

CHAPTER 2

FORGOTTEN OR INCLUDED? DISABLED CHILDREN'S ACCESS TO PRIMARY EDUCATION IN CAMEROON

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Summary

Cameroon is party to international and regional instruments providing for the right to education, in particular compulsory and free primary education. This article examines the right to inclusive primary education in Cameroon. It investigates the extent to which children with disabilities are included in primary schools. After a clarification of the concept of inclusive education, this article argues that children with disabilities are forgotten under the Cameroonian dispositions relating to access to primary education. This is a blatant violation of the right to universal access to primary education. Therefore, this article calls upon the Cameroonian government to enact laws and policies to implement a universal learning design (ULD) which entails the development of a curriculum and teachers training to meet various needs in a classroom.

1 Introduction

A universal primary education is a first step towards ensuring human development.¹ The importance of primary education is underscored by the international community that calls for compulsory free primary education.

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1 Committee on Economic, Social, and Cultural Rights, General Comment 13, The right to education (art 13 of the ICESCR), Twenty-First Session, 1999, UN Doc E/C 12/1999/10, reprinted in compilation of General Comments and General Recommendations adopted by human rights treaty bodies, UN Doc HRI/GEN/1/Rev6 at 70 (2003), para 1; BR Akinbola 'The right to inclusive education in Nigeria: Meeting the needs of and challenges of children with disabilities' 2010 (10) *African Human Rights Law Journal* 457; F Veriava & F Coomans 'The right to education' in D Brand & C Heyns (eds) *Socio-economic rights in South Africa* (2005) 57.

This call is contained in international instruments such as the Universal Declaration of Human Rights (UDHR)² and the International Covenant on Economic, Social and Cultural Rights (ICESCR).³ The ICESCR also explains state obligations for a detailed plan of action for the progressive implementation of the right to compulsory education free of charge for all.⁴ The Convention on the Rights of the Child (CRC),⁵ the 1960 United Nations Educational, Scientific and Cultural Organisation (UNESCO), the Convention against Discrimination in Education and the 2000 Millennium Development Goals (MDGs)⁶ also set out the right to free compulsory primary education.⁷ These provisions for free and compulsory primary education are the substance of the political pledges made under the Jomtien World Declaration on Education for All⁸ and the Dakar Framework for Action regarding the national Education for All (EFA) action plan.⁹

Furthermore to ensure an inclusive education with specific attention to people with disabilities (PWDs), the international community also undertook non-binding measures such as the Standard Rules on the Equalisation of Opportunity for Person With Disabilities (The Standard Rules)¹⁰ with rule 6 focusing on ensuring an inclusive education for PWDs; the Salamanca statement and Framework for Action on Special Needs Education¹¹ and the EFA Flagship on Education and disability.¹² The only binding instrument is the UN Convention on the Rights of Persons with Disabilities (CRPD)¹³ and its Optional Protocol.¹⁴

At the regional level, the right to education is secured in the African Charter on Human and Peoples' Rights (African Charter)¹⁵ and the 1990 African Charter on the Rights and Welfare of the Child (African Children's Charter).¹⁶ Cameroon is a party to all the aforementioned

2 Adopted on 10 December 1948, art 26.

3 ICESCR, General Assembly Resolution 2200A (XXI) of 16 December 1966, entry into force 3 January 1976, in accordance with article 27, arts 13(2)(a) and 14.

4 Art 14 and ESCR Committee General Comment 11.

5 Arts 23(2) & (4), & 28(1).

6 UN Res 55/2 of 2000, goal no 2.

7 Art 4(a).

8 Adopted in 1990 in Jomtien, Thailand.

9 The Dakar Goals set at the World Education Forum (2000).

10 Adopted in 1993.

11 Adopted in 1994 in Salamanca, Spain.

12 Adopted in 2001.

13 Adopted in 2006 and came into force in 2008, art 24.

14 Similarly adopted in 2006 and came into force in 2008.

15 Art 17 of the African Charter on Human and Peoples' Rights adopted on 27 June 1981 by the OAU Assembly, OAU Doc CAB/LEG/67/3 Rev 5 (1982) 21 *International Legal Materials* 58; C Heyns & M Killander (eds) *Compendium of key human rights documents of the African Union* (2010) 29.

16 Art 11 & 13 of African Charter on the Rights and Welfare of the Child, OAU Doc CAB/LEG/24.9/49 (1990), entered into force on 29 November 1999.

instruments,¹⁷ except the CRPD which is signed but has yet to be ratified. It is from this contextual background that the inclusion of children with disabilities (CWDs) in Cameroonian primary schools should be understood. The question is then to what extent are CWDs included in Cameroonian primary schools?

In examining CWDs' access to Cameroonian primary schools, this article will assess state compliance with international law on the question. This question is important as it provides a platform to focus 'on overcoming barriers to learning and participation'¹⁸ of CWDs as well as their full inclusion in society as a whole. Furthermore, while assessing the extent to which Cameroonian national laws are conducive to the inclusion of CWDs at primary level, this article will use a comparative approach by referring to best practices in other countries.

In terms of structure, this article is divided into four parts including the introduction. In setting the stage to understand whether Cameroonian primary schools are inclusive, the second part of this article explains the concept of inclusive primary education under international law. The third part of this article examines the extent to which CWDs are forgotten or included in primary schools. The final part summarises the article in the form of concluding remarks.

2 Understanding the concept of inclusive primary education

2.1 The inclusiveness of primary education

An inclusive education is a process which sets out to ensure the enrolment and admission of all learners in classrooms without any discrimination whatsoever.¹⁹ The inclusiveness of primary education is linked to its being free and compulsory for all, including those with disabilities. The UN Committee on Economic, Social and Cultural Rights (ESCR Committee)

17 ICESCR, ratified on 27 June 1984; CEDAW, ratified on 23 August 1994) and its Optional Protocol (acceded to on 1 November 2004); CRC (ratified on 11 January 1993); African Charter (ratified on 21 October 1986); African Children's Charter (ratified on 5 September 1997).

18 S Stubbs *Inclusive education: Where there are few resources* (2002) 21.

19 MF Tukov 'The education of children with special needs in Cameroon: The role of teachers and parents towards inclusive education' unpublished MPhil thesis in Special Needs Education, University of Oslo, 2008; see also in general H Savolainen *et al* *When all means all: Experiences in three African countries with EFA and children with disabilities* (2006); T Booth & M Ainscow *From them to us: An international study of inclusion in education* (1998); JT Hall *Social devaluation and special education: The right to full mainstream inclusion and an honest statement* (1997); PF Shey 'Parents perspective on the education of children with disabilities in regular schools in Cameroon', unpublished MPhil thesis in Special Needs Education, University of Oslo, 2003; Akinbola (n 1 above) 462; D Goodley *Disability studies: An interdisciplinary introduction* (2011) 138-139.

which is the UN body in charge of monitoring states' compliance with the ICESCR defines primary education as 'the main delivery system for the basic education of children outside the family'.²⁰ According to the ESCR Committee, access to primary education should be compulsory and free for all; it should comply with the '4 A's' framework,²¹ more specifically, it should be available, accessible, acceptable and adaptable, and supplemented with a plan of action to ensure its implementation.²²

As indicated earlier, an inclusive education necessitates the setting up of an education system which accommodates all vulnerable groups such as refugees, internally displaced people, indigenous people and PWDs. The accommodation of these groups should be informed by international policies mentioned earlier but more importantly by national action plans to ensure free education characterised by the '4 A's'.

2.2 Inclusion of children with disabilities

As far as CWDs are concerned, article 24(1) of the CRPD urges member states to protect the right of these children and all PWDs to education. In order to realise 'this right without discrimination and on the basis of equal opportunity, States Parties shall ensure an inclusive education system at all levels and lifelong learning'. To give effect to this provision, the inclusion of PWDs is generally done under three different arrangements:

- The dual track system which caters for learners with special educational needs in one system and all others in another major system;
- The multi-track system, which caters for various groups in different, parallel systems;
- The one track system or inclusive education system which gathers all learners in one system.²³

The one track system entails the adoption of a universal learning design (ULD) characterised by the development of a curriculum and the training of teachers to meet various needs in a classroom. This approach recognises that CWDs face environmental barriers to education and the ULD would ensure their full inclusion in the education system. Grounded in

20 ESCR Committee General Comment 13(2)(a), para 9.

21 See Preliminary report of the Special Rapporteur on the right to education, K Tomasevski, submitted in accordance with Commission on Human Rights resolution 1998/33, UN Doc E/CN.4/1999/49, paras 51-56; also K Tomasevski *Human rights obligations in education: The 4-A scheme* (2006).

22 For more on the '4A's' frame work, see K Tomasevski (n 21 above); SA Djoyou Kamga 'Realising the right to primary education in Cameroon' (2011) 11 *African Human Rights Law Journal* 171.

23 DR Mitchell 'Introduction' in D Mitchell (ed) *Contextualizing inclusive education: Evaluating old and new international perspectives* (2005) 5; UNESCO 2005; ST Tesemma *Educating children with disabilities in Africa: Towards a policy of inclusion* (2011); SJ Peters 'Inclusive education: Achieving education for all by including those with disabilities and special needs' paper prepared for the Disability Group, the World Bank (2003) 1.

neurological science, the ULD method seeks to understand how people learn through 'memory, language, perception, problem solving and thinking'.²⁴ An understanding of these learning methods informs the development of the curriculum and the training of teachers for the benefit of all learners in the classroom. The main principles of ULD include multiple means of representation, multiple means of action and expression, and multiple means of engagement to cater for the needs of all learners including those of CWDs.²⁵

According to the CRPD, 'the education of persons, and in particular children, who are blind, deaf or deafblind, is delivered in the most appropriate languages and modes and means of communication for the individual, and in environments which maximise academic and social development'.²⁶ In light of this, proponents of the dual track system and multi-track system are of the view that children with special educational needs should be separated from mainstream education, especially when the latter is not satisfactory for these children.²⁷ They argue that the deaf and deaf/blind children are considered to be 'children with disabilities' who have 'special education needs'²⁸ and should be afforded a specific setting for their development. Segregating children with disabilities provides them the opportunity to learn without being abused or ill-treated by their non-disabled counterparts.²⁹ Foreign jurisprudence seems to support this approach and the decision of the Supreme Court of Canada in the case of *Eaton v Brant County Board of Education*³⁰ is informative in this respect. In this case, the court was called upon to decide whether the placement, without the consent of her parents, of a child with cerebral palsy who is unable to communicate through speech, sign language, or any other alternative communication system, who has some visual impairment and who is mobility impaired and mainly uses a wheelchair in a special needs education centre, was a violation of the right to equality of the child provided for in section 15 of the Canadian Charter of Rights and Freedoms. The court was of the view that the placement of the child in a special setting served the best interests of the child and could not be regarded as discrimination but was rather a good way to accommodate the child in mainstream society. According to Justice Sopinka, forcing a CWD into a mainstream school without considering his or her specific condition may amount to a discrimination which 'forces the individual to sink or

24 EM Dalton *et al* 'The implementation of inclusive education in South Africa: Reflections arising from a workshop for teachers and therapists to introduce Universal Design for Learning' (2012) 1 *African Journal of Disability* 3, available at <http://www.ajod.org/index.php/ajod/article/view/13> (accessed 28 August 2013).

25 Dalton *et al* (as above).

26 CRPD, art 24(3)(c).

27 Rule 6, paras 8 & 9.

28 Stubbs (n 18 above) 23.

29 S Hegarty 'Education of children with disabilities' in P Mittler *et al* (eds) *World Yearbook of Education – Special Needs Education* (1993) 21; see also F Aefsky *Inclusion confusion: A guide to educating students with exceptional needs* (1995) 6; Tesemma (n 23 above) 54.

30 [1997] 1 SCR 241.

swim within the mainstream environment'.³¹ Put differently, it is important to ensure the placement of a child with special educational needs in an appropriate education setting to ensure his or her equality with other children. This was also the position of the Irish High Court in *O'Donoghue v Minister for Health*.³² In this case, while acknowledging the obligation of the state to provide free basic elementary education to all children,³³ the position of the court was unambiguous in stating that:

In the case of the child who is deaf, dumb, blind, or otherwise physically or mentally handicapped, a completely different programme of education has to be adopted and a completely different rate of progress has to be taken for granted, than would be regarded as appropriate for a child suffering from no such handicap.³⁴

In fact, CWDs are generally failed by mainstream education which is tailored to the needs of non-disabled learners. Furthermore, special needs education is beneficial because it affords learners with teachers equipped with expertise in disabilities, small learner-teacher ratio allowing better education, appropriate curriculum, well-tailored buildings and equipment.³⁵ In this vein, UNESCO is of the view that as a result of specific communication needs of deaf and deaf/blind persons, their education may be more properly catered for in special schools or special classes and divisions in mainstream schools.³⁶

However, categorising children under the label 'children with disabilities' lumps learners with different kinds of disabilities in the same group and this may also be detrimental to their educational needs. As correctly observed by Peters, 'those with specific learning disabilities, speech and language impairments, emotional disturbance and mild mental retardation'³⁷ are all gathered in the same category, whereas these children have different concerns. Although the multi-track system could be used to separate learners according to their disabilities, the classification 'wastes valuable special education resources in determining which category a child fits into rather than providing the instructional interventions the child requires'.³⁸ This particular concern led the World Bank to recommend an inclusive education in the following terms:

31 *Eaton*, paras 66-67. For further analysis of this case, see C Ngwenya 'Disabled people and the search for equality in the workplace: An appraisal of equality models from a comparative perspective' LLD Thesis, University of the Free State, 2010 478-480.

32 [1993] IEHC 2; [1996] 2 IR 20 (27 May 1993). This judgment was approved by the Irish Supreme Court in *Sinnott v Minister for Education* 2001] IESC 63; [2001] 2 IR 505 (12 July 2001).

33 Art 42(4) of the Irish Constitution.

34 *O'Donoghue* (n 32 above) para 25.

35 Hegarty (n 29 above) 21; Tesemma (n 23 above) 54.

36 UNESCO (1994)18, para 21.

37 Peters (n 23 above) 11.

38 As above.

[M]ost children with special education needs can be successfully and less expensively accommodated in integrated schools than in segregated institutional settings; and ... the vast majority of children with special education needs can be cost-effectively accommodated in regular primary schools.³⁹

Moreover, the CRPD highlights the need to secure access of PWDs to mainstream education and ensure that CWDs are not excluded on the ground of disability.⁴⁰ In a similar vein, UNESCO recognises that the environment is the disabling factor. In other words, teaching methods, curriculum, accessibility to trained teachers, buildings and appropriate assistive devices are important for responding positively to children's diversity.⁴¹ In fact, as observed by Billard 'there is nothing about special education that is not already part of practice in regular schools', there is a need to include CWDs according to their diverse needs in the mainstream education system⁴² through the ULD for example.

Furthermore, 'special needs education' disenfranchises CWDs from mainstream education by putting emphasis on their impairments and not on environmental barriers such as the lack of physical access, adequate equipment and competent teachers trained on the needs of the child.⁴³ In the *Sofia* case,⁴⁴ the European Court of Human Rights held that the equal right to education of CWDs is only effective if the school has an environment conducive to their education and the failure to create such an environment amounts in itself to unequal treatment of CWDs as they are not given the same opportunities as other children.⁴⁵ Similarly, the European Committee of Social Rights in the Bulgarian case of *Mental Disability Advocacy Center v Bulgaria*,⁴⁶ ruled that Bulgaria violated the human rights of children with intellectual disabilities under the European Social Charter by excluding them from mainstream education systems. Placing these children in settings without equal access to education constituted a violation of their human rights.

In Africa, the South African case of *Western Cape Forum for intellectual Disability v Government of the Republic of South Africa & Another*⁴⁷ sheds more light on the meaning of inclusive education. This case deals with the rights of severely and profoundly intellectually disabled children in the Western Cape Province. As a matter of fact, these children are neglected; their

39 RL Metts 'Disability, issues, trends and recommendations for the World Bank' (2000) Social Protection Discussion Paper Series, no 0007, 35.

40 CRPD, art 24(2)(a).

41 As UNESCO 2005; see also art 24(4).

42 Peters (n 23 above) 13; K Ballard (ed) *Inclusive education: International voices on disability and justice* (1999) 169.

43 Stubbs (n 18 above) 23.

44 Case No 13789/06, decision of 18 May 2007.

45 As above.

46 Complaint No 41/2007, decision delivered on 3 June 2008.

47 2011 5 SA 87 (WCC).

educational needs are inappropriately catered for and are only provided by non-governmental organisations. This set of facts illustrates that the state does not provide schooling for these children and therefore violates their right to a basic education, to equality, to human dignity and their right to protection from neglect and degradation.⁴⁸ This was also the position of the court which called on the state to remedy the situation in doing, amongst others, the following:

[T]ake reasonable measures (including interim steps) in order to give effect to the said rights of severely and profoundly intellectually disable[d] children in the Western Cape, including (but not limited to):

2.1 ensuring that every child in the Western Cape who is severely and profoundly intellectually disabled has affordable access to a basic education of an adequate quality;

2.2 providing adequate funds to organisations which provide education for severely and profoundly intellectually disabled children in the Western Cape at special care centres, such as to enable them to:

2.2.1 Have the use of adequate facilities for this purpose;

2.2.2 Hire adequate staff for this purpose;

2.3 providing appropriate transport for the children to and from such special care centres;

2.4 enabling the staff of such special care centres to receive proper accreditation, training and remuneration; and

2.5 making provision for the training of persons to provide education for children who are severely and profoundly intellectually disabled.⁴⁹

Not only does putting all CWDs together in a specific educational environment reduce their ability to learn from each other or from their differences, it also increases their exclusion from the society where their teachers are referred to as ‘teachers of the fools’,⁵⁰ for teaching children with mental impairment for instance. Hall’s inclusive education model known as the ‘Being Accepted Model’ entails that inclusion should provide a platform for ‘children to learn and share opportunities of learning and discovering new things as [they] interact socially; being a full member of an appropriate class in the school, and doing the same lesson with others’ and being part of the society.⁵¹ From this perspective, the Salamanca Declaration and CRPD clearly shift the focus from children’s impairments, known as the medical model of disability,⁵² to hindrances to access, known as the social model.⁵³ In this vein, an inclusive education allows ‘education structures, systems and methodologies to meet the needs

48 Para 1.

49 Para 52.

50 Stubbs (n 18 above) 24.

51 Tukov (n 19 above) 31; Hall (n 19 above).

52 Goodley (n 19 above) 7.

53 As above.

of all children'.⁵⁴ It aims to confront exclusionary policies and practices that keep CWDs away from schools.⁵⁵ This approach of shifting the attention from the impairment to environmental and social hindrances to access is further clarified through the CRPD which calls upon state parties to make sure that PWDs have: equal access to an inclusive education and life-long learning process, including access to primary, secondary, tertiary and vocational institutions. This includes facilitating access to alternate modes of communication, providing reasonable accommodation, and training professionals in the education of persons with disabilities.⁵⁶

This provision clearly provides for the inclusion of CWDs into the mainstream education system, which implies the adoption of measures to accommodate and support them. In this context, CWDs' right to primary education is violated if (a) they are prohibited from attending mainstream education with other learners because of their impairment; (b) they are allocated certain subjects because of their disabilities; (c) they do not have access to means of communication appropriate to their disabilities, for example, unavailability or denial of the use of Braille, sign language, augmentative, alternative and other means of communication in official interactions; (d) teachers and staff are not equipped with disability awareness; and (e) buildings and classrooms for learners with disabilities are inaccessible. These violations amount to discrimination at school on the basis of disabilities. Sharing this view, the UN Special Rapporteur on disabilities rights stated that:

States parties [to the CRPD] must ensure an inclusive education system at all levels and life-long learning. Learners with disabilities therefore have a right not to be excluded from the general education system on the basis of disability and to reasonable accommodation for the individual learner's needs. This not only means that learners have a right to attend mainstream schools and not be relegated to segregated schools, it also means that the special education needs of persons with disabilities must be taken into account in the general education system. This goes beyond grouping all learners together in one classroom to ensuring the provision of effective individualised support that maximises academic and social development.⁵⁷

States should formally identify standards of education to ensure that CWDs can enjoy available, accessible, acceptable and adaptable education on an equal basis with others.⁵⁸ Overall, the education policy makers should always regard the best interests of the child as a paramount factor in determining the type of education to use. The inclusion of CWDs should be done through national action plans to ensure free and universal

54 Stubbs (n 18 above) 21.

55 UNESCO (1999) 9.

56 Art 24.

57 Report of the United Nations High Commissioner for Human Rights on progress in the implementation of the recommendations contained in the study on the human rights of persons with disabilities [A/HRC/4/75], para 36.

58 Para 28.

primary education. The analysis of the Cameroonian Action Plan for education in the next section will shed critical light on the extent to which CWDs are included or not in primary education.

3 Inclusion of CWDs in Cameroonian primary schools

After the First World War, Germany occupied Cameroon as early as 1884. Nevertheless, it lost its grip on the country when the League of Nations officially mandated Britain and France to administer Cameroon, from 1916 to 1960.⁵⁹ As a result of this arrangement, the country inherited two educational policies from British Cameroon (West Cameroon) and French Cameroon (East Cameroon). However, in 1961, a year after its independence, the country became a federal state, and each region could adhere to the educational system inherited from its colonial masters.

Nevertheless, in order to reform the two educational systems, and integrate them into one national education system, the National Council on Education was created in 1963. Subsequently, the Federal Law 63/COR/5 of 1963 was adopted and modified the primary school duration to six years in the entire country.⁶⁰ The main features of the educational system could be located into two different periods: Immediately after independence (1961-1975); and after the clear elaboration and coming into force of the international human rights standards.

3.1 1961-1975: The exclusion of CWDs

After Cameroon's independence and prior to the development of a robust international framework for inclusive education, the Cameroon educational system was characterised by 'the invisibility of persons with disabilities'.⁶¹ CWDs and especially children with special needs were excluded from mainstream education. Consequently, their education took place within the confines of families where they were taught in local languages within the context of their custom and traditional beliefs.⁶² Keeping CWDs in their families is an infringement of the right to education. This approach was questioned and found lacking in the South African case of *Western Cape Forum for intellectual Disability*⁶³ where Cleaver J stated that:

59 See art 22 & 23 of the League of Nations Covenants; see also C M Fombad *Cameroon* (2003) 21.

60 Tukov (n 19 above) 17.

61 B Bekink & M Bekink 'Children with disabilities and their right to education: A call for action' (2005) 16 *Stellenbosch Law Review* 125.

62 Tukov (n 19 above) 18.

63 n 47 above.

The failure to provide the children [with disabilities] with education places them at the risk of neglect for it means that they often have to be educated by parents who do not have the skills to do so and are already under strain. The inability of the children to develop to their own potential, however limited that may be, is a form of degradation ... it must follow that the children's rights to dignity and to be protected from neglect and degradation have also been infringed and there is no valid justification for such infringement.⁶⁴

In Cameroon, when children with special needs were not under the responsibility of their families, they were accepted to private institutions run by religious organisations. These institutions included Ecole Spécialisée pour Enfants Déficents Auditif ESEDA (Special school for children with hearing impairments); L'externat Medico Pedagogue LA COLOMBE (Special School for the Mentally Handicapped (sic) Children) created in 1972; and PROMHANDICAM established in 1975 as a centre for the vocational training of CWDs of both sexes.⁶⁵

It could be argued that CWDs were completely excluded because the government which should have been the main provider of education⁶⁶ relinquished its responsibility to families and private institutions. In fact, prior to the establishment of the Ministry of Social Affairs in 1975,⁶⁷ CWDs were perceived as ill and were therefore submitted to the medical model of disability as they were catered for by the Ministry of Public Health. The latter did very little or nothing at all to ensure the accommodation of CWDs in mainstream or even 'special' schools. Even the creation of the National Rehabilitation Centre for the Handicapped (CNHR)⁶⁸ and subsequently the establishment of the National School for Social Affairs Workers (ENAAS) of Yaoundé⁶⁹ did not enhance access to primary schools for CWDs as most of these children remained at home.

Nevertheless, in 1961, through Decree 61/94 of 21 June 1961, the government established a commission for the protection of 'children in moral danger',⁷⁰ which was subsequently followed by the setting up of the Federal School for Educators and Social Assistants (EFAS) on 18 June 1967 at Bétamba. According to its founding provision, Decree 68/DF/421 of 15 October 1968, EFAS aims to cater for professional training for educators and social workers 'specialised in childhood, individual and

64 Paras 46 & 47.

65 Tukov (n 19 above) 18.

66 *Brown v Board of Education of Topeka* 347 US 438 (1954).

67 It was established by Decree 75/467 of 28 June 1975.

68 Decree 78/056 of 23 February 1978.

69 Decree 80/199 of 9 June 1980.

70 Ministry of Social Affairs (MINAS) 'From temporary assistance to a sustainable welfare: Fifty years of social service in Cameroon' available at <http://www.cameroun50.cm/en/component/content/article/220-minas.html> (accessed 29 November 2012). Also Decree 90/524 of 23 March 1990, creating the National Commission for the protection of abandoned and delinquent children and children in moral danger.

family protection and the preventions and treatments of juvenile and social maladjustment'.⁷¹

Unfortunately these measures are the remains of colonial practices which gathered delinquents, 'morally and materially abandoned children',⁷² under the same roof as had been sealed into law by the Decree 1315 of 11 March 1952. It is worth noting that by law, only children sent by court decisions could be admitted to the so-called Reception and Observation Centres.⁷³ Therefore, CWDs are not covered because not only was the concept of 'children in moral danger' unclear but delinquency or being abandoned 'morally and materially' is not a disability.

However, the Ministry of Social Affairs and the Ministry of Education worked hand in hand to address special educational needs; the state commits itself to support schools through, special pedagogical assistance, training of specialised personnel and the development of curriculum materials.⁷⁴ In addition, under the auspices of the Ministry of Social Affairs, the Department of National Solidarity was established to monitor the well-being of PWDs. Furthermore, moving towards a dual track system, lumping CWDs in one education system and other students in a different one, the Rehabilitation Institute for the Blind in Buea, called Bulu Blind Centre, was established to teach blind people, including children, in arts and crafts.⁷⁵

Overall, in spite of a few positive attempts, immediately after independence, Cameroon still did not cater for CWDs' inclusion in primary school because these children were educated within the confines of their families and the private sector. Furthermore, the law catering for children in moral danger as well as abandoned children could not ensure CWDs access to primary school because the law targeted delinquent children. In addition, when there was an attempt to include CWDs at schools, the government adopted a dual track education system characterised by the exclusion of children with disabilities from mainstream education. This was, however, not well implemented because not only were mainstream rural schools not, and are still not, capacitated to welcome CWDs but also most rural areas do not have so called 'special schools'.

71 Ministry of Social Affairs (MINAS) (n 70 above).

72 As above.

73 Decree 4379 of 3 September 1953.

74 Tukov (n 19 above) 19.

75 As above.

3.2 1975-2013: Towards a one track system or inclusive education

From 1975 to date, Cameroon has adopted a legal architecture to ensure an inclusive education at primary level, which unfortunately faces some challenges.

3.2.1 *Legal architecture for an inclusive primary education in Cameroon*

After the well elaborated International Bill of Rights, Cameroon articulated its primary education system at length. Under the right to primary education framework, state parties to ICESCR are compelled to 'adopt a plan of action',⁷⁶ with clear deadlines,⁷⁷ to give effect to the right to education. In this regard, the plan of action for the progressive implementation of compulsory education free of charge for all is a 'continuous obligation', compelling states to monitor and improve a plan to have permanent universal free primary education.⁷⁸ In attempting to comply with its international obligations under the right to primary education, the government ensures that the Constitution contains a specific provision on the right to education for all. Accordingly the Constitution provides that:

[T]he State shall guarantee the child's right to education. Primary education shall be compulsory. The organisation and supervision of education at all levels shall be the bounden duty of the State.⁷⁹

In giving effect to this provision, the government establishes a primary education system which consists of 'the first six grades of compulsory schooling, normally provided from six to twelve year-olds (though with high repetition rates, students up to age fourteen are often included)'.⁸⁰ Furthermore, it allocates a specific ministry in charge of basic education (nursery and primary schools).⁸¹

More importantly, in line with the conclusion of the World Conference on EFA held in Jomtien, Thailand in 1990, the government adopted the Sector Plan for Primary Education, included in Cameroon's

76 General Comment 11, para 9.

77 General Comment 11, para 10.

78 UNESCO The right to primary education free of charge for all: Ensuring compliance with international obligations (2008) 3.

79 1996 Cameroon Constitution, Preamble, para 23.

80 'Cameroon – Preprimary & primary education' available at <http://education.stateuniversity.com/pages/229/Cameroon-PREPRIMARY-PRIMARY-EDUCATION.html> (accessed 22 July 2013).

81 Decree 2004/320 of 8 December 2004.

1998 Education Framework.⁸² This Plan was strengthened by the 2000 Dakar Framework for Action promoting EFA,⁸³ aiming to ensure the availability of free primary education for all. It could therefore be argued that the Cameroonian Constitution and the National Sector Plan for primary education are non-discriminatory and consequently ensure the inclusion of CWDs in primary schools. This is so because the Constitution guarantees the right to equality and the right not to be discriminated against in these terms: 'all persons shall have equal rights and obligations.'⁸⁴ The right to equality and the prohibition of discrimination apply to all sectors, including education. Thus, everyone, boys and girls, should have equal access to education and should not be discriminated against on any ground including disability.

However, as indicated by the Constitution education 'shall be the bounden duty of the State'.⁸⁵ In other words, the state is not bound to honour the right to education but only has a moral (and not a legal) obligation to do so. This led Djoyou Kamga to argue that the right to education is not justiciable in the country.⁸⁶ The non-justiciability of the right to education in Cameroon contrasts with the situation in South Africa where the Constitutional Court has held that the right is binding on the state and has both a positive and negative aspect. In *Ex parte Gauteng Provincial Legislature: In re dispute concerning the constitutionality of certain provisions of the Gauteng School Education Bill of 1995*⁸⁷ the Constitutional Court observed with reference to the Interim Constitution that '[s]ection 32(a) creates a positive right that basic education be provided for every person and not merely a negative right that such a person should not be obstructed in pursuing his or her basic education'.⁸⁸ In other words, the state is not only obligated to deliver the right to education, but it is also compelled to ensure that the right is not impeded.

As far as the right to primary education of CWDs is concerned in Cameroon, these children are protected under general non-discriminatory laws under concepts such as 'everyone' or 'all persons' which do not yield the expected results because these children remain invisible. According to Stein and Lord,

The principal difficulty with this approach [protecting CWDs under a general non-discriminatory provision] is that existing human rights obligations are

82 1998 Cameroon's Education Framework 633/PJ L./ATN. Art 7 of this emphasises universal access to education.

83 The goal of Education for All was adopted in Dakar, Senegal, from 26 to 28 April 2000 through the Dakar Framework for Action.

84 Preamble, para 6.

85 Preamble, para 23. Though the preamble is 'part and parcel' of the Constitution (art 65), ensuring its justiciability is very problematic. See Djoyou Kamga (n 22 above) 188-192.

86 Djoyou Kamga (n 22 above) 186-192.

87 1996 (3) SA 165 (CC).

88 *Ex Parte Gauteng Provincial Legislature*, para 9.

not tailored to address the specific barriers faced by persons with disabilities in the realisation of their human rights.⁸⁹

Similarly, Kayess and French argue that incorporating the rights of PWDs in a universal provision will not enhance 'the recognition and respect'⁹⁰ of rights of the beneficiaries because:

[T]o a significant extent, the traditional human rights paradigm is based on an 'able-bodied' norm. In most cases it is not self-evident how traditional human rights are to be interpreted and applied in a manner that will penetrate to the specific human rights violations to which persons with disability are subject.⁹¹

It could therefore be safe to argue that without an explicit constitutional provision on the right of CWDs to access the primary education system, these children will remain behind closed doors, far from schools.

Although the Cameroonian Constitution does not contain specific protection of persons with disabilities (PWDs)⁹² including children, the penal code criminalises the neglect of PWDs.⁹³ Furthermore, in 1983, the Government passed law 83/13 of 21 July 1983 relating to the protection of persons with disability, and seven years later, its Decree of application was also passed.⁹⁴ As correctly observed by the African Union of the Blind (AFUB) *et al*, the 1983 law and its Decree of application should be applauded for addressing the socio-economic integration of PWDs including children.⁹⁵ The 1983 law defines a PWD as an individual who, incapacitated by physical or mental, congenital or accidental deficiency, experiences difficulties to carryout his/her duties as any non-disabled person. In line with this definition, a National Identity Card for PWDs was instituted in order to ensure that these persons are fully accommodated in the society. In this regard, owners of the identity card are entitled to

89 M Stein & JE Lord 'Future prospects for the United Nations Convention on the Rights of Persons with Disabilities' 19 available at http://www.law.wisc.edu/m/zdq3n/2-20-09_stein-lord_future_prospects_for_un_on_disability_rights.pdf (accessed 22 July 2013).

90 R Kayess & P French 'Out of darkness into light? Introducing the Convention on the Rights of Persons with Disabilities' (2008) 8 *Human Rights Law Review* 114.

91 Kayess & French (as above).

92 The only reference to PWDs in the Constitution is found in article 25(1) which reads: 'Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstance beyond his control'.

93 Art 282.

94 90/1516 of 26 November 1990, binding the modalities of application of law 83/13 of 21 July 1983, relating to the protection of persons with disability.

95 'Study on the rights of persons with disabilities in Cameroon' Report commissioned by the African Union of the Blind (AFUB) and the Cameroon National Association for the Blind (CNAB) in partnership with Disability Rights Promotion International (DRPI) and Swedish Association of the Visually Impaired (SRF) (2007) 36, presented by EJE Mayer <http://drpi.research.yorku.ca/Africa/resources/CameroonRep08> (accessed 22 October 2013).

material and financial assistance in the form of pensions⁹⁶ and medical expenses, though this does not always happen in practice.⁹⁷ In principle though this law seems to advance the provision of services to PWDs, it entrenched the theory of mere assistance to these persons. This is the charity model of disability in which PWDs rely simply on hand-outs and have no rights to services as advocated by the social model of disability.

Nevertheless, the 1983 law explicitly prohibits all forms of discrimination against PWDs.⁹⁸ This provides an entry point for the inclusion of CWDs in primary schools. In this respect, the 1983 law clearly calls for the education of children and young adults with disabilities in mainstream and special schools when necessary. It highlights the need to have special teachers and didactic materials adapted to the children's needs in mainstream schools that enrol CWDs and calls for these schools to facilitate access for these children.⁹⁹ This is a move towards an ULD to be strengthened through cooperation between neurologists, educators and other expert in the field on inclusive education.

In establishing a conducive environment for CWDs in Cameroonian primary schools, the 1983 law and its degree of application have also eased the enrolment of CWDs in terms of age limits to attend mainstream school. In this regard, 'pupils and students with disabilities are authorised to repeat a current class twice if the failures in the examinations are caused by the difficulties related to their physical or mental state'.¹⁰⁰ However, this measure may be counterproductive because allowing CWDs to repeat the class because of disabilities keeps the focus on the impairment and not the lack of access which creates the problem. The best approach informed by the ULD would be to train teachers on how to work with CWDs; to provide appropriate assistive devices commensurate with children's disabilities. Allowing CWDs to repeat the class enhances discrimination against them as they are perceived to be less intelligent or weak learners.

In ensuring that CWDs have economic access to schools, in line with Decree 90/1516 of 26 November 1990, the education of CWDs will be taken care of by the government. Accordingly, PWDs in specialised private training institutions are entitled to assistance in the forms of subventions or specific didactic materials; those at schools and even universities are entitled to gifts in cash or kind. Furthermore, children born of poor parents with disabilities are also entitled to such assistance.¹⁰¹ To give effect to these measures, a 1996 Presidential Decree was adopted. It established a national committee on disability, an advisory body tasked to

96 Art 26 (1) of the 1990 Decree.

97 'Study on the rights of persons with disabilities in Cameroon' (n 95 above).

98 Art 3(1) & (2).

99 Chap 3, art 1 & 3; see also the 1990 Decree.

100 Art 5 (3) of the 1990 Decree.

101 Art 5(4) of the 1990 Decree, see also 'Study on the rights of persons with disabilities in Cameroon' (n 95 above) 50.

co-ordinate actions related to PWDs. In addition, mistakenly assuming that primary school is already free for all including CWDs,¹⁰² the Ministry of Social Welfare in Charge of PWDs has signed an instruction with its counterpart of Secondary Education to ensure free access at secondary level for PWDs.¹⁰³

However, not only are these measures not implemented, they are not enough to ensure the inclusion of CWDs. The measures are not implemented because the training of education professionals including teachers is non-disabled centred and as a result CWDs are not accommodated at schools. Furthermore, these children do not have assistive devices,¹⁰⁴ hence the observation that no attention has been given to their academic and social needs by the government or the schools.¹⁰⁵ In fact, in Cameroon, users may be asked to pay for the assistive devices, from their income.¹⁰⁶ This shows that CWDs from poor families are excluded from primary schools that are economically inaccessible. This led DjoyouKamga to claim that CWDs are excluded from Cameroonian primary schools.¹⁰⁷ Again the solution cannot be found through government largesse but through the establishment of an education system informed by ULD as this will provide avenues to secure the rights to education for CWDs at primary and other levels.

3.2.2 Challenges for inclusive primary education in Cameroon

Legal challenges

In spite of the adoption of a legal architecture for an inclusive education, Cameroon must revisit its commitment to international law pertaining to the inclusion of CWDs in schools. In its report to the human rights council's Working Group on the Universal Periodic Review, though Cameroon mentions what is done to ensure the right to education, nothing is said in connection with what is done to accommodate or include CWDs in schools.¹⁰⁸

102 Djoyou Kamga (n 22 above), the author demonstrates that primary education is not free in Cameroon.

103 See joint circular 34/06/LC/MINSEC/MINAS of 2 August 2006.

104 Tukov (n 19 above) 22.

105 As above.

106 WHO – Geneva 'Disability and rehabilitation status – Review of disability issues and rehabilitation services in 29 African countries' December 2004. In *Ross v Ryanair Ltd & Another* [2004] EWCA Civ 1751, the Central London County Court held that the unavailability of assistive devices, or asking PWDs to pay for them from their own pockets, amounts to a violation of the right of the beneficiaries.

107 Djoyou Kamga (n 22 above) 180.

108 Human Rights Council Working Group on the Universal Periodic Review, Fourth session Geneva, 2-13 February 2009 National Report Submitted in accordance with Paragraph 15 (A) of the Annex to Human Rights Council Resolution 5/1* Cameroon.

However, as mentioned earlier, Cameroon had signed, but not ratified, the CRPD. In addition, it has adopted a law to establish the National Institute of Social Work, and included in the curriculum for its training institute a module that focuses on promotion of social development for PWDs.¹⁰⁹ This was followed by Decree 2009/096 of 16 March 2009, which operationalises the national centre for the rehabilitation of persons with disabilities.

More importantly, in 2010, the government adopted Law 2010/002 of 13 April 2010 on the protection and the promotion of people with disabilities. This law emphasises the prevention of disabilities,¹¹⁰ re-adaptation,¹¹¹ socio-economic and political inclusion of PWDs¹¹² and provides for penal measures for violations. Significantly, it provides for the right to an inclusive education for CWDs,¹¹³ and the right to 'special' education for PWDs.¹¹⁴ This law is a good step towards the implementation of the human rights model of disability as it defines services to PWDs in terms of rights or entitlements that may be claimed in a court of law. In addition, the duty to protect, respect and fulfil attached to these rights. In other words, the state has the positive obligation to protect the rights, and the negative obligation not to hinder their realisation. Even an impediment to the enjoyment of these rights by private entities is an offence.

As far as the inclusive education of CWDs is concerned, the state commits itself to ensure that PWDs have access to education and professional training.¹¹⁵ In so doing, it will contribute to the education cost and pedagogical assistance,¹¹⁶ which could be done through partial or total exemption of school fees as well as provision of scholarships.¹¹⁷ CWDs will be provided with an education system commensurate with their disability.¹¹⁸ Learners with disabilities will also get the benefit of age exemption and be allocated teachers trained on disabilities' issues.¹¹⁹ The 2010 law clearly provides for an inclusive education. This law seems to be the magic crystal ball needed by PWDs and CWDs in particular.

However, its decree of operationalisation is yet to be adopted, hence the country still relies on the obsolete law of 1983. In addition, apart from the 1996 Decree which creates a very ineffective body to monitor disability issues in the country, and the adoption of the 2006 joint circular between

109 Decree 2006/302 of 21 September 2006.

110 Chap 2.

111 Chap 3.

112 Chap 4.

113 Chap 3, sec 3, art 25.

114 Chap 3, sec 3, art 24.

115 Chap 4, sec 1.

116 Chap 4, sec 1, art 28.

117 Chap 4, sec 1, art 29.

118 As above.

119 As above.

the Ministry of Secondary Education and the Ministry of Social Affairs aiming to ensure a free secondary education for PWDs¹²⁰ mentioned earlier, the position is still not satisfactory. Although accessibility of buildings and transport is provided for by the 2010 law, much more needs to be done to ensure accessibility of the built environment and especially schools for CWDs.¹²¹

There is a need to turn the whole society into an inclusive one and this will have ramifications in the education system. Furthermore, it is important to include disability awareness in the training of town planners, architects and construction engineers. As a result all buildings and public spaces including schools will become accessible for all.¹²² The current situation is alarming. CWDs are just not included in primary schools. This was the finding of a report by World Vision¹²³ which observes that unlike Djibouti, Ethiopia, Ghana, Kenya, Lesotho and Mozambique in Africa, Cameroon does not mention disability and inclusion of CWDs in education in its National Sector Plan for education.¹²⁴ Therefore Cameroon should act urgently to establish an inclusive primary education in its territory. Amongst others, the country should ratify the CRPD and give effect to its article 24 urgently. Furthermore, the Cameroonian educational authorities should adopt a decree to implement the 2010 law.

In addition, they should use a multidisciplinary collaboration with other stakeholders. In this perspective, parents of CWDs and the disability movement as activists should work together to ensure educational provision for CWDs. Correspondingly, there is a need to train and produce teachers who are able to cater for the diverse needs of learners. The involvement of experts on curriculum development to set up an inclusive education based on ULD that would benefit all learners including those with disabilities is vital. In this perspective the education method should be informed by the:

[D]esign of instructional materials and activities that allows learning goals to be attainable by individuals with wide differences in their abilities to see, hear, speak, move, read, write, understand English, attend, organise, engage, and remember without having to adapt the curriculum repeatedly to meet special needs.¹²⁵

120 See the joint circular 34/06/LC/MINSEC/MINAS of 2 August 2006.

121 Government Implementation of the Standard Rules as seen by Member Organisations of Inclusion International – ILSMH Cameroon, 1997 http://www.independentliving.org/standardrules/InclInt_answers/Cameroon.html (accessed 22 July 2013). Though this information dates from 1997, it remains relevant in Cameroon in 2013.

122 Government Implementation of the Standard Rules as seen by Member Organisations of Inclusion International – ILSMH Cameroon (n 121 above).

123 World Vision 'Education's missing millions: Including disabled children in education through EFA, FTI [Fast Track Initiative] processes and national sector plans' (2007).

124 World Vision (as above) 24.

125 R Orkwis *Curriculum access and universal design for learning* (1999) 2.

Cultural challenges

The inclusion of CWDs in primary schools is also hindered by cultural barriers to education. Though research shows that some parents of CWDs would like to enrol their children at school,¹²⁶ numerous CWDs are perceived to be a 'disgrace' to their families who hide them or deprive them from any contact with the rest of the community as to them they symbolise the punishment from the gods on the family.¹²⁷ In this perspective, not only does a CWD represent 'a bad omen that may tarnish the family pedigree',¹²⁸ he or she is also perceived by the family as 'unproductive and [an] unnecessary burden'¹²⁹ and should therefore be kept behind closed doors, away from school.¹³⁰ When these children eventually get to school, though they are sometimes accepted by some of their non-disabled peers, they are generally marginalised and despised by their teachers and fellow learners as if they are not human.¹³¹

Consequently, the inclusion of CWDs at primary school level needs a systemic change, not only in teaching approaches and structures but also in changing cultural beliefs that hinder inclusive education. For this to happen, there is a need to educate parents on the imperative to enrol their CWDs at school, to support them and to work in direct collaboration with teachers to ensure the full accommodation of these children in schools and in the society.¹³² Rye observes:

Parents, who in addition to care providing, are active participants in school work, cooperate with teachers regarding school work and home work, child rearing and the child's social life in and out of school [should be applauded for their role *including* the child in the society as a whole]. This form of cooperation has a demonstrable positive impact on the child's well-being, learning and development, and helps prevent difficulties in learning and adjustment.¹³³

Rye's approach ensures that the education system is adapted to communities and responds to the needs of learners within their diverse

126 Tukov (n 19 above) 43.

127 Goodley (n 19 above) 6.

128 H Combrinck 'The hidden ones: Children with disabilities in Africa and the right to education' in J Sloth-Nielsen (ed) *Children rights in Africa: A legal perspective* (2008) 302. Also Goodley (n 19 above) 14.

129 'Study on the rights of persons with disabilities in Cameroon' (n 95 above) 39; also The ACPF (n 23 above) VI.

130 The ACPF (n 23 above) 34.

131 'Study on the rights of persons with disabilities in Cameroon' (n 95 above) 62.

132 On the positive impact of parents' support to CWDs and collaboration between these parents and teachers see in general T Watson *et al* 'The relationship of parents' support to children's school achievement' (1983) 62 *Child Welfare* 175; also KD Sloane 'Home support for successful learning' in SB Silvern (ed) *Advances in reading/language research: Literacy through family, community and school interaction* (1991) 5.

133 H Rye 'Helping children and families with special needs: A resource-oriented approach' in BH Johnsen & MD Skjorten (eds) *Education – Special needs education: An introduction* (2001) 21.

social and cultural environments. In attempting to adapt the education to the environment, while learners can be taught in their local languages together with English and French as suggested by Fonlon,¹³⁴ Njock,¹³⁵ Tadadjeu,¹³⁶ Chumbow¹³⁷ and Essono,¹³⁸ sign language, Braille and other assistive devices should also be made available for CWDs.

4 Concluding remarks

The aim of this article was to investigate to what extent CWDs are included in Cameroonian primary schools. The article found that immediately after independence until 1975, the country failed to include CWDs in mainstream schools that were ill-equipped in terms of teachers and infrastructure to cater for these children. Attempt to include these children in special schools also failed especially because of the quasi-inexistence of such schools in rural areas.

From 1975-2013, attempts to implement an inclusive primary education were hindered by obsolete laws, the non-express provision of the rights to CWDs to education, the lack of decree to implement disability friendly legislations, the non-ratification of the CRPD and cultural attitudes that consider a CWD as a curse to be hidden.

Consequently, the inclusion of CWDs at primary school needs a systemic change. Firstly, the government should ratify the CRPD and its optional protocol and ensure its implementation with special attention to article 24. In doing so, it should amend obsolete laws, adopt decrees of implementation of disability friendly policies and raise awareness on the need to send CWDs to schools. Secondly, not only should the government adopt the ULD which entails structural and infrastructural changes, the development of a curriculum and teachers training to meet various needs in a classroom, it should also consider the use of 'special education' only if it is commensurate with the needs and the best interest of the child. Thirdly, the systemic change of the education system shall also tackle cultural beliefs that demonise the disabled child. For this to happen, there

134 B Fonlon 'A case for early bilingualism' (1963) 4 *ABBIA: Cameroon Cultural Review* 56; B Fonlon 'The language problem in Cameroon' (1969) 22 *ABBIA: Cameroon Cultural Review* 5.

135 BB Njock 'Le problème linguistique au Cameroun' (1966) 73 *L'Afrique et L'Asie* 3.

136 M Tadadjeu 'Language planning in Cameroon: Toward a trilingual education system' in RK Herbert (ed) *Patterns in language, culture, and society: Sub-saharan Africa* (1975) 53; M Tadadjeu *L'enseignement des langues au Cameroun – Language education in Cameroon* (1981).

137 EA Anchimbe 'Socio-pragmatic constraints to native or indigenous language education in Cameroon' in F Olaoba *et al* (eds) *Selected proceedings of the 36th annual conference on African linguistics* (2006) 133.

138 JM Essono 'De l'enseignement des langues nationales dans le secondaire: Les problèmes d'organisation' in M Tadadjeu (eds) *L'enseignement des langues au Cameroun – Language education in Cameroon* (1981) 104.

is a need to educate parents on the need to enrol their CWDs in schools, to support them and to work in direct collaboration with teachers to ensure the full accommodation of these children in schools and in the society as whole.