Abuse of disabled a national crisis

Many denied justice as they cannot use voice to communicate

ROBYN WHITE

'N 2011, the World Health Organisation (WHO) released a report stating that 15% of the global population had

That's more than 1 billion people. Of those, 200 million had a severe disability, such as the inability to

In South Africa, about 2.9 million people live with a disability, according to Stats South Africa, and 300 000 have been diagnosed with a communication disability and cannot use their voice to communicate.

That is equivalent to triple the seating capacity of FNB stadium in Joburg, the largest in Africa able to accommodate 95 000.

Violence and abuse in South Africa against individuals with disabilities has reached a national

A national prevalence study published in 2016 estimated that one in three children becomes a victim of sexual violence and physical abuse before the age of 18, while 12% report neglect and 16% report emotional abuse.

Sadly, 60% of sexual abuse cases are withdrawn due to insufficient evidence and the lack of adminis-

And, research shows that people with a disability are at high risk of becoming victims of sexual crimes and are often repeat

People with communication disabilities, such as cerebral palsy or autism spectrum disorder, are even more at risk of being victims of sexual crime. They are also more likely to be denied justice because of their inability to communicate.

that testifying in court against a lary needed to disclose or report perpetrator will bring secondary crime or abuse in South Africa trauma to the victim.

On the contrary, research shows that one way of reducing the risk of being a repeat victim of crime is testifying against the alleged perpetrator in court as

To promote and protect the human rights of persons with disabilities, the UN adopted the Convention on the Rights of Persons with Disabilities in 2006

The international treaty set the standard and strengthened the legal framework for the recognition of the rights of persons with disabilities.

The convention also seeks to ensure the full and equal enjoyment of all human rights and fundamental freedoms by all persons with disabilities.

Article 13 of the convention reports on access to justice and states that all "states' parties shall ensure effective access to justice for persons with disabilities on an equal basis with others, including through the provision of procedural and age-appropriate accommodations in order to facilitate their effective role as direct and indirect participants,

including as witnesses, in all legal proceedings.'

A submission made to the SA Law Commission in 2001 about access to justice for women with psychosocial and intellectual disabilities who had been victims of violence, stated that: "All witnesses be regarded as competent to testify if they can understand the questions put to them and can in return give answers that the court can understand."

Disability advocates need to unpack the term "reasonable accommodation" and use it to assist these individuals to fight for equal access

The convention defines "reasonable accommodation" as "means necessary and appropriate modification and adjustments not imposing a disproportionate or undue burden, where needed in a particular case, to ensure to persons with disabilities the enjoyment or exercise on an equal basis with others of all human rights and fundamental free-

With this definition in mind we need to look at augmentative and alternative communication (AAC) as a valid means of communication for disclosing abuse or other crimes, reporting to the police and testifying in court.

Augmentative and alternative communication is commonly divided into two types of systems:

■ First, unaided communication systems that relies on one's body to convey messages, for example natural gestures, body language, facial expressions and sign language.

■ Second, aided communication systems that require the use of tools or equipment in addition to one's

These systems can range from low-technology options such as paper and pencil, communication books or boards to hi-tech speech-generating devices that produce voice output.

Both low and hi-tech communication devices allow the user to use either picture symbols or alphabet letters to create messages.

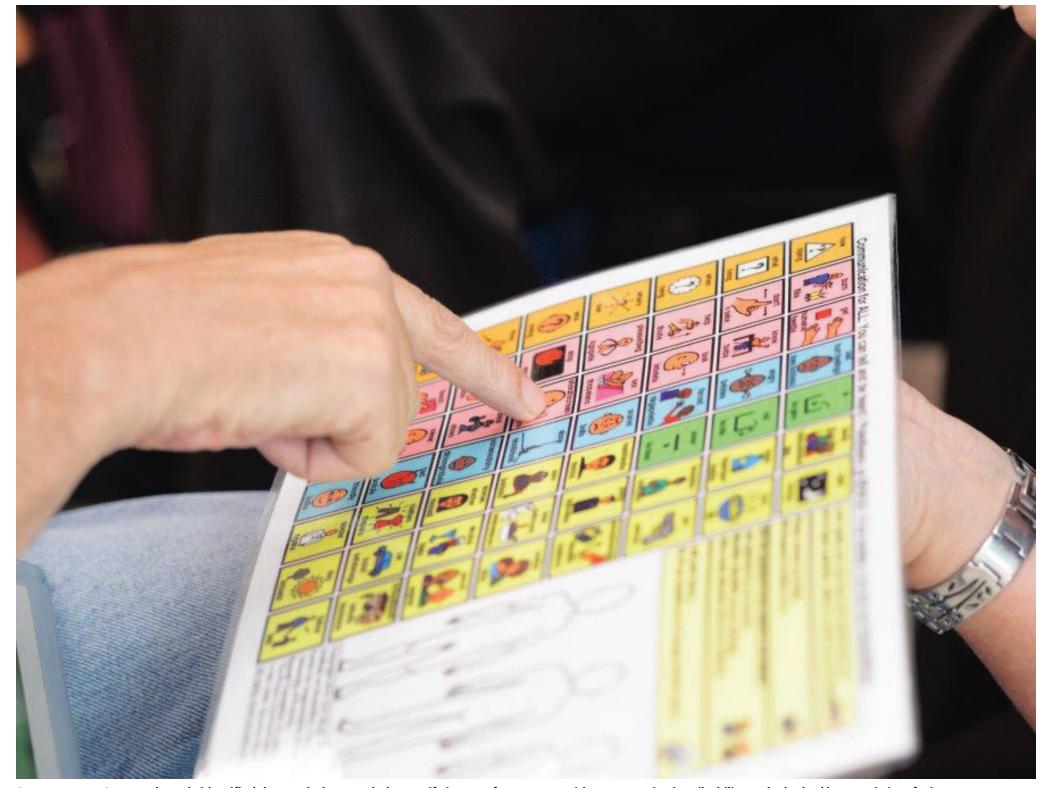
A 2011 research study conducted at the Centre for Augmentative and Alternative at the University Too many people believe of Pretoria, identified the vocabuand, furthermore, a recent master's research study identified the vocabulary needed to testify in court for a person with a communication disability and who had been a victim of crime

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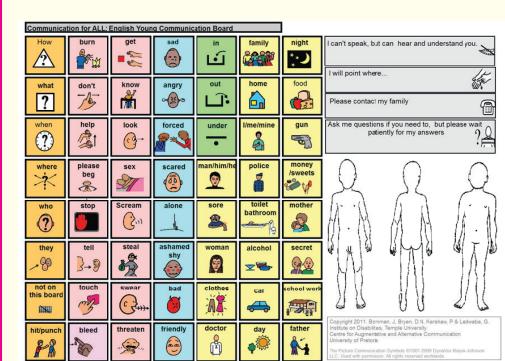
> Further research is under way to investigate how people with communication disabilities who have been victims of crime can be empowered to tell their stories, and assist both them and their families to access the complete criminal justice system - a basic human right that they deserve.

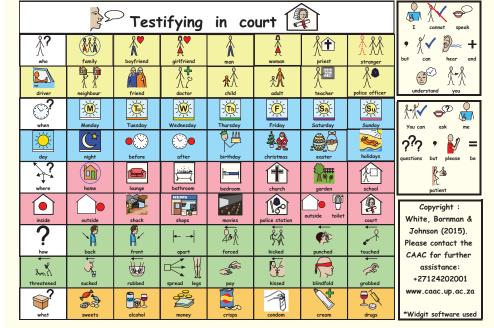
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• The author thanks and acknowledges her supervisor, Professor Jan Bornman and co-supervisor, Dr Ensa Johnson who contributed to this research study.



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Low-technology communication boards are one of the resources that can be used help someone with communication disability, their family and legal professionals during the court process.

Dangers of being defender of environmental justice in SA

KIRSTEN YOUENS

THE FIFTH anniversary of the Marikana mine massacre on August 16, 2017 serves as a stark reminder that mining is a very dangerous industry to oppose.

A recent report by Global Witness states that "at least 200 people were killed in 24 countries last year in retaliation for standing up to environmentally destructive industrial projects. That's up from 185 murders in 16 countries in 2015". This amounts to four reported

murders every week.

Mining is the most dangerous industry to oppose with at least 33 of

these murders linked to the sector. Women are increasingly in the firing line. Lebogang Ngobeni, from the Fuleni Reserve in KwaZulu-Natal, recently received death threats for appealing a proposed bridge and road development that will open the area to mining.

Other Fuleni activists whose lives have been threatened include Phila Ndimande and Billy Mqondo for leading opposition against Ibutho Coal's proposed open cast coal mine on the boundary of the Hluhluwe iMfolozi Park, a sanctuary with the world's highest concentration of threatened southern white rhino.

Ndimande, Mqondo and Ngobeni live with the awareness that their lives hang in the balance, knowing how dangerous it is to stand up for environmental justice, and for human rights.

The US Environmental Protection Agency defines environmental justice as: "The fair treatment and meaningful involvement of all people regardless of race, colour, national origin, or income, with respect to the development, implementation, and enforcement of environmental laws, regulations,

and policies In South Africa, defenders of

environmental justice, social and political change are threatened, ridiculed, marginalised and punished. There have been many situations in the struggle against coal mining and other intrusive development in rural areas that have resulted in threats, intimidation and death.

People's homes and cars are burnt. Many have been murdered and the perpetrators get away.

Nonhle Mbuthuma, spokesperson for the Amadiba Crisis Committee (ACC), has spent more than 10 years defending her community's land rights on the Pondoland Wild Coast, against an Australian mining company, Mineral Resources Com-

modities (MRC). ACC is also fighting our government and Sanral who want to build a national highway over their land that will facilitate titanium mining of the protected Xolobeni dunes.

Mbuthuma's life is constantly at risk as she is on the same hit list that

fellow murdered activist, "Bazooka" Sikhosiphi Rhadebe, was on. He was murdered on March 22, 2016, the day after Human Rights Day.

As activists for social and environmental justice, we defend human and environmental rights; fighting for the right to a healthy environment, to clean water, to land and the right to life.

As a result, we often clash with political and business interests, with corporations that take over land and natural resources for their

The mining laws of our country make it particularly easy for them to do so. In acting against these powerful forces, we are often subject to the growing list of corporations or governmental departments that "marginalise defenders, branding their actions 'anti-development'.' Many defenders face years of death threats, criminalisation, intimidation and harassment,

but receive little or no protection from authorities"

Our government, from local to national level, often turns a blind eve to intimidation and lack of compliance with the law. This is particularly noticeable in

KwaZulu-Natal where the land falls under the control of the Ingonyama Trust Board. Government structures show reluctance to interfere in areas where the ITB, the traditional councils and the indunas have control.

What they are effectively doing, as is the case in many other countries of the world, is "permitting a level of impunity that allows the vast majority of perpetrators to walk free... Incredibly, it is the activists themselves who are painted as criminals, facing trumped-up criminal charges and aggressive civil cases brought by governments and companies seeking to silence them".

There are many ways to silence

people and an intimidation tactic that is increasing in frequency and often used by corporations or developers against individuals or organisations that oppose their actions is to institute strategic lawsuits against public participa-

tion (slapp). "These lawsuits are a strategic move, brought solely to censor, intimidate, and silence opposition. The typical goals of a slapp are for the defendant to succumb to intimidation, fear, high legal costs or simple exhaustion and ultimately abandon the cause for which they

are fighting. Such lawsuits have been made illegal in many jurisdictions on the grounds that they impede freedom

"Unfortunately, such suits are not yet illegal in South Africa. Slapps take various forms but the most common is a civil suit for defamation.

Recently, two attorneys from the Centre for Environmental Rights in Cape Town, were served with defamation suits for comments they made about the environmental harm caused in the Western Cape by Tormin mine, owned by ASX-listed MRC. This is the same company wanting to mine the Xolobeni dunes on the Wild Coast.

Environmental defenders and environmental justice activists in South Africa make up a dedicated, committed and extremely brave group that is growing.

Mbuthuma's bravery is renowned 'so, when they kill me they must kill me alone, not my family".

And while we're not easily intimidated, whatever intimidation does come our way only makes us more committed to our cause.

 Youens is an attorney specialising in environmental law and environmental justice.