To: Portfolio Committee and Select Committee on Women, Children and People with Disabilities
Parliament of RSA
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SUBMISSION TO PORTFOLIO COMMITTEE AND SELECT COMMITTEE ON WOMEN, CHILDREN AND PEOPLE WITH DISABILITIES:
IMPLEMENTATION OF THE UN CONVENTION ON THE RIGHTS OF PEOPLE WITH DISABILITIES & OPTIONAL PROTOCOL
SUBMISSION TO PORTFOLIO COMMITTEE AND SELECT COMMITTEE ON WOMEN, CHILDREN AND PEOPLE WITH DISABILITIES: IMPLEMENTATION OF THE UN CONVENTION ON THE RIGHTS OF PEOPLE WITH DISABILITIES & OPTIONAL PROTOCOL

Dear Committee Members

We commend the Portfolio Committee and Select Committee on Women, Children and People with Disabilities for inviting representations and submissions on South Africa’s successes, challenges and possible solutions with regard to implementing the United Nations Convention on the Rights of Persons with Disabilities (the “Convention” or CRPD).

In this submission, we highlight and consider various aspects of the Convention pertaining in particular to –

- children with disabilities and protecting persons with disabilities from sexual abuse; and
- access to education for children with disabilities

by way of assessing where South Africa has managed to implement national legislation and policy to give effect to the Convention and the areas in which effective implementation is still necessitated.

We would like to note that it is not possible to provide a thorough submission as required by the myriad of issues affecting persons with disabilities, children with disabilities in particular, given the time period permitted for submissions. This does not constitute effective public engagement given the prescribed time period as it does not provide sufficient time to adequately address the issues impacting persons with disabilities and as such, allows only for the provision of broad submissions. Given the intersectionality of issues affecting persons with disabilities, an extended time period must be prescribed in order to seriously engage the public opinion. The discourse on the challenges of protecting and promoting the human rights of persons with disabilities, as prescribed in the Convention, necessarily implicates issues regarding youth, education, gender, health and social services, labour, discrimination, sexual violence, access to justice, international law, and the national legal system. Given the interconnectivity, complexity and gravity of the issues affecting persons with disabilities, within both the domestic and international context, we strongly encourage you to consider a subsequent opportunity for submissions.
EXECUTIVE SUMMARY OF SUBMISSION:

PROTECTION OF CHILDREN WITH DISABILITIES FROM SEXUAL ABUSE

In the course of this submission we will set out scenarios experienced in Orange Farm that illustrate that sexual abuse of CWD is underreported and increasingly difficult to effectively report. Reasons for this include that the capacity of CWD to report sexual abuse, as well as to correctly recall and relay details of such abuse as complainants and witnesses, is not sufficiently recognised and limited to no accommodation of CWD is made by State institutions. Further to this, the few cases that CWD manage to report very seldom, and in fact in our experience in Orange Farm never, lead to a conviction. As a result of this underreporting there is a lack of precedent development on sexual abuse cases of CWD and the issues specific to complainants and witnesses with disabilities and sentencing of perpetrators against CWD. Coupled with this, CWD who manage to negotiate the highly inaccessible system of reporting and prosecuting abuse remain intimidated by family members of the accused, together with the fear of the accused being released on bail back into their community. As a whole, police, health, social development and justice services are not disability sensitive and a lack of proactivity and urgency in carrying out their legislated role of protecting these vulnerable children is endemic to Orange Farm.

ACCESS TO EDUCATION FOR CHILDREN WITH DISABILITIES

Studies indicate that half of the school-going aged CWD in Orange Farm are not enrolled in school. Our experience confirms this. Our specific findings are that local schools are not inclusive; cost of sending a CWD to school is far greater than that of local Orange Farm-based schools particularly due to schools suitable for CWD being far away. As such, transport becomes a financial and logistical barrier. From the point of a CWD being of school-going age, the process of finding a school placement is difficult to negotiate and impractical due to a lack of coordination between Government Departments. On a basic level, for the parents who do manage to advocate for their CWD to be placed in an appropriate school, negative attitudes based on a lack of training on Disability Rights creates a further barrier. A final issue is that once placed in schools, abuse or poor treatment of CWD has been experienced. We illustrate the above using actual case studies.
1. PARTICULARS OF THE PARTIES MAKING THIS SUBMISSION

1.1 *The Afrika Tikkun Empowerment Programme: Children with Disabilities and their Families* ("the ATEP")

The ATEP is a Community-based Rehabilitation programme, initiated by national non profit organization, Afrika Tikkun. The pilot phase of the ATEP is currently being carried out in Orange Farm, near Johannesburg, Gauteng. The ATEP has catalyzed the development of a Self-help Group consisting of about 40 active members- either children (CWD) or youth with disabilities or caregivers of people with disabilities (PWD).

1.2 *The Centre for Applied Legal Studies ("CALS")*

CALS is a civil society organisation based in Johannesburg, South Africa. CALS was established in 1978 and has been one of the leading human rights research, advocacy and strategic litigation organisations in South Africa. CALS has five programmes of focus, namely, basic services, gender, rule of law, education and environment. CALS' work in basic services, sanitation and gender are the basis for this intervention. Its vision is to dismantle the systemic harm within our society and to act rigorously for justice within South Africa and its continent. Its mission is to use the law to achieve justice, to facilitate the development of a politically and economically just society through research, advocacy and litigation and to act with courage against impunity.

1.3 BACKGROUND TO PWD IN THE ORANGE FARM COMMUNITY, GAUTENG

1.3.1 Orange Farm is a large township, 50km south of Johannesburg. Estimates of population size vary between 170,000 (City of Johannesburg 2011) and 672,000 (Ford-Shubrook 2007). Orange Farm is characterised by extreme poverty, high unemployment, geographical isolation from opportunities in greater Johannesburg, infrastructural underdevelopment and civil disobedience (City of Johannesburg 2011). Most inhabitants live in corrugated iron shacks or small houses, with limited sanitation. There are 6 health clinics but the closest hospitals or specialised medical and rehabilitation services are situated in Soweto, 30km north. There are 39 schools serving the area, however, Region G of City of Johannesburg is home to just two special schools. One informal and two formal care centres for CWD exist. Accommodating less than 80 children in total, they

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1 Afrika Tikkun is an established Orphans and Vulnerable Children Non-Governmental Organisation (NGO). It runs a variety of programmes from community centres built in 6 South African townships.
are over capacity and have long waiting lists of CWD requesting admission (Elphick 2010).

1.3.2 Registers of CWD are not kept in this area. It is difficult to establish how many CWD live in the township. One study conducted in OF in 2002 identified 156 CWD (Saloojee et al. 2007). The 2001 Census suggested that there were as many as 3000 CWD of school-going age in OF (Ford-Shubrook 2007). Because children with HIV have been shown to have significant language, motor and cognitive developmental delays, it is reasonable to expect that the prevalence of children requiring intervention has increased and will continue to escalate (Bailieu &Potterton 2008).

1.3.3 In understanding PWD and CWD in Orange Farm, it is vital to keep in mind the intersectionality and layered discrimination they face. In South Africa, poor PWD, particularly girl children, constitute an especially vulnerable group. Convention Article 6 acknowledges this “multiple discrimination” faced by women and girls with disabilities, exacerbated by the added grounds of race and poverty relevant to CWD in Orange Farm. There are distinct intersections between socio-economic status, race, age (childhood) and gender that influence social and political structures. “Evidence... provides powerful testimony to the fact that, whilst all children experience discrimination in the exercise of many rights, there is a double jeopardy facing disabled children, a jeopardy compounded further for (South African) non-white disabled children.” (Landsdown, 2002).

1.3.4 Children are conventionally regarded a vulnerable group of persons in need of particular promotion and protection. A theorisation of the link between children, gender, poverty and disability yields the conclusion that poor, black children with disabilities, especially poor, black girls with disabilities, should be regarded as a particularly vulnerable group and one of the most marginalised and vulnerable groups in South Africa, and therefore deserving of certain legislative and policy attention.

2 KEY ISSUES IDENTIFIED BY ATEP AFFECTING CWD AND THEIR FAMILIES: ENDemic SEXUAL ABUSE OF EXTREMELY VULNERABLE PEOPLE WITH DISABILITIES & DENIAL OF ACCESS TO EDUCATION FOR CWD

2.1 Despite the signature of the CRPD, and South Africa having what is hailed as one of the most enabling Constitutions in the world, South African PWD
continue to live in circumstances which constitute human rights violations. “Full enjoyment of all human rights and fundamental freedoms” and ‘inherent dignity’ as contemplated by the Preamble to the Convention remain highly theoretical when the daily lives of PWD and their families are characterized by discrimination and injustice.

2.2 We herewith provide testimony of our experiences in representing PWD, who have not only been treated in a degrading manner, but also suffered horrific abuse, including sexual assault, and widespread instances of a denial of access to education. We refer to case studies of structural discrimination and attitudinal barriers encountered when attempting to access solutions to these issues by the ATEP advocating on behalf of CWD.

2.3 The anecdotes and case studies below are gathered from just 9 months of ATEP’s existence in Orange Farm. We have discovered a critical situation that combines extremely vulnerable children and youth with disabilities (a vulnerability which is exacerbated by their not being placed in schools), silent, unresponsive communities, discrimination and failing child protection mechanisms that are in any event, not sensitive to the needs of CWD.

3 ENDORSEMENT BY OTHER ORGANISATIONS

3.1 On 16.07.2012 the ATEP jointly hosted a strategy session on sexual abuse of CWD in Orange Farm with Werksmans Attorneys. The following organisations were represented:

3.1.1 Africa Tikkun;
3.1.2 Lawyers Against Abuse (LvA);
3.1.3 Centre for Applied Legal Studies (CALS), University of Witwatersrand;
3.1.4 Centre for Augmented and Alternative Communication (CAAC), University of Pretoria;
3.1.5 Centre for Disability Law and Policy, University of the Western Cape;
3.1.6 Childline;
3.1.7 Department of Further Education, University of South Africa;
3.1.8 Johannesburg Child Advocacy Forum;
3.1.9 Teddy Bear Clinic;
3.1.10 Wits Reproductive Health and HIV Institute, University of Witwatersrand;
3.1.11 Institute for Child Witness Research and Training; and
3.1.12 Women and Men Against Child Abuse.

3.2 The overriding sentiment of the strategy session was that rather than improving, the situation for CWD in the specific areas of sexual abuse and access to education is getting worse. The concern of all present, which represented a wide range of sectors, was that Governmental Justice, Health,
Social Development, and Education departments, as well as the South African Police Service, are not adequately coping with the situation.

4 CASE STUDIES ON SEXUAL ABUSE OF CHILDREN WITH DISABILITIES

4.1 Convention Article 13: Access to Justice

4.1.1 It is our experience that the community, perpetrators of abuse, as well as those professionals and government officials we have encountered who are assigned with the role of supporting victims of abuse and helping them access justice, perceive CWD as being different from everybody else. Despite policies that support equality and mainstreaming, we have found that attitudinal barriers and structural discrimination abound, despite the Convention’s specific stipulation that access to justice for PWD should be “on an equal basis with others”.

“The danger is that when (sexual abuse) occurs among such a population (as CWD) their safety is even more compromised, not least because of incorrect assumptions that they do not experience the same emotions as their nondisabled counterparts. Some believe that people with intellectual disability do not mind abuse because they do not regard it as abusive.” (Phasha, 2012, pg 310).

4.1.2 These incorrect assumptions are commonplace, despite the State’s obligations set out in Article 8(1)(b) of the Convention “to combat stereotypes, prejudices and harmful practices relating to persons with disabilities”.

4.1.3 In addition to these sentiments we have also often heard comments that indicate the belief that CWD cannot be trusted to recount accurately what happened, or believed. This is in direct contravention of what is envisaged in Article 13(1) of the Convention, being that States should facilitate the “effective role as direct and indirect participants, including as witnesses, in all legal proceedings, including at investigative and other preliminary stages”.

4.1.4 In Orange Farm, the ATEP have experienced that:

4.1.4.1 Sexual abuse is underreported

Some victims reported that they don’t see the point of reporting because they don’t trust that justice will be served (ATEP Self-help Group members, May 2012)

“In May 2012 following a community meeting in Orange Farm a resident approached me after I made a speech. She told of a family in the township who lived near her. “There is a 13 year old girl who lives there...she is disabled, she doesn’t go to school...everybody knows she is being raped all the time by her brother but nothing has been done” she told me. “No, I would never report myself”. She felt that even if she did report to the Police and the brother was arrested, he would soon be back home, and everyone would know that someone had told on. She felt this would place her, and potentially the child in more danger.” (J Elphick, Orange Farm Ext 1, May 2012)
4.1.4.2 Sexual abuse of children with disabilities is increasingly difficult to report

“In November 2011 one of the care workers brought a 10-year old boy to us. He is from a child-headed household near Orange Farm, and his only caregiver is his older brother. He has a mild mental disability but can talk and explain events in detail. Since his parents died he has not been to school. When attempting to report that he had described being sodomised by his older brother we were told that without physical evidence (like sweat or semen swabs) it would not be possible to make a case. They were referred to a local NGO that could provide a medical examination. As it was, on that day, he was clean and there were no physical symptoms. From there the child was referred again to a third place, a clinic some distance away, for further psychological services. This was because the NGO psychologists and social workers did not feel qualified to help because of his mental disability. This was expensive and impractical and so for months nothing happened.

When we followed up by making a formal statement to the police in June it was advised that we bring him to the police the next time he gets raped to collect evidence. Since then we have used email to follow-up with the FCS. We are still unsure, 6 weeks later, whether an enquiry has been opened or if any investigation has been made. The witnesses whose contact details we supplied have yet to be contacted.” (Orange Farm, 16 July 2012)

4.1.5 The capacity of CWD to report sexual abuse and correctly recall and relay details of such abuse as witnesses is not sufficiently recognized and limited to no accommodation is specifically made by the SAPS for this purpose

“They don’t take our stories seriously because we are slow learners” (ATEP member talking about trying to get help for her friend, May 2012). She is a 13-year old girl with mild to moderate mental disabilities has been raped by more than one man repeatedly. It appears that this situation persists. The situation has been reported to the police on 3 separate occasions. It was also reported to the local Department of Social Development social worker. The case was investigated and closed earlier this year. The investigator explained that the prosecutor did not take the case to trial because, ‘there was no eye witness, there was no DNA evidence and according to a psychologist’s report she ‘has the mind of a 5 year old’. (Orange Farm, July 2012).
4.1.6 **All cases that were reported that we are aware of have not yet led to conviction**

4.1.6.1 Members of the ATEP have never heard of any abuser of a CWD being convicted or going to prison in the Orange Farm area. This creates a sense of mistrust in the system and legal structures in place and effectively becomes a deterrent against future reporting, because PWD ask themselves – what is the point?

4.1.6.2 Another result of there being few cases that have successfully been moved through the justice system, is a lack of case law and precedent on how to cope with difficult cases, such as how the evidence of a child with a verbal communication difficulty must be relayed to the court.

4.1.7 **In every case where the rape was reported, the perpetrator has been seen back in Orange Farm by the victim**

4.1.7.1 When one of our clients, a girl with a mild mental disability, reported being raped to the police in 2010 she did everything correctly. She went straight to the Orange Farm police with her mother. She supplied her torn bloodied clothing, had a Rape Kit completed along with a medical examination, and provided the address where the accused lives. Incidentally the same house that the accused’s mother operates play-school out of. The police documented that they tried to arrest him 4 times but he was never home. The investigating officer admits they stopped trying, but showed us on the docket that the case is still open. Two years later the victim still sees her rapist often. He has never been arrested or tried. (Orange Farm, May 2012)

4.1.8 **Bail is set very low and there is little to no communication of bail conditions to the complainant**

4.1.9 As such, the complainant is not aware that while out on bail, the accused is not entitled to approach and/or intimidate them to withdraw the charges. Instead of being made aware of this protection to allay these fears, the victim becomes victim a second time.

“A young woman with physical disabilities was raped late last year. A few weeks later the perpetrator was briefly arrested. Shortly after, she saw him walking in Drieziek near her home. His mother came to her house and offered to buy her a stove if she dropped the charges. The rapist’s sister continues to visit her house. We discovered when we went to court in early this year that the accused was out on R1000 bail. The victim was not aware of her rights nor were the conditions of his bail explained to her. The case was postponed from April to July and then it was postponed a second time. Thus the trial has yet to begin. The accused continues to walk free.” (Orange Farm, July 2012)

4.1.10 **Family members of the perpetrator or the general community intimidate the victims**
"A mother told a girl with a mental disability that it was pointless trying to report her son for repeatedly raping her, because he was a Sangoma and would “never go to prison”. She was intimidated but reported to the Police herself. The perpetrator was briefly arrested, but released a short time later. He lives near the victim, and it appears that the sexual abuse continues. After investigation by the police the case was closed.” (Orange Farm, June 2012)

4.1.11 Information on any form of public assistance, support services or facilities provided by government departments remain very difficult to access by PWD or families of CWD

It took 18 phone-calls to the FCS and Orange Farm SAPS to arrange to report the rape of CWD- without determination and something as practical as cell phone airtime, those crimes would not have been reported. (Orange Farm, July 2012)

4.2 Convention Article 15: Freedom from Exploitation, Violence and Abuse

4.2.1 Article 15 of the Convention manifests in our national legislation in the form of Section 12 of the South African Bill of Rights, which details that people have the right to live free of violence, and forbids cruel, inhumane or degrading treatment of our citizens.

4.2.2 In addition to this, Section 28 of the Bill of Rights states that children have the right to be protected from maltreatment, neglect, abuse and degradation. Proactive protection from abuse, and follow up of community allegations that abuse may be occurring simply does not appear to be happening, despite the legislative framework in place.

4.2.3 Thus far the ATEP’s experience in Orange Farm has shown:

4.2.3.1 Police, health, social and justice services are not disability-sensitive:

4.2.3.2 While the court preparation officer and child witness room were impressive, it was clear that the court staff had little to no sensitivity or training around access to justice for PWD, and those with mental disabilities in particular. For instance, court officials kept using derogatory terms like “retarded”. (Orange Farm, July 2012)

4.2.3.3 Child protection agencies are under resourced and face similar challenges to those faced by ATEP:

The private sector is relied upon to provide specialist services required for protecting, advocating for and assisting CWD to access justice. Because of this, services are not equitable or accessible. We have a single CWD who have been referred to 2 different NGOs in Orange Farm, as well as to a 3rd either in Soweto or Braamfontein (both of which are prohibitive due to transport logistics), in order to access services that the State
has the obligation to provide to victims of child abuse. (Orange Farm, November 2011)

4.2.3.4 Lack of proactivity and urgency by the State authorities in carrying out their legislated role of protecting children in potential danger by the authorities.

The State is not taking all appropriate measures to protect PWD from exploitation, violence and abuse, nor have we experienced measures to prevent, in particular, violence against CWD.

“It is exactly 5 weeks to the day after I reported 3 rape cases of CWD, and 1 suspicion of abuse of CWD to the Orange Farm police and the FCS. Although I have had contact with the Lieutenant Colonel in charge of that FCS unit, it has still not been made clear to me what has happened. No cases seem to have been opened, I am unsure of the status of any enquiries that may have been opened and I have not heard from any of the witnesses that they have been contacted yet.” (J Elphick, 17 July 2012)

“We cannot make investigations and open cases based on rumors” (FCS Officer responding to reports that a mother of a child with mental and physical disabilities stopped sending her child to school because she suspected the taxi driver of abusing her. The driver reportedly always fetched her child very early and before all the other children. After a while the child started having tantrums when the driver arrived and refused to get into the taxi with him anymore. For a while the mother delivered her child to school personally, but that became too expensive and time consuming. The child has not attended school this year. The taxi continues to drive children with disabilities to school in Sebokeng daily, June 2012)

4.2.3.5 Lack of CWD-specific protection and advocacy training within organizations dealing with child abuse.

4.2.3.5.1 Many feel their staff are ill-equipped to cater for CWD. This leads to repeated referrals of child and caregiver, often resulting in them giving up trying to get help. In addition there is scant evidence of coordination between the Departments of Justice, Health, Social Development and Education and the SAPS. This also results in endless referrals- child and caregiver are shunted from pillar to post in endless pursuit of justice.

“A boy with mental disabilities was not accepted for counseling or court preparation services at a local Orange Farm NGO for child rape victims on the basis of his mental disability. On the referral letter they gave his care worker from Arekopaneng, it quoted the reason that they could not assist him was that he was "mentally disturbed". (Orange Farm, November 2011)
4.2.3.6 **Disregard of cases that happened a while ago, or that have lost physical evidence or of cases of sexual abuse that did not involve penetration**

“When reporting rape cases of CWD I was told that without physical evidence of the perpetrator, like blood, sweat or semen, it would not be possible to open a case. I wondered how we would collect that evidence if the child had been sexually abused, but not raped.” (J Elphick, Orange Farm, June 2012)

4.2.3.7 **Failure of parents and caregivers to protect their children, report abuse or follow up on cases that were reported**

“After I went to report with my mother in 2010, she passed away. Since then the man has not been arrested for raping me. Now I live with my aunt and she doesn’t want to support me in going back to the police station to check on my case. I feel alone.” (20-year old ATEP Self-help group member with mild mental disability, May 2012)

4.2.3.8 **Disregarding child-on-child rape as sexual assault**

There is a young girl with mental disabilities that we know has been raped. Now she has had a number of ‘boyfriends’. Some of them are older than her, but are still under 18. There is a general sentiment that because she has ‘consented’ that these inappropriate relationships do not constitute sexual abuse or rape. (Orange Farm, July 2012)

4.2.3.9 **A general sense of acceptance and complacency of the situation**

Since the inception of the ATEP, a flood of rape and abuse cases have been disclosed to us. In some cases community members are aware of an abused child but are reticent to get involved, or publically take action. The accused are seldom detained for long even when they are arrested. When they return to their communities those who reported them feel threatened. Neighbours, NGO workers and sometimes even family members remain silent witnesses rather than endanger themselves by reporting the situation, in most cases unaware that their inactivity makes them complicit in the abuse. (J Elphick, July 2012)

5 **CASE STUDIES ON DENIAL OF ACCESS TO EDUCATION FOR CWD**

5.1 *Convention Article 24: Education*
5.1.1 As a party to the Convention, South Africa has national legislation (as set out in Annexure “A”) that recognizes the rights of CWD to education.

5.1.1.1 Despite South Africa’s inclusive education policies and Section 29 of the Bill of Rights, the reality is that large numbers of CWD are excluded from the education system on the basis of disability.

5.1.1.2 This discrepancy between legislation and the practical reality was highlighted by the Western Cape High Court decision of Western Cape Forum for Intellectual Disability v Government of the Republic of South Africa and Another 2011 (5) SA 87 (WCC).

5.1.2 Our experience in Orange Farm illustrates how CWD are being denied the right to access to a basic education and directs us towards possible reasons for this.

5.1.2.1 Research has illustrated how more than half of the school-going age CWD living in Orange Farm are not going to school (Saloojee et al 2006). We attach Saloojee et al’s article as Annexure “B”, as the experiences of ATEP echo the conclusions thereof.

5.1.3 As illustrated by the case studies set out below, ATEP believes some of the reasons for this denial of access to education to be the following,

5.1.3.1 **Local schools are not inclusive**

5.1.3.1.1 Orange Farm falls into Region G of the City of Johannesburg. There are only two special schools in the Region and both are in towns far from Orange Farm. Although there are two full-service schools, they only admit children with very mild disabilities.

5.1.3.2 **Sending a CWD to school costs much more than sending children to mainstream local schools in the community**

5.1.3.2.1 “The cost of transport for the disabled child is more expensive than for their non-disabled siblings. In many cases non-disabled children can walk to school, however, for long distances, when transport is needed, accessible transport may cost more because of multiple fares”. (Ford-Shrubrook, 2007, pg 29)

5.1.3.3 **Schools are far away, and transportation is a financial and logistical barrier**

“After 7 months of trying to find a school for a child with a physical disability, as well as a mild mental disability, we have finally found a school that has space for him and a hostel. The only problem is that the school is in central Johannesburg- a long way from Orange Farm. What options do we have? To start, his mother will have to fetch him on Friday afternoon and take him back on Sundays, using public transport. His wheelchair doesn’t fold so that would involve her carrying him on her back to the taxi rank in Drieziek. Then they will have to take 2 taxis: first to Bree St in the City, then a second up Jan
Smuts. From there she will have to carry him again. The cost of this to the child’s mother will be R96 every week. In addition, she will not be able to work on Fridays, and will have to find someone to look after her younger daughter while she makes the commute.” (Orange Farm, July 2012)

“Many schools do not offer transport due to lack of funds, or are reluctant to send buses to Orange Farm”. With regard to transportation of CWD to far-off special schools there are “three main areas of concern: availability, appropriateness and affordability” (Ford-Shrubrook 2007, pg 27)

5.1.3.4 CWD were turned away from local mainstream schools when their families first tried to admit them or were excluded from local crèches or day-care from when they were very young on the basis of their disability.

“When I took SV to P Primary School when he was 6 years old they could see he was different and they didn’t even let me write on their forms. They just say that SV can’t come there. I didn’t know what to do so he was at home. So then I heard about this school in Sebokeng on Thetha FM. I went there and he was welcomed. He started there and I took him with the taxi every day. But it was too expensive. Now he is just by the house always” (ATEP Self-help Group member and mother of SV. The ‘school’ he attended in Sebokeng was actually a private stimulation center, and thus SV, now 12 years old, has never started school.)

5.1.3.5 CWD are unable to find a school placement to start school

“The Education system is near impossible for a mother from Orange Farm with limited resources to navigate. Mother and child are sent from pillar to post to first collect all the necessary medical documentation often from multiple hospitals and clinics on multiple occasions. Often they have to try repeatedly to get an appointment and assessment done, for instance by an OT or educational psychologist. At the local clinic the waiting list dictates that the soonest appointments available are sometimes months away. Then once the assessments are gathered the child needs to see the district Department of Education educational psychologists for assessment and the issue of an LSEN number and a list of recommended schools. From there the mother travels to each of the recommended schools, often as far away as White City or Sebokeng- all without Google Maps, a car or airtime. Often once the child is on the waiting list, the mother never hears from the school again. Sometimes the child is asked to come back for an assessment. It is an endless, hopeless battle.” (J Elphick, July 2010)
Since we started trying to help caregivers navigate the system to get their CWD into Grade R or Grade 1, we have yet to have child spend even one day in a classroom. And that is not for lack of trying. (ATEP)

5.1.3.6 Lack of information for families of CWD about how to apply for school

5.1.3.7 Failure of the Department of Health for young children under 6 years old

In order to apply for school CWD require the assessments of health professionals including doctors, occupational therapists and educational psychologists. None of this is coordinated, and it doesn’t appear to be anybody’s mandate to ensure that children have been through the correct process by the time they reach school-going age. When a CWD starts the process of acquiring these assessments from scratch, it takes months. (J Elphick, Orange Farm)

5.1.3.8 Negative attitudes

“One of my friends Judy told me to go and look for a school for a space for my child at Thabo Vuyo School. To my surprise when I get there I find the reception she is so rude. She started questioning about who had told me about the school and that they don’t take children from Orange Farm...The way she behaved she really disappointed me” (extract from a complaint letter written by a ATEP Self-help Group member who has still not found a school for her son with a mental disability)

5.1.3.9 Abuse or poor treatment in schools, day-care or on the transport to get to school

“When I get that call I just run to the school. When I get there they just put him in the corner and wipe up the blood. His face was swollen... They say “I didn’t see I was in the kitchen“, “I was in the office“, “I was in the loo”. Nobody was ready to explain to me what really did happen to my child.” (Mother of a child with multiple disabilities who was injured at a day-care facility, Orange Farm, 2010)

5.1.3.10 CWD born to foreign parents

ATEP has experienced CWD from neighbouring states resident in Orange Farm who are not accessing any services whatsoever. ATEP requires training as to how to advise them in respect of the services to which these children are entitled and how to access them. There are no specific advocates for the rights of these often refugee or stateless children, whose vulnerability is heightened by their being disabled.
6 RECOMMENDATIONS

In closing, we would like to make some recommendations that we agree will assist this sector to better realise the ideals promoted by the Convention.

6.1 Empowerment of CWD and their Families

6.1.1 We endorse the Community-based Rehabilitation (CBR) methodology for empowering CWD and their families. CBR has emerged as an accepted approach and practical strategy for improving quality of life and the realisation of rights of PWD in developing countries (Cornelije & Bogopane-Zulu 2007; Lang 2011). It is a “strategy within general community development for the rehabilitation, equalisation of opportunities, poverty reduction and social inclusion of PWD. CBR is implemented through combined efforts of disabled people themselves, their families and communities, and with appropriate health education, vocational and social services” (WHO 2010a, p.11).

6.1.2 We would like to call for Government cooperation and partnership in our and other similar programmes

6.1.3 We would further like to call for Government assistance in replicating and national roll-out of victim empowerment programmes for people with disabilities, such as the SAVE programme in the Western Cape.

6.2 Better intersectoral collaboration and communication

6.2.1 We feel it is vital for the State Health, Justice, Social Development and Education systems to better communicate and work together for PWD. In both cases of abuse and for CWD trying to start school, no system takes full responsibility and follows each individual through the process required for that individual to access their rights from birth to school-going age. In the whirlwind of repeat referrals, many CWD slip through the cracks and remain invisible. We would like to call for better collaboration and focused attention on CWD within all these systems.

6.2.2 It is suggested that as a pilot intervention in Orange Farm to manage the required collaboration of Government Departments, a database of CWD in the area be developed to monitor and evaluate the progress of CWD from their entry into the Health Department and continuation into Departments of Social Development (including access to care dependency grants (CDGs)) and eventually at the age of 6 the Department of Education. Interaction of the CWD with the systems of the Department of Justice should also be recorded so as to maintain a complete picture of the access to and delivery of these services, which are recognized and mandated by the Convention and national legislation.
6.3 **Investment in education for CWD in Orange Farm**

6.3.1 We are aware of hundreds of CWD living in this area that cannot access an education. In addition to the continued roll-out of the inclusive full-service schools in the township, we assert that the need for a dedicated training-centre/ special school is critical. Failing this we would call for assistance with safe, affordable, accessible transportation solutions for isolated communities of CWD that need to access far-off schools.

6.4 **Training for State officials in how to make services more Disability-friendly by PWD or family-members of PWD**

6.4.1 There is an urgent need to address the attitudinal barriers that exist in our society, and public service, that exacerbate disability. We call for PWD or family-members of PWD to be called on for providing training and sensitisation on disability issues, the rights of PWD and how to make services more disability-friendly.

7 **CONCLUSION**

7.1 In conclusion, we would like to reiterate that the situation facing PWD with regard to sexual abuse and access to schools is unacceptable and constitutes gross infringements on PWD’s most basic human rights. We urgently call for this situation to be accurately reflected in the report to be submitted to the United Nations.

7.2 ATEP believes that the national legislation ensuring the protection of PWD and CWD is extensive and that legal structures do exist to allow the exercise of these protected rights. However, the mechanisms that facilitate the implementation of the statutory rights are not disability-sensitive and practical experience often differs vastly to law and policy.

7.3 Environmental (including Government systems and services) and attitudinal (including those of civil servants and wider society) barriers remain unconstitutionally disabling for members of society who have already been acknowledged as the most vulnerable.

On behalf of the Empowerment Programme Self-help Group and CWD in Orange Farm
Yours in inclusion

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