

## SECTION27 Presentation at LRC Disability Conference

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### I. Introduction

1. Thank you to the Legal Resources Centre for the opportunity to share this important platform with Human Rights Watch, the Human Rights Commission and DEAFSA. I make a few observations about the government's – and sadly sometimes civil society's – general approach to “disability” and then intend to use my time to briefly outline some the work that SECTION27 does on education of children with disabilities throughout South Africa. Thereafter I make some recommendations toward the increased mobilisation of civil society in support of activists, communities and people with disabilities.
2. I echo the comments of my colleagues about the urgent and systemic nature of the extreme challenges that currently exist for children with disabilities in accessing their right to a quality basic education.
3. It seems to me that the first major obstruction to government and civil society in their interaction with activists, communities and people with disabilities is a misunderstanding of disability. This problem appears to be even more acute throughout the Department of Basic Education. To untie this knot, I propose to start briefly with what disability is and to proceed to what disability is not.
4. Disability, though caused by a variety of issues including inadequate nutrition, poor healthcare services and genetic and biological factors is generally not a “problem” of some sort with the person who lives with a disability. Disability is, and is largely experienced as, the inability of society to exist, reconstruct itself or accommodate the lives of people with disabilities. This understanding is important as it immediately turns the mind from the vulnerabilisation of people with disabilities to a critical reflection on what is wrong with how society is structured and reacts to them.
5. Disability is therefore not a mere medical condition and is shaped, formed and experienced within the context in which a person with a disability lives. According to the World Health Organisation *“Disability is thus not just a health problem. It is a complex phenomenon, reflecting the interaction between features of a person's body and features of the society in which he or she lives. Overcoming the difficulties faced by people with disabilities requires interventions to remove environmental and social barriers.”* Neither is “it” a singular identifiable “it”. People may have a single disability (such as being blind), multiple individual disabilities (for example, being hearing impaired in one ear and paralysed in one arm), or even multiple interconnected disabilities (an intellectual disability which also results in stunted physical development). Disabilities therefore vary meaningfully in both nature and severity.

6. These nuances are of special importance in understanding the many and various provisions that are required for an effectively running education system for children with disabilities which will comply with the Constitution's requirements of ensuring that equal access to quality education is afforded to them. For example, special schools are predominantly aimed at supporting children with severe disabilities (often specific severe disabilities) while full service schools are usually only capable of accommodating learners with more moderate disabilities. Each disability, and often different severities of the same disability, requires different accommodation and different education pedagogy.
7. All of this means that a Department of Basic Education that intends to make a genuine and good faith attempt to develop and create such a system would have to acquire significant resources and considerable expertise on national, provincial and district levels. This requires a lot of political will and a significant amount of continuous support. As a principal at a special school for learners with visual impairments told SECTION27 *"[no] school for children with disabilities could possibly survive and operate efficiently without the continuous support of the Department."*<sup>1</sup>

## II. The current state of schools for children with disabilities

8. As has already been discussed, and as Human Rights Watch's report graphically illustrates, there are many barriers to children with disabilities in even getting into school in the first place. These include school fees, hostel fees, transport fees, lack of understanding and awareness of disabilities and a general failure on the part of departments to "mobilise out of school learners" with disabilities in keeping with its commitment in White Paper 6 on Inclusive Education. Another noteworthy concern is the continued existence of White Paper 6 as a mere White Paper – nearly 14 years after it was put in place – and the puzzling failure to create the conditional grant contemplate it to improve the funding capacity of schools which is a short term goal of the policy.
9. But the problems are not just abstract they impact directly on the lives of children with disabilities and special, mainstream and full services schools. And unfortunately getting into school may only be the start of a whole new batch of problems for a child with a disability. Before I raise examples from SECTION27's work, here are a few notable ones from the Department of Basic Education's frank *"Report on the Implementation of Education White Paper 6"* dated 29 May 2015—
  - + There is an *"incoherent conception and understanding"* of White Paper 6 *"at all levels of the system"*;<sup>2</sup>
  - + *"There is a serious concern about the standard of curriculum delivery in special schools. There is evidence that many are simply day care centres with little attention being given to ensuring that learners have access to the National Curriculum Statement on an equal basis with all other learners"*;<sup>3</sup>

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<sup>1</sup> *"Left in the Dark: Failure to Provide Access to Quality Education to Blind and Partially Sighted Learners in South Africa"* at p 72.

<sup>2</sup> P 6.

<sup>3</sup> P 34.

- + There are “*extremely poor conditions in many special school hostels*” and “*high rates of child abuse*” in hostels;<sup>4</sup>
- + In six provincial departments of education in which information is available, there are a “*substantial number of 231 vacancies in [Inclusive Education Officials ... at Provincial and District Levels] needs to be addressed through rigorous budgeting and filling of posts as a critical priority.*”<sup>5</sup>

10. Ultimately the report concludes that “*over 12 years the situation has changed very little in terms of achieving equity and redress*”.<sup>6</sup> This is a crisis. It is an emergency. On a system wide level. The Department’s conclusion that a “*radically different approach needs to be followed to meet the needs of children and youth with disabilities*” is clearly correct.<sup>7</sup> SECTION27’s works in schools for visually impaired learners and with communities of people with disabilities in the Umkhanyakude District confirm this reality.

### III. Schools for visually impaired learners

11. On the 18<sup>th</sup> of November SECTION27 will present a report titled “*Left in the Dark: Failure to Provide Access to Quality Education to Blind and Partially Sighted Learners in South Africa*” to the Parliamentary Portfolio Committee for Basic Education in Cape Town. The report will be presented by my colleague Silomo Khumalo, who is blind himself, and Justice Zakaria Yacoob. It is the product of a long and productive working relationship between SECTION27, the South African National Council for the Blind, Blind SA and the South African Braille Authority which dates back several years.

12. Initially the major problem which presented itself was a lack of access to Braille learning materials in schools for visually impaired learners. This problem persists. After a failed tender process in 2012, caused by the DBE’s own lack of expertise, it is yet to produce or fund the production of a single Braille textbook. Instead a private company run by a special school’s SGB has – of its own accord – begun producing master copies of CAPS curriculum titles of the over 600 CAPS curriculum titles and attempting to recoup their costs by selling them to the 22 special schools for visual impairments and/or provincial departments of education. Studying without books is not a reality any child should have to face. Textbooks matter. As a principal at one of these schools told SECTION27 “*we are also a school, we also need books*”.<sup>8</sup>

13. At the request of our partners SECTION27 visited and interviewed principals, teachers and learners at all 22 schools for visually impaired learners in late 2014 and early 2015. What we discovered was that the issue lack of Braille learning materials was part of a much larger

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<sup>4</sup> P 51.

<sup>5</sup> P 43.

<sup>6</sup> P 48.

<sup>7</sup> P 70.

<sup>8</sup> “*Left in the Dark: Failure to Provide Access to Quality Education to Blind and Partially Sighted Learners in South Africa*” at p 14.

systemic failure to provide learners with quality education. Some examples of findings include:

- + Schools receive inadequate support from provincial and district departments of education who do not understand what is required for the education of visually impaired learners;
- + Schools receive inadequate funding – many cannot even afford electricity bills for the entire year never mind expensive assistive devices;
- + Teachers are deployed to schools without any knowledge of education of visually impaired learners. Most teachers teaching blind learners cannot read Braille at all and still more who can read “elementary Braille” cannot read “contracted Braille” which learners are supposed to cope with by grade 4;
- + Teachers are not sufficiently supported by necessary non-educator posts such as social workers, house mothers, occupational therapists and specialist positions relevant to these schools such as orientation and mobility practitioners, brailleists and Braille instructors. One school in Limpopo has 60 vacancies for support staff; and
- + Schools lack sufficient computers and technological assistive devices of even the most basic kinds. Many, for example, do not have enough working “Perkins Braille” which educators describe as “*a pen and paper for a blind learner*”.<sup>9</sup>

14. It is our view that Parliament is the appropriate platform to start dealing with a problem of the degree, breadth and urgency. This systemic failure is a collective failure of our constitutional democracy to cater for education of learners with visual impairments and the Constitution’s core democratic institution – Parliament – must be at the core of its solution.

#### **IV. Education for children with disabilities in the Umkhanyakude District of KZN**

15. For several years SECTION27 has worked with an organisation of people with disabilities, called *Siphilisa Isizwe* in Manguzi, which is tucked between KwaZulu-Natal’s borders with Swaziland and Mozambique, to improve access to education for children with disabilities. Currently we represent over 50 parents of children with disabilities from Manguzi and its surrounding areas alone. These parents are for a variety of reasons unable to get access to appropriate schooling for their children.

16. Recently, a group of parents have become so desperate to improve on their children’s education while still being able to keep them nearby that they have begun operating a crèche for 40-50 children with disabilities in Manguzi. The crèche is staffed, funded and operated solely by volunteer parents. Most children who attend it daily are of a school going age and have already attended schools which ultimately could not sufficiently accommodate their disabilities. Lungi,<sup>10</sup> the mother of a nine-year-old-girl with an intellectual and physical disability, says of her daughter: “*She is learning at the crèche. She can count at least up to five now, which she couldn’t do before.*” Lungi’s daughter had spent two years in a

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<sup>9</sup> “*Left in the Dark: Failure to Provide Access to Quality Education to Blind and Partially Sighted Learners in South Africa*” at p 59.

<sup>10</sup> Name changed to retain the mother and child’s confidentiality.

mainstream school and one year at a special school in the Umkhanyakude District before starting to attend the crèche.

17. After successfully ensuring the placement of a previous group of children at Sisizakele Special School through engagement with and threats of litigation against the KZNDoe, it became clear to us that the parents many concerns with the quality of appropriate schooling available to learners with disabilities in special and full service schools could not be solved without a broader, more systemic approach. In the second half of 2015, SECTION27 has thus visited all three special schools and the eleven operational full service schools in the Umkhanyakude District in order to assess the conditions of the schools.

18. Briefly the challenges that have been identified by schools thus far include:

- + Full Service schools regularly do not receive additional allocations for their programs for learners with disabilities. When they do receive the money is insufficient;
- + The learner-teacher ratio is not calculated having any regard to the fact that the school caters for children with disabilities, who are integrated in ordinary classes, some of which have over 50 learners and one unassisted teacher;
- + None of the schools have permanent specialised Learner Support Educators. Some do not even have Learner Support Assistants (a position which only requires a matric qualification);
- + The curriculum is inflexible and curriculum differentiation is left up to schools who without Learner Support Educators lack the capacity to make individual lesson plans and provide the individualised attention learners with disabilities need; and
- + The vast majority of Full Service Schools receive no assistance for learner transport from the KZNDoe. Even learners with disabilities must walk long distances (sometimes crossing rivers or traversing forests and rough dirt roads) to school in the heat or rain every day.

19. We are still in the process of consulting with parents, community members and schools and assessing the conditions of the existing schools. We have requested a meeting with the KZNDoe and the Umkhanyakude District Department of Education to discuss the formation of a plan to move towards improving the conditions at schools in the district. We would like to engage with any organisations present that are working with people with disabilities in KwaZulu-Natal and wish to contribute to this work which we have no doubt exists throughout the province.

## **V. Conclusion**

20. The situation is dire and it is systemic. So how can NGOs help? First, we need to make an effort to understand disability correctly in all its diversity. This cannot be done from our air-conditioned offices it can only be achieved in discussion with communities and people with disabilities.

21. Second, we must ensure that our organisations hire people with disabilities and furthermore that all of our work areas take into account the special needs of people with disabilities. If we are working on access to textbooks we must consider the needs of people with print disabilities. If we are working on access to transport we must consider the special challenges that people with disabilities have in accessing it. Many, if accommodated at all by public transport pay twice at the moment – once for themselves and once for their guide or chaperone. If we are working on infrastructure – unlike the Norms and Standards – we must consider universal design as an immediate imperative not just a “nice to have”.

22. Third we must earn the trust and respect of people and communities with disabilities who are used to being treated as victims with no agency and even sometimes being exploited by NGOs that claim to help them. Three examples from a recent Disability Indaba in Manguzi will illustrate this point. Members of *Siphilisa Isizwe* made the following observations:

*“There are existing policies. They say good things. Theoretical things. Do they implement them. No. They only write nice theories.”*

*“I only wish the doctor who makes our medical assessments for social grants was a black person. Because she does not understand our issues.”*

*“You [NGOs] must not take photos of us here. You will just show other white people who will say ‘look at the monkeys!’. You won’t assist us with anything.”*

23. It is perhaps easy for well meaning NGOs to forget the primary importance of what is not only a slogan but an animating philosophy of disability rights activism in South Africa: *“Nothing About Us, Without Us!”*. Even more than in other areas of our work we must be careful to consult with and empower people with disabilities but at their own request and on their own terms. This in particular makes it imperative both for our organisations to hire people with disabilities and also to enter communities with our own philosophy ringing through our minds *“Nothing For You, Without You!”*.