

# Disabled People South Africa

Fund-raising Ref. No. 01 100461 000 7

NOTHING ABOUT US  
WITHOUT US

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## SOME NOTES ON THE POSITION OF BLACK DISABLED SOUTH AFRICANS UNDER APARTHEID

All over the world, the focus on disability issues has shifted away from a charity / welfare perspective to a view which emphasises the right of disabled people to equal opportunity and development.

There have been many reasons for this change, the most obvious being the failure of the charity / welfare approach to significantly affect the position in society of the vast majority of disabled people. After 100 years of charity, most of the world's 500 million disabled people still lead lives characterised by poverty, powerlessness, and under-development, and nowhere is this more evident than in apartheid structured South Africa.

The vast majority of disabled people in South Africa find themselves doubly discriminated against, in the first instance on the grounds of their disabilities, and then also for their race as a result of apartheid policies and practices.

In South Africa, even causes of disability are race related. Whereas the major causes of disability in the white population compare with those of affluent western societies (road accidents, sports injuries etc), Black disabilities are caused primarily by violence associated with the poor socio-economic circumstances of the apartheid townships as well as by the violent repression of resistance to apartheid. It is well known that thousands of people have died in political violence in South Africa in recent years. What is less recognised is that, according to reputable international estimates, for each person killed in such violence, at least three are permanently blinded, paralysed or otherwise disabled.

Once disabled, Black people face inadequate rehabilitation and health services in apartheid hospitals and then are discharged back into the same conditions of deprivation and discrimination which led to their injuries in the first place and where there is little or no follow up and aftercare.

There are chronic housing shortages in Black townships (purposely created by the authorities as a means of discouraging urbanisation of Blacks) which are made worse for disabled people because of the smallness of the houses and overcrowding.



Page Two.

Levels of education among Black disabled people are low as a result of the notoriously inferior 'Bantu education system' as well as the fact that many have had their formal education interrupted by medical treatment and other factors. When a family lives in poverty, it does not devote its scarce resources to the education of those least likely to bring an income in future.

Furthermore, South Africa still follows a policy of 'special' education for disabled people, whereby schooling takes place in segregated institutions. Mainstream schools are discouraged from accepting disabled children in favour of special schools which are in short supply, with the result that many do not receive any formal education at all.

Most disabled people are unemployed as a result of prejudice, inadequate training, and inaccessibility of transport and buildings.

Disabled people are generally excluded from such critical development inducing life experiences as decision making and normal social interaction. They sit at home alone while their peers go to school and work, fall in love and marry.

The net effect of all these factors is that the disabled community in South Africa are arguably the most disadvantaged of all in respect of education, health, housing, employment and social interaction.

The classic response to the relative deprivation and underdevelopment of disabled people has been the sporadic and piecemeal establishment of services and projects in which disabled people themselves have no planning and management role.

A 'special' school here, an institutional 'home' there, and a sheltered workshop somewhere else, projects which arguably lead only to further isolation and underdevelopment of the very people they are designed to benefit, have been the norm.

Traditionally, disabled people have been thought of as a very small sector of the population whose needs are best taken care of by the charity/welfare sector.

This perception began to change when, during the International Year of Disabled Persons (1981), the World Health Organisation estimated that the average number of disabled people in any country was as high as ten percent of the population. The South African Department of Health and Welfare, usually known for its conservatism, has put the figure of disabled people in South Africa as even higher than the international average, at over twelve percent.

Clearly, the myth of disabled people comprising an insignificant portion of the population could no longer be sustained.



Page Three.

Furthermore, as more and more disabled people have come together in their own organisations both in South Africa and internationally, traditional responses to disability have been increasingly challenged. The disability rights movement has contributed significant understandings to the disability debate, viewing disabled people as a marginalised group in society, whose right to equal opportunity and full participation can no longer be denied and must be addressed by the core power structures in any country, rather than as an afterthought by the charity/welfare sector.

As with so many issues in South Africa, the undemocratic nature of Apartheid society has not favoured the development of 'marginal' concerns, ranging from the rights of minorities to the protection of the environment. Furthermore, the quest for the rights of disabled people has necessarily been eclipsed by the struggle against Apartheid, a struggle which DPSA, recognising apartheid as the greatest handicap faced by its members, has always supported. As the country now moves towards real democracy, disabled people in South Africa are all the more aware of the need to strengthen their democratic base, both in terms of numbers and quality, so as to seek their liberation also.

#### SOME NOTES WITH SPECIFIC RELEVANCE TO DEAF BLACK SOUTH AFRICANS

The central problem of all deaf people in South Africa is that the regime does not recognise their basic rights. The education policy such as it is is based on a 'hearing' curriculum. The language of the deaf community (sign) is not recognised.

For Black deaf people, the problems and disadvantages are far more severe. Examples are as follows:

1. The average early identification of deafness in respect of White child is at age 15 months. For Black children the age is 6 or 7 years. This disadvantage is only fully understood when one considers that the psycho-linguistic processes which result in language acquisition are only effective up to the age of 5 years. Thereafter there are physiological changes in the child which make the learning of language very slow.
2. While the government has only now agreed to fund limited programmes of preventative outreach by the National Council for the Deaf aimed at identification of deaf children, they refuse to fund the necessary language development treatment programmes which must follow identification. Treatment facilities which are available are extremely expensive and located at distant urban centres so that they are only affordable to the very rich. This of course excludes effectively all Black people who simply do not have such resources.
3. Only very recently has it become legally possible for White schools for the deaf to accept Black students. (It is inconceivable that White children would want to attend Black schools because of the poor facilities available) Discretion in this matter remains largely with the White school authorities.



Page Four.

White schools are generally well provided for in terms of equipment and specialist staff (audiologists, hearing aid technicians etc). Only two Black schools have access to such specialist staff but even then they are in part-time posts.

There are no Black schools for the deaf which offer education beyond std 5. Consider the implications for deaf people's access to tertiary education. Existing schools have waiting lists longer than the current pupil populations. This means that many deaf children never enter schools. The implication for deaf children goes way beyond the question of access to education. It literally means that they do not develop language !

4. The government provides no assistance at all with the purchase of hearing aids, absolutely essential equipment for so many deaf people. There is no local manufacture of hearing aids in SA and they are therefor all imported. Because of poor exchange rates, they are very expensive in SA and are beyond the reach of Black South Africans.

5. One group of Black deaf people which joined Disabled People SA felt so rejected by society that they wished only to isolate themselves totally by establishing a hostel/workshop on a farm away from the hearing community. They came to this conclusion based on their experiences of exploitation by employers and landlords, rejection by their families and neighbours and even widespread sexual abuse of the women members.

Members of the Danish Association for the Deaf will be interested to know that Disabled People South Africa is developing a partnership programme with our Danish counterpart, DE SAMVIRKENDE INVALIDEORGANISATIONER.

We would be very interested in facilitating a similar partnership between the South African National Council for the Deaf and the Danish Association for the Deaf. We believe that we could play a constructive role in such an exercise. We have great respect for the SANCD's work and have to compliment them on their success in bringing deaf people into their management in recent years (deaf people are currently in the majority on their Council's management structure). We are not however satisfied that they have done enough to involve Black African deaf people who would constitute the majority of DPSA's deaf constituency, and we would like to ensure that this issue was given due priority.

MFJWSTON

MIKE DU TOIT  
SECRETARY GENERAL

14 AUGUST 1992



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# The Durban Inn

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# **Draft Charter of Demands of Disabled People of South Africa**

## **Preamble**

**We the disabled people of South Africa,**

**WHEREAS** we have engaged in a substantial process of consultation through a series of workshops, questionnaires and seminars held countrywide, jointly facilitated by Disabled People South Africa and Lawyers for Human Rights, to assemble demands expressed hereunder from disabled people themselves,

**REALISING** the past and present negative social attitudes that have resulted in discriminatory, degrading, exploitative, cruel and unjust treatment committed against us, which in turn has been the cause for denial of our basic human rights,

**REAFFIRMING** our fundamental rights to life, liberty, equality, security, personal safety and all other rights belonging to all people, irrespective of their race, ethnicity, social status, religion, disability, gender or other considerations,

**RECALLING** the fundamental human rights principles entrenched by the United Nations in the Universal Declaration of Human Rights, Declaration on the Rights of Disabled Persons, the World Programme of Action Concerning Disabled Persons and any other documents with similar emphasis,

**AWARE** of the discrimination, unfair treatment and exploitation to which disabled women have been and continue to be subjected to, and their lack of participation in social, political and economic life, as well as their marginalisation, degradation and abuse in all areas,

**CONCERNED** about the continued ill-treatment, abuse, exploitation and neglect committed by society against disabled children in particular and whereas their security, protection and care ought to be the nation's first priority,

**APPALLED** at the inhuman carnage in our communities which remains a major cause of disability and the lack of concern demonstrated by the government in addressing the plight facing the victims of such violence, many of whom have become disabled as a result of the violence,

**RECOGNISING** the need to address the imbalances resulting from past and present unequal treatment, that have caused certain sectors of our population, particularly disabled people, to remain disadvantaged,

**REAFFIRMING** again the right of disabled people and their organisations to be involved in all matters relating to decision and policy making, national planning and social restructuring, on issues affecting their rights and interests,



**NOTING** the indifference, lack of commitment and concern, disinterest and racial bias of the present government, which remains the main cause of the current crisis situation faced by disabled people in our country today,

**DEMAND**, from the present and future governments of South Africa and to the South African society at large, the following:

### **Non-discrimination**

- Article 1.** Disabled people shall enjoy the same opportunities as able bodied people and shall be treated equally in all spheres.
- Article 2.** A policy of non-discrimination against disabled people shall be adopted by all political, religious, cultural, social and other groups, especially in regard to leadership positions.
- Article 3.** A policy of positive action shall be adopted to eradicate discrimination.
- Article 4.** A national policy designed to redress inequalities in all spheres of social, economic, political and cultural life, shall include strategies such as quota systems, incentive schemes and awareness programmes initiated by the state.
- Article 5.** No legislation, common law rules or any other applicable law that discriminates against disabled people or has the effect of defeating the objectives of this charter shall be valid.
- Article 6.** Disabled people shall be allowed to adopt children and shall not be denied custody of their minor children as a result of their disability.
- Article 7.** All forms of state assistance shall be applied equally regardless of race, gender, religion or any other considerations.

### **Self-representation**

- Article 8.** The National Assembly of Disabled People of South Africa shall be represented at all levels of decision making. This means from local community structures to central government and state structures.
- Article 9.** Disabled people shall be represented in all professional associations which provide services to disabled people.



## **Access Legislation and Transport**

- Article 10.** All publicly available transport (state or private) shall be made fully accessible within a fixed time frame, and this shall be enforced by legislation.
- Article 11.** Incentives shall be provided to private transport systems to facilitate the integration of disabled people.
- Article 12.** Legislation shall be enacted prohibiting publicly available transport (state or private) from discriminating against disabled people.
- Article 13.** Taxi associations, bus companies and other bodies which provide transport services to the public shall be educated and informed about the needs of disabled people.
- Article 14.** All new public buildings and other environs shall be fully accessible, and this shall be enforced by legislation.
- Article 15.** All existing public buildings and environs shall be made fully accessible within a fixed time frame, and this shall be enforced by legislation.
- Article 16.** Structures designed to monitor and evaluate the enforcement and implementation of these rights shall include organisations of disabled people.

## **Health and Rehabilitation**

- Article 17.** The state shall provide, free of charge, health and rehabilitation services related to disability or the prevention thereof.
- Article 18.** All health and rehabilitation services shall be accessible to all people with disabilities. Special attention shall be paid to communication, environment, efficiency and distance.
- Article 19.** All health and rehabilitation services shall be effectively and appropriately administered to ensure that the needs of all people with disabilities are met.
- Article 20.** All health and rehabilitation services shall integrate and involve disabled people and their communities.
- Article 21.** There shall be no discrimination of any kind in the provision of health and rehabilitation services.
- Article 22.** All research on disability shall be carried out in consultation with the National Assembly of Disabled People of South Africa.



**Article 23.** Disabled people shall participate in designing and implementing training curricula for all service providers rendering special services to disabled people.

**Article 24.** The state shall provide funding for the promotion of self-help and rehabilitation projects run by disabled people.

**Article 25.** The state shall provide assistive devices free of charge.

**Article 26.** Disabled people requiring tertiary level care shall receive effective follow up services at primary and secondary level.

**Article 27.** There shall be one unitary department of health.

**Article 28.** Medical aid schemes shall be accessible to disabled people.

## **Education**

**Article 29.** Compulsory, free education up to matriculation, shall be provided to all disabled children.

**Article 30.** Tertiary education for disabled students shall be financially supported by the state.

**Article 31.** Disabled children shall have the right to mainstream education with personal assistance where necessary, appropriate assistive technology and specialised teachers and classes.

**Article 32.** All teachers shall be given specialised training in order to effectively educate disabled children in mainstream schools and all teacher training curricula shall incorporate such training.

**Article 33.** Unreasonable age limit laws in schools shall be abolished and reasonable age limit laws established. Age limit laws shall recognise the difficulties faced by disabled students.

**Article 34.** All schools shall teach courses which raise awareness around disability and educate people about misconceptions and prejudices.

**Article 35.** Educational facilities shall be made available and accessible in health centres for long-term patients.

**Article 36.** Psychometric tests shall not be used to exclude disabled children from receiving appropriate education.



**Article 37.** Parents shall participate in the planning and decision making of their children's education.

**Article 38.** Misconduct by disabled students shall be dealt with appropriately and inappropriate disciplinary action shall be abolished.

**Article 39.** There shall be appropriate facilities for career guidance for disabled students.

**Article 40.** There shall be structured and autonomous Student Representative Councils in all schools, with disabled student representation.

**Article 41.** Corporal punishment in schools shall be abolished.

**Article 42.** Literacy and adult education shall be made available and accessible for disabled adults.

**Article 43.** The role of special schools shall be evaluated with a view to ensuring the provision of appropriate education.

## **Employment**

**Article 44.** All disabled people shall have the right to employment in the open labour market with state subsidised personal assistance where applicable and appropriate assistive technology.

**Article 45.** All workers, including those in sheltered workshops shall earn a living wage.

**Article 46.** There shall be equal pay and benefits for equal work.

**Article 47.** All disabled workers shall have a right to join trade unions and be represented in the workplace. Disabled people shall therefore participate in all processes of decision making regarding conditions and practices in the workplace.

**Article 48.** Discrimination on the grounds of disability shall be prohibited by law. In cases where such discrimination has taken place, appropriate action shall be taken, including the granting of relief.

**Article 49.** When a person becomes disabled while employed, such person shall be assisted to retain his/her present position, or alternative employment within the same company shall be made available without loss of benefits or status.

**Article 50.** All facilities in the workplace shall be made accessible to disabled people, including transport services provided by the employer.



**Article 51.** Disabled people who are discriminated against shall have recourse to the judicial process and full access to legal representation.

**Article 52.** The government and private sector shall provide employment opportunities for disabled people. This shall be achieved by implementing a policy of affirmative action, incentive schemes and quota systems.

**Article 53.** A percentage of contracts shall be awarded to sheltered workshops and self-help groups to promote their effective functioning, in response to state incentives.

**Article 54.** The state shall provide support to self-help projects of disabled people through subsidisation.

**Article 55.** The integration of disabled people in self-help groups and sheltered employment shall be promoted.

**Article 56.** Training of disabled people in the workplace shall be the responsibility of the employer concerned and shall be subsidised by the state.

**Article 57.** Co-workers shall be educated about the needs of disabled colleagues.

**Article 58.** The state shall provide financial support to disabled people for the acquisition of agricultural land and/or capital equipment for self-employment.

**Article 59.** The Departments of Manpower and Education shall provide vocational and career guidance for disabled people.

## **Sport and Recreation**

**Article 60.** Disabled people shall have access to all mainstream sporting facilities with adapted equipment where necessary.

**Article 61.** The state shall offer incentives to private sporting bodies to encourage full integration of disabled people.

**Article 62.** Sporting bodies shall provide support to disabled people and shall allocate an adequate proportion of their sponsorships and grants to sporting activities of disabled people.

## **Social Security**

**Article 63.** Disability grants shall be made a right of all



permanently and temporarily disabled people. Specialists in the area of disability shall evaluate the degree of disability for the purposes of securing a grant. The definition of a permanently disabled person must be extended to include people with controllable diseases.

**Article 64.** Disability grants for people who are not employed shall be equal to a minimum standard of living and shall be applied towards the empowerment of disabled people.

**Article 65.** A means test for a disability grant shall be based on criteria defined in consultation with disabled people themselves and should take cognisance of the extra costs incurred by disabled people as a result of their disability, over and above a minimum standard of living.

**Article 66.** The state shall be responsible for ensuring that disability grants are effectively administered and monitored by adequate personnel with appropriate skills and attitudes and this shall be designed in consultation with disabled people.

**Article 67.** A safe and accessible system of payment of disability grants shall be implemented.

**Article 68.** Marriage laws shall provide security for disabled spouses. When two disabled people marry, they shall retain their individual rights to all disability grants.

**Article 69.** Disabled people shall be eligible for tax concessions on all specialised equipment, services and specialist needs.

**Article 70.** Fair and adequate workman's compensation shall be granted to people who become disabled in the workplace and shall not prevent a disabled person from obtaining a disability grant simultaneously, subject to the conditions of the means test defined in article 65.

**Article 71.** Insurance, private or public, shall not discriminate against disabled people.

## **Housing**

**Article 72.** A reasonable percentage of houses within housing schemes shall be erected to be accessible to disabled



people.

**Article 73.** Subsidised accommodation shall be provided for disabled people who are disadvantaged.

**Article 74.** The state shall provide subsidies for disabled people to obtain housing loans and for the conversion of existing houses.

**Article 75.** There shall be no discrimination against disabled persons, married or single, in the purchasing or allocation of houses.

**Article 76.** Severely disabled people shall have access to a range of housing options, including independent living group homes and special care centres.

**Article 77.** State financial assistance shall be provided to disabled people living in particularly vulnerable areas, including rural areas, informal settlements and self-help schemes.

## **Disabled children**

**Article 78.** Disabled children shall be entitled to be treated with respect and dignity in their own homes, in society and in all state institutions such as hospitals and schools.

**Article 79.** All disabled children shall be properly cared for in their families or in places of care provided by the state.

**Article 80.** Children shall be assessed at the earliest age to detect any impairment which may lead to disability. Early intervention should be implemented in the form of prevention and education. The department of health shall take responsibility for ensuring that there are skilled people and facilities at health centres to identify disability at an early age and this shall be monitored by the National Assembly of Disabled People of South Africa.

**Article 81.** Health care and rehabilitation services for disabled children shall be designed to integrate them into the community rather than to isolate them from their peers and to facilitate their full development.

**Article 82.** Severe measures of control and punishment shall be introduced to prevent any form of abuse towards disabled children. Disabled children shall enjoy special protection from the state in this regard.

**Article 83.** All children shall receive sufficient nutrition. Parents who are unable to provide sufficiently for their children shall receive state assistance. State



subsidies shall be provided to centres for feeding of disabled children.

**Article 84.** Disabled children shall be eligible for state grants from birth, which shall be effectively administered and monitored.

**Article 85.** Playgrounds, parks and all other recreational facilities shall be made accessible and safe for all children and provided where not available.

**Article 86.** Any form of child labour shall be punishable by law.

**Article 87.** Appropriate support systems shall be made available and accessible to disabled teenagers and especially during times of unrest.

**Article 88.** All disabled children shall have the right to full protection by the state especially where they are called upon as witnesses.

**Article 89.** All parents of disabled children shall have the right to participate in decision making regarding the wellbeing of their children.

**Article 90.** There shall be education and support for parents of disabled children, especially regarding the upbringing of disabled children and the realisation of their rights.

**Article 91.** In all legal proceedings concerning disabled children, their best interests shall be given first priority.

## **Communication**

**Article 92.** Disabled people shall be allowed freedom of expression and the full opportunity to exercise that right.

**Article 93.** Disabled people shall have a right to privacy of personal communication, especially disabled people living in institutions.

**Article 94.** Disabled people shall have the right to accessible communication. This includes public documentation and forums where their affairs are discussed.

This should include; Braille and/or cassettes for blind people, sign language and/or interpretation for people with hearing and/or speech disabilities, mentors/advocates for mentally disabled people and vernacular languages.

**Article 95.** Disabled people shall have access to public media services and avenues of communication eg. postal services, telephones, sign language on television.



Media services shall make time available to disabled people for communication with each other and the able-bodied community, e.g. radio and television programmes.

Media services shall educate the public pertaining to disability issues involving disabled people in the process.

**Article 96.** The state shall provide equipment and personal assistance in all public service centres and institutions e.g. hospitals, legal communication between service providers and consumers, financial institutions, information services and religious institutions.

**Article 97.** Health care and counselling services shall meet the communication and language needs of all disabled people.

**Article 98.** The planning and designing of communication systems shall involve consultation with the national assembly of disabled people.

**Article 99.** Sign language shall be recognised as an official language

**Article 100.** All religious institutions shall provide effective means of interpretation for people using sign language.

### **Disabled Women**

**Article 101.** All disabled women shall be treated with respect, dignity and shall be free from all forms of discrimination and abuse.

**Article 102.** Public education and awareness programmes to promote positive perceptions on the potential of disabled women in society shall be launched. Negative attitudes among able-bodied people shall be challenged at all levels.

**Article 103.** The government shall, in consultation with education specialists in the National Assembly of Disabled People of South Africa, design, implement and fund effective career orientated education for disabled women.

**Article 104.** Disabled women shall have the right to control their own fertility which is fundamental to their emancipation and freedom. This should include contraception, abortion and freedom of choice on sterilisation.

**Article 105.** Legislative provisions shall be developed which promote and protect the human rights of disabled women and protect their participation in all spheres of life and at all levels of decision making. This shall include the participation of disabled women in local



decision making forums, in state institutions and government. The legislation shall be monitored by appropriate sectors of the National Assembly of Disabled People of South Africa to ensure effective implementation.

**Article 106.** Accessible, well equipped resource centres and clinics shall be established which shall provide information on issues affecting disabled women.

**Article 107.** Equalisation of opportunities for disabled women can only be realised when discriminatory patterns and practices that deny equal access are removed and previous imbalances are addressed.

**Article 108.** Provisions in the social security system shall be developed which deal specifically with the needs of disabled women, especially young disabled mothers with children.

**Article 109.** Disabled women shall receive equal pay for equal work and equal pension benefits.

**Article 110.** All the above demands shall apply equally to all disabled women in our society, particularly disabled women in the rural areas and informal settlements who are especially vulnerable to social and economic exploitation.

## **Independent Living**

**Article 111.** Disabled people shall be encouraged and assisted to live independently in their communities and shall be assisted to develop the skills necessary to move out of institutional care into the broader community. Peer counselling and support shall be regarded as integral to this process.

**Article 112.** Severely disabled people shall have the right to engage the services of attendants who shall be subsidised by the state.

## **Prevention**

**Article 113.** All necessary steps shall be taken by the state to prevent disability.

**Article 114.** Pre-natal and genetic counselling shall be provided by the state to all people.

**Article 115.** Appropriate health care shall be provided by the state at all stages of people's development to prevent disability.



**Article 116.** The state shall initiate programmes to eradicate poverty which shall include the introduction of development programmes, financial support and technical assistance to disadvantaged communities.

**Article 117.** Effective legislation and state policy measures shall be implemented to prevent injuries causing disability in the workplace, on the roads and in all other areas where dangerous conditions prevail.

**Article 118.** The state shall be compelled to take all reasonable steps to prevent political, social and any other forms of violence which remains a major cause of disability in our country.

## **Role of the charter**

1. This charter shall form the basis for the formulation and implementation of legislation and policy affecting disabled people.

2. It shall further serve in the interpretation of legislative and constitutional provisions affecting the rights of disabled people in a new dispensation.

3. It shall be used in the broad campaign for the recognition and protection of the rights of disabled people in South Africa.

4. It shall provide the basic principles to which all structures of civil society, including government structures, civic structures, labour organisations, religious and other cultural groups shall adhere to.

## **Amendments to the charter**

Any proposed amendments to the charter shall be forwarded to the National Assembly of Disabled People of South Africa not less than two months prior to the holding of its bi-ennial congress and shall require at least a two thirds majority of the congress delegates present and voting.

## **Enforcement mechanisms**

A national forum on disability consisting of the National Assembly of Disabled People of South Africa, government and private welfare service providers shall be established to formulate legislation and policy on disability issues and to give effect to the provisions of this charter.