

19 November 2020

For Attention: United Nations Committee on the Rights of the Child

Dear Madam / Sir

List of issues prior to reporting: From child submissions to the Office of the Western Cape Commissioner for Children

I was appointed as the Commissioner for Children in the Western Cape province of South Africa on 1 June 2020, as the first Children's Commissioner in the history of the country.

As Commissioner, I work with children who act as 'child government monitors' who provide feedback on experiences of government services and 'child advisors' on the governance of my Office. Currently I engage with about 50 children from different geographical locations in the province aged from 10 to 18 years old.

After four months of child rights and governance training and group discussions on Whatsapp, the child government monitors made submissions to me as the Commissioner. A portfolio of these submissions includes poetry, artwork and essays. These submissions are attached to this cover letter, as annexures and provide the context for the children's questions to the Committee which are then presented in English, French and Spanish.

Sincerely

Christina Nomdo

Western Cape:

Commissioner for Children



Children want to ask the following questions: Les enfants veulent poser les questions suivantes: Los jóvenes quieren hacer las siguientes preguntas:

Equality and Dignity rights / Droits à l'égalité et à la dignité / DERECHOS DE IGUALDAD Y DIGNIDAD

- 1. What is government doing to make sure children have the right to equality no matter what colour? (Isgak,17 years see "Equality poster") (A, 16 "Equality poem)
 - Que fait le gouvernement pour s'assurer que les enfants ont droit à l'égalité, peu importe leur couleur de peau? (I, 17 ans voir "Equality poster" « L'affiche de l'égalité »)
 - ¿Que hace el Gobierno para asegurar el derecho a la igualdad de los niños independientemente del color de la piel? (1, 17 años, ver "Poster en igualdad).
- 2. Why can't we see the world in such a way where everyone's differences and preferences make them who they are as a person, not as another reason to judge or look down on them? (AL, 16 years "Human dignity poster")
 - Pourquoi ne pouvons-nous pas voir le monde de telle manière que les différences et les préférences de chacun font d'eux ce qu'ils sont en tant que personne, pas comme une autre raison de les juger ou de les regarder de haut ? (AL, 16 ans "Human dignity poster" « L'affiche de la dignité humaine »)

¿Por qué no podemos ver el mundo de tal manera que las diferencias y preferencias de cada uno son lo que nos define como persona, en lugar de ser otra razón para juzgar o menospreciar? (AL, 16 años-Poster en Dignidad humana).

Child abuse and neglect / Maltraitance et négligence envers les enfants / ABUSO Y NEGLIGENCIA INFATIL

- 3. Do I matter? (to my parents) (C, 17 and L, 17 see submission "I'm found poem")
 - Est-ce que j'ai de l'importance ? (Pour mes parents) (C, 17 et L, 17 voir la soumission "I'm found poem" « Poème : On me trouve »)
 - YO, ¿importo? (a mis padres) (C, 17 y L, 17, ver sumisión "Me he encontrado", poema)
- 4. What is government doing to prevent children from being abused in their homes? (L, 17 years see submission "Tears poem")



Que fait le gouvernement pour empêcher que les enfants ne soient maltraités à la maison ? (L, 17 ans – voir la soumission "Tears poem" « Poème de larmes »)

- ¿Que hace el Gobierno para prevenir el abuso de los niños en sus casas? (L, 17- ver sumisión "Lagrimas" poema-)

Child Participation / La participation des enfants / PARTICIPACION INFANTIL

5. Can government find a way to make adults understand they are not always right and they should listen to children – if it means that they should change...then it is only for the better? (Ms S, 15 years in state care)

Le gouvernement peut-il trouver un moyen de faire comprendre aux adultes qu'ils n'ont pas toujours raison et qu'ils devraient écouter les enfants ? – si cela signifie qu'ils doivent changer. ...c'est pour le mieux ? (Mlle S, 15 ans dans les soins de l'État)

¿Podría el Gobierno encontrar una manera de hacer entender a los adultos que no siempre tienen razón y que deben escuchar a los niños?; si significa que los adultos deberían cambiar, ¿quizás sea para mejor? (Ms S., 15 años, bajo cuidado estatal)

Budgeting / Le budget à moyen terme / PRESUPUESTO

6. On 28 October 2020, the Minister of Finance read his Medium-Term Budget Policy Statement (MTBPS) Speech, why does he not write it so that children can understand if the money of the country is spent on children? (Z, 16 years – submission on MTBPS 2020 in progress)

Le 28 octobre 2020, le Ministre des finances a prononcé son discours budgétaire. Pourquoi ne l'écrit-il pas pour que les enfants puissent comprendre si l'argent du pays est dépensé pour les enfants ? (Z, 16 ans – la soumission sur le budget en cours)

El 28 de Octubre de 2020, el Ministro de Hacienda leyó la declaración de política presupuestaria a medio plazo, ¿por qué no la escribe de tal manera que los niños puedan entender si el dinero del país se va a invertir en ellos? (Z, 16 años –sumisión en curso)



Education / Education / EDUCACION

7. Is there equitable spend in the education system so that rich and poor learners have an equal chance of achieving success in life? (J, 16 – see submission 'Equity and Equality in Education')

Le système d'éducation est-il équitablement financé de sorte que les élèves riches et les élèves pauvres aient les mêmes chances de réussir dans la vie ? (J, 16 – voir soumission « Equity and Equality in Education » (Équité et égalité dans l'éducation)

En el sistema educativo, ¿existe un gasto equitativo de tal manera que los estudiantes ricos y pobres tengan la misma oportunidad de triunfar en la vida? (J, 16- ver sumisión "Equidad e Igualdad en Educación")

8. Do those who get more resources stand up for those less fortunate? (V, 14 - see submission 'Equity and Equality in Education')

Ceux qui ont plus de ressources se battent-ils pour ceux qui ont moins de chance ? (V, 14 voir soumission « Equity and Equality in Education » (Équité et égalité dans l'éducation)

Los que tienen más recursos, ¿defienden a los menos afortunados? (V, 14- ver sumisión "Equidad e Igualdad en Educación")

9. Why is there not equal respect between the representative council of learners (child leaders at school) and the educators? Sometimes they abuse their power. (J, 16 years; A, 17 years and Z, 16 years – see submission "Representative Council of Learners").

Pourquoi n'y a-t-il pas un respect égal entre le conseil des élèves (enfants leaders à l'école) et les enseignants? Parfois, ils abusent de leur pouvoir. (J, 16 ans; A, 17 ans and Z, 16 ans – voir soumission "Representative Council of Learners" « conseil des élèves).

¿Por qué no hay el mismo respeto entre el consejo representantes de los estudiantes (en la escuela) y los educadores?. A veces abusan de su poder (J, 16; Alessio, 17 y Z, 16- ver sumisión Consejo Representativo de los estudiantes")



Mental health services / Les services de santé mentale / SERVICIOS DE SALUD MENTAL

10. Why do privileged schools have private counsellors but disadvantaged schools must depend on non-profit organisations? Why is there not enough policies and active education with breaking the stigma of mental health issues? (C, 17 – see submission 'Mental health in schools')

Pourquoi les écoles privilégiées ont-elles des conseillers privés, mais les écoles défavorisées doivent-elles dépendre d'organisations à but non lucratif ? Pourquoi n'y a-t-il pas suffisamment de politiques et d'éducation pour briser la stigmatisation des problèmes de santé mentale ? (C, 17– voir la soumission)

¿Por qué las escuelas privilegiadas tienen consejeros/ psicólogos privados, mientras que las escuelas marginadas dependes de organizaciones no gubernamentales?, ¿Por qué no hay educación activa para romper el estigma de la enfermedad mental? (C, 17 – ver sumisión)

Sexuality support / Éducation sexuelle / SEXUALIDAD

11. Why does our sexuality education at school not teach us how to be a more accepting community, with no prejudice, no discrimination and no judgement of the persons from the LGBTQI+ community? (V, 14 and C, 17 – see submission on 'Inclusive Sex Education: Different people same love').

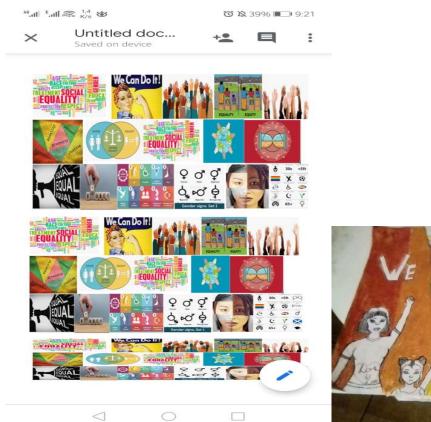
Pourquoi notre éducation sexuelle à l'école ne nous apprend-elle pas à être une communauté plus accueillante, sans préjugés, sans discrimination et sans jugement des personnes de la communauté LGBTQI+? (V, 14 et C, 17 – Voir la soumission 'Inclusive Sex Education: Different people same love' (Éducation sexuelle inclusive: Différentes personnes, le même amour).

¿Por qué la educación sexual en las escuelas no nos ensena como convertirnos en una comunidad sin prejuicios ni discriminación de las personas en la comunidad LGBTQI+ (V, 14 y C, 17 _ver sumisión en "Educación sexual inclusiva: Gente distinta, el mismo amor"



Annexures: Context of Children's Questions

I (17) – 'Equality poster'





AL, 16 years – "Human dignity poster"



A (17) – 'Equality poem'

"Moloweni Equality" by Ambrose Philips

In a world were fair is foul and foul is fair a world were not even a Guinea fowl care In a world without Ubuntu Can i be there?

Some might think that i slumber or sleep
but my heartache and agony runs very deep.
I always wanted to be invited to your party and by party i mean
society, because you guys mos love them, Jaaa i see youce,
but oh well... femicide, male sovenism, prejudice and ethical
misconduct was mos voorbarag and over stayed there welcome.

Can someone please tell me who gave white superiority the right of admission and how come unequal power relations (my arch enemy by the way), unequal salaries, unequal opportunities have a invitation but not me? Shew! Let me catch my breathe, comes with the age you know Can't you guys see me, im standing right here, I've been here like since forever, hence the age.

I can bring freedom along with me to the party, what can Uncle racism offer you what i can't?

Aah jaa, i guess it is what it is, or is it really?

But on a serious note,may every women who ever tried to be an equal with there partners testosterone rest in peace, with all these hashtags these days all i can say is #Fight Gender based violence.

To the ambishous, hardworking, goal driven females who attempted to take over "male dominated" industries and received a "Sister we gonna take you down" in return with a demotion too, i feel your rage.

Eish! In a world like this you will become a feminist over night.

To the young boy, who dared to put on that ballet shoes pinker than Turkish delight, dont worry, the stereotypical inequality starring you right in the eye will pack up its bags soon, dont let it forget its spoon.

I might sound like a empty promise you keep hearing about but im actually more real that you think.

I was as clear as daylight in the dreams of pioneers and freedom fighters. I was the hope that kept Winnie Madikizela Mandela alive in solitary

I was there on that historic day that Madiba walked out of Victor Vesters gates and waved goodbye to he's cell mates.

Haibo! Didn't you see me in the iconic photos?

Probably not, because I was the unseen comrade screaming "Viva Mandela! " in the hearts of everyone walking on the road to freedom.

Don't loose hope my people, i will be present with you once again in every job interview and every application you make, or will i?

Well thats up to you, you mos the ones with the bodies not me.

You will have to stand up against unequal cultural norms and traditions that have conditioned thousands of mindsets into being comfortable with societal

You will have to be the voice for the voiceless and roll out the red carpet for me, oh how special i feel, yess me equality.

You will have to deconstruct the systems of inequality, your ways of thinking, operating, practicing, teaching and the way you see one another and then finally reconstruct on a new foundation. A foundation of respect, love, non - violence, non - discrimination, anti - racism, anti - Xenophobia and most of all me, equality.

Societies policy making, job creation and decision making cannot only be devoted and centered around one race, one gender, one sexual orientation, one age category, one appearance, one skin colour, one religion or belief system but everyone and people from all walks of life.

Oh how i dream of a day that not all men will be persecuted and labeled, that new born babies will enter a world that is rape free, that families will live in peace and that domestic violence will be chucked out. Oh how i dream of a society were equal education and equal standards of living will thrive, a world were every single person will know me and feel my presence, a world were all can greet me with a content heart and say, "Moloweni Equality".



C (17) and L (17) 'I'm found poem'

I'm Found - Dr.Luks and Chelsey Botha

Child: Hey thought we should go out today, By the way did you know the day of today. Friend: What is that day you mentioning? And what is the questioning?

Child: It's my birthday and no sight of light as if I am trapped in darkness.

No question in telling a secret, thats the question Friend: Your birthday, then why the darkness? It's your birthday, but all you have is sadness.. Child: I am a game and always lose ma and pa have no excuse.

They forgot my day again no song can reduce the emotions of abuse.

Friend: I'd never forget, you like my brother, as I thought you spoke of another.

We do and will always have each other.

Child: As I trust you with all my own, keep this to ur own.

Pa came home and me he saw, shouted he did.

And my heart tore.

I wish I was old to fight at the door, so that I don't

touch the floor. I would take him to court but... I am just a child

Friend: When this has happened you haven't told none?

For this long, it couldn't have been fun.

Pa thinks this is okay, but he needs to know this is not the way.

Child: Protection and love is what I desire. No soul has told, but you.

I have been reading

People have been dealing with what I am dealing. What should I do?

Do I matter?

I am so confused

Friend: Your courage to tell me, I am ever proud. Protection and love you haven't received prior besides my own. That I will make known.

Don't fear, as I will help and I will guide, through the process all for thine..

Child: Your support is all I need to get this done indeed. You are a true friend and this can't be the end. I called upon the number where heroes dwell, to save my soul from living hell.

08000 55 55 5

Friend: After sharing thines truth with myself, step two you have now already complete.

Without drawing a crowd, thine should be proud.

Maybe it might start off as a rust, but them you definitely can trust.

Child: I hope all goes well, my heart is a debt of ur

Such being strong I am. I am the future. I am who I am.

Thanks my friend. For I am valued, I am wanted, I am the seed for tomorrow, who bares great fruit. Ur love opened my eyes. Truly divine
Friend: You should not doubt as I am truthful

about all.

Your strength shall carry you, and the future

awaits you, so stay true to you.

No need to thank me it was for thine and the pleasure is mine.

You matter, I care, soon this will all be fair.

This journey I walk with you, my friend, from the beginning to the very end.

Child: Thy love protect me and keep me. True is you.

My friend till the end.



L (17) - 'Tears poem'



I felt their pain Of being still

Thin walls Thin walls

I am just a child Play i want But they tell me stay

I don't understand I witness all But no one knows I cry but no one hears Tears

Tears My world Flooded Do understand the state Not the state of my life But mind

I remind you today I was not born to be subjected Was not born to be abused I wasn't okay lears

Tears My world Flooded Do understand the state Not the state of my life But mind

I remind you today I was not born to be subjected Was not born to be abused I wasn't okay I wasn't!!

Understand Understand my tears

I cry not to be ignored I cry to be answered. Remember I am a child.

Tears

All my years I have never Not even once Been in jail Been trapped

I am now I understand the pain Of a caged animal I read I feed But still trapped

I never knew walls could speak Never knew they could fight Never knew they could cry Never knew they could touch me Hurt me.

I felt their pain Of being still

Thin walls

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V (14) and J (16) – 'Equity and Equality in Education'

EQUITY AND EQUALITY IN EDUCATION

In this write-up, we will be discussing Education Equity. Before we unpack this topic, we need to understand what educational equity is and what equity is. Educational equity is the extent of achievement, fairness, and opportunity in education outcomes. Equity is when everyone gets varying levels of support, depending on what they need to achieve greater fairness of outcomes.

Equity in education is vital, especially in a country like South Africa, where there is a vast difference in social class. Section 29(1)(a) of the Constitution guarantees that everyone has the right to basic education. This right to education is unqualified and immediately realisable, as it has no limitation. A limitation of a right is a restriction or failure to fulfil the right. If a limitation occurs, the state must justify that limitation under Section 36(1) of the Constitution. Even though the right to basic education has no limitation, too many children are still not able to exercise this right because of inequity. Youth cannot reach their full potential when their access to basic education is limited.

An extraordinary day in South African history in terms of education is the 16th of June. This day is also known as Youth Day. Youth Day originated from an event known as the Soweto Uprising (1976), which was instigated by several problems within the Bantu Education Act. The Bantu Education Act stipulated that Afrikaans would be the language of instruction, regardless of your home language. This limited access to equal education caused enormous disruption to the future of the youth at the time. This Act did not allow for equity in education and restricted the growth of South African youth. This Act was repealed in 1979. It was a step toward equity within education and an example of how powerful and determined the youth was to create positive change in education and a demonstration of how important education was to them.

The following quote by Nelson Mandela shows how important education is for the youth and our country. "The power of education extends beyond the development of the skills we need for economic success. It can contribute to nation-building and reconciliation. Our previous system emphasised the physical and other differences between South Africans with devastating effects. We are steadily but surely introducing education that enables our children to exploit their similarities and common goals, while appreciating the strength in their diversity." — Nelson Mandela

Back to Section 36(1) of the Constitution. The state must justify any limitation that is preventing someone from accessing basic education. Children cannot get to school because there is no safe transport to get them there. Children cannot get to school because they must cross dangerous roads. Children cannot get to school because of gang violence. Children with disabilities that must pay additional fees cannot afford to go to school. Children that live in poverty and cannot sustain the cost of education cannot go to school. There are not enough schools for all the children in South Africa and not enough textbooks or resources. These are only a few examples, of how the right to basic education is limited and youth must once again use the power of their united voice to place urgent demands on the state to focus on the existing inequality and inadequacy of education in South Africa. Equal education is not a dream. A restrictive mindset of older generations is oppressing the reality of our youth, but we can and must change this mindset. Many people in our society have the resources to empower struggling communities. They have the power to educate our children by refusing to live with unchecked privilege. Once again, it is a change of mindset that can change the course of many lives. This process of change is a difficult road, but we have walked it before, and we can do it again.

Education is more than just an education, it is about the self-worth of every child, it is about embracing diversity, and it is the power to create a commanding future. But education equity is above all of these. Education equity is Ubuntu because it reminds us that we are only human through the humanity of others.

YOUTH CAN NOT REACH THEIR FULL POTENTIAL WHEN THEIR ACCESS TO BASIC EDUCATION IS LIMITED



J (16), A (17) and Z (16) – 'Representative Council of Learners'

REPRESENTATIVE COUNCIL OF LEARNERS

As a Representative Council of Learners (RCL), we serve as a link between educator and learner. We are the passageway of communication, respect and understanding. RCL has a vital role in facilitating communication in schools. But why is communication so important?

Communication is all about using the power of our collective voice constructively. With successful communication comes respect. Respect for each other and respect for yourself will promote unity in the school.

The voice of an RCL is not used to shout or bring injustice. The voice of an RCL is there to help and care for the learners. We must listen to the learners and lift their voices. The most significant part of having a voice as an RCL is not about the power to control; it is about the ability to help others. Being a part of the RCL helps to create relationships, which we will also discuss.

Respect is an essential tool for an RCL member as it is vital when building strong relationships. Section 23 of the SASA Schools Act states that elected learners, 8th grade or higher in the RCL, must sit on the School Governing Body (SGB) of their school. This engagement will help the RCL to establish a relationship with the SGB. In SGB meetings, the RCL must share the opinions and grievances of other learners in their school. So, by having a good relationship with the learners and educators, your voice as an RCL will encourage more attention to learner issues at SGB meetings.

As elected representatives, the RCL need to establish a relationship with the learners. The learners elect candidates because they believe them to be the best choice to lead as the RCL. The RCL must have good communication with learners. This level of communication allows the opportunity to raise issues and share their recommendations with the RCL. By having good communication, the RCL can listen and bring a problem to the attention of the correct adult leadership in the school. Good relationships create a way of achieving more understanding between learners and educators.

Being an RCL leader and maintaining relationships does come with problems. Two of these problems are criticism and abuse of power by educators.

Educators sometimes abuse the RCL leadership by expecting members to do tasks for them that are not a part of RCL responsibilities. This expectation limits the time spent on bettering the school environment for learners. This expectation also places relationship pressure on the RCL members, as they do not want to put the relationship at risk by declining to do the task. Educators may also see this resistance as disrespectful. In turn, the RCL may see these tasks as disrespecting the work that they are committed to doing. There is, therefore, not a boundary of equal respect between learners and educators. This situation creates tension and suggests to the RCL that educators do not regard them as a vital role-player in creating a positive school environment. Mutual respect is essential because ultimately, this situation subjects RCL members to severe criticism, as educators limit the work of the RCL, and learners feel inadequately represented.

USING THE POWER OF OUR COLLECTIVE VOICE
CONSTRUCTIVELY



C (17) - 'Mental health in schools'

MENTAL HEALTH IN SCHOOLS

Mental Health Oppression - The Dark Side of Education Inequality

Let us say a student is having a difficult month. They're overwhelmed, overworked, they are falling behind in school, and they need help. They are not educated about how to express their feelings or where to get help. Their school does not have funds for a counsellor. There is a massive stigma built up around mental health, and they are afraid to speak about it. Welcome to mental health in the majority of schools in South Africa.

On Friday the 28th of August, the Western Cape Child Government Monitors for the Commissioner For Children had a discussion on mental health in schools. When you look at Mental Health in Schools, one will try to tackle the idea of mental health in isolation but what the government monitors thought was vital is to start with equal education. If there is equal education, other problems such as mental health in schools will become a much easier problem to tackle. Education is the bases for everything. Our education systems must create proper foundations for equal education. Then, we can begin equal implementation of mental health policies and support structures in all schools in South Africa.

Mental health problems that came up in our conversation was the underfunding of mental health in schools. We unpacked that the idea that a lack of funding makes all the difference between privileged schools and disadvantaged schools. In privileged schools, we see the appointment of private counsellors as well as easy access to mental health resources. In contrast, disadvantaged schools need to rely on non-profit organizations and government funding for the appointment of counsellors and mental health resources. Very few schools in South Africa have funding for counsellors or mental health

We also feel there needs to be an active education on breaking the stigma connected to mental health. This would work best through the implementation of mental health policies in schools. Mental Health Policies must include information about where pupils and teachers can go to receive help, protocols around bullying, support systems as well as a place for parents to go to if they feel their child is struggling. These policies will play a vital part in growing a better state of mental health wellness within schools. We need the government to put in place these policies and make sure that schools adhere to them.

We unpacked the idea that everything starts with education and awareness. To include comprehensice mental health wellness in the Life Orientation curriculum will educate future generations of our country and create positive mental health. It will also help to destignatize mental health.

The improvement of mental health in schools is not only reliant on the government. It is also in the hands of the youth. We must hold our fellow youth accountable for the negative destignitization of mental health. As youth, we must promote lively conversations around mental health and show our peers that we care about them.

The school system has many flaws, but creating equal education across South Africa will ease the implementation of better mental health systems in schools. Overwhelmed, overworked students are falling behind, our youth are struggling. These interventions and policies will guide and support students toward living a more fulfilled life.

THE DARK SIDE OF EDUCATION
INEQUALITY



V (14) and C (17) – 'Inclusive Sex Education: Different people same love'

INCLUSIVE SEX EDUCATION

In our primary school years, most schools have sex education classes. These classes promote safe sex and touch on the prevention of the spread of HIV and AIDS. We must take note of the negatives around excluding specific topics in sex education. We must also note the impact of excluding education on sexual orientation. In this brief write up, we will be discussing the lack of inclusive sex education as well as the implementation of sexual orientation education.

Let us start by looking at inclusive sex education. Inclusive sex education refers to the sex education of all sexual interactions other than heteronormative sexual intercourse. For example, add sexual intercourse education that includes people of the LGBTQ+ community, such as same-sex sexual intercourse. By creating an inclusive sex-ed curriculum, we will normalise the LGBTQ+ community, and we will create a more inclusive classroom environment for all pupils. Including this aspect will end discrimination against a particular group. This inclusive curriculum will link to the implementation of sexual orientation education.

Additionally, the curriculum must also include knowledge around sexual abuse, gender-based violence, respect for human rights and gender equality, culture and sexuality and harmful sexual practices. Harmful sexual practices may be sharing sexual images of someone without their consent, pornography, having sexual activity with someone drunk, for example. Embracing sexual behaviour beyond the prevention of pregnancy and transmitted disease will help to provide young people with knowledge and values that will enable them to develop a constructive view of sexuality.

Sexual orientation refers to sexual and romantic feelings for people of the same gender, different gender or more than one gender. The curriculum should include related vocabulary, identities, labels, pronouns and how to be an ally, for example. Gender identity is unique and can differ from what society expects. It is important to respect each other, and education is fundamental in teaching children why they must not make assumptions and judgements about someones gender identity. An inclusive curriculum can support our youth by reducing the lack of acceptance of marginalised groups in the context of sexuality.

The Education Department should include youth in curriculum planning. Youth can give insight into their needs. Educators need support and training to deliver the curriculum successfully.

Based on youth opinions within our group and other young people, inclusive sexuality education will support youth and can lead to more fulfilled lives.

In conclusion, the implementation of inclusive sexuality education can lead to a more accepting community for our youth to grow. No prejudice, no discrimination, no judgement – these are some of the things that save the lives of children.

DIFFERENT PEOPLE. SAME LOVE