one part of the education system.

This is not what we find, however, if we look at the implementation of the WP6. The 2015 DBE report lists the total "budget for special schools in 2014/15", and the total "budget for expansion of inclusive education in 2014/15" (DBE, 2015b, p. 46). The total budget for special schools is listed as 5.67 billion Rand, while the total budget for inclusive education is 0.39 billion Rand (DBE, 2015b, p. 46). The total budget for inclusive education is, according to these figures, just 7% of the total budget for special schools. Human Rights Watch calculates a similar ratio for 2012/13 (HRW, 2015, p. 82). This distribution is out of all proportion to the vision of WP6, in which special schools are just one limited feature of the education system.

To make matters worse, in all provinces apart from the Free State, provinces did not spend even half of the allocation of funds designed for inclusive education (DBE, 2015b, p. 46). By contrast, in all provinces, at least 93% of the funds allocated for special schools was spent (DBE, 2015b, p. 46). Most provinces appear to have little idea of how to spend allocated money on expanding inclusive schools. By contrast, provinces seem to have little trouble spending allocated money on special schools.

To conclude: in implementing the WP6, none of the specific targets for 2021 are being met. There are still a large number of children with impairments who are out of school. As data collection remains poor, it is not clear if this number has decreased. There is as yet no evidence that learners are consistently being sent to the school that the WP6 recommends. The government is not on course to convert 500 schools into genuinely full-service schools by 2021, or to convert 380 special schools into resource centres by 2021. The quality of education for learners with impairments, measured either by the LER and exam results at special schools, or by teacher and management training in inclusive education, does not show improvement, and remains low. Financially, the implementation of the WP6 is unfaithful to its vision. Funding for inclusive schools and the use of these funds at a provincial level has not been sufficient, relative to their significance in the WP6. Between 2001-2015, there has been a comprehensive failure to implement the WP6. The only promise that has been kept is that there has been "little if any increase [in budgets] in real terms" (Budlenger, 2015, p. 28, cited in RECDA, 2016, p. 15; compare DoE, 2001, p. 37).

Chapter 4:
Evaluating Inclusive Education Policy in South Africa

4.1 South African Inclusive Education Policy: A Capability-Based Evaluation

In the previous chapters, I outlined the capability approach, related it to education, analysed the WP6, and examined its implementation in terms of its specific targets. This final chapter has two aims. First, the WP6 and its implementation are evaluated more broadly, in terms of quality of life (functionings and capabilities). Second, some policy recommendations are suggested. Their aim is to move South African educational policy towards the functionings and capabilities that were mentioned at the end of chapter two. These are: basic pedagogical functionings for all learners; basic non-pedagogical functionings for all learners attending school; the capability of teachers to teach inclusively; the capability of parents to hold public officials to account for how they run a school; the capability of parents to send their children to a mainstream school; and the functioning and capability of government to collect data on all these issues.

As noted in chapter 3, the general vision of the WP6 is in line with the capability approach defended here. Therefore, the failure to achieve the specific targets set out in the WP6 is also a failure to take modest steps towards what the capability approach requires. In other words, from chapter 3, we already know that, in the capability approach, the failure to implement the WP6 properly is a missed opportunity to make some modest improvements.

The evaluation in the first part of this chapter will focus on attitudes expressed by officials in the WP6 and in the 2015 DBE report on its implementation, as well as its implementation. I have also used reports by human rights and disability organisations on inclusive education practice in South Africa that were submitted to the United Nations CRPD 9th Pre-Sessional Working Group, which met between 12th-16th March 2018.[8]

One concerning attitude in the WP6 relates to its statement that children with "impaired intellectual development" require "curriculum adaptation rather than major structural

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[8] Available from https://tbinternet.ohchr.org/_layouts/treatybodyexternal/SessionDetails1.aspx?SessionID=1206&Lang=en

adjustments or sophisticated equipment" (DoE, 2001, p. 25). From this, the WP6 concludes that "their accommodation within an inclusive education and training framework" will be "more easily facilitated" than the accommodation of learners who require "medical interventions, structural adjustments to the built environment and/or assistive devices with minimal curriculum adaptation" (DoE, 2001, p. 25). This conclusion is repeated in the 2015 DBE report (2015b, p. 18).

This conclusion is concerning, however, because in the long term, it may be *harder* to include children with impaired intellectual development (Evans & Lunt, 2002, p. 7-8) than to include children whose only barrier is physical, and who therefore require equipment (e.g. a wheelchair) to physically access a school. Building ramps and distributing wheelchairs is a once-off intervention. Neither requires much of a change in social attitudes. By contrast, training professionals to teach and manage classrooms that include learners who learn at different rates requires that the government make a long-term commitment to skills development. It also requires a change in social attitudes, e.g. that every child is capable of learning.

What were the authors of the WP6 thinking? Perhaps they were thinking that it will *cost* more, in financial terms, to accommodate children with physical impairments. But what costs less, and what is easier, are different things. The capability approach warns us not to confuse them. If we are concerned with assessing how difficult it is to give learners a real opportunity to learn, we cannot just assess the financial cost. Difficulties may also arise from the need to provide a variety of different resources (whether they cost more or not), to change attitudes in society, or to change the motivations of teachers and managers.

The WP6's view of the relative difficulty in overcoming barriers relating to different types of impairment may underestimate the task ahead. If we underestimate the difficulty of the task, we cannot expect to succeed. The attitude of officials needs to move on from this statement in the WP6, if the capability of teachers to teach inclusively is to be fully developed.

A second concerning attitude is the idea, stated twice in the 2015 DBE report, that inclusive schools should be supported primarily because they are cheaper than special schools:

> If the current trend of building new special schools to accommodate learners with disabilities continues, 2300 new special schools will have to be built (with 300 learners per school) to accommodate the 597 953 learners who are not accounted for in school enrolment figures. Because this is not feasible, a radically different approach needs to be followed to meet the needs of children and youth with disabilities in an inclusive education system (DBE, 2015b, p. 21, see also p. 71).

The main problem with increasing the number of special schools is not the cost of building these schools. It is the social and pedagogical consequences of special schools. Firstly, some of the learners not accounted for will not have severe levels of impairment. They should not be placed in special schools. Secondly, in South Africa, a system of special schools will not give children with impairments access to an education “in the communities in which they live” (UN, 2006, 24.2b). It will not enable them all to enjoy “active participation in the community” (UN, 1989, 23.1). It will require some children, especially from rural areas, to board. The child cannot enjoy the functioning of living and taking part in their community, because they have been separated from it. The families are also denied the capability to spend time with their children during term time. Because the child is separated from their family and from their community, the chance that they will not receive the basic non-pedagogical functioning of being safe (i.e. abuse) is increased.

Then there are the consequences for basic pedagogical functioning. On the skills side, the data collected for the 2015 DBE report is not sufficient to estimate the proportion of children with impairments who lack literacy and numeracy. But interviews by Human Rights Watch indicate that special schools are not successful in giving children basic numeracy and literacy. Human Rights Watch report that “many children” they interviewed attending special schools in South Africa “could not read or write despite being in school for many years” (HRW, 2015, p. 60). Nor do they acquire “the knowledge and tools needed to live an independent, engaged life within their communities” (HRW, 2015, p. 71). Instead, “their exit opportunities” consist “of two options: stay at home or attend a protective workshop for life” (HRW, 2015, p. 77). Going by this data, special schools are not offering a path for people with impairments to mix with others in contexts that allow “prejudices and misconceptions to be progressively challenged” (UNHRC, 2013, p. 5).

One of the biggest problems with the implementation of the WP6 that the capability approach highlights, but which is not mentioned in the WP6, or in the 2015 DBE report, is fees. Fees for children with impairments stand in the way of equality of basic functionings. At present, "children with disabilities who attend special schools pay school fees that children without disabilities do not" (HRW, 2015, p. 3). While "approximately 60 percent of the current school population accesses no-fee schools", in 2015, "no special schools are currently listed in any no-fee schools list" (HRW, 2015, p. 27). Parents of children with impairments are therefore more likely than others to have to pay school fees. Also, many children with impairments who attend ordinary or full-service schools face costs that children without impairments who attend these schools do not (HRW, 2015, p. 3). This means that parents of children with impairments have to pay *more* than others, to ensure that their children learn to read, write and count. Justice requires not merely that they pay no more than parents whose children do not have an impairment, as human rights organisations argue (HRW, 2015, p. 7). Justice, in the capability approach, requires that they pay *less*, because parents of children with impairments already face extra expenses besides school, such as trips to doctors, medications, diapers, care, dietary requirements, extra transportation costs, etc.

Parents of children with impairments must pay a number of other school expenses: transport, special assistants, uniforms, boarding fees, food, and nappies. Apart from uniforms, all of these expenses are likely to be higher for parents of children with impairments. In terms of transport, because children with impairments are more likely to be prevented from attending their local school, they are more likely to have to travel a long distance to and from school. The longer the distance, the more expensive the travel. Schools do not offer "support or financial subsidies to get to schools" (HRW, 2015, p. 32), while "private drivers often charged children with disabilities … an extra or double fee" (HRW, 2015, p. 34). In terms of special assistants, these are often not provided by the school, but must be paid for by the parents (HRW, 2015, p. 35). In terms of boarding fees, parents of children with impairments sometimes have no choice but to send their child to a special school that is far away and charges for boarding. In terms of food, children with some types of impairment may be allergic to the food provided by the government's National School Nutrition Programme. The parents must then pay for the food they prepare for their child (HRW, 2015, p. 29-30). For some types of impairment, e.g. spina bifida, parents must also buy nappies for use in school time, which can be expensive (HRW, 2015, p. 30).

The capability approach focuses on functionings, and the genuine opportunities to achieve them. The extra means that a child with an impairment requires, to enjoy basic pedagogic functionings, should not be borne by the child or their parents. The total neglect of this extra burden by the government, through its failure to provide automatic exemptions from school fees, free transportation, special assistants paid by the school, free uniforms, free boarding, suitable food and free nappies, amounts to what the social model of disability calls the oppression of disabled people (UPIAS, 1974, p. 3-4). In 2016, the UN Committee on the Rights of the Child highlighted South Africa's "failure to provide free compulsory primary education to children with disabilities" (UN CRC, 2016, p. 13). In other words, it highlighted the human rights violations of the South African government. The reason to view these human rights violations as oppression is that they exclude "a whole category of people" (Pendlebury & Enslin, 2004, p. 36).

A further concern is with the way in which children are currently sent to an ordinary or full-service school, or a special school. The policy outlined in the WP6 is to send only children with a severe or profound level of impairment to a special school. But as we have seen, going by the data in the 2015 DBE report, this policy is not consistently observed. Human Rights Watch also report a "widespread practice of placing children with disabilities in special schools, based on an assessment of their disability rather than on their abilities and the level of need and support needed to ensure they can learn" (HRW, 2015, p. 37). What seems to happen is that, if a school identifies a child as having a type of impairment, and decides that it does not have money to hire an assistant or to improve physical access related to that impairment, it refuses to admit them.

This practice shows why it is helpful to combine the capability approach with the social model. It is a fact about South African *society* that we are failing to train and employ enough professionals to make our education system inclusive. This is not a fact about the *individual* child who has an impairment. But the effect of this lack of investment on the part of the government is that it leaves ordinary and full-service schools deciding not to admit children that they ought to be admitting. These schools excuse this bad behaviour by referring to the child's impairment, as if the child's impairment were the cause of their not being admitted to the school (Engelbrecht, Nel, Smit & Deventer, 2016, p. 528). The problem is not the impairment; the problem is society, which disables these children, by failing to give teachers the capability to teach inclusively.

4.2. Policy Recommendations

In light of the previous analysis, some policy recommendations can be suggested to improve the education of children with impairments. I focus on policy recommendations that relate to the most major problems that have been discussed, in data collection, admissions, funding and training. Because these problems are inter-related, there is some overlap in discussing the recommendations.

4.2.1 Data Collection

Data collection tools should "reflect the definitions contained in policy" (RECDA, 2016, p. 21). There should be a fit between the tools used to collect data, and the policy definitions, which reflect the values of the policy. In the capability approach, public policy on education should reflect the values of basic pedagogical and non-pedagogical functionings for all learners; teachers' capability to teach inclusively; and parents' capability to hold officials to account and send their children to a mainstream school. The tools used to collect data should be designed to record the presence or absence of these functionings and capabilities. To aid accountability, conclusions from the data should include an explanation of the reasoning. For example, an estimate of out-of-school children should be accompanied by reasoning about how this figure was calculated.

The reason to collect data on the number of out-of-school children with impairments is the value of basic pedagogical functionings. It is safe to assume that a child who is out of school is not learning. One starting-point is to make "services themselves … a vehicle for collection of information" (RECDA, 2016, p. 22). This way, it is in people's interest to provide the data.

At present, the Department of Social Development is responsible for the Care Dependency Grant and Child Support Grant received by families of children with impairments. Data on out-of-school children could be collected by examining the numbers of people claiming these grants. To this end, the means test to claim the grant should be set at a level above which it can be assumed that the family can afford to send their child to school. Some level of grant should also be extended beyond families of children with severe impairments that require permanent care. On no account should income be removed from caregivers because the child attends school (Pendlebury & Enslin, 2004, p. 45). Extending the grant in these ways is just, because families of children with impairments face extra costs to perform basic functionings. The government could publicise changes to the grant, especially in rural areas. Application forms for death certificates for persons under 18 could ask applicants to specify whether the deceased child had an impairment. The number of claims for grants, minus recorded deaths, and minus the number of children with impairments in school, would give an estimate of the number of children out of school.

Even if this is not perfect, disability organisations could challenge the figure productively. They could attempt to conduct surveys to see what percentage of people were being denied a grant, or lacked information about it. It should also be possible for officials to check whether the children of the families who claim the grant are in school, and to require those families to seek to enrol their child at a school.

A second important type of data to collect is "the number of students with disabilities transferred from special schools to regular schools" (UNHRC, 2013, p. 15; see also HRW, 2015, p. 5). The three-tier inclusive education system (ordinary, full-service and special schools) outlined in the WP6 will remain in South Africa for the foreseeable future. It is not realistic to expect that e.g. teachers in every primary school in South Africa will soon learn to use sign language and to read braille. Special schools must therefore serve a limited function, for children with severe levels of impairment. It is important, however, to take measures to ensure that this does not lead to permanent segregation. It is important for a child to be able to move from a special school to a full-service or ordinary school, if their need for support decreases. Therefore, it is important to keep data on the number of transfers from special schools to ordinary or full-service schools. Monitoring the number of these transfers is a way to check if the school system is inclusive, as the capability approach requires, and avoids unnecessary and permanent segregation.

A third type of data to collect is the academic achievement of children with impairments. This data is one indicator of the quality of education. The quality of education is important, because it shapes the capability set of a young adult. Raising the quality of education is also important to increase the pool of future teachers of children with impairments. It can be in the interest of schools to provide this data, if a weighting system for academic achievement is introduced. This connects to a more general point about weighting systems.

In special schools, a “weighting system” is currently used to “calculate a maximum student-to-teacher ratio per classroom” (HRW, 2015, p. 16). A child with autism spectrum disorder, for example, is weighted as equal to 6 children (HRW, 2015, p. 16). However, “to date, there is no equivalent weighting in mainstream schools” (HRW, 2015, p. 16). At present, if the class size in a mainstream school is 30, it remains at 30 even if one child with autism is included in the class. If a weighting system was used in mainstream classes, a class with one child with autism would only contain 25 children (24 children, plus one child with a weight of 6).

A weighting system for class sizes should be introduced in mainstream schools, to encourage teachers to welcome children with impairments into their class. To alter the motivation or attitudes of teachers to children with impairments, it is necessary to use incentives. Human Rights Watch reports an “absence of incentives for teachers to instruct children with disabilities” (HRW, 2015, p. 3). Using a weighting system in mainstream schools would be one incentive.

It is also possible to use a weighting system to motivate school governing bodies to welcome children with impairments into their schools. There is a need to alter the attitudes of school governing bodies, if schools “are not admitting children in the first place to avoid predictable drop-outs” (HRW, 2015, p. 39), or if schools do not admit children with impairments because they fear that they “could lower their performance” (HRW, 2015, p. 65). School governing bodies need to be evaluated in a way that reverses these effects. Either the test results of children with impairments should be omitted from the data used to evaluate public schools, or another way should be found to measure it, e.g. by altering the weight of an achievement. If schools know that the weight of the achievement is altered for children with impairments, they may be more willing to enter them for an assessment, and to disaggregate their assessment results.

Finally, it is important to collect more data on the number of teachers trained in inclusive education techniques, and on the support they receive. As the WP6 notes, “classroom educators will be our primary resource for achieving our goal of an inclusive education and training system” (DoE, 2001, p. 18). Only teachers trained in differentiated instruction can provide quality education for all. One way to do this is for the government to insist that higher education institutions make this training compulsory in every higher education teacher training course. All that is then needed is to record the total number of newly trained teachers each year. In terms of support, questionaires should be distributed to teachers trained in inclusive education techniques. The questionnaires should ask teachers whether they are satisfied with the assistance provided by district support teams, and whether they are satisfied with the knowledge of inclusive education shown by education managers. These questionnaires could provide qualitative as well as quantitative feedback about the support they receive.

4.2.2. Admissions

At present, ordinary schools are refusing to admit children "on the basis of their disability without reasonable accommodations being considered", like "assistive devices or additional classroom support" (RECDA, 2016, p 4). To this end, RECDA suggests that "GOSA must, as a matter of priority, strengthen sections 5(5) and 5(6) of the Schools Act" (RECDA, 2016, p. 6) of 1996, which regulates the admissions policy of a public school. While this may be one option, it is possible to do more under the current Schools Act.

Section 5(5) of the 1996 Schools Act states that "the admission policy of a public school is determined by the governing body of such school" (GOSA, 1996b, 5(5)). Section 23(5) of this Act states that "the *governing body* of an ordinary *public school* which provides education to *learners* with special needs must, where practically possible, co-opt a person or persons with expertise regarding the special education needs of such *learners*" (GOSA, 1996b, 23(5)). If a school's governing body is not carrying out the government's admission policy in respect of learners with impairments, then, by section 25(1), the head of the provincial education department "must appoint sufficient persons to perform all such functions or one or more of such functions, as the case may be" (GOSA, 1996b, 25(1)).

What can be recommended, using the 1996 Schools Act, is that the provincial education department should appeal to the public to report cases where a child with an impairment is refused admission to a public mainstream school against their wishes. The department should also make it known to schools that if it has reason to believe that a school has wrongly refused admission to a child with an impairment, the department will appoint a member of a local disability organization that supports inclusive education to the school's governing body. This person will be given the power to determine that a child with a mild or moderate level of impairment who wishes to attend the school is admitted. In terms of persons to appoint, the provincial education department can consult with the groups and individuals who have compiled independent reports on education policy submitted to the CRC and CRPD.

The justification for acting in this way is that “professionals and staff who work at all levels of education must be trained in disability awareness” (UNHRC, 2013, p. 8). If an ordinary or full-service school refuses to admit a learner with a mild or moderate level of impairment, then it is clearly not aware of the rights of people with impairments. The official who made the decision is in need of training in disability awareness. Until they have received this training, they are not competent to make the decisions they are making. Until such time as they are competent, it is more likely that a member of a disability organization will make the right decision. Perhaps the official can learn about how to respect human rights, and about inclusion, from serving on a governing body where power in this matter is given to a person with an impairment.

There is currently no data on the percentage of school governing bodies that include a person with an impairment or an expert in inclusive education. If such persons are on a governing body, we do not know if they make the school’s ultimate decision on whether to respect the wishes of a parent for their child to be admitted. It seems unlikely that they currently exercise this power. With this change, provincial education departments would take a step to involve people with impairments in the decisions made about their lives at a local level. They would enhance the capability of parents to send their child to a mainstream school. This could be the start of a more meaningful partnership between government and disability organisations. It would shift participation to “democratic purposes”, rather than “for efficiency reasons” only (Lewis & Naidoo, 2004, p. 100).

4.2.3. Funding

Additional funding is needed to ensure equality of basic pedagogical and non-pedagogical functionings at school for children with impairments. Additional funding is needed (i) to provide free transport and free school uniforms to learners with impairments; (ii) to realise the grant for reasonable accommodations that was promised in the WP6 but not implemented (RECDA, 2016, p. 14); (iii) to pay for assistants in class who allow teachers to spend their time teaching rather than attending to personal care needs; (iv) to train more teachers in inclusive education and in the ability to identify learner needs; (v) to train more professionals including social workers, therapists and educational psychologists; (vi) to train more public officials in the principles of inclusive education, (vii) to provide more materials in formats suitable for deaf or blind learners (cf. RECDA, 2016, p. 30-1); and (viii) to build more schools. In implementing each of these things, emphasis should be put on making access to primary education free for all children.

The reasoning behind (i) is that free transport and free school uniforms give children with impairments the same functionings of access to school that children without impairments can enjoy, even when their parents pay for transport and uniforms. The families of children with impairments already face extra costs, because of their child’s impairments. Subsidies for the things that a child needs to attend school, like transport and uniforms, are necessary, to give these children the same basic functionings that other children enjoy as a matter of course. The same reasoning is behind (ii). Transport and the purchase of uniforms occurs out of school. The parents of the child are the buyers. For other things that children with impairments need, e.g. ramps, Perkins Braillers, etc., the school is the buyer. However, the principle is the same. These items are needed, just to give a child with an impairment the same basic pedagogical functionings that others enjoy as a matter of course.

The reasoning common to (iii)-(vii) is to increase the quality of education for children with impairments up to the same level that children without impairments enjoy, even without the help of professionals trained in inclusive education. Increasing the quality of this education is necessary to improve the child’s personal well-being achievement, as well as their capability set as a young adult.

The reasoning behind (viii), building more schools, is that hundreds of thousands of children are out of school. The government is complicit in their exclusion, to use the title of a Human Rights Watch report (HRW, 2015), unless “an adequate number of functioning education institutions” are made “available” and “accessible” (UNHRC, 2013, p. 6). It is not reasonable to expect all of these missing children to attend schools already in existence, because a school only has so many classrooms.

The UN Committee on the Rights of the Child has recommended that the government "review the Education White Paper 6" with a view to "prioritizing expansion of Full-Service Schools and inclusion of children with disabilities into mainstream classes of mainstream schools" (UN CRC, 2016, p. 13). It may be necessary to revise current policy, because of the completely distorted way in which the WP6 has been implemented. The 2015 DBE report states that there are, in 2015, 436 special schools (DBE, 2015b, p. 23). The WP6's specific targets for 2021 only require 380 special schools. In 2001, the WP6 did not propose to build any new special schools, because 380 special schools already existed in 2001. Provincial education departments have therefore gone beyond what the WP6 proposed in terms of numbers of special schools, while neglecting to develop inclusive schools. It is necessary, therefore, to revise education policy, to the effect that provincial education departments should stop building special schools until they have at least achieved the other targets of the WP6. Otherwise, education policy will continue to slide towards promoting special schools, out of all proportion to their place in the WP6's vision of an inclusive education system.

As all these measures require extra funding, it is relevant that the UN Committee on the Rights of Persons with Disabilities states: "using a lack of resources and the existence of financial crises to justify failure to make progress towards inclusive education violates article 24" (UN CRPD, 2016, p. 8). Society must assume a burden in implementing inclusive education. It is not reasonable to refuse to fund inclusive schools just because it puts a burden on society. Society is obligated to assume this burden, to include disadvantaged groups. A government only has an excuse not to make funds available if the burden is "disproportionate" (UN CRPD, 2016, p. 8). What counts as disproportionate can be examined by a court (RECDA, 2016, p. 13). A government may not simply declare that the burden is disproportionate, and do nothing. It is also hard for the government to claim that the burden is disproportionate if the government has found money to exceed the 2021 target for numbers of special schools.

4.2.4. Training

The UN Committee on the Rights of the Child notes the "acute shortage of human resources with expertise on disabilities" in South Africa (UN CRC, 2016, p. 13). The UN Committee on the Rights of Persons with Disabilities also reports "large numbers of under-qualified teachers and poor infrastructure in many schools" in South Africa (UN CRPD, 2015, p. 43). There are three major aspects of training to expand.

The first concerns screening and support. The "Minister of Basic Education has set the goal of ensuring that at least one educator in each of the 26,000 schools in the country will have been trained to screen and support learners who experience barriers to learning by 2014" (UN CRPD, 2015, p. 47). This target has not been achieved, however. The 2015 DBE report lists 4730 "teachers trained in SIAS" by 2013 (DBE, 2015b, p. 56), i.e. one teacher for 18% of schools. Given the large number of children with impairments missing from the data examined in chapter 3, funds and time must immediately be put aside to train a further 21 000 teachers in screening and support. The sooner an impairment is identified, the sooner appropriate support can be provided. The sooner that support is provided, the more chance a learner has not to slip behind the average level of functioning in their age group.

Second, training in inclusive education must be strengthened at higher education institutions. The government should insist that all higher education institutions make training in inclusive education compulsory for all their teacher training courses. It should encourage universities to introduce new qualifications, such as a professional qualification for teacher assistants, and a "postgraduate qualification in teaching learners who are blind, deaf, or who have complex developmental impairments such as autism" (RECDA, 2016, p. 35). If necessary, universities should hire qualified experts from abroad to begin the process of course design, and to draw on international best practices in this area, in which South Africa has little experience. The government should consider making these courses free to all, irrespective of a means test, on the condition that applicants teach or assist for at least a couple of years in a public school after graduation.

Finally, it is not only teachers, but also officials, who must be trained in inclusive education. As noted in chapter 3, some provinces have done nothing to train their officials in inclusive education guidelines. This adds to the importance of higher education institutions expanding their training in inclusive education. As this training is being established for teachers, selected officials from each province could be encouraged to enrol in the modules offered at these institutions on inclusive education. This training will put them in a better position to monitor curriculum delivery, and to appreciate teachers concerns about the overcrowding and lack of support personnel that are "hindrances to successfully running inclusive classrooms" (SAHRC, 2018, p. 23)

By implementing the above recommendations, the government could significantly decrease the lack of access to education that children with impairments in South Africa currently face, and that continues to hold down their quality of life.

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