



Fighting for Equality in Education: Student Activism in Post-apartheid South Africa Epilogue

On May 15, 2013, Equal Education's National Council voted unanimously to accept its legal team's advice. They granted Minister of Basic Education Angie Motshekga one more month despite the membership's vote against granting an extension. "We took the advice from the lawyers very seriously and put that in the context of our campaign work and the need to stay on the front foot," says Brad Brockman, the organization's general secretary. "When you are driving a campaign forward for years and you've made all of these strides and you've got the minister in a corner, a court victory for the minister would have set us back," he says.¹

The decision disappointed the student members, known as "equalisers." "At this stage, a few of them started to pull out of Equal Education," says Equal Education (EE) community leader Luyolo Mazwembe.²

They said that their voice is not being heard and is not being taken into consideration. Things were bad at that stage. *Equalisers* started to be skeptical about the movement... They had doubts, you know?

It quickly became clear that, despite Brockman's instructions about how to run the vote, the *equalisers* had believed that the vote would determine the organization's course of action. "They have a legitimate claim to having their voices heard," says Brockman. "Of course, you can't run an organization purely on what members think is best." He explains:

There has to be a leadership which has a responsibility and a mandate to make decisions which sometimes are not popular but which, in their opinion, are the right thing to do for the organization and for the

¹ Author's interview with Brad Brockman in Khayelitsha, South Africa on January 21, 2014. All further quotes from Brockman, unless otherwise attributed, are from this interview.

² Author's interview with Luyolo Mazwembe in Khayelitsha, South Africa on January 20, 2014. All further quotes from Mazwembe, unless otherwise attributed, are from this interview.

campaign. I feel that the message was lost about the National Council actually having the final say, and I regret the voting exercise because it really upset the *equalisers* and organizers who felt that their voice and their opinion within the movement was not being listened to. The intention was to assess and gauge how people were feeling. That was something that I wish we had done differently. I do feel we made the right decision. I regret the way in which we made it.

Part of the membership's reaction to the leadership's decision derived from its lack of understanding. "People have to be very well-informed and have quite a deep understanding of what is going on in order to make that decision," says human rights attorney Geoff Budlender. "I think that has been the challenge for Equal Education through this process: how to keep their membership properly informed. It is not easy."³

There was also inherent tension between the membership and the leadership. "There's an incredibly healthy suspicion of authority in South Africa," says EE co-founder Doron Isaacs. "Ordinary members are always thinking the leaders are going to sell them out."⁴ Part of the reaction was simply a manifestation of youth and inexperience. The two-year span of the campaign represented a significant portion of a typical high school student's life. "You have young people who are angry, who sometimes don't understand why things take so long to be implemented," says high school student and EE deputy chair Bayanda Mazwi. "And we don't understand why government officials are not doing things right. And sometimes we get angry and then we take irrational decisions."⁵

But the leadership, in the scramble to respond to the minister, also failed to present the *equalisers* with the option of a one-month extension and the strategy behind it. "The *equalisers* were just asked about extending the minister's time," says Isaacs. "Given the time periods to date in the case, they may well have assumed that an extension implied significantly more than a month. Her letter distinctly gave that impression, which is all they had to go on."

On May 17, Minister Motshekga responded by rejecting Equal Education's offer of a one-month extension. "She wrote back and said, basically, 'Don't be ridiculous. I need six months'," says Isaacs. "I feel like we were vindicated because we got the minister to play her hand, and the six-months request was clearly unreasonable." On May 20, Brockman wrote to the membership and explained the National Council's decision to grant a one-month extension, reported the

³ Author's interview with Geoff Budlender in Cape Town, South Africa on January 18, 2014. All subsequent quotes from Budlender, unless otherwise attributed, are from this interview.

⁴ Author's interview with Doron Isaacs in Baltimore, Maryland, on December 11, 2013. All other quotes from Isaacs, unless otherwise attributed, are from this interview.

⁵ Author's interview with Bayanda Mazwi in Khayelitsha, South Africa on January 20, 2014. All further quotes from Mazwi, unless otherwise attributed, are from this interview.

minister's response, announced that they were going back to court, and called for three protest marches on June 17. "Brad sending that letter was a good decision," says Mazwembe. "Most of the *equalisers* stayed in the movement."

On June 11, Equal Education petitioned the court to reopen the case, and on June 16, 17 and 18, the organization held protests in key cities. On June 18, Minister Motshekga issued a statement calling Equal Education "disingenuous." At the National Council's next meeting, on June 22, veteran activist and EE advisor Zackie Achmat offered his perspective during a postmortem on the process of responding to the minister's request for an extension. "I remember Zackie saying the mistake was to have a vote," says Isaacs. "It was inexperience on our part." He recalls Achmat's words:

At every single step, the duty of leadership is to consult. And to listen.
And to go and explain decisions. But not to create false expectations [or]
create an impression that you're abdicating your leadership to the
membership.

Equal Education met with Minister Motshekga and her staff on June 23, but they were unable to come to an agreement. On July 11, the parties returned to court, and the High Court issued an order for the minister to publish binding norms and standards by November. She released a revised draft on September 11, and over the next month Equal Education again held public hearings, gathered comments from citizens and experts, and submitted them to the minister. On November 29, 2013, Minister Motshekga published legally binding Norms and Standards for School Infrastructure.

Equal Education's combination of mass political action and litigation was ultimately successful in advancing the norms and standards for school infrastructure campaign. It also illustrated the challenges of balancing the two strategies, says Budlender. "The difficulty with litigation and social justice movements is that litigation can be disempowering," he says. He explains:

It can be demobilizing, depoliticizing, because the matter gets handed over to the lawyers and the lawyers take charge. That is a well-known phenomenon seen all over the world. This was another way in which Equal Education profited from the Treatment Action Campaign's experience... [Achmat's] mentorship and his leadership clearly played a significant role in helping Equal Education find their way... [Equal Education] were dictating the strategy. We were told where we fitted in and what we should do, and decisions about the litigation were made, not just with a view to litigation, but also with a view to the broader campaign which they were mounting. That made it a very satisfying case from my

point of view because that's how I believe serious social litigation should be run.

The publication of norms and standards ended one phase of Equal Education's campaign for better school infrastructure and began the next. The organization shifted gears to implementing the standards. "The case doesn't come to an end when you get the judgment," says Budlender. "There is the problem of enforcement of the judgment." He explains:

The really difficult work now is not the legal work. It is the monitoring and mobilization. One of the reasons that you need norms and standards, promulgated and binding, is that it empowers people on the ground. It gives them a right. It means they are holders of rights which they can enforce. It creates the means for active citizenship.