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CROWLEY PROGRAM IN INTERNATIONAL HUMAN RIGHTS
CONTRIBUTION TO THE OFFICE OF THE HIGH COMMISSIONER FOR HUMAN RIGHTS
STUDY ON THE RIGHT TO EDUCATION OF PERSONS WITH DISABILITIES

Pursuant to Human Rights Council Resolution 22/3

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This paper was produced by faculty, staff, and students with the Crowley Program in International Human Rights, an interdisciplinary program housed at the Leitner Center for International Law and Justice at Fordham Law School. A delegation from the Crowley Program visited Rwanda in May 2013 to examine barriers to education for persons with disabilities in the country. This fieldwork included wide-ranging discussions with over 175 stakeholders and experts in the country, among them persons with disabilities and members of disabled persons organizations (DPOs); the government and its partners; academic, legal and advocacy communities; and local leaders whose expertise informed a broader understanding of the issues. Prior to conducting this field visit, the delegation participated in an intensive program of study for the 2012-2013 academic year, including a legal seminar focused on disability rights in Rwanda and worldwide. Following the visit, four scholars from the Program continue to carry out additional research and follow up work. They are Daniel Davies, David James Harvey, Matthew Solomon, and Paula Sternberg. This paper draws on both the fieldwork and our academic inquiry.

Every effort has been made to ensure that the information in this paper is accurate as of September 2013. However, the Leitner Center welcomes any comments or corrections, which should be sent to LeitnerCenter@law.fordham.edu. The Leitner Center for International Law and Justice will publish a full report representing the culmination of this project in Spring 2014. The views expressed remain those of the authors and are not reflective of the official position of Fordham Law School or Fordham University.

The Crowley Program's study on the right to education for persons with disabilities (PWDs) found that while some positive legal and policy steps have been taken by the Rwandan government, a combination of legal and social barriers prevent many PWDs in Rwanda from realizing their right to education. These barriers include: social stigma, accessibility challenges, education quality concerns, a challenging education-employment pathway, and limited options for redress. In particular, negative societal perceptions of disability and fears of abuse cause some parents to physically isolate children who have disabilities, precluding them from attending school at all. Accessibility challenges, both in school and out, reduce the ability of PWDs to access schools, and quality concerns related to lacking accommodations and specialized teacher training discourages attendance. In addition, the perception that PWDs cannot perform work—or that educational opportunities will be very limited after graduation—deters educational investment by parents. Further, legal redress mechanisms for rights violations in this area are underdeveloped and international cooperation programs are few. These barriers to education are particularly stark for individuals with intellectual and psychosocial disabilities, who confront compounded stigma and exclusion and who have very limited specialized education options, making them a particularly vulnerable population with almost no access to basic education.

1. *Barriers that prevent persons with disabilities from attending regular schools in Rwanda are both legal and social.*

The Rwandan government has demonstrated political will in addressing the rights of PWDs by ratifying the CRPD, by implementing legal reforms to incorporate disability-specific equality provisions in national law, and by establishing an active National Council of Persons with Disabilities (NCPD). However, as they currently exist, Rwanda's laws and policies still contribute to a system where very few PWDs attend mainstream schools.¹ Importantly, a number of social barriers to inclusive education remain.

Law

Rwanda has ratified the International Covenant on Economic, Social and Cultural Rights,² the African Charter on Human and Peoples' Rights,³ and the Convention on the Rights

¹ In 2011 the Rwanda Ministry of Education estimated that the total number of students with any type of disability ("hearing," "visual," "dumb," "physical," "mental," "others") enrolled in primary schools was 27,353 out of 2,341,146 students total, or approximately 1% of the total student population in primary schools. In secondary schools, out of 486,437 students enrolled in 2011, there were 7,162 students with disabilities, or almost 1.5%. Rwanda Ministry of Education, *Rwanda Education Statistics* (Jan. 2012), p. 14, 26, available at http://mineduc.gov.rw/IMG/pdf/2011_RWANDA_EDUCATION_STATISTICS.pdf. This is a very low number, considering that the World Health Organization estimates that 10-15% of the world's population have some form of disability and that Rwanda, as a developing, post-genocide country, is likely to have a relatively high prevalence of disability. See Media Centre, *Disability and Health Fact Sheet N°352*, WORLD HEALTH ORGANIZATION, <http://www.who.int/mediacentre/factsheets/fs352/en/index.html> (last visited Apr. 1, 2013); but cf. *Some Facts about Persons with Disabilities*, CONVENTION ON THE RIGHTS OF PERSONS WITH DISABILITIES, <http://www.un.org/disabilities/convention/facts.shtml> (last visited Apr. 2, 2013).

² International Covenant on Economic, Social and Cultural Rights, Dec. 16, 1966, S. Treaty Doc. No. 95-19, 993 U.N.T.S. 3, 6 I.L.M. 360 (1967).

³ African Union, African Charter on Human and Peoples' Rights, June 27, 1981, O.A.U. Doc. CAB/LEG/67/3 Rev. 5, 21 I.L.M. 59.

of Persons with Disabilities (CRPD),⁴ all of which include provisions on the right to education. Further, Rwanda's Constitution recognizes that "[t]he State has the duty to take special measures to facilitate the education of disabled people."⁵ However, neither the Constitution nor Rwanda's laws state a preference for including students with disabilities in mainstream schools. Rather, the Law Governing [the] Organisation of Education establishes "specialized schools,"⁶ which "aim at admitting students with physical or mental disabilities or both who cannot study in ordinary schools."⁷ The Law Establishing the Organisation and the Functioning of Nursery, Primary, and Secondary schools further states that a student with disabilities may attend mainstream schools only when "the obstacles that prevented [that] pupil from attending ordinary schools are overcome."⁸ Policy and practice effectively place the burden of overcoming these obstacles on PWDs themselves. Further, as discussed below, there do not appear to be legal mechanisms for enforcing these national education provisions.

Policy and Practice

Despite Rwanda's effort to establish "child-friendly" schools that aim to include all educationally vulnerable children in mainstream schools,⁹ in practice mainstream public schools are often inaccessible to PWDs for a number of reasons, including inadequate teacher training, an inaccessible built environment, and a lack of accommodating materials and curriculum.¹⁰ The Special Needs Education Policy calls for schools to be made physically accessible,¹¹ and, to some extent, efforts at increasing the accessibility of the built environment have succeeded. However, gaps between inclusive education policy and implementation remain.

Notably, students with psychosocial and intellectual disabilities have very little access to basic education due to the extreme social stigma and exclusion they face and also because educators have neither the training nor the facilities to make reasonable accommodations for them. Because students with disabilities do not receive the support they need, they struggle at mainstream schools and regularly drop out.

Social barriers

Social stigma—including the perceptions of parents, educators, district-level officials, and society as a whole—is a very formidable barrier to inclusive education. Many parents keep children with disabilities at home or do not send them to school fearing potential shame or harm from community members. In addition, PWDs in Rwanda are perceived to have minimal job

⁴ Convention on the Rights of Persons with Disabilities, Dec. 13, 2006, 2515 U.N.T.S. 3.

⁵ Constitution, art. 40, 2003 (Rwanda).

⁶ These institutions are also often called specialized "centers," particularly if they provide vocational skills or operate as cooperatives.

⁷ Organic Law N.02/2011/OL of 27/07/2011 Governing Organisation of Education, art 10.

⁸ Law N.29/2003 of 30/08/2003 Establishing the Organisation and the Functioning of Nursery, Primary, and Secondary Schools, art. 51.

⁹ Ingrid Lewis, *Reaching the Marginalized: Education for Disabled People in Ethiopia and Rwanda*, 9, Education for All Global Monitoring Report, 2009, p. 37, available at <http://ddp-ext.worldbank.org/EdStats/ETHgmpap09.pdf>.

¹⁰ As Rwanda's Education Sector Policy makes clear, "special needs education has not been given much attention in Rwanda and there is a lack of specialist equipment and trained teachers for special needs education." Republic of Rwanda, *Education Sector Policy* (July 2003), p. 13, available at http://www.mineduc.gov.rw/IMG/pdf/EDUCATION_POLICY.pdf.

¹¹ Republic of Rwanda, *Special Needs Education Policy* (July 2007), p. 14, available at http://www.mineduc.gov.rw/IMG/pdf/POLICY_SPECIAL_NEEDS_EDUCATION.pdf.

prospects other than begging. The notion that employment opportunities are limited—in conjunction with the higher cost of education for PWDs—discourages parents from investing in their education. Further, a vicious cycle exists whereby the impression that PWDs are “useless” is aggravated by their not receiving proper training or accommodations even if they do attend mainstream schools.

Given the context of extremely limited resources in Rwandan schools, many groups that provide specialized education and carry out sensitization on disability have concerns about the quality of education that mainstream schools could and do provide students with disabilities. These civil society groups and family members believe that PWDs are more likely to receive quality education in specialized schools rather than in mainstream schools that might lack the facilities, training, and expertise to make reasonable accommodations. Moreover, many civil society organizations act as education service providers themselves, delivering educational or vocational training tailored to the needs of PWDs in the absence of similarly functioning state institutions. However, their efforts are sometimes constrained by lacking coordination, inadequate standard-setting and limited or inconsistent charitable funds.

2. *Although imminent policy changes appear to promote greater inclusion of persons with disabilities in the education system, it is not yet clear whether these changes will provide the funding and practical support that will facilitate greater inclusion at the local level.*

On paper a number of the government’s policies on inclusive education are consistent with Rwanda’s international obligations under the CRPD, and the government appears to be making policy changes that would further promote the inclusion of PWDs in the education system. However, its inclusive education policy is not organized into a unified national strategy with matching financial commitments and civil society or local community engagement.

Current Policy

The existing 2007 Special Needs Education Policy contains 20 specific strategies for achieving maximum inclusion for students with special needs, including: ensuring physical access; providing materials and curriculum support; increasing vocational training opportunities; training and supporting teachers and technical staff; conducting awareness and sensitivity campaigns; and nurturing partnerships between the government, communities, NGOs and the private sector.¹² However, resources and guidance on how to implement these strategies at the district level are inadequate, particularly because the overall education sector budget does not provide funds dedicated to integrating schools. Although Rwanda invests approximately 22 percent of its annual budget in education,¹³ it does not regularly budget for areas crucial to accommodating PWDs, including teacher training and the development of physical and programmatic accessibility.¹⁴

¹² *Id.*

¹³ UNESCO, *Rwanda EFA Profile*, available at <http://www.unesco.org/new/fileadmin/MULTIMEDIA/FIELD/Dakar/pdf/EFA%20country%20profile%20%202102-%20Rwanda.pdf>.

¹⁴ The Education Sector Strategic Plan lays out percent expenditures for primary, secondary, and higher education. See Rwanda Ministry of Education, *Education Sector Strategic Plan, 2008-2012*, available at http://mineduc.gov.rw/IMG/pdf/ESSP_2008-2012_August_2008_final_-_final.pdf.

Upcoming Policy Changes

The new Economic Development and Poverty Reduction Strategy (EDPRS 2), released in June 2013, says that “[e]ducation personnel and teachers with skills in inclusive and special needs education will be increased in number in order to promote social inclusion,” and that “assistive devices and appropriate learning resources will be scaled up.”¹⁵ In June, the Ministry of Education also conducted a workshop to update the Special Needs Education Policy, so that the policy will reportedly focus on providing special training to teachers of PWDs. However, it is not clear whether that policy will promote the full integration of PWDs into mainstream schools as the ultimate goal nor is it clear that state resources will be made available to implement this plan at the local level, where PWDs are most in need. Moreover, the degree to which grassroots civil society was involved in this policy development is unknown.

3. *A number of ministries, in addition to the Ministry of Education, are involved in the education of persons with disabilities. Their involvement does not directly result in the denial of access to mainstream schools but rather reflects the already formalized separation of persons with disabilities into specialized schools.*

The Ministry of Education (MINEDUC) is not the only ministry concerned with the education of PWDs in Rwanda. While MINEDUC sets educational policy, develops the national curriculum and conducts some monitoring of the education system at the national level, it does not regulate educational and vocational institutions that primarily serve PWDs. The Ministry of Local Affairs (MINALOC) governs these specialized centers, where the vast majority of PWDs receive basic education or skills training. The National Commission of Children, which sits under the Ministry of Gender and Family Promotion (MIGEPROF), also regularly monitors schools and advocates for their improvement, with an eye toward improving access to education for populations of vulnerable children, including children with disabilities.

In terms of budgetary support, local authorities at the district level can support the education of PWDs by providing ad hoc financial support to indigent families and to specialized centers on a case-by-case basis. This support may come from the budgets of MINEDUC, MINALOC, or MIGEPROF and is often granted from pools of funds set aside for orphans, female- and child-headed households, genocide survivors and other vulnerable groups. However, this support is not systematically guaranteed and is contingent on a number of factors, including the knowledge of the local authorities and the initiative of PWDs and specialized schools. Finally, a significant amount of support for the education of PWDs comes from ‘sponsorship’—or the payment of school fees and related expenses—by outside organizations, including the Liliane Foundation and World Vision.

¹⁵ Republic of Rwanda, *Economic Development and Poverty Reduction Strategy, 2013-2018*, available at http://www.minecofin.gov.rw/fileadmin/General/EDPRS_2/EDPRS_2_FINAL1.pdf.

4. *There is no systematic claims mechanism to turn to when mainstream schools reject students with disabilities. Rather, persons with disabilities seek support for their education by consulting local officials on a case-by-case basis.*

As detailed above, barriers erected by the law and society channel PWDs into specialized, rather than mainstream, schools. In addition, Rwandan law does not expressly provide formal recourse for PWDs and their families when they are sent home from mainstream schools. In the absence of formal mechanisms, it is not clear where PWDs should report grievances among the government bodies that address social affairs, disability, and children's rights. Moreover, a number of factors hinder enforcement of constitutional disability rights provisions. These factors include cultural preferences for informal problem solving over litigation, an absence of precedent on how to demand rights through litigation, and an underdeveloped infrastructure for addressing rights violations through the justice system.

Unclear Institutional Recourse

Because the law does not spell out where PWDs should bring claims, it is not clear where PWDs should report grievances when mainstream schools send them away or fail to provide reasonable accommodations. In practice, when children with disabilities or their parents do report complaints, they usually report them to local officials such as sector officers for education, social workers, or district officers representing the NCPD. These officials may then speak to school administrators or relay the complaints to national authorities on a case-by-case basis. Often, local officials resolve such complaints at the community level; resolution is also subject to the individual connections and capabilities of the district officers. Even highly motivated local officials are often unable to conduct outreach to PWDs to clarify where potential claims may be brought. A number of factors currently limit this outreach, including a lack of reliable data on disability prevalence—both in general and in school—and a lack of funds.

While the National Human Rights Commission could also receive disability rights complaints according to its mandate, it does not appear that PWDs approach the Commission with these grievances.

Underdeveloped Justice System

Finally, it does not appear that PWDs have used the court system to claim their rights to mainstream education. This is reportedly due in part to a cultural preference for informal problem solving and dispute resolution. In addition, cases challenging the government or demanding rights enforcement are seen as rare. Moreover, there are a number of barriers that limit PWDs' access to the justice system, including physical, communication and attitudinal barriers. Costs and perceived costs of litigation deter PWDs from reaching out to lawyers, and lawyers do not target PWDs as potential clients. The DPO community, which could otherwise direct rights-based claims through the justice system, is primarily concerned with helping members receive urgently needed services. DPOs also appear to lack the funds and coordinated support they would need to conduct sustained advocacy.

5. *There appear to be few international cooperation programs supporting inclusive education in Rwanda.*

Although there are several international cooperation programs and partnerships in Rwanda focused either on disability or on access to education and employment, few programs focus specifically on inclusive education. However, Handicap International, the British Volunteer Services Overseas (VSO), and World Vision have programs that support specialized teacher training, the development of standardized sign language tools, the provision of wheelchairs and other assistive devices, and community sensitization. In addition, several international NGOs, including Plan International, collaborate as a committee to help identify PWDs and promote inclusive education within their educational development work.

Other notable programs focus on the formation of cooperatives and skills development for PWDs, but not on inclusivity in basic education. For instance, the Japan International Cooperation Agency (JICA), through its program targeting ex-combatants and other people with disabilities (ECOPD), supports a number of very popular skills trainings around the country. Nevertheless, this program requires a basic level of education and literacy for participation, meaning many PWDs are not able to participate. Moreover, the program is scheduled to complete in 2014.