



UGANDA NATIONAL ACTION ON PHYSICAL DISABILITY



**PUBLICATION OF SELECTED LEGAL PROVISIONS
IN DOMESTIC AND INTERNATIONAL LAWS
ON PHYSICAL ACCESSIBILITY**

May 2010

List of Abbreviations and Acronyms

- 1) Cap – Chapter
- 2) CRPD – Convention on the Rights of Persons with Disabilities
- 3) LAPD – Legal Action for Persons with Disabilities Uganda
(LAPD)
- 4) NDPO – National Disabled Persons Organization
- 5) PWDs – Persons with Disabilities
- 6) PWD Act – Persons with Disabilities Act, 2006
- 7) PWPDs – Persons with Physical Disabilities
- 8) Sec – Section
- 9) State Party – Uganda
- 10) UNAPD – Uganda National Action on Physical Disability
- 11) UN – United Nations

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This publication is a summary of a legal review conducted by Uganda National Action on Physical Disability (UNAPD) on the relevance of laws and policies in influencing an accessible environment for persons with physical disabilities (PWPDs).

In the due course of UNAPD's work in the districts and the respective wings that constitute its membership, UNAPD has progressively realised that there is a big gap within its membership with regard to appreciation of laws and policies on disability generally and specifically physical disability. Being a National DPO working on issues of PWPDs, UNAPD thought it pertinent to cause a review to be done aimed at compiling the respective provisions on accessibility in the laws of Uganda, identifying strengths and gaps in those laws, and proposing interventions that UNAPD should take on with regard to such laws.

This task was assigned to Legal Action for Persons with Disabilities Uganda (LAPD), a National Disabled Peoples Organisation specializing in legal issues affecting persons with disabilities. This is a simplified version of the findings but mainly highlighting the respective domestic (Uganda laws) and a few International laws that directly impact on physical disability in the fields of employment, education and health, with accessibility as a cross-cutting issue.

The purpose of this publication is to avail a handbook to persons with disabilities, their caregivers and service providers on the respective legal provisions that can be utilised to either advocate for their rights or to challenge human rights violations against persons with disabilities.

UNAPD is grateful to LAPD for undertaking this very important work piece and we look forward towards a continued working relationship.



Meldah Tumukunde
Executive Director

2.0. BACKGROUND

PWDs are largely marginalised in Uganda and not withstanding the existing ambitious disability legislative framework, very few legal provisions are respected, implemented and translated into real programmes and actions. This means that PWDs continue to face diverse social and physical barriers, which restrict their full participation in society. PWDs face challenges of physical access to schools, work places, roads, public and private facilities. For example, public and private buildings are inaccessible to people using crutches, wheelchairs or other assistive or walking devices. Within the educational sector, there are countless stories of pupils and students who can't access some of the school's facilities because the schools cannot cope with simple yet fundamental issues of accessibility. Therefore, children with physical disabilities often end up in special schools, drop out or not go to schools at all.

As a consequence, PWDs are less likely to socialise, receive education, access health care, travel, or enjoy their right to work. This translates into illiteracy, poverty, discrimination, segregation, poor health and a heavier burden of care for otherwise would be self-reliant persons. The situation of women with physical disabilities is even worse because of the double burden imposed by gender disparities and disability-related discrimination.

Uganda has various laws in the education, health, employment and transport sectors. It is also a signatory to International Legal Instruments like the UN Convention on the Rights of Persons with Disabilities which, among others, seeks to promote the right of access to the physical environment. Uganda also observes the Standard Rules on the Equalisation of Opportunities for Persons with Disabilities which call for recognition of the overall importance of accessibility in the process of equalisation of opportunities in society.

3.0 CHAPTER ONE: TRANSPORT & COMMUNICATION

3.1. The Access to road Act Cap 350

Section.1 defines a "road" to mean any way open to the public for the circulation of vehicles, which is maintained by the Government or an administration.

Section 2 defines a road reserve on the other hand as an area bounded by imaginary lines parallel to and distant not more than fifty feet from the centre line of any road.

Interpretation 1: *Each road must have a reserve that allows easy access and movement for pedestrians, including PWDs especially wheelchair users.*

Section 5 provides that it is against the law for someone to interfere in any way with the proper function of the road that is likely to be dangerous to persons or vehicles using a road. Doing this is an offence in the law, and any person who fails to obey a notice by the road authority to remove such obstacles from the road and repair the road commits an offence.

Interpretation 2: *Whoever digs a trench in a road which makes it difficult or impossible for PWDs to access and use such roads commits an offence, and should be reported to area Local Council authorities to have the obstacles removed.*

Interpretation 3: *It is therefore very important that all road reserves be cleared by the respective district and administrative authorities. For roads without road reserves, they should be created to make the roads easy to use by PWDs and all other people.*

Sections 2 and 6 allow a person who can not access a public highway to apply to a court/ land tribunal to permit him/her to construct another road on any other person's land to ease access.

Interpretation 4: *A person with disability who can not access a public highway is given protection. This road shall not exceed 20 feet in width.*

3.2. The Traffic and Road Safety Act, 1998 Cap 361

Section 132 (paragraph O) states that there should be adequate safety for cyclists, pedestrians and PWDs on the road, by particularly constructing a track or ramp for special use by PWDs.

Interpretation 5: *All roads with heavy traffic should have safe crossing points and accessible pathways for PWDs.*

Section 42 (paragraph 3) and Sec. 24 of the PWDs Act prohibits denying a driving permit to a PWD by reason of his or her disability.

Interpretation 6: *A person with disability should not be denied a permit to ride/ drive a motor cycle, vehicle and any other locomotive because he/she has a disability. Even if he/she uses a wheelchair, crutches, callipers, among other, should be given a driving permit.*

Interpretation 7: *It should, however, be noted that while the law does not restrict PWDs from driving, PWDs should individually assess their abilities to ascertain whether or not the degree and severity of their impairment can permit them to drive without putting their lives and the public's at risk. One should also ensure that relevant modifications are done on the car they intend to drive, to suit their disability.*

3.3. The Persons with Disability Act, 2006

Sec. 19 makes it the responsibility of all organs in the public or private institutions to provide suitable entrances and exits for PWDs and universal standards or designs for public toilets.

Interpretation 8: *All public or private institutions/ buildings should have wide doors that can easily be accessed by persons with physical disabilities especially wheelchair users.*

Interpretation 9: *All toilets/latrines whether public or private should comply to the Accessibility Standards developed by UNAPD in collaboration with other stakeholders.*

Sec. 20 puts a duty to every person who constructs a building for public use to ensure that PWDs have access through provision of:

- a) Accessible and easy to find building entrances, with accessible pathways to indoor or out door parking areas, local public transit stops and accessible elevators.

Interpretation 10: *The law recognises that entrances and pathways linking to the buildings, parking and elevators/lifts, should all be wide enough and accessible to PWDs using all types of wheelchairs.*

- b) Safe and accessible urinals and bathrooms

Interpretation 11: *Urinals in men's toilets should not be too raised in a way that PWDs especially wheelchair users can not use them. Bathrooms should also be wide enough with non-slippery floor tiles.*

- c) Safe and well-dimensioned stair cases, ramps, adequate rails, and well-dimensioned elevators, which serve all floors normally reached by the public. Platform lifts are also encouraged where installation of a ramp is difficult or was unforeseeable.

Sec. 22 requires availability of accessible transport services to PWDs, who use mobility devices such as crutches and/ or callipers, or wheelchairs.

Interpretation 12: *Transport systems like aeroplanes, trains, taxis, buses and motorcycles should be accessible to PWDs.*

4.0 CHAPTER TWO: EMPLOYMENT

4.1. The Constitution of the Republic of Uganda 1995, as amended

Article 40 provides that every person in Uganda has the right to practice his or her profession and to carry on any lawful occupation, trade or business. It gives powers to Parliament to enact laws to ensure that work is done under satisfactory, safe and healthy conditions, with equal payment for equal work without discrimination.

Interpretation 13: *The article allows all Ugandans including PWDs to put their academic and acquired skills to practice in business or trade without any unlawful restrictions.*

Interpretation 14: *This also means that PWDs have a right to directly get involved in business and to be given jobs both in private and public sectors, provided that they have the qualifications. The working premises including the general outside environment should be accessible.*

4.2. Persons with Disability Act, 2006

Section 12 of the PWDs Act prohibits discrimination against qualified PWDs on grounds of disability, in regard to any job application procedures, hiring, promotion, employee compensation, job training and other terms, conditions and privileges of employment.

Interpretation 15: *Any condition put up by the employer aimed at discouraging or failing a PWD from taking up responsibilities is against the law. Such a condition could be lack of capacity to lift a load, which is not related to one's skills, being unable to access upper floors of a building without a lift.*

Section 13 (4) (b) requires every employer to carry out appropriate modifications in their work premises to facilitate the employment of PWDs.

Interpretation 16: *It is a duty of every employer to put up ramps and rails on all their buildings, make their toilets/latrines wide enough, and carry out similar changes on their work premises, for easy use of such facilities by PWDs.*

Section 13 (4) (c) gives a tax exemption on any costs incurred by an employer as a result of the modifications carried out under (b) above.

Interpretation 17: *Any employer who makes accessibility modifications can receive a reduction on the cost of materials used in making the changes at his work place.*

Sec.18: PWD Act provides that all contracts are bad in law or void if it requires a person to do something prohibited by the PWDs Act (as provided above), excludes any provision of the Act, or prevents any person from filing a complaint against any person (s) who has committed acts prohibited by this Act.

Interpretation 18: *A PWD can take an employer to court, who violates the provisions of the PWD Act on employment.*

Section 16 puts a duty on the employer to ensure that the physical features of the premises used by an employee do not place an employee with disability at a disadvantage.

Interpretation 19: *Work premises should not be limiting employees with disabilities from accessing any parts or facilities at the work place.*

4.3. The Employment Act, 2006

Sec.6 (1) puts a duty on the minister responsible for labour, labour officers, and the Industrial Court to promote equality of opportunities with a view of eliminating any discrimination in employment.

Interpretation 20: *PWDs should not be mistreated or disrespected in trade unions, industrial courts and a minister responsible for labour has a duty to promote such equality.*

Section 6 (3) declares discrimination in employment unlawful and it defines it to include; exclusion made on the basis of among others disability, which has the effect of preventing an employee from obtaining any benefit under a contract of service.

Interpretation 21: *An employer, who offers a transport benefit to his/her employees using a bus which an employee, for example, using a wheelchair can not access and therefore he/she is made to meet transport costs, commits discrimination.*

4.4. Workers Compensation Act Cap 225

The Act generally requires that any person who acquires a disability while at work and in the course of doing the employer's duties, is supposed to be compensated as provided for in the Workers Compensation Act.

Interpretation 22: *Where such a worker has to retain his job, the employer is required to create an accessible environment on addition to paying him as a compensation for the disability acquired.*

5.0. CHAPTER THREE: HEALTH

5.1. The Constitution of the Republic of Uganda 1995, as amended

Objective XX mandates the State to take all practical measures to ensure the provision of basic medical services to the population.

Interpretation 23: *It's the duty of the State to avail basic medical services to PWDs including disability related needs for polio survivors, people living with rheumatism, and brain injury, among others.*

5.2. The Persons with Disability Act, 2006

Section 7 provides that PWDs are entitled to equal rights in all health institutions including medical care.

Interpretation 24: *Among the equal rights they are entitled to is the right to physically access the different sections of a given medical unit like laboratories, maternity wards, and toilets, among others*

Sec 8 further provides that Government shall promote special health services required by PWDs through;

- (a) Providing access to reproductive health services which are favourable to women with disabilities.
- (b) Provision of health-care materials easy to use by PWDs.
- (c) Promotion of community health awareness campaigns in a way favourable to PWDs.

Interpretation 25: *It's the duty of Government to provide special disability-related health services in hospitals like accessible delivery beds for mothers with physical disabilities, among others.*

5.5. The UN Convention on the Rights of Persons with Disabilities, 2008

Article 25 requires States Parties to recognise the rights of citizens to enjoyment of the highest attainable standard of health without discrimination on the basis of disability.

Interpretation 26: *States Parties shall take all appropriate measures to ensure that PWDs access health services that are gender-sensitive and disability-friendly,*

including health-related rehabilitation.

States are particularly required to:

- (a) Provide specific health services to PWDs because of their disabilities, including appropriate early identification and interventions, and other services designed to minimise and prevent further disabilities among children and older persons.

Interpretation 27: *States should provide health services in accessible health units/structures, which can be easily reached by PWDs to avoid secondary disabilities*

- (b) Provide health services as close as possible to people in their communities, including in rural areas.

Interpretation 28: *Health services like outreach programmes should be provided in places and distances that are easy-to-reach by PWDs.*

- (d) Prevent discrimination on basis of disability in provision of health services.

Interpretation 29: *Having a disability should not be a ground upon which someone is denied access to medical care.*

Article 26: UN CRPD requires States Parties to take effective and appropriate measures, to enable PWDs to attain and maintain their maximum independence, full physical, mental, social and vocational ability, and full inclusion and participation in all opportunities that life has to offer.

Interpretation 30: *The State has to do all it can to enable PWDs to live independently, through availing them with mobility appliances like wheelchairs, crutches, callipers and an accessible environment where such appliances can be easily used.*

States Parties are further required to organise, strengthen and extend comprehensive habilitation and rehabilitation services, particularly in the areas of health, employment, education and social services.

Interpretation 31: *Habilitation means trying to work on a child who has a disability at a very young age, say by operating him/her and availing suitable assistive devices like wheelchairs. Rehabilitation usually takes place on adult PWDs aiming at availing them with life and career skills.*

States parties are required to promote the availability of knowledge on use of assistive devices and technologies designed for persons with disabilities, as they relate to habilitation and rehabilitation.

Interpretation 32: *The Government should avail assistive devices such as crutches, wheelchairs, among others, to PWDs who need them, and skills on the proper use of such appliances.*

6.o. CHAPTER FOUR: EDUCATION

6.1. The Constitution of the Republic of Uganda 1995, as amended

Objective XVIII (ii) of the Constitution of the Republic of Uganda mandates the State to take appropriate measures to offer every citizen equal opportunity to attain the highest educational standards possible.

Article 30 of the Constitution of the Republic of Uganda avails a right of education to all persons in Uganda.

Interpretation 33: *All study opportunities given to students/children without disabilities to access education should equally be given to students/children with disabilities without any discrimination.*

Article 35 (1) of the Constitution of the Republic of Uganda provides that persons with disabilities have a right to respect and dignity and that the State and society shall take appropriate measures to ensure that they realise their full mental and physical potential.

Interpretation 34: *Respect and dignity of PWDs includes a dignified physical access to all structures and access to mobility devices.*

Realising full potential requires that the State works on all physical accessibility-related barriers that limit participation of PWPDs in community programmes and activities.

Article 32 (1) mandates the State to take affirmative action in favour of persons with disabilities for purposes of redressing imbalances which exist against them.

Interpretation 35: *Affirmative action means special treatment given to a person aimed at covering up for a long period that person has been left out of main activities. Physical access to services by PWDs is the key to redressing imbalances.*

Article 20 (1) clearly provides that such rights are inherent and not granted by the State, and therefore shall be respected, upheld and promoted by all organs and agencies of Government and by all persons.

Interpretation 36: *The PWDs right to an accessible environment is not a favour but a duty of the State and every Ugandan to make roads, buildings and other facilities accessible to PWDs.*

6.2. The Persons with Disability Act, 2006

Section 5 mandates Government to promote education of PWDs through encouragement of inclusive education and formulating educational policies that promote special needs and requirements of PWDs.

Interpretation 37: *An inclusive educational system is where able-bodied children study together with children with disabilities. The schools should be accessible with wide door entrances, ramps, accessible latrines/ toilets, and with a relatively flat environment. They should also have special teaching aids and facilities for PWDs and special needs teachers.*

Section 19 of the same Act makes it the duty of all organs in both public and private institutions to provide suitable exits for persons with disabilities and universal standards or designs of public toilets.

Interpretation 38: *Universal standards or design of public toilets means a toilet which PWDs can use with ease, and independently.*

Section 20 makes it an obligation to any person who constructs a public building to ensure access for persons with disabilities through among others; providing safe and accessible urinals and bathrooms, ramps, rails, and elevators.

Interpretation 39: *A public building is any building for public use regardless of whether it is owned by an individual/private person or the Government. Examples include schools, hospitals, banks, hotels, places of worship, work premises, among others, where the general public is free to enter.*

Section 6 (1) and Section 6 (2) (c) considers it to be discrimination where a person with a disability is denied or limited access to any benefit or service provided by an education institution.

Interpretation 40: *It is discrimination or an offence for a school, college or university to have facilities like toilets/latrines, libraries, classrooms, among others, that PWDs can not access or access it with difficulty.*

6.3. The Universities and other Tertiary Institutions Act, 2001 (as amended)

Section 24 (2) (b) of the Universities and other Tertiary Institutions Act provides that it is the function of the university to disseminate knowledge and give opportunity of acquiring higher education to all persons including persons with disabilities who wish to do so without discrimination.

Interpretation 41: Persons with physical disabilities must be given the same opportunities as any other students, as regards access to all the institution's facilities like lecture rooms, halls of residence, libraries, and recreation facilities.

Section 28 (3) provides that the Admissions Committee of a public university shall take into consideration affirmative action in favour of marginalised groups of people among which are persons with disabilities.

Interpretation 42: Special treatment must be given to PWDs by the Admissions Committees of universities, bearing in mind that PWDs usually face numerous challenges in schools which certainly affect their academic performances and therefore the need for some special consideration.

6.3. UN Convention on the Rights of Persons with Disabilities, 2008

Article 24 (5) requires States Parties to ensure that PWDs are able to access general tertiary education, vocational training, adult education and lifelong learning without discrimination and on an equal basis with others, and that States Parties shall ensure that reasonable accommodation is provided to PWDs.

Interpretation 43: This puts a duty on the State to make education services at all level accessible to all PWDs including children.

6.4. Standard Rules on the Equalisation of Opportunities for Persons with Disabilities, 1993

Rule 5 mandates States to recognise the overall impact of accessibility in equalisation of opportunities in whatever it does.

Interpretation 43: Accessibility has a general and cross-cutting impact on total enjoyment of rights of PWDs and their participation in society.

Rule 5(a) (1) requires States to initiate measures to remove from the physical

environment obstacles to the participation of PWDs in community activities.

Interpretation 44: *Accessibility Standards/guidelines should be developed and laws should be put in place and enforced, to ensure physical access to houses, buildings, public transport, streets and outdoor environment.*

Rule 5(a) (2) mandates States to ensure that architects and engineers involved in the construction of the physical environment, have access to adequate information on disability policy and measures to achieve accessibility.

Rule 5(a) (3) requires that accessibility requirements be included in the designs and construction of the entire physical environment.

Interpretation 45: *The curricula of architects and construction (civil) engineers should have course units in disability and accessibility needs.*

Rule 6 provides that the education of PWDs should be an integral part of the education system of a given study centre.

Interpretation 46: *Children with disabilities should study in the same schools like able-bodied children. So all education institutions should plan and put in place facilities for all pupils/students in the schools including children with disabilities.*

