



**NATIONAL UNION OF DISABLED PERSONS OF
UGANDA (NUDIPU)**

**ALTERNATIVE REPORT TO THE UN
COMMITTEE OF EXPERTS ON THE
IMPLEMENTATION OF THE CONVENTION ON
THE RIGHTS OF PERSONS WITH
DISABILITIES (CRPD)**

DECEMBER, 2013

Table of Contents

ABBREVIATIONS 4

ACKNOWLEDGEMENT 5

EXECUTIVE SUMMARY 5

INTRODUCTION 8

 The Geography..... 8

 Demographics 8

 Labour Force, Employment and Earnings 8

 Governance 8

 Government Finance 10

 Preparation of the Report 11

 Lay of the Report 11

SECTION A: GENERAL PROVISIONS- ARTICLES 1-4 12

 Article 1: Purpose 12

 Article 4: General Obligations 13

 Consultation 13

SECTION B: SPECIFIC RIGHTS OF THE CONVENTION 14

 Article 5: Equality and Non-Discrimination: 14

 Article 8: Awareness Raising..... 16

 Article 9: Accessibility 17

SECTION C: SPECIFIC PROVISIONS: ARTICLES 10-30..... 20

 Article 10: Right to Life..... 20

 Article 11: Situations of Risk and Humanitarian Emergencies 20

 Article12: Equal Recognition before the Law 21

 Article 13: Access to Justice 23

 Article 14: Liberty and Security of the Person 24

Article 15: Freedom from Torture or Cruel, Inhuman or Degrading Treatment or Punishment	25
Article 16: Freedom from Exploitation, Violence and Abuse	27
Article 17: Protecting the Integrity of the Person	28
Article 18: Liberty of Movement and Nationality	29
Article 19: Living Independently and Being Included in the Community.....	29
Article 20: Personal Mobility.....	30
Article 21: Freedom of Expression and Opinion and Access to Information	31
Article 22: Respect for Privacy	32
Article 23: Respect for Home and Family	33
Article 24: Education	34
Article 25: Health.....	38
Article 26: Habilitation and Rehabilitation.....	41
Article 27: Work and Employment.....	43
Article 28: Adequate Standard of Living and Social Protection.....	44
Article 29 Participation in Political and Public Life	46
Article 30: Participation in Cultural Life, Recreation, Leisure and Sport.....	48
SECTION D: WOMEN AND CHILDREN WITH DISABILITIES	51
Article 6: Women with Disabilities	51
Article 7: Children with Disabilities	53
SECTION E: SPECIFIC OBLIGATIONS - ARTICLES 31-33.....	55
Article 31: Statistics and Data Collection.....	55
Article 32: International Cooperation	55
Article 33: National Implementation and Monitoring	56
LIST OF DPOS THAT PARTICIPATED IN THE DEVELOPMENT OF THE REPORT:	58

ABBREVIATIONS

CBR	Community Based Rehabilitation
CRC	Convention on the Rights of the Child
CRPD	Convention on the Rights of Persons with Disabilities
CORSU	Community Rehabilitation Services in Uganda
DPOs	Disabled Persons' Organisations
EOC	Equal Opportunity Commission
HRBA	Human Rights Based Approach
ICCPR	International Covenant on Civil and Political Rights
ICESCR	International Covenant on Economic, Social and Cultural Rights
JLOS	Justice Law and Order Sector
MHU	Mental Health Uganda
NCD	National Council for Disability
NUSAF	Northern Uganda Social Action Fund
OVC	Orphans and Vulnerable Children
PIL	Public Interest Litigation
PWDs	People with Disabilities
SFG	School Facilitation Grant
SLI	Sign Language Interpretation
SNE	Special Needs Education
STI	Sexually Transmitted Infections
UBOS	Uganda Bureau of Statistics
UDHR	Universal Declaration of Human Rights
UPE	Universal Primary Education

ACKNOWLEDGEMENT

This report has been a product of the contribution of several individuals and institutions. Special thanks go to the Disability Rights Fund (DRF) for supporting the process of writing this report. Thanks also go to Mr. Mulumba Moses and the staff of Centre for Health, Human Rights and Development for providing their professional expertise in putting together the information that informed this report.

We acknowledge the NUDIPU Coalition on the UNCRPD(The national union of Disabled Persons of Uganda, National Union of Women with Disabilities of Uganda and Uganda Child Rights NGO Network), under the leadership of Esther Kyoziira (programme Manager, Disability and Human Rights) together with all other Disabled Persons Organisations and stakeholders that formed the clusters that provided information for this report.

We are very grateful to the contact persons and organizations in the districts of Iganga, Gulu, Kyankwanzi, Wakiso, Mpigi and Bushenyi that provided valuable information to enrich this report. In addition, we thank the individuals from the communities that have shared their experiences which have been very valuable in the process of writing this report.

We cannot forget to thank the Ministry of Gender, Labour and Social Development and the National Council for disability for sharing with the coalition members the state report which was very useful in benchmarking the situation of PWDs in Uganda. The office of the High Commissioner for Human Rights in Uganda is recognized in a special way for providing a platform to share our draft report with the State which gave us an opportunity to improve and strengthen the Alternative report.

Lastly, the redrafting team which was formed to polish the report into a gender and disability sensitive document is highly commended for the good job done. Sight Savers International is appreciated for enabling the production and publishing of this report.

EXECUTIV SUMMARY

Uganda ratified the UN Convention on the Rights of Persons with Disabilities (UNCRPD) and its Optional Protocol on 25th September 2008 without reservations. By so-doing, Uganda committed itself to accord all rights stated in the UN human rights instruments to persons with disabilities like all other citizens. Article 35 (1) of the UNCRPD, requires each State Party to submit to the Secretary-General of the United Nations, for consideration by the Committee on the Rights of Persons with Disabilities (the Committee), a report on measures taken to give effect to its obligations under the Convention, initially within two years after the entry into force of the Convention. Uganda has honored this obligation. This report therefore, is to respond to the State report on the extent to which Uganda government has complied with the human rights and obligations encapsulated in the UNCRPD. It was compiled by civil society led by the National Union of Disabled Persons of Uganda (NUDIPU). NUDIPU is an umbrella organization of PWDs which works to promote the rights of PWDs in Uganda. The production of this report included the review of policy and legislative documents, interviewing PWDs and other stakeholders, cluster meetings, validation workshops and compilation of the final report.

In this report we acknowledge government's efforts, both legislative and non-legislative on promoting disability rights and we point out the gaps in those efforts in relation to the UNCRPD. We acknowledge that, government of Uganda has disability-specific legislation and also has a number of general laws and policies that contain clauses on disability. There is also general involvement of PwDs in legislative and decision making arms and organs of government and admission of PwDs to public universities mainly through affirmative action policy. However, the following are gaps that provide grounds for continued exclusion and discrimination of PwDs in the enjoyment of fundamental human rights and freedoms enshrined in the UN treaties and in the Ugandan constitution.

- Despite ratification of the CRPD, government has neither committed resources nor put in place the measures to increase public awareness on the UNCRPD and the rights of persons with disabilities.
- Definition of disability in the Ugandan laws is not harmonised and is not constructed on a social and rights based perspective. Overall, these definitions place the emphasis on the person with a disability rather than the social and environmental barriers which hinder full and effective participation of PwDs in everyday life. It is therefore not in accordance with the UNCRPD's definition of disability. This requires government to urgently review the meaning of disability in the Uganda laws to be in-line with UNCRPD.
- Government has not comprehensively analysed the existing legislation to establish their compliance with the UNCRPD, in addition, the country faces significant challenges in implementing the disability laws and policies.
- Generally, the consultation of PwDs and their DPOs both on national and local planning and development is uncoordinated, inadequate and is not fully inclusive, as a result PwDs'

special needs and interests are invisible in national and local government plans and programmes. Government therefore is to encourage effective involvement of PwDs and their DPOs in all levels of planning as required by the UNCRPD.

- Derogatory language in the laws that is bound to result into discrimination against certain categories of disability for example “unsound mind” and “lunacy.” These terms discriminates against persons with psychosocial and intellectual disabilities and prevents them from holding public offices.
- Most by-laws formulated by the local council governments, disability is not included.
- Affirmative action has not been applied to other sectors such as employment in government, health and transport. In addition, the requirement to provide reasonable accommodation is not within Ugandan legal framework. These gaps contribute largely to discrimination against persons with disabilities.
- Although national livelihood programmes such as the National Agricultural Advisory Services (NAADS) are seen to be non-discriminatory for PwDs, they lack operational guidelines on disability.
- Accessibility remains a major challenge for PwDs- the physical infrastructure, road network and public transport systems, inaccessible information and communication remain restrictive to PwDs right to participation in family and community life. Government pays less attention to addressing accessibility barriers faced by PwDs for example, ensuring talking-elevators and road-crossing signs for visually impaired persons, recruitment of Sign Language Interpreters in public places such as government offices and hospitals, refurbishing old public buildings that are inaccessible to persons with disabilities and ensuring that the private sector incorporate accessibility standards /make the necessary adjustments to increase accessibility- the hospitality sector (specifically hotels) and retail sector (shopping malls) must incorporate accessibility standards.
- There is challenge in government to handle the plight of PwDs during situations of risk, humanitarian emergencies and recovery programmes. The 3,098 PwDs remaining in the Internally Displaced Peoples Camps in northern Uganda is evidence to that.
- Although Uganda established structures for national implementation and monitoring of UNCRPD- the Uganda Human Rights Commission, the National Council for Disability and established focal points such as those in Ministry of Gender, Ministry of Education, Ministry of Health, and Equal Opportunities Commission with the aim to ensure that disability issues are addressed, these focal points have insufficient funds to adequately implement the UNCRPD provisions.

The report is presented in five main parts as per the harmonized guidelines for reporting under international rights treaties. Section A of the report presents the status of implementation of Articles 1-4 of the CRPD; Section B presents the status of specific rights in Articles 5-9; Section C presents the status of specific situation of articles 10-30, Section D presents the status of women and children

with disabilities Articles 6 &7 and Section E presents status on the specific obligations Articles 31-33.

INTRODUCTION

The Geography

1) Uganda is located in Eastern Africa, west of Kenya and east of the Democratic Republic of the Congo. It is in the heart of the Great Lakes region, and is surrounded by three of them, Lake Edward, Lake Albert, and Lake Victoria. While much of its border is lakeshore, Uganda is landlocked with no access to the sea. The country occupies a total area of 236 040 km² of which 199 710 km² is covered by land and 36 330 km² is covered by water. A total of 10,000 km² of Uganda's surface is forest. The remaining surface is mainly open grassland, giving way to semi-desert in the north-eastern region of Karamoja.

Demographics

2) According to the last census (2002), Uganda had a population of 24.4 million people with an annual population growth rate of 3.3%. The projected 2010 mid-year population stands at 31.8 million. The sex ratio is 95 males per 100 females. In 2002, children below 15 years constituted 49% of the population. The population is unevenly distributed among regions and districts of Uganda. The Central region had 27% of the population in 2002 followed by the Western Region (26%), and Eastern region (25%). The Northern region is least populated with 22%. This distribution pattern of the population among the regions has remained the same since 1991 (UBOS, 2010, Statistical Abstract).

Labour Force, Employment and Earnings

3) The total labour force increased by 11 percent from 9.8 Million persons in 2002/3 to 10.9 million persons in 2005/6. 70 percent of the working population is in the agricultural sector. The average size of the civil service decreased by 5 percent in 2009 compared to 2008 (UBoS, 2010, Statistical Abstract).

The monthly household expenditure increased by eleven percent between 2002/3 and 2005/6. The per capita expenditure increased by 10 percent in between 2002/3 and 2005/6. In 2005/06, 8.4 million Ugandans lived in poverty. The proportion of the poor population reduced from 39 percent in 2002/3 to 31 percent in 2005/6. Nationally, on average, the income inequality decreased from 0.428 in 2002/3 to 0.408 in 2005/6 (UBOS, 2010, Statistical Abstract).

Governance

4) Uganda is a presidential republic, in which the President is both Head of State and Head of government and Commander in Chief of the Uganda People's Defence Forces and Fountain of Honour. Uganda is currently under a multi-party system which was ushered in by a constitutional referendum held in July 2005 which cancelled the 19-year ban on multi-party politics. The system is based on a democratic parliamentary system with universal suffrage for all citizens over 18 years of age.

Executive: The Head of State in Uganda is the President, who is elected by a popular vote to a five-year term. This is currently Mr. Yoweri Museveni, who is also the Head of the Armed Forces. The last presidential elections were in February 2011. The cabinet is appointed by the president. The Prime Minister is the Leader of Government Business in Parliament and is responsible for coordination and implementation of government policies across Ministries, departments and other public institutions. The Cabinet of Uganda, according to the Constitution of the Republic Uganda 1995 (as amended), article 111(1), "shall consist of the President, the Vice President and such number of Ministers as may appear to the President to be reasonably necessary for the efficient running of the State."

Parliament: The Parliament of Uganda derives its mandate and functions from the 1995 Constitution, the Laws of Uganda and its own Rules of Procedure. The Constitution contains articles which provide for the establishment, composition and functions of the Parliament of Uganda and empowers Parliament "to make laws on any matter for the peace, order, development and good governance of Uganda" and "to protect the Constitution and promote democratic governance in Uganda". The term of Parliament is five years from the date of its first sitting after a general election.

The Judiciary: The Judiciary is a distinct and independent arm of Government entrusted with judicial authority, and mandated to administer and deliver justice to the people of Uganda. It plays a fundamental role in the promotion of law and order, human rights, social justice, morality and good governance.

Local Government: The system is local government based on the district as a unit under which there are lower local governments and administrative units.

The Local Government Councils in a district are:

- The District or City Council
- The Municipal Council
- The City Division Council
- The Municipal Division Council
- The Sub-County Council
- The Town Council

Administrative Unit Councils in a district are:

- The County Council
- The Parish or Ward Council

- The Village Council

5) There are distinct differences between local government councils and administrative unit councils. A local government council is a body corporate with perpetual succession and a common seal. It may sue or be sued in its corporate name. Each local government council has a directly elected chairperson, directly elected councilors representing demarcated electoral areas, two councilors (one male, one female) representing the youth, two councilors (one male, one female) representing persons with disabilities and women councilors forming one third of the council. Additionally, every lower local government council has two elderly persons (one male, one female) above the age of fifty five years nominated by the respective executive committee for approval by the respective council. A speaker, elected from among the members presides at council meetings.

6) Every local government council is obliged to appoint an executive committee, which committee is chaired by the Chairperson. It is the responsibility of the executive committee to initiate and formulate policy for approval by the council; monitor and oversee the implementation of policies and programmes; and recommend to the council persons to be appointed members of statutory commissions, boards and committees. Local government councils also have standing committees, which make detailed consideration of proposals and recommendations. An administrative unit council is not a corporate body. Its functions are to resolve problems or disputes monitor the delivery of services and assist in the maintenance of law, order and security. Administrative unit councils at the county level consist of all members of the sub county executive committee in the county; at the parish level, all members of the village executive committees in the parish; and at the village, all persons of eighteen years of age or above residing in the village.

7) In addition, administrative unit councils have ex-officio members - at the county, all district councillors representing electoral areas in the county and at the parish, all sub-county councillors representing electoral areas in the parish. Meetings of an administrative unit council, unlike the meetings of a local government council, are presided over by the Chairperson. The village and parish administrative units are required to have an executive committee. A county council cannot, however, establish or appoint an executive committee in its true meaning. Instead, the county council elects a Chairperson and Vice-Chairperson from among its members.

Government Finance

8) Government revenue increased by 15.1 percent in FY 2008/09 compared to an increase of 4.5 percent in FY 2007/08. The overall share of tax revenue declined to 80.7 percent in FY 2008/09, while the share of non-tax revenue increased marginally to 19.3 percent in FY 2008/09. The Education, General Public Administration and Health contributed the highest percentage share of 86.5 to the local government recurrent expenditure in 2008/09.

More background information about the country is presented in Uganda's Core Document forming part of the reports of the States Parties; 03/07/1996 (HRI/CORE/1/Add.69)

Preparation of the Report

9) Uganda ratified the UN Convention on the Rights of Persons with Disabilities (CRPD) and its Optional Protocol on 25th September 2008 without reservations. By so-doing, Uganda committed itself to accord the same rights to persons with disabilities like all other citizens. After two years of implementation, civil society led by the National Union of Disabled Persons of Uganda (NUDIPU) is honored to report on the extent to which government has complied with the human rights and obligations encapsulated in the Convention.

10) NUDIPU is an umbrella organisation of PWDs which works to promote the rights of PWDs in Uganda. NUDIPU, therefore, worked with DPOs and other stakeholders to compile this report.

Government of Uganda has disability-specific legislation and also has a number of general laws and policies that contain clauses on disability. The compilation of the report therefore depended heavily on the review of policy and legislative documents. Interviews were also conducted with PWDs and other stakeholders, cluster meetings, four validation workshops before the compilation of the final report for submission to the UN Committee of Experts.

Lay of the Report

11) The report is presented in five main parts as per the harmonized guidelines for reporting under international rights treaties. Section A of the report presents the status of implementation of Articles 1-4 of the CRPD; Section B presents the status of specific rights in Articles 5-9; Section C presents the status of specific situation of articles 10-30, Section D presents the status of women and children with disabilities Articles 6 &7 and Section E presents status on the specific obligations Articles 31-33.

SECTION A: GENERAL PROVISIONS- ARTICLES 1-4

Article 1: Purpose

12) Definition of disability - the State Report cites the Persons with Disabilities Act (2006) which defines disability as “a substantial functional limitation of daily life activities caused by physical, mental or sensory impairment and environmental barriers resulting in limited participation¹”. The report also rightly notes that the Constitution of Uganda (1995) does not contain a definition of disability. It is further noted under the State Report that the government of Uganda is aware that some pieces of legislation, particularly those which were enacted before the Persons with Disabilities Act, contain varying definitions of disability, and are not in accordance with the UNCRPD’s definition of disability.

13) Taken from a social and rights based perspective, the current definition of disability used in the Persons with Disabilities Act is not in accordance with Article 1 and does not fully reflect the definition as used in the UNCRPD. This legislation puts the emphasis on the person with a disability rather than the social and environmental barriers which may hinder their full and effective participation in everyday life. Furthermore, there is no measure or definition of what constitutes a substantial functional limitation. This lack of a clear and consistent definition of disability has hindered access to government services and programmes (for example the Special Grant²) by some categories of persons with disabilities especially the albinos, little people and persons with psychosocial and intellectual disabilities.

Recommendations

14) Parliament should take steps to urgently revise the definition of disability in accordance with Article 1 of the CRPD, to incorporate an inclusive definition of disability and persons with disabilities that is firmly rooted in the human rights based approach to disability and encompasses all persons with disabilities, including those with psychosocial and disabilities, albinos and little people, in particular with respect to the National Council for Disability (NCD) Act (2003), Persons with

¹ Persons with Disabilities Act, Article 2 “Interpretation”

² Guidelines for utilization of the special grant income generating activities of groups of and for people with disabilities, ministry of Gender Labour and Social Development, May 2011

Disabilities Act (2006), Worker’s Compensation Act (2000),³ Employment Act (2006)⁴ and National Social Security Fund Act (2008).⁵

Article 4: General Obligations

15) The government has enacted a number of laws and policies which make good provisions for persons with disabilities including some disability specific laws. These include: The Constitution of the Republic of Uganda (1995), The Parliamentary Elections Act (1996), The Local Government Act (1997), The Communication Act (1998), The Land Act (1998), The Universities and other Tertiary Institutions Act (2001) as amended, The National Council for Disability Act (2003) as amended, The Children Act (2003), The East African Community Customs Management Act (2004), The Access to Information Act (2005), The Persons with Disabilities Act (2006), The Equal Opportunities Commission Act (2007), The Business and Technical Vocational and Education Training Act (2007), The Female Genital Mutilation Act (2009), The Child Trafficking Act (2010), The Evidence Act (1909) and The Domestic Violence Act (2010). Policies include: The UPE Policy (1996), The Orphans and Vulnerable Children Policy (2003), The National Policy on Disability (2006), The Roads Sub-Sector Policy Statement for People with Disabilities and Elderly Persons (2008), The Policy on Special Needs and Inclusive Education (2011), Employment Policy (2011).

16) The government has not comprehensively analysed existing legislation highlighted in Para 15 to establish whether the laws are in line with the principles of the UNCRPD. However, there is a significant implementation gap and in reality these laws and policies are honoured in the breach. So for example, despite the fact that the Persons with Disabilities Act was passed in 2006, to date there have been no regulations passed for its implementation. Furthermore there is a lack of coordination between the different Government Ministries on cross-cutting issues such as disability.

17) This situation is further compounded by a highly decentralised form of government in Uganda, which results in the central government having little effective control on how national legislation is enacted at the local level.

Consultation

18) The process of consultation on national planning and development is uncoordinated and is not fully inclusive. Generally persons with disabilities have been excluded. Whereas we appreciate that government consults PWDs and DPOs, and takes feedback on disability specific laws and policies, it does not consult all constituencies of PWDs— including women, youth and the children with disabilities, in the formulation of mainstream laws, policies and development processes. And as a

³ The Workers’ Compensation Act, chapter 225, defines a person with disability as a person “who experiences a restriction or lack of ability to perform any activity in the manner or within the range considered normal for human beings within the cultural context”

⁴ The 2006 Employment Act interprets “disability” as “any permanent: a) physical disability or impairment; b) physical illness; c) psychiatric illness; d) intellectual or psychological disability or impairment; e) loss or abnormality of physiological, psychological or anatomical structural functions; f) reliance on guide dog, wheelchair or any other remedial means; g) presence in the body of organisms capable of causing illness.

⁵ The National Social Security Fund Act, chapter 222, does not contain a definition of disability. Article 22 states only that a person who has a physical or mental disability that makes such person totally or partially incapacitated with the result that such person is “unable by reason of that disability to earn a reasonable livelihood”.

result their special needs and interests are not taken care of. In the event that the PWDs are consulted by government, their input is often not considered. A case in point is the consultation on the Domestic violence Act 2010.

- Recommendations:**
- 19) Government should harmonise all existing legal frameworks in line with the UNCRPD.
 - 20) Government should take responsibility to ensure that regulations and operational guidelines are in place for all laws and policies and enforce their implementation.
 - 21) Government should encourage and support the effective participation of representative organisations or groups of persons with disabilities, children with disabilities and parents of children with disabilities at both the local and national levels in the planning, design, reform, implementation and monitoring of all laws, policies and programmes.

SECTION B: SPECIFIC RIGHTS OF THE CONVENTION

Article 5: Equality and Non-Discrimination:

22) Whereas the Constitution of Uganda provides for affirmative action and the non-discrimination of persons with disabilities, Article 80 of the same Constitution lists “unsound mind” as one of the reasons for the disqualification of a Member of Parliament. This discriminates against persons with psychosocial and intellectual disabilities and prevents them from holding public office.

23) Although the Evidence Act (1909) allows persons with speech impairments to give witness in Courts of Law through an interpreter, it does not allow persons with visual impairment to give evidence in court despite the fact that they are able to identify suspects through voice, smell and touch.

24) All local government authorities are mandated to formulate by-laws within their jurisdiction that reflect and implement the national legal framework. A sample review of these by-laws indicates that disability is not included,⁶ although these by-laws cover very important sectors such as education, transport, information and health where it is necessary to legislate against the discrimination of persons with disabilities.

25) The Uganda Communications Act (2000) does not include an “advertisement implying discrimination” among its list of offences.⁷ The Electronic Media Act (1996) requires that broadcasters comply with the provisions of the First Schedule of the Act.⁸ Nothing in the Act, however, establishes a duty on Ugandan broadcasters to positively contribute to the goal of public interest, as per the requirement of the Convention, on non-discrimination.

⁶ See, The Local Governments (Bundibugyo district) (Miscellaneous) Byelaws; The Local Governments (Entebbe Municipality) (Control of Streets and Open Spaces) Byelaws; The Local Governments (Entebbe Municipality) (Library) Byelaws; The Local Governments (Entebbe Municipality) (Taxi Parks) Byelaws; The Local Governments (Kampala City Council Authority) (Maintenance of Premises and Road Verges) Byelaws; The Local Governments (Kampala City Council Authority) (Taxi Parks) Byelaws; The Local Governments (Masaka Municipal Council) (Bus, Taxi and Lorry Parks) Byelaws; The Local Governments (Mbale Municipality) (Taxi Parks) Byelaws; The Local Governments (Mbarara Municipal Council) (Street and Designated Areas Parking) Byelaws; The Local Governments (Mbarara Municipality) (Road and Traffic) Byelaws; The Local Governments (Nebbi District) (Education) Byelaws.

⁷ Uganda Communications Act, Chapter 166, Part IX

⁸ Electronic Media Act, Chapter 104, article 8 “Minimum Broadcasting Standards”

26) The State Report highlights the implementation of affirmative action for the inclusion of persons with disabilities. Currently this policy is effective in political representation in the Lower Councils and Parliament and the recruitment of students in higher learning institutions. Persons with disabilities are also represented on a number of Commissions and Boards of tertiary institutions. DPOs note however that affirmative action is not applied to other sectors such as employment in government, health and transport. As a result persons with disabilities continue to experience discrimination both in representation and in access to these services.

27) The concept of reasonable accommodation is not well understood by either by persons with disabilities, the general public or at the government level. Ugandan law does not recognise the requirement to provide reasonable accommodation and this makes it particularly difficult to apply legal remedies or challenge when reasonable accommodation is denied. The lack of a framework of reasonable accommodation at all levels in society is a major cause of discrimination against persons with disabilities.

28) The State Report lists a number of programmes which it says are non-discriminatory such as the National Agricultural Advisory Services (NAADS), the Northern Uganda Social Action Fund (NUSAF) and the Universal Primary Education (UPE). These programs are not fully inclusive of persons with disabilities. For example the operational guidelines of NAADS provide for active farmers to benefit from training and the provision of improved seeds, goats, poultry, tree seedlings and technical advice. However 91.7% of persons with disabilities are considered as inactive farmers. Studies have shown that when persons with disabilities apply to join the NAADS programme, the majority are not given chance to benefit nor to take up leadership responsibilities.⁹

Recommendations

29) Government should review the Constitution and all laws and policies to eliminate discriminatory provisions as highlighted above. Furthermore government should ensure that all local government by-laws are anti-discriminatory in their provisions.

30) Government should implement the policy of affirmative action for persons with disabilities across all sectors of employment including government, health and transport.

31) Government should incorporate the definition of reasonable accommodation in the Constitution and national law and apply it in accordance with Article 2 of the Convention, in particular by ensuring that the law explicitly recognises the denial of reasonable accommodation as disability based discrimination.

32) Government should conduct public awareness campaigns to familiarise people with the concept of reasonable accommodation.

33) Government should implement the policy of affirmative action for persons with disabilities in resource allocation across all agricultural development services and other poverty eradication programmes. A percentage of the NAADS funds given to the groups at parish level should be ring fenced and allocated to persons with disabilities. A proportion of this allocation should be reserved for youth and women with disabilities. In order to monitor these programmes

⁹ Baseline Survey of A Farming Partnership Project

disaggregated data on persons with disabilities benefiting from agriculture should be collected as a measure of affirmative action.

Article 8: Awareness Raising

34) The NCD is mandated among other functions to create awareness about equalisation of opportunities for PWDs. In exercise of her mandate, it led government and CSOs, in celebrating the ratification of the UNCRPD by holding several awareness raising activities including radio talk shows and a march in Kampala, which culminated in an address to Members of Parliament. However since then, there have been no programmes organised by government to create awareness on the UNCRPD and the rights of persons with disabilities.

33) The State Report indicates that Government Ministries, the NCD, DPOs and NGOs have been using information materials, media and training workshops to sensitise both their staff and the general public on the different disability legislations and programmes. However, this work has been done exclusively by the DPOs and government has neither committed resources nor put in place the measures to increase public awareness of disability.

36) Persons with disabilities face both stigmatisation and discrimination due to the general lack of public awareness of disability rights. This is further compounded by deeply based negative attitudes and myths about disability that are found in many communities and in all sections of society. As in many other parts of Africa, culture, social status and religious cosmology have interacted and influenced people's perception and attitude towards disability and at the rural level superstition and other negative stereotypic views are still very prevalent. In Uganda disability is often seen to be a result of witchcraft, sorcery, 'juju' and magic and persons with disabilities are stigmatised on account of cultural beliefs and myths that dehumanise them. For example there are many myths about albinos – some people believe that they are evil and cursed people or that they never die but just vanish or that albinism is a contagious disease¹⁰.

37) Persons with disabilities are often perceived as being incapable of achieving anything meaningful in society and are excluded from most aspects of social life. For many persons with disabilities daily social life consists of a pattern of exclusion at the family, community and national levels. This is more pronounced among deafblind, cerebral palsy, and person with intellectual disabilities among others.

38) The State has not taken actions to translate the UNCRPD and broadly disseminate it across the country. DPOs with funding from the Disability Rights Fund have translated the UNCRPD into different languages and formats. However this has been limited to urban areas and a few districts. Whereas the UNCRPD requires the state party to adopt immediate measures for creating awareness, the only legislation cited in the State Report is the Uganda Broadcasting Corporation (UBC) Act (2005), which itself does not expressly mention disability awareness as one of its objectives. The State also notes that one of the functions of the NCD is to create public awareness about disability and persons with disabilities. Likewise the Senior Community Development Officer in charge of

¹⁰ ADD International; 'Baseline Study to Establish the Needs of People with Albinism in the Elgon Sub Region of Uganda, Feb. 2011.

disability at local government level has responsibilities to raise public awareness. Unfortunately, there is no structured plan and resources allocated by government to raise public awareness on disability issues.

39) It is important to note that although the Persons with Disabilities Act lists under its objects the promotion of a positive image of persons with disabilities as capable and contributing members of society,¹¹ the Act fails to translate this objective into any concrete actions or responsibilities in the subsequent provisions. The duty of government according to the Act is to establish supportive services such as counselling, rehabilitation and reorientation in order to improve the self-image of persons with disabilities.¹² This clearly does not address the importance of changing public attitudes and perceptions of disability in accordance with the UNCRPD. As noted by the Uganda Human Rights Commission Report, there are still significant gaps in achieving a full awareness of disability issues in Uganda. This report notes the lack of general awareness in the general public about disability. It further notes that the bulk of work carried out on the promotion and awareness of disability issues is done by NGOs and DPOs.¹³ This failure by the State is unacceptable and DPOs demand that the government fulfil its obligations in this respect.

Recommendations

40) Government in consultation with DPOs should develop a national action plan on creating public awareness of all the different disability categories and combat stigma to promote the positive image of children and adults with disabilities amongst government personnel, the public and families, including gazettement of the International Day of the Disabled. The plan should cut across all line ministries and government departments to reduce stigmatisation and discrimination and its related effects on persons with disabilities. The plan should promote the recognition of marginalised disabilities such as albinism, little people, intellectual disability and psychosocial disability.

41) Government should translate the UNCRPD and national Laws into various local languages and accessible formats to increase awareness of and access to legal information to persons with disabilities in both rural and urban communities.

Article 9: Accessibility

42) DPOS note that it is estimated that approximately 80% of persons with disabilities live in rural areas. Unfortunately the physical infrastructure, road network and public transport systems restrict their right to movement and participation in family and community life. This is contrary to the Roads Subsector policy statement for People with Disabilities and Elderly Persons (June 2008) and Roads Sub-Sector Guidelines for Mainstreaming Issues of People with Disabilities and Elderly Persons

¹¹ PWD Act, article 3 (f)

¹² PWD ACT, article 28 (c)

¹³ UHRC Report (2010); The Report on Disability in Uganda 2009; Kampala

(June 2008). For example, wheelchair users are expected to pay double fares or risk being left behind by public transport operators unwilling to carry their assistive devices.

43) DPOs agree that the government faces challenges in the implementation of this Article. As the State Report rightly notes less attention has been given to facilities such as talking-elevators and road-crossing signs for visually impaired persons. In addition, there are no Sign Language Interpreters in most public places such as government offices and hospitals. Most districts and government institutions do not have sufficient funds to refurbish old public buildings that are inaccessible to persons with disabilities. It is also true that the private sector has been slow to introduce the necessary adjustments to increase accessibility. For example the hospitality sector (specifically hotels) and retail sector (shopping malls) must incorporate accessibility standards.

44) The major challenge within the legal framework is that government has failed to set aside resources for the implementation of the provisions of the Persons with Disabilities Act with regards to accessibility. The Persons with Disabilities Act also does not link with other legislation relating to construction and town planning. In addition, the Building Control Bill that defines accessibility standards that were jointly developed by Ministry of Gender, Labour and Social Development (MoGLSD) and Uganda National Action on Physical Disability (UNAPD) was enacted into law with no implementation guidelines. It should be noted that it is far cheaper to include full access at the construction stage rather than having later to convert buildings.

45) DPOs appreciate that the demands included in Article 9 on the State are long-term as they require both time and resources. However, Government should devise clear plans and strategies with timescales in order that there is a progressive realisation of these demands. The State Report highlights Part IV of the Persons with Disabilities Act, which makes provision for accessibility to buildings, information, public transport, roads and highways. It also mentions that the Uganda National Roads Authority (UNRA) is required to ensure that its operations are designed for the delivery of the best service to its customers. The State however, notes that it is aware that most persons with disabilities are adversely affected by the conventional design of infrastructure and other facilities that often hinder access and utilisation of facilities and services especially in rural communities.

46) The Access to Information Act (2005) addresses the issue of public access to information held by the State. On many occasions persons with disabilities have been denied access to such information on the grounds that the State lacks the resources to make the information available in formats that are accessible to persons with disabilities, particularly those with sensory impairments. Although Uganda's Constitution recognises sign language as a national language spoken in the country (Cultural Objectives, XXIV(C)), there are no measures implemented by the government to promote this. DPOs note that there are only 258 Sign Language Interpreters in the country and there are no statistics available as to how many of these are employed in government services.

47) Many persons with disabilities especially in rural areas do not have communication skills in using specialised communication systems such as Braille or sign language.

48) Whilst the State Report recognises the use of sign language and Braille it does not include the need for communication systems such as "Easy Read" for persons with intellectual disabilities.

49) The government has only one Braille Production Unit at Kyambogo University located in Kampala restricting access to Braille materials for visually impaired persons outside of the capital. We also note that the equipment is outdated and in need of replacement.

Recommendations

50) Government should develop and implement a policy on accessibility for persons with disabilities in all public areas including both urban and rural areas in consultation with persons with disabilities and their representative organisations. Government through the Ministry of Works and Transport should allocate resources to implement the provisions in the Persons with Disabilities Act on accessibility.

51) Government through the Ministry of Transport and Works should develop regulations to operationalise the Building Control Act of 2013 to ensure that all future building programmes meet accessibility standards. The Public Procurement and Disposal of Assets Act (PPDA) should be amended to incorporate accessibility standards as one of the criteria for awarding construction tenders.

52) The enforcement and monitoring of all regulations and provisions for accessibility should be conducted in consultation and with the participation of persons with disabilities.

53) Government through the Ministry in charge of Public Service should ensure that sign language interpreters are recruited and employed in public service to enable persons with hearing impairments to access information and services. The Communication Act should be amended to make it mandatory for media houses especially television to hire/employ sign language interpreters.

54) The Ministry of Information should enforce the provision on access to information by persons with disabilities as stipulated in The Access to Information Act 2005. Government should develop measures to train persons with disabilities and professionals in the use of different communication formats and technologies.

55) Government should develop a communication system specific to persons with intellectual disability that includes easy read formats, simple sign language and photographs.

SECTION C: SPECIFIC PROVISIONS: ARTICLES 10-30

Article 10: Right to Life

56) According to the State Report, government recognises the right to life under a full Article in the Constitution (1995).¹⁴ The Report also recognises that government further upholds this right through the Uganda Human Rights Commission's sensitisation campaigns and the maintenance of law and order by the police.

57) Although the legal framework is in place to safeguard the protection of the right to life for all persons including persons with disabilities, experience in the field indicates that in some communities more work needs to be done to raise awareness on the right to life of persons with disabilities. Some communities believe in myths that disability is a curse to a family¹⁵. Recently there has been one case of an attempt to burry alive a child born with a disability¹⁶ but it is unclear whether the case was concluded.

Recommendations

58) Government through the Uganda Human Rights Commission and the Judiciary should support legal action initiatives against persons that violate the right to life of persons with disabilities.

Article 11: Situations of Risk and Humanitarian Emergencies

59) The State Report highlights Article 35 of the 1995 Constitution of the Republic Uganda, which generally prohibits discrimination against persons with disabilities¹⁷. The Report also makes mention of the draft Uganda National Disaster Risk Reduction and Management Policy and the Uganda Comprehensive Plan of Action on Victim Assistance 2008 – 2012. It should be noted however that although the Constitution talks about establishing a Commission on disaster preparedness and its management, this Commission has yet to be established. Such a Commission would provide an ideal opportunity to take account of disability issues arising in the event of a disaster or emergency. It is also important to note that the 2005 National Policy for Internally Displaced Persons makes no reference to the specific needs of persons with disabilities.

60) Although peace has now been restored in Northern Uganda following a long period of conflict and instability, there are over 3,098 persons with disabilities remaining in the Internally Displaced

¹⁴ Article 22 guarantees all persons a right to life and states that no person shall be deprived of life intentionally nor terminate the right of an unborn child except and as may be authorized by law (Article 22(i) (ii))

¹⁵ In an interview with the consultant at Integrated Disabled Women's Activities (IDWA) in Iganga district on the 12th day of November 2010

¹⁶ Parents try to bury disabled baby alive, <http://www.newvision.co.ug/D/8/26/527573>

¹⁷ Persons with disabilities have a right to respect and human dignity, and the State and society shall take appropriate measures to ensure that they realize their full mental and physical potential.

Peoples Camps.¹⁸ The most deeply entrenched levels of social exclusion, marginalisation and discrimination are experienced by persons with disabilities living and many have spent their whole lives living in the Internally Displaced Peoples' camps. Persons with disabilities are the last to leave the camps, thereby creating "disability ghettos". It has been further noted that the increase of persons with disabilities in the Internally Displaced Peoples' Camps between 2009 and 2010 may indicate that there is a growing number of persons with disabilities being abandoned by family members as they return to their home villages or they return from other areas back to the camps.¹⁹ The proposed government programs such as Peace, Recovery and Development Plan (PRDP) provide only for infrastructure and do not take into account social services, which are needed by persons with disabilities. Although the PRDP makes reference to persons with disabilities it fails to clearly articulate the government's specific obligation towards persons with disabilities. The government regulations make it impossible for persons with disabilities to meet the criteria in order to receive grants that assist them in returning to their former homelands.

61) The field findings indicate that according to the authorities in the districts of Bushenyi and Iganga, there have been no preparations or plans put in place to manage emergency situations. During the field visit to Iganga an example was given of a fire that broke out during a meeting of DPOs at the Walugogo Valley Motel. Whilst the main concern of the authorities had been to save the structure of the building, no consideration was given to the lack of emergency exits and problems experienced by persons with disabilities²⁰.

Recommendations

62) The draft Uganda National Disaster Risk Reduction and Management Policy should be finalised and should include provision for persons with disabilities with special attention given to the protection of children with disabilities. There should be representation of persons with disabilities on the committee and the policy should have clear guidelines for the identification of all persons with disabilities and their support during emergencies and disasters.

63) PRDP should provide resettlement and social services to persons with disabilities in the Internally Displaced Peoples Camps and Government in consultation with DPOs should monitor the implementation of the PRDP to ensure that the needs of persons with disabilities in the post-conflict districts of Northern Uganda are addressed.

Article 12: Equal Recognition before the Law

64) The State Report correctly states that this right is recognized in the Constitution²¹. Article 21 provides as follows:-

¹⁸ See: Human Rights Watch (2010) "As if We Weren't Human" Discrimination and Violence against Women with Disabilities in Northern Uganda; citing UN High Commissioner for Refugees, "EVI Statistics," September 2009.

¹⁹ Ibid.

²⁰ In an interview with a focus group at Igombe Subcounty in Iganga district, November 12th, 2010

²¹ Constitution, Article 21 (1)

“(1) All persons are equal before and under the law in all spheres of political, economic, social and cultural life and every other respect and shall enjoy equal protection of the law.

(3) For purposes of this article, “discriminate” means to give different treatment to different persons attributable only or mainly to their respective descriptions by sex, race, colour, ethnic origin, tribe, birth, creed or religion, social or economic standing, political opinion or disability.”

65) **Despite the above provisions**, there are some laws that still discriminate on the grounds of disability²². In particular inheritance and succession laws continue to be discriminatory and infringe fundamental human rights enshrined in International Conventions that Uganda is signatory to. These laws consider persons with disabilities as having no legal capacity to act²³ or to make a will together with other inheritance related issues.²⁴ For example Mr. E. R., a person with psychosocial disabilities from Arua, was denied the right to be a complainant on the grounds of mental disability against a person who was attempting to steal his land. A tribunal would only consider the case when his elder brother registered the case in his own name at the Sub County (MHU Case Study).

66) The Succession Act (2011) has a restriction on the selection of legal domicile of persons with psychosocial and intellectual disabilities.²⁵

67) LAPD has reported a steady increase over the last four years (2009 – 2012) in both cases of succession of property/administration of estate and land grabbing, eviction and trespass (LAPD Statistics) with respect to persons with disabilities (psychosocial or?)

68) We further note that persons with intellectual and psychosocial disabilities do not have equal recognition before the law since they are considered as being of unsound mind in the Constitution (Article 80). Uganda has neither a policy nor a law on mental capacity and consequently there is no provision for supported decision making for adults with intellectual disabilities or psychosocial disabilities. It is common practice for either health professionals (psychiatrists, doctors etc) or family to make decisions on behalf of the person. Under these circumstances there is no protection of the rights of the individual.

69) The government has not taken any steps to have either the Constitution or these laws amended and is therefore in breach of the UNCRPD and continues to deny persons with disabilities their full rights.

Recommendations

70) Government should repeal the constitutional provisions and laws that do not recognise the enjoyment and exercise of legal capacity of persons with disabilities on equal basis with others, in particular Art 80(a) of the 1995 Constitution of the Republic of Uganda, among others.

71) Government should enact a law on supported decision making and the right of PWDs to make such services available. The ministry in charge of disability should sensitize the

²² Constitution, Article 80 (2) (a), Presidential Elections Act, Article 4 (4) (a)

²³ Administration of Estates of Persons of Unsound Mind, Chapter 155, article 10 (1) (b), the Succession

²⁴ Succession Act, chapter 162, article 36

²⁵ Succession Act, Chapter 162, Section 17.

parents/guardians of persons with disabilities and the judiciary and legislature regarding supported decision making and the full legal capacity of all persons with disabilities.

Article 13: Access to Justice

72) Access to justice continues to be a major challenge for persons with disabilities in Uganda. There are inbuilt barriers within the legal system itself as well as environmental and information barriers. This coupled with the absence of any judicial activism towards legal reform means that access to justice becomes an almost impossible right for persons with disabilities. The Constitution provides the right to a fair trial under Article 28. Article 126 (2) (a) further provides that in adjudicating cases of both a civil and criminal nature, the courts should, subject to the law, ensure that justice is done to all, irrespective of their social or economic status. However within the current legal framework, no special attention is given to ensure the involvement of persons with disabilities in the administration of justice on an equal basis with others, often resulting in their exclusion and marginalisation.

73) People with psychosocial and intellectual disabilities are denied access to justice because there is no reasonable accommodation made for them either in police custody or the courts of law. In terms of legal procedures, the modest provision of recognising witnesses with speaking disabilities²⁶ is welcome but it is noted that this is the only disability considered. There are a number of persons with disabilities facing challenges in accessing the legal system which are not recognised under the law. Other legislation such as the Trial on Indictment Act (1971) which forbids certain disabilities from participating in the legal proceedings should be abolished.²⁷ In addition there has not been enough training for sign language interpreters and Braille services are almost unheard of in the court system. There is no work done on the communication needs of persons with intellectual disabilities. Officials in the justice system lack both awareness and the skills necessary to support persons with disabilities. This therefore prejudices access to justice on an equal basis as others. So for example the assistive devices of persons with disabilities are often removed from them thereby taking away both their dignity and mobility. All these factors continue to limit access to justice for persons with disabilities in Uganda. New Vision reported in February 2008 that forty deaf people remain in prison without trial due to communication constraints. The article quotes Mr Alex Ndeezi, MP for persons with disabilities, who raised this issue during a debate on the Report of the Committee on Equal Opportunities (New Vision 21/02/08). In 2009, UNAD intervened in the cases of 23 deaf persons who had been remanded in Mbarara prison due to the lack of sign language knowledge and interpreters. Many of these prisoners were ignorant of the cases being brought against them due to the lack of communication and all were subsequently released (Uganda National Association of the Deaf, Monthly Report on Human Rights Advocacy and Activists, 31/10/09).

74) Interviewing persons with disabilities in the field indicated that because of poverty and illiteracy many are unable to file even a simple civil suit or take out a private prosecution. Some of the persons

²⁶ Evidence Act, article 118

²⁷ Trial on Indictment, Chapter 23, First Schedule, The Assessors Rules, No. 2

with disabilities we interviewed expressed concern that they fear to report cases because they are poor.²⁸ This impedes their access to justice.

75) Many people with psychosocial disabilities are detained in mental health institutions and their access to justice is denied.

76) Physical accessibility to some courts of law still remains a problem as many courts including the High Court in Kampala have no access ramps. The dock system is also problematic and does not make provision for some persons with disabilities such as the little people and those who are not able to stand in the dock either as suspects or witnesses.

Recommendations

77) Government should review the training of all those involved in the judicial system and police to include an awareness and understanding of the special needs of persons with disabilities in accessing justice.

78) Government through the judicial service commission should recruit sign language interpreters and auxiliary service workers in the justice and law and order sector.

79) The Evidence Act (1909) cap 6 Section 118 should be reviewed and amended by Parliament to accept the different forms of evidence as may be provided by the different categories of persons with disabilities

80) Government should provide free and subsidised legal aid to enable persons with disabilities to access justice.

81) Government should provide reasonable accommodation in the courts and criminal justice system such as facilitating alternative forms of communication such as sign language interpreters, accessible information and physical access.

Article 14: Liberty and Security of the Person

82) The Trial on Indictments Act (1971), the Penal Code Act (1950) Cap 120 and the Mental Treatment Act (Cap 279), and the conditions under which persons with psychosocial disabilities are detained under these Acts, together constitute violations of respect for human dignity of persons with psychosocial disabilities contrary to Article 20 of the Constitution. For instance, section 45(5) of the TIA Cap 23, refers to a person with mental illness as criminal lunatic. At this point, such a person does not qualify to be a criminal until proven guilty. This further violates Article 28(3) (a) of the constitution of Uganda which provides for a presumption of innocence until proven guilty. Section 82(6) of the Trial on Indictments Act Cap 23, which calls for acquittal of any person who has been in custody to be immediately discharged, is discriminatory in a sense that whereas other persons are immediately discharged after acquittal, persons with mental illness are instead kept in custody pending the ministers order. This violates Article (21) (2) of the constitution which guarantees the right to equality and freedom from discrimination regardless of disability.

83) This report is in agreement with what the State has reported on criminal procedures in that a number of laws justify the deprivation of liberty of persons with disabilities. Apart from the challenges in the legal framework, the field findings also indicated that a number of persons with

²⁸ This was a finding in the interview with a focused group discussion in Kyankwazi on 10th November 2010.

disabilities have actually been deprived of their liberty when they are suspects. The main challenges however, have been that detention facilities have no provisions for the reasonable accommodation of persons with disabilities²⁹. The practice of forcing people to remove shoes prior to their detention by the Uganda Police and other security agencies was cited as one that causes particular difficulties for some persons with disabilities who require the use of shoes for easy mobility.

84) Although the prison service does not currently collect data on disability, NUDIPU carried out a mini survey in 2009 on the number of persons with disabilities in prisons, police cells and remand homes. The study found that there was between one and seven persons with disabilities in each of the places visited in the central region of Uganda. Inaccessible structures, negative attitudes, discrimination and lack of knowledge about the special needs of persons with disabilities were the critical challenges highlighted by persons with disabilities and officers in the detention centres visited (Report on Survey Conducted on the Status of Persons with Disabilities in Prisons, Police cells, Remand Homes and Non-Government Organisations, NUDIPU 2009).

85) It should be noted that there are still deeply held myths and prejudices about Albinos. Albinos remain under threat in Uganda because of the belief in neighbouring countries³⁰ that the use of their body parts for ritual sacrifice can bring wealth. As a result, Albinos have remained indoors for fear of being sacrificed. In spite of this, government has not come out to protect albinos against such fear.

Recommendations

86) Government should amend the Trial on Indictment Act and the Mental Health Treatment Act that allows detention on the basis of insanity as a matter of urgency.

87) UHRC in consultation with DPOs should train security agencies and prison wardens on the rights of persons with disabilities in detention including non-discrimination and the duty to provide reasonable accommodation. In addition, Government should introduce a specific identification form to enhance disaggregation of data on disability in detention centres. The Commission should also among its responsibilities, assess the situation of persons with disabilities in detention centres and address human rights violations through their established structures.

88) Government should initiate the process of reintegrating people with psychosocial disabilities back into the community and provide adequate community based services to prevent hospitalization and institutionalisation.

Article 15: Freedom from Torture or Cruel, Inhuman or Degrading Treatment or Punishment

89) The State Report correctly notes that Article 24 of the Constitution prohibits torture and Section 34 of the Persons with Disabilities Act prohibits cruel, inhuman or degrading treatment. Section 57 of the Prisons Act (2006) also protects persons in custody from torture. The report, however, fails to acknowledge that Uganda has been facing international criticism for the large number of cases of

²⁹ In an interview with the focus group at Iganga district which was also attended by the officials of TUDIPU on November 12th, 2010.

³⁰ <http://pearlsof africa.org/blog/2008/12/02/deadly-discrimination/>

torture that have led in many cases to injury and disablement. It is provided under the Uganda Human Rights Commission 12th and 13th Annual Reports 2009 and 2010 that out of the 48 tribunal cases disposed, 29 were related to the violation of freedom from torture, cruel inhuman and degrading treatment.

90) Unlike Article 15 of the UNCRPD which talks about torture, cruel, inhuman or degrading treatment, Section 34 of the Persons with Disabilities Act of Uganda omits the term torture. This Act is therefore in part not compliant with the UNCRPD.

91) DPOs commend the Government in passing the new Prevention and Prohibition of Torture Act 2012. This Act provides a detailed definition of “torture” and includes penalties for perpetrators of torture. Even more importantly it provides for compensation, rehabilitation and restitution for the victims of torture. However we note that the Act does not specifically address the issue of disability as such and has been developed with limited consultation with DPOs. There is also a need for guidelines to ensure that the Act is fully implemented and effective mechanisms are introduced to safeguard freedom and eliminate torture.

92) The field findings in the four districts that were visited indicate that there are a number of practices that can be classified as torture, cruel, inhuman or degrading treatment or punishment of persons with disabilities. For example, there were reported cases of families tying children with disabilities and persons with psychosocial disabilities on trees and beds. They were also being denied food and freedom of association. Cases of the police and other security agencies rounding up and torturing persons with disabilities living on the streets were also reported.³¹ Persons with disabilities have filed cases of torture, cruel inhuman and degrading treatment with LAPD (an NGO providing legal aid to persons with disabilities) and 15 cases were registered between 2010 and 2011. However the majority of such cases go unreported and the real number could be much higher.

93) LAPD statistics again show a growing trend over a four year period of reported cases of torture, cruel and degrading treatment. Less than 50% of these cases have been addressed to date (LAPD Statistics 2009 – 2012).

94) The Mental Treatment Act (1964) contains no safeguards for the protection of the dignity and human rights of persons with psychosocial disabilities during their treatment and care. It can be argued that this Act actually sanctions treatment, which amounts to torture, cruel, inhuman and degrading treatment. A high number of torture cases have been reported and there is an urgent need to review current medical practices that are used to detain persons with psychosocial disabilities and to introduce provisions that protect the human rights of patients and guarantee standards in line with the standards of free and informed consent. During the research carried out into the treatment of persons with psychosocial disabilities (NUDIPU Rapid Survey on Gender Based Violence against Women with Disabilities and the Condition of Persons with Psychosocial Disabilities 2012) some respondents reported experiencing the use of ropes and chains to restrain them when admitted to hospital. Solitary confinement was also used in some cases.

Recommendations

³¹ An interview with a focus group of Awach sub county, Gulu district on the 10th day of November 2010.

95) DPOs recommend that the government should improve on the management information systems in police, prison and that UHRC track information on torture victims with disabilities for better planning.

96) Government in line with its international commitments should devolve regulations and guidelines for the implementation of the Prevention and Prohibition of Torture Act (2012).

97) Government should set up rehabilitation centres for victims of torture taking into consideration the special needs of persons with disabilities. 98) Government should introduce guidelines and procedures to protect and safeguard the rights of persons with psychosocial disabilities in regard to reasonable accommodation, protection of integrity, informed consent, right to legal capacity, and non-discrimination. These should include provision for an independent review tribunal.

99) Government, through the UHRC, in consultation with DPOs should provide capacity building to parents/guardians, state institutions and organisations to combat torture of PWDs.

Article 16: Freedom from Exploitation, Violence and Abuse

100) DPOs recognise the existence of various laws aimed at preventing exploitation, violence and abuse but there is a need for government to align/amend these laws and policies to include measures for the protection of persons with disabilities. According to a recent Human Rights Watch Report³² over one third of women with disabilities have experienced some form of sexual and gender based violence.³³ Field findings also revealed that women and girls with disabilities experience various forms of sexual violence and abuse such as defilement, rape and incest. For example a case of incest in Iganga of a deaf blind girl defiled by a family member was reported, but was unable to identify the perpetrator. 17 cases of rape and defilement of deaf women and girls have been reported to UNAD by 2011. At least 80% of young women with disabilities above the age of fifteen years reached in reproductive sexual health training by NUWODU have been sexually violated in some way (Research Project Report on Knowledge, Attitudes and Use of Rights for Girls and Women with Disabilities in Sexual and Reproductive Health Case Study: Mpigi and Kamuli Districts, NUWODU, April 2012). The NUDIPU Rapid Survey on Gender Based Violence against Women with Disabilities and the Condition of Persons with Psychosocial Disabilities, 2012 indicates a high prevalence of violence against women. Four of the women interviewed individually reported experiencing physical or sexual violence, or both. Three of these women were raped – two by strangers and one by her teacher whilst still at school. The woman raped by the teacher became pregnant. One woman reported severe physical and psychological violence inflicted on her as a child by her father

101) This report notes that women with disabilities are vulnerable to such crimes because of their isolation, lack of support structures, limitations in physical mobility, communication barriers and also because of myths that women with disabilities are weak, stupid, or asexual. It is also important

³² See: Human Rights Watch (2010) “As if We Weren’t Human” Discrimination and Violence against Women with Disabilities in Northern Uganda

³³ Human Rights Watch (2010) “As if We Weren’t Human” Discrimination and Violence against Women with Disabilities in Northern Uganda; citing UN High Commissioner for Refugees, “EVI Statistics,” September 2009.

to note that persons with disabilities and women with disabilities are not empowered to report cases of exploitation, violence and abuse due to their lack of awareness of their rights.

102) The research findings in the four districts also indicated that the government has not put in place enough safeguards to protect persons with disabilities from exploitation by organizations that purport to be charities. It appears to be a common practice for “brief case NGOs” to collect money from persons with disabilities with false promises to help and support them³⁴.

Recommendations

103) Government should implement a National Strategy- collection of data on victims of violence, disaggregated by disability and age, for the Prevention of Violence in the Family and Society. Government should adopt comprehensive measures for them to have access to immediate protection, shelter and legal aid. Government should train staff of the Family Protection Unit of police, prosecutors and judiciary to handle issues of violence and abuse for all categories of disabilities.

104) Government should implement legislation against violence, exploitation and abuse such as the Domestic Violence Act 2010 and the Female Genital Mutilation Act 2010 with the involvement of persons with disabilities. This should be enforced through the Directorate of Public Prosecution supporting the prosecution of perpetrators of exploitation, violence, and abuses committed against persons with disabilities, especially women. Government should establish community support systems to protect people with disabilities against exploitation, abuse and violence, particularly people with psychosocial and intellectual disabilities.

105) The Ministry of Internal Affairs should enforce the provisions in the NGO Act and policy to avoid exploitation of persons with disabilities by “briefcase” organisations.

Article 17: Protecting the Integrity of the Person

106) Contrary to article 17 and 25 of the CRPD, persons with psychosocial disabilities in Uganda are still subjected to forced treatment and hospitalization, yet the Constitution of the Republic of Uganda (1995) under Article 35 (1) provides for government obligation, to respect human dignity and to take appropriate measures to ensure that people realise their full mental and physical potential.

107) Research findings indicate that persons with psychosocial disabilities are often detained in psychiatric units against their will, having their clothes removed and being held in solitary confinement (NUDIPU Rapid Survey on Gender Based Violence Against Women with Disabilities and the Condition of Persons with Psychosocial Disabilities, 2012).

Recommendations

108) Government through the Ministry of Health to develop training modules on mental health and human rights. There is need to develop training modules for both the medical practitioners and the human rights activists in a bid to advocate for the rights of the people with psychosocial

³⁴ In an interview with the officials of IDWA of Iganga district and a focus group discussion had at Awach sub county in Gulu district.

disabilities

109) Government through the Ministry of Health to conduct a review of mental health legislation to bring it up to date with the CRPD to repeal laws which permit the forced hospitalization and forced treatment of persons with disabilities

110) Government to facilitate public awareness and education campaigns about psychosocial disability.

Article 18: Liberty of Movement and Nationality

111) The State Report correctly notes that there are major gaps in much of the current legislation that require review and amendment in order to comply with the UNCRPD. Some of the major laws that need amendment include the Immigration Act (1970) which defines persons suffering from “mental disorders” or a “mental defect” as prohibited immigrants and the Citizenship and Immigration Control Act (2009) which stipulates “unsoundness of mind” as a reason for disqualification for dual citizenship. These laws are discriminatory and contravene the spirit of Article 18 of the UNCRPD.

112) The Children Act (2003) provides for the registration of children at birth including children with disabilities. It further commits the local councils to keep a register in every village of children with disabilities. Currently, health centers do not disaggregate data of birth according to disability and registers are unheard of by local council chairpersons. Birth registration – the recording of a person’s existence by the state administrative process – is fundamental to securing a child’s rights and practical needs, but currently only one out of five children is registered at birth in Uganda. Without being registered, a child’s existence, age, and citizenship can be called into question. This makes it difficult to protect her or him from childhood-robbing realities such as child labour, underage military service, child marriage, and being unfairly treated as an adult when in conflict with the law (UNICEF in Uganda: Keeping Children Alive, Safe and Learning 2011).

Recommendations

113) Government needs to repeal derogatory and discriminatory provisions of the Immigration Act in accordance with Article 18 of the UNCRPD.

114) Government through the Law Reform Commission should repeal the provisions that restrict the right to movement and liberty of persons with psychosocial and intellectual disabilities in the Citizenship and Immigration Control Act and Immigration Act respectively.

115) Government should implement the provisions of The Children Act on the registration of children with disabilities.

Article 19: Living Independently and Being Included in the Community

116) While there are no specific provisions opposing the independent living of persons with disabilities, there is a lack of any specific provisions in the existing legal framework to support the independent living of persons with disabilities in the community thereby making it difficult to achieve. The Persons with Disabilities Act has provisions for the participation of persons with disabilities in all aspects of life as equal citizens. However the Mental Treatment Act makes the

liberty of persons with psychosocial disabilities subject to arbitrary deprivation for purposes of treatment or the protection of society and this therefore impacts on their independence in the community. Despite the legal framework, many persons with disabilities are excluded and marginalised in everyday life. They often live isolated lives in their communities and no personal assistance is provided by the government as was evidenced from the interviews conducted in the districts of Iganga, Bushenyi and Kyankwanzi. Such assistance that is available is provided by civil society organizations although their work is limited by a lack of resources to make services available to the growing population of persons with disabilities. Personal assistance is also in many cases provided by family members and if this support is unavailable the persons have to fend for themselves.

Recommendations

117) Government should provide auxiliary services to persons with disabilities to support independent living in the community.

118) Government should improve access to social amenities for persons with disabilities at village level.

Article 20: Personal Mobility

119) The State Report cites the Persons with Disabilities Act which under Section 7 (2) stipulates that equipment relating to disabilities should be exempted from tax, duties, surcharges or levies. The Report further states that the government is distributing mobility devices both at the community level and in schools. We also welcome the comment in the State Report which acknowledges that the distribution of mobility items by the government system is not adequately reaching all those in need of them and that those available on the private market, despite the government's waiver of taxes, are expensive and not affordable for the majority of Ugandans. This report however notes that the government supported white cane production at Kyambogo University is no longer functioning. Production of collapsible canes stopped in the financial year 2006/07 when the machinery used broke and production of the rigid canes ceased in the financial year 2009/10 due to lack of skilled staff. We therefore call for the government to put in place mechanisms to expand the coverage of its programs to reach more persons with disabilities and put more effort into collaborating with the non-profit sector to coordinate distribution.

120) Apart from Section 7 of the Persons with Disabilities Act and Regulation 10 of the Draft Regulations to the Act on tax exemption, no other provision is contained in the Persons with Disabilities Act or other legislation that relates to the positive duties of the State to take measures to ensure the personal mobility of persons with disabilities as required by Article 20. Additional measures in the legislation would require other government sectors to make such mobility aids/devices/technologies available at an affordable cost in light of Article 20 (a).

121) It should be noted however that in districts such as Bushenyi, government is not providing funding for the rehabilitation centres which have been major partners in the provision of mobility devices. In other cases, the devices provided have been of poor quality and not matching the needs

of the beneficiaries. In Iganga, it was noted that the mismanagement of the rehabilitation centers together with the fact that there are few professional staff has limited the availability of appropriate mobility devices. The field findings indicated that at the local community level persons with disabilities have had challenges accessing mobility appliances. Lack of sun screen for albino persons considerably affects their mobility. It was also noted that persons with disabilities are made to pay double when using movable devices such as wheelchairs on public transport. There are also cases reported of persons with visual impairments being knocked down on the roads due to the lack of guides³⁵ and this is a major challenge to their freedom of movement.

122) Although Kyambogo University is training mobility instructors, they are restricted to providing support services to visually impaired persons. The numbers trained are also insufficient to meet the growing demands of persons with disabilities and there are no clear measures in place for Government to employ them in public service.

123) The draft policy on Rehabilitative Health Care developed by the Ministry of Health shows that of the 30% of persons with physical disabilities who require assistive devices, only 2% can access them.

Recommendations

124) Government should expedite the passing of Draft Rehabilitation and Health Care Policy on Disability 2009 as a framework to guide all sectors in planning and budgeting for the mobility requirements of persons with disabilities. The Ministry of Finance, Planning and Economic Development should establish a national fund to support the procurement of assistive devices taking into consideration the special needs of different disability categories.

125) Government to ensure that there are sufficient resources both financial and personnel to resume the production of white canes at Kyambogo University.

126) Government through the Ministry of Health should include sun creams and sun glasses for people with albinism on the essential drugs list.

Article 21: Freedom of Expression and Opinion and Access to Information

127) It should be noted that, placing sign language under the national objectives and not under the substantive provisions of the Constitution reduces the legal force of these provisions. In practice, the national objectives in the Constitution provide only guidance to the State in implementing the issues identified. As such anything under the national objectives section does not have any legal authority to force government to implement it unlike those issues covered under the substantive articles.

128) Despite the fact that Section 15 of the Copyright and Neighboring Rights Act of 2006 allows any work to be transcribed into Braille or sign language for educational purposes, the proposed Anti Counterfeit Bill defines counterfeiting as using any copyrighted materials as per its Section 2 without the authority of the copyright owner. This in effect means that transcribing copyrighted materials into Braille or easy read without the authority of the copyright owner would be considered

³⁵ In an interview with DPO'S and focus groups in the different districts visited including Iganga, Kyankwanzi and Bushenyi between 10th -12th November 2010.

to be counterfeiting and therefore an offence under the proposed Counterfeit Bill. Secondly, the exception under Section 15 of the Copyright and Neighboring Rights Act is restricted to Braille and sign language for only educational purposes. This implies that any materials transcribed into Braille or easy read other than for educational purpose is an infringement of copyright.

129) There is no recognised system of communication such as easy read established in Uganda which allows freedom of expression and communication for people with intellectual disabilities.

130) The current legal framework restricts the range of alternative formats in which public information must be provided to sign language, Braille and tactile formats under Section 21 of the Persons with Disabilities Act. There has also been very minimal training of public officials in the use of sign language, Braille and tactile in public offices.

131) Despite the fact that the Persons with Disabilities Act, read in conjunction with relevant provisions of the Access to Information Act (2005), makes specific reference to the duty of national service providers to take reasonable steps to make records available in accessible formats³⁶, not all service delivery points have sign language interpreters. There has been a lack of consistency in the interpretation of this legislation. The National Television (Uganda Broadcasting Corporation) had in previous years broadcast the National news in accessible formats but this is no longer the case and there are no government initiatives to change this. It is also important to note that although owners of television and telephone companies are mandated under Section 21 (2) of the Persons with Disabilities Act to ensure access to their services by persons with disabilities, key modes of communication such as the internet are not included. It should also be noted that most ICT services in Uganda are not disability friendly which makes it difficult for persons with disabilities to access information. The computers and telephone sets imported into the country do not have provisions for people with visual impairments such as speech software (JAWS).

Recommendations

132) Government Functional Adult Literacy (FAL) programme should among others include training in sign language, tactile, easy read and Braille to make the programme beneficial to persons with disabilities.

133) Government should ensure that the proposed Counterfeit Bill exclude the reproduction of information in Braille or easy read.

134) Government through the ministry of ICT and Information should develop guidelines to increase access to information by persons with disabilities (i.e. access to talking phones, lifts, jaws, provision of sign language on television etc).

Article 22: Respect for Privacy

135) The State Report highlights the provisions of the Constitution, the Persons with Disabilities Act and the Mental Health Act, yet fails to consider the challenges persons with psychosocial disabilities face in practice. This report also notes that the government is in the process of reviewing the Mental Health Act of 1964 to amend the provisions which appear to limit the right to privacy of persons

³⁶ Access to Information Act, Article 20(5) “access and forms of access”

with psychosocial and intellectual disabilities. It should be noted that the current legal framework limits the rights of persons with disabilities to privacy. As noted elsewhere in this report persons with psychosocial disabilities are often involuntarily detained with no review mechanism to protect their rights.

136) The research findings in the field indicate that persons with disabilities, especially those with hearing and visual impairments, are deprived of their medical privacy and confidentiality due to the fact that information is channeled through interpreters and guides who are not well trained. This is a major challenge in the health care sector where the government has not trained and deployed enough providers in the use of sign language interpretation or transcription of information into Braille.

137) In Uganda there is no legal right for a person to obtain access to their medical records and files especially in referral hospitals.

138) People with visual impairments in Uganda are often unable to make bank transactions independently and require the support of another person which violates their privacy. Furthermore access to ATMs can be very difficult for the visually impaired.

Recommendations

139) The Public Service Commission should recruit professional sign language interpreters and guides to assist deaf and visually impaired persons especially in health centres

140) Government should develop a legal framework for the protection of Data and privacy which includes the right of access to health records.

141) Government Health facilities should have trained staff in various communication formats and guides to support persons with disabilities.

142) The banks should develop a system which allows people with disabilities to access bank services independently.

Article 23: Respect for Home and Family

143) A number of marriage laws in Uganda cite disability as grounds for the nullification of marriage. The Divorce Act (1904)³⁷ for example considers “lunacy” as a ground for nullification of the marriage and the Hindu Marriage and Divorce Act (1961)³⁸ states that both parties be of sound mind at the time of the marriage. The effect of such laws is to discriminate against and discourage persons with disabilities from contracting marriages. This is further supported by evidence from the field that many parents of disabled children still believe that they have demons within them and therefore overprotect them from everyday life and prevent them marrying as adults³⁹. Many parents also believe that their daughters of marriageable age cannot be mothers in their new homes and would be mistreated by their prospective husbands.

³⁷ Section 12 (c) and 13

³⁸ Section 2 (1)(b)

³⁹ This was given by Mrs. Elizabeth Kayaga the Executive Secretary of Disintergrated Disabled Women Association (IDWA) of Iganga district.

144) In many of the traditional culture settings of Uganda, the practice of a bride price paid by the groom upon asking a hand in marriage still prevails. There are examples of discrimination against persons with disabilities having to pay double the bride price for being disabled⁴⁰. Prejudice against persons with disabilities getting married and starting a family exists at every level of society. DPOs can cite examples of women with disabilities marrying a non-disabled husband and the relatives of the husband then rejecting their marriage. This has sometimes resulted in the breakdown of marriages because of the pressures exerted on the married couple. The NUDIPU Rapid Survey on Gender Based violence against Women with Disabilities and the conditions of persons with psychosocial disabilities, 2012, identified four women who had been abandoned by their husbands and left to raise their children alone with no support. The research highlighted the fact that women with disabilities are considered to be less eligible marriage partners and therefore may find themselves in unstable relationships. Additionally, if these unstable relationships become abusive, women with disabilities have fewer legal, social and economic options.

145) People with disabilities lack access to information on sexual reproductive health and family planning. Many negative attitudes and myths still exist regarding the sexuality of persons with disability ranging from the belief that persons with disabilities are not sexually active (and therefore do not require access to family planning services etc) to the other extreme where they are considered to be sexually overactive and therefore a threat.

146) It is a common practice in Uganda that children of persons with disabilities are not allowed to stay with their parents for fear that they will not be looked after or that they will fail to develop their abilities. It is often believed that the children of deaf parents will not develop language skills. People with psychosocial and intellectual disabilities are denied the chance to have a family and to take care of their children or adopt a child.

Recommendations

147) Government should amend the Marriage and Divorce Act to delete terms like lunacy and unsound mind which discriminates against persons with psychosocial and intellectual disabilities.

148) Government should enforce marriage laws to protect the marriages of persons with disabilities especially women with disabilities.

149) Government should raise public awareness and ensure that persons with disabilities have a right to marry, get married, start a family and parenting.

150) Government through the Ministry of Health should provide information on reproductive health to persons with disabilities in accessible formats

Article 24: Education

151) Although the government is committed to the principle of inclusive education as evidenced by the ratification of the UN Convention and the adoption of a Universal Primary Education Policy in 1996, it has authorised the construction of 24 special schools. The educational legal framework is confusing and ambiguous as it mentions both inclusive education and special needs education. For

⁴⁰ This was narrated by the focus group met at Igombe subcounty in Iganga district November 12, 2010

example under Section 5 of the Persons with Disability Act, inclusive education is encouraged although at the same time the establishment of special schools and units is included where inclusive education is not possible. The greatest omission within the Persons with Disabilities Act is the failure to provide clear provisions on reasonable accommodation for the individual requirements of persons with disabilities as required under article 24 (2) c of the UNCRPD. This stands in contradiction to the UNCRPD and the promotion of an inclusive education policy. International evidence shows that special schools reinforce segregation and exclusion and that if children are educated alongside their non-disabled peers, then many of the negative stereotypes and social attitudes surrounding disability are broken down. DPOs recommend that the government commits itself fully to the implementation of inclusive education and provides adequate human and financial resources to achieve this.

152) As indicated in the State Report, the government has established a faculty at Kyambogo University, which is charged with training education personnel in special needs education, conducting research and developing appropriate materials.⁴¹ However in UPE there is a lack of adequate training and preparation of teachers to manage very large classes and identify the special needs students. There is evidence that most schools are still inaccessible, lack SNE teachers, lack essential instructional materials and that Head Teachers still reject children with severe disabilities for enrollment in their schools, recommending them instead to special needs schools. Indeed one of the District Education Officers (DEO) interviewed stated that Uganda is not ready for inclusive education and this may partly explain why most government efforts are focused on special needs education as there is a lack of physical infrastructure, adequately trained staff and any deliberate collaboration of parents, teachers and pupils in addressing the educational needs of children with disabilities.⁴²

153) The Education Assessment and Resources Services (EARS), initially funded by the Danish International Development Agency (DANIDA) until 2003, continued with government support until 2005. However unlike Kenya where this scheme continues with government funding, this service is no longer operational in Uganda and children with disabilities are denied an educational assessment service.

154) The current school curriculum is not sensitive to the educational needs of children with disabilities and opportunities for these children are consequently limited and restricted. At the time of writing we understand that a draft document is being prepared on revising the school curriculum in 2015.

155) The UBOS statistical abstract 2010 survey states that disability is one of the major factors for children not attending school. The report indicates that the type, nature and extent of disability determine the affected child's ability to walk long distances to school as well as defy stigma. According to the figures 30% of the children aged 7 gave disability as one of the reasons for not

⁴² In an interview in Bushenyi on 10th November 2010.

going to school.⁴³ Although the recently released statistical abstract has no statistics on disability, it indicates that Education activities decreased by 0.5 percent in 2009/10 compared to an increase of 4.3 percent witnessed during 2008/09.⁴⁴

156) There are no reliable statistics on the enrollment of children with disabilities in either UPE or USE schools to guide planning and budgeting in the education sector. Most Head Teachers are unaware of the different types of disabilities tending to only consider physical disability. Although the state disaggregates data of special schools/units in the country, these mainly target visually and hearing impaired. The Government therefore lacks any firm data on the numbers and types of disabilities of children attending school.

157) While the Ministry of Education and Sports through its Special Needs Department distributes Braille papers, Perkins brailers and brailled text books to special units, these materials are insufficient to meet the needs of all schools in the country. Very few school books are available in Braille in primary school and those that are available do not form part of the syllabus. No Braille text books are available for secondary school. Furthermore, it has also been observed that the Department only supplies equipment and materials to the visually impaired, ignoring the other disabilities. 70% of the schools visited in the field research were found to have “inaccessible ramps” (narrow and very steep) preventing access to classrooms for children with physical disabilities; 90% of administrative blocks lacked any form of accessibility and 70% of latrines for persons with disabilities constructed under the School Facilitation Grant (SFG) lack separate facilities for boys and girls. All these challenges directly discriminate against children with disabilities and prejudice their education.

158) The Special Needs Education Departments at the Ministry of Education and Sports and at the district levels are not fully autonomous and lack the adequate resources to finance special needs education programmes. The Special Needs Education learning centres are concentrated in towns and cities thereby neglecting the rural areas, which have a negative effect on the educational achievements and especially the literacy and numeracy rates of children with disabilities in those areas. Although the government has continued to train special needs education teachers (72 trained in the last three years), there is a great shortage of special needs trained teachers in the country. Special needs teachers are not included in the Public Service Code and when they have completed their training, they are often not recruited as special needs teachers. This further restricts access to education for children with disabilities. Despite the specific challenges faced by special needs teachers in teaching children with disabilities, there are no incentives in terms of additional remuneration to motivate them to pursue careers in special education. There is also evidence that Special Needs Education Teachers are indiscriminately transferred from schools where they are needed to schools where there are no children with special needs. In addition, many take up other career opportunities such as administration. For example in 2011, information from the unit for the blind at St. Hellens Primary School in Mbarara district revealed that teachers who were trained to teach children with visual impairments were transferred to other schools and were replaced with teachers who did not have the necessary training. This had a great impact on the school as it has an

⁴³ Ibid, table 3.4 page 20.

⁴⁴ UBOS (2010); Statistical abstract 2010.

annex for visually impaired children.

159) Current government policy on Universal Primary Education (UPE) has many shortcomings which impact negatively on the needs of children with disabilities. Government does not currently meet the boarding costs or medical costs of children at the primary level as this is considered to be the responsibility of the parents. It is our view that this is a discriminatory policy considering the high poverty levels in the country. The majority of children with disabilities come from very poor families and the schools which can accommodate the educational needs of these children are very few and often very distant (on average 150 kms). There are currently only three schools in Uganda where deaf blind children can achieve a quality education. Secondly, the majority of children with multiple disabilities and especially deaf blind children require boarding facilities to enable them to learn appropriately. However under UPE, the government does not provide for boarding fees and these children are therefore directly discriminated against and have reduced opportunities to access education. For example Sense International Uganda works with 370 deafblind children but of these only 20 have had the opportunity to enroll in school as a result of support from Sense (Sense Annual Report 2010/2011).

160) UPE has created a high demand for secondary education, which is not yet being addressed by the government. There is no universal secondary education (USE) Policy and consequently there are no programmes or initiatives addressing the needs of children with disabilities in secondary education. Only 2.2 % of persons with disabilities in Uganda have attained post-secondary level education, according to the Uganda Population and Housing Census 2002.

161) DPOs note that within the current context, it is not possible to achieve full inclusive education immediately. However we expect progress towards this goal within the next four years reporting period. This will mean that additional resources should not be diverted to segregated or special schools but used to support inclusive education. The existing special schools should become centres of excellence and models of inclusive education.

Recommendations

162) Government should affirm its commitment to inclusive education and develop an inclusive educational policy with clear resources ring-fenced to implement the policy.

163) Government should enforce the recruitment of special needs education inspectors in all districts as outlined in the Education Service Commission regulation.

164) Government should enact and implement a policy instructing head teachers and heads of institutions to provide reasonable accommodation for persons with disabilities in learning institutions. This should include obligatory training of all teachers in the needs of children with disabilities, individual education plans for all students, the availability of assistive devices and support in classrooms, accessible educational materials and curricula, the teaching of sign language, the promotion of disability culture and full physical access.

165) Government through the Ministry of Education should revisit the Education Assessment and Resources Services programme (EARS) with a view to re-establishing it.

166) The school curriculum should be revised to take into account the educational needs of all children.

167) Government should train all professionals working in the education field (i.e. primary secondary, tertiary and vocational) in all aspects of communication to facilitate the learning of children with disabilities e.g. tactile language, sign language, easy read, Braille etc. This should include a full review of the educational curricula in primary, secondary and tertiary institutions to provide for sign language, Braille, easy read and tactile training.

168) Government should increase funding to the Special Education Units that are currently established in different parts of the country to develop them as models of excellence to promote inclusive education for a period of four years until such a time when inclusive education can be fully implemented.

Article 25: Health

169) The right to health in Uganda is recognised under the Constitution as part of the National Objectives and Directive Principles of State Policy rather than the substantive provisions of the Constitution. This means in practice that access to health care as a right as provided under Article 25 of the UNCRPD cannot be legally enforced because these principles are interpreted only as guidelines rather than legal statutes.

170) Current health budgets are targeted at prevention and there is a need to take more account of rehabilitation.

171) Although the government has adopted a Patients' Charter spelling out the rights of patients in Uganda, the Charter does not consider the specific needs of persons with disabilities in health care settings. The adoption of this Charter presents an opportunity to bridge the gap that currently exists in the legal framework. The current legislation also poses a number of human rights issues for persons with disabilities in the health care setting. For example the Mental Treatment Act (1964) does not recognize the health rights of persons with psychosocial disabilities and as such the requirements of Article 25 of free informed consent and ethical standards for public and private health care are not effectively respected under this legal framework. It has been noted that there is no provision in Law or policy for the concept of informed consent in health services.

172) There is a need to train greater numbers of health professionals working with persons with disabilities in order to increase access to health care. According to records from Kyambogo University and Ministry of Health, 20 Psychiatric Nurses, 28 Clinical Psychiatric Officers, 150 physiotherapists registered by government, occupational therapists (on average 2 per referral hospital), 6 Speech and Language Therapists, 15 ophthalmologists, 46 Diploma in Sign Language Interpretation, and 28 Mobility Instructors (over a period of two years) are trained in the various Health training institutions. Current government training programmes do not take into account the growing number of persons with disabilities. Trained medical personnel prefer to be deployed in national and regional hospitals rather than rural health centres. This means that the majority of persons with disabilities are unable to access health care.

173) Adequate supplies of medication as should be supplied under the National Drug Policy are not

always available in health centre at levels.

174) Persons with disabilities would benefit from the introduction of a well-managed National Health Insurance scheme. We recognize that a National Health Insurance Bill has been developed, however majority of PWDs are not covered by this bill since it targets only public servants.

175) The field findings further evidenced that there are a number of challenges within the health system that hinder access to persons with disabilities. For example labels on drugs are not pre-brailed and there are no sign language interpreters in hospitals. The infrastructure of most hospitals is poor – there are few ramps, disability friendly toilets or beds for persons with disabilities. District health officials lack awareness about the assistive devices and supports available for persons with disabilities⁴⁵. The research also confirmed that trained professional doctors have limited communication skills in sign language or tactile making it difficult for the deaf, and deaf-blind to express their condition and obtain proper treatment. This right is further limited as health related information is not produced in accessible formats. During the field interviews it became clear that funding of disability health issues is still a major challenge⁴⁶. Indeed as the newly adopted Health Sector Strategic and Investment Plan notes, there are low funding levels and priorities accorded to the disability sector in general.

176) Some persons with disabilities still face major challenges in accessing health commodities and services because of the nature of their disabilities. For example for little people there are no specialists in dwarfism and for albinos, basic health necessities such as sun cream are not provided for in government health centers. Health personnel have little awareness of the needs of persons with psychosocial disabilities. There are only 28 government psychiatrists for a population of over 33 million people in the country. There are very few Psychiatric units in Government health centres and those that are established are often poorly resourced. Likewise there is little understanding of the needs of persons with intellectual disabilities.

177) Women with disabilities have little access to reproductive health care. There are no government strategies to target and improve reproductive health care for persons with disabilities. For example a survey done by NUWODU showed that only 10% of women with disabilities sampled use family planning while 48% do not understand its relevance (Research Project Report on Knowledge, Attitudes and Use of Rights for Girls and Women with Disabilities in Sexual and Reproductive Health Case Study: Mpigi and Kamuli Districts, NUWODU, April 2012).

178) Although persons with disabilities are included in the National policy framework on HIV/AIDS, health workers and service providers still lack the appropriate skills and expertise to support persons with disabilities living with HIV/AIDS and therefore service delivery remains lacking disability friendly services and specific data on disability. Most health workers fail to respect privacy or address concerns such as accessible IEC materials, communication and physical accessibility. Available evidence indicates that persons with disabilities have poor access to

⁴⁵ In an interview with Disability Desk Officer of Iganga district, November, 12 2010.

⁴⁶ It was revealed in Bushenyi during a focus interview on November 12th 2010 that the government no longer funds the few hospitals available

HIV/AIDS information and services compounded by their low literacy rates. Unique characteristics of persons with disabilities pose even a bigger challenge in designing and dissemination of educational interventions. Although the level of awareness about HIV is nearly universal among the persons with disabilities and the level of knowledge is quite high (89%), 30% of both male and female persons with disabilities reported having suffered from STI, 47% start their first sexual encounter before the age of 18 years, 50% were reported being involved in extra-marital sex and only 31% of the sexually active persons with disabilities had ever used condoms. (NUDIPU HIV Communication Strategy 2009, Dr. C. Oleke, Health Promotions Department, MOH)

Recommendations

179) Government should increase budget allocations to health facilities in order to improve services for persons with disabilities. It should monitor closely the development and distribution of the national Minimum Health Care Package as presented in the National Health Plan and support capacity building of government staff in use of the package as an overall planning, budgeting and resource allocation tool, in order to ensure that the rights of men, women and children with disabilities to health services is addressed.

180) There is a need for specific legislation on patients' rights, including the right of persons with disabilities to receive medical care on the basis of their free and informed consent. Government should include a provision on informed consent in health care provision in the proposed Health Services Bill.

181) There is a need for increased research on health and disability and the collection of disability specific data particularly regarding HIV/AIDS to support evidence-based policy and services.

182) Government should strengthen the recruitment, training and deployment of staff in the areas of psychiatry, physiotherapy, occupational therapy, speech and language therapy and ENT specialists from health centre III to National referral hospitals. Disability related issues should be mainstreamed in the training curriculum of all health workers to create awareness.

183) The Ministry of Health should carry out awareness raising campaigns among health personnel to sensitise them on issues of disability. Disability should be mainstreamed in all awareness campaigns targeted at both health personnel and the general public in consultation with DPOs.

184) The National Drug Policy should be implemented and monitored to ensure the supply mechanisms used under the government procurement policy requisition adequate stocks of medication as per the policy. The Ministry of Health and National Medical Stores should work with DPOs to agree and establish the list of essential drugs for persons with disabilities.

185) The Ministry of Health should mainstream specific maternal health issues on disability in all its programmes including the reproductive health roadmap. Services should be provided for the early assessment of children for the detection of disabilities so that proper care is provided from an early age.

186) Government should develop guidelines to implement the Persons with Disabilities Act 2006 particularly the section on tax exemption for a person importing any medical equipment to facilitate the functioning of a person with a disability.

187) The Uganda AIDS Commission should introduce a disability self coordinating body to strengthen comprehensive programming and implementation of disability related matters in the Commission.

Article 26: Habilitation and Rehabilitation

188) The legal framework in Uganda does not recognize habilitation as provided under the UNCRPD. The focus of the legal framework is to help persons with disabilities to regain functional ability, however, there are no programmes intended for early interventions in regard to habilitation. This denies children with disabilities for example, the deafblind, an opportunity to transit from community, to school life and vice versa, which in the end limits independent living contrary to the spirit of Article 26 which focuses on both habilitation and rehabilitation.

189) There is limited training of professionals in the field of community based rehabilitation (CBR). Kyambogo University is the only university in Uganda offering CBR training (614 on degree, and 150 on Diploma). However there are no government funded positions for trained CBR workers and the majority only get job opportunities with the civil society organizations. Field experience indicates that there is a general lack of awareness among both persons with disabilities and NGOs of the CBR guidelines and therefore little direct participation in both the programme design and implementation. It was further noted that most of the ongoing rehabilitation work for the blind is done by Non-Governmental organizations such as World Vision, Norwegian Refugee Association and Sight Savers International, which has a mobile clinic for minor surgeries and provides Braille services. While the National and Regional Referral Hospitals provide rehabilitation services, the cost of and accessibility to these services remains a challenge. This in turn has attracted private actors like CORSU who are also more expensive for an ordinary user. This is further indication that Government does not commit adequate resources to rehabilitative health. The rehabilitation programmes are also severely affected by shortages of the required medical personnel and facilities in many of the districts. For example, in Bushenyi district, the orthopedic personnel were often taken to different hospitals making it difficult for persons with disabilities to access services during these periods.

190) The current Community Based Rehabilitation programme is limited in its scope and only covers 18 districts out of the 112 districts. Additionally the programme relies heavily on the support of family members and therefore does not promote independent living for persons with disabilities. 80% of persons with disabilities live in rural communities and very few have access to water points, health centers, firewood, shops and markets etc which denies them the right to access their basic needs in the community. This situation is more difficult for those individuals who live alone.

191) Whereas the UNCRPD promotes the CBR as the best approach to independent living, Uganda currently promotes both CBR and institutional based rehabilitation. The challenge, however is that

the rehabilitation institutions lack appropriate programmes to suit the current market trends as a result, the trainees cannot compete in the labour market.

192) According to the government under the Ministry of Gender, Labour and Social Development, assistive devices were to be provided to more than 1000 persons with disabilities from 2008 onwards. This is an insignificant number compared to the 3 million persons with disabilities in Uganda who need various assistive devices (Draft Rehabilitation and Health Care Policy on Disability 2009). It is also clear that in some instances where people have received these devices many had out grown their devices because of lack of follow up programs. So for example “a case of 15 year old persons with disability in Awach Sub county Gulu district had out grown the assistive device”⁴⁷. This greatly affects the impact of the rehabilitation programme.

193) The Occupational Therapists employed in government hospitals have not been facilitated with the necessary resources and equipment to reach the people who need the services. For instance, Kabale Hospital, in western Uganda has an occupational therapist with no equipment. In Iganga Hospital, an occupational therapist was recruited but lacked the necessary resources to reach the rural work centres until Sense International, an NGO working in the area provided funds to facilitate him.

Recommendations

194) MoGLSD should raise awareness of the CBR standards/ guidelines among persons with disabilities, family members and the NGO sector.

195) Government should provide more skills training in CBR amongst specialists (Orthopaedic surgeons, physiotherapists and psychiatric nurses etc) throughout the country, with particular focus on the rural areas.

196) Government should equip the professionals involved in rehabilitation and habilitation services with the necessary tools and resources to enable them to carry out their work. 197) Government should also establish Rehabilitation service centres that are accessible to and support all disability categories.

198) Government through the Ministry of Finance should provide a budget allocation for Rehabilitation and Facilitation services across all districts.

199) Government should consolidate and improve current CBR programmes for persons with disabilities so as to promote their independence and roll out CBR programme to cover all the districts of Uganda.

200) Government through Ministry of Gender Labour and Social Development should design programmes emphasizing early interventions to support children with disabilities realise independent living. 201) Government should develop a policy on Community Based Rehabilitation/habilitation in order to streamline the delivery of CBR services at the community levels. 202) Government should redesign programmes offered at rehabilitation centres to meet the current labour market demands. Additionally, it should provide tool kits to the trainees.

⁴⁷ In an interview with a 15 year old person with disability in Awach subcounty Gulu district on November 10th 2010

Article 27: Work and Employment

203) The limited and misconceived definitions of disability under the Persons with Disabilities Act 2006 and the Employment Act 2006 limit the numbers of persons with disabilities who can potentially benefit from the employment provisions contained in these laws. As noted previously the Persons with Disabilities Act views disability in terms of limitations on daily life activities and environmental barriers, including a requirement of substantiality or degree,⁴⁸ while the Employment Act uses a narrow medical definition which does not take into account the social aspects of disability.⁴⁹ In effect these provisions only benefit a minority of persons with disabilities and are not compliant with the UNCRPD.

204) Approximately 80% of persons with disabilities live below the poverty line, and 46 percent of persons with disabilities aged 14-64 declared that they were excluded from accessing employment opportunities (UNHS 2005/6).

205) The Persons with Disabilities Act gives the government the discretion to put in place affirmative action measures to promote employment opportunities for persons with disabilities. So for example Section 13 (3) gives the Minister authority to determine a quota or percentage of persons with disabilities to be employed in the workforce for employers but it has not been enforced by statutory instrument as required. The State Report does not provide any policy to support the employment of persons with disabilities in the informal sector although the majority of persons with disabilities are employed in that sector.

206) The Persons with Disabilities Act also provided an incentive of a 15% tax deduction to private companies who employed 10 or more persons with disabilities. This provision however has now been reviewed and the tax incentive reduced to a 2% tax deduction for any employer whose workforce comprises of at least 5% of persons with disabilities. The new tax incentive is no longer sufficiently attractive enough to encourage employers to provide affirmative action in the employment of persons with disabilities and as a consequence has affected the overall employment of persons with disabilities.

207) **In Uganda, there is an estimated 3.5 million disabled youth.** Across the country, between 54 percent and 66 percent of Uganda's youth live on \$1 or less per day and 73 percent to 84 percent live on \$2 or less per day according to the UNHS 2010 data. Although there are no statistics relating to the unemployment levels of disabled youth, they **are vulnerable to unemployment and its related challenges of limited livelihood alternatives and limited access to land or capital (Youth Map Uganda Navigating Challenges Charting Hope).**

208) Although the government has established vocational centers to provide training for persons with disabilities, most of them are poorly resourced and the skills offered no longer meet current labour market demands. These centres are segregated (i.e. not inclusive) and many are dilapidated, putting the health and safety of students at risk.

209) The government through the Local Government Act 1997 (as amended 2001), establishes the

⁴⁸ Section 2.

⁴⁹ Section 2, read together with the First Schedule.

District Service Commissions to include one person with a disability as one of the 5 members. The challenge, however, is that the Public Service Commission requirements (qualifications and 10 years' experience in a public office) have prevented many districts from having a person with disability on the District Service Commission consequently affecting employment opportunities for persons with disabilities in local government.

210) The fieldwork findings in the districts indicated that persons with disabilities are still considered by many employers as incapable to work due to their disabilities. In addition, the majority of people that are injured and become disabled while at work are dismissed from their work and are unable to benefit under the provisions of the law on compensation because of limited awareness and poor implementation of the law. There is evidence that many persons with disabilities are laid off from their employment on grounds of disability or demoted. For example a Head Teacher in Arua district Ms E.I. lost her sight and was demoted to the position of class teacher (UNAB Case Study). In another case reported in Arua Mr R.A., a teacher at Okuvu Primary School with psychosocial disability was dismissed in 2000 and is now working as a security guard (MHU case Study). The demotions, expulsion and denial of employment opportunities to PWDs could be explained that employers do not provide reasonable accommodation to ensure conducive working environment for PWDs

Recommendations

211) Government should develop policy guidelines (including provision for reasonable accommodation) on the employment of persons with disabilities in both the public and private sectors. As part of this, Government should target youth with disabilities in the youth grant to economically empower them and to avoid future dependency.

212) Government should employ at least 5% persons with disabilities.

213) Government should enforce the implementation of the Labour Law such as the Workman's Compensation Act, Employment Act, Persons with Disabilities Act and Income Tax Act etc.

214) Government should mainstream disability in all existing vocational programmes in line with best practice in other countries and ensure that the skills training offered matches current demands in the labour market.

215) The Public Service Commission should provide affirmative action in the appointment of representatives of persons with disabilities on the District Service Commission.

Article 28: Adequate Standard of Living and Social Protection

216) The Constitution's (1995) Objectives and State Principles on standards of living and social protection are focused mainly on the aged. Objective VII for example addresses the protection of the aged where the State undertakes to make reasonable provision for the welfare and maintenance of the aged. In addition objective XIV mentions pension and retirement benefits which apply to the aged whilst there is no provision for persons with disabilities. The Government of Uganda has yet to develop any form of social assistance for persons with disabilities. Although this situation is indeed

the case in the vast majority of developing countries, it further exacerbates the already precarious situation whereby the vast majority of people with disabilities in Uganda are living in a state of abject and chronic poverty.

217) Persons with disabilities are further excluded from the law on housing which aims to provide housing accommodation for citizens of Uganda at an economical cost.⁵⁰ Such assistance would greatly improve the standard of living and social protection of persons with disabilities.

218) The research findings in visited districts indicate that the government has put in place general programmes to improve the standard of living in the community.⁵¹ However from a disability perspective, the criteria used to select the beneficiaries of these projects discriminate against persons with disabilities. Poverty eradication programs including NAADS have certain conditions that persons with disabilities cannot meet. So for example one criterion concerns the individual's capacity to manage the equipment given under the technical demonstration sites. This means that one must have a defined acreage of land which the majority of persons with disabilities do not have. In addition these programmes require beneficiaries to work in groups and due to the negative perception that persons with disabilities are incapable of performing such work, few people are willing to have them as group members.

219) This report recognizes the Social Assistance Grant for Empowerment (SAGE) programme as a positive approach to poverty reduction initiated by government. However, the main concern is the small amounts of cash transfers under the scheme (9\$) when the current rate of inflation is 28%. There is no policy on social protection or guidelines. **In addition, the current programme does not specifically target older persons with disabilities yet they are more vulnerable**

220) The report on 'Disability and Poverty in Uganda' prepared in 2008 by the Ministry of Finance, Planning and Economic Development, provides much evidence of the close link and strong relationship between disability and poverty. This may be described as a mutually self-reinforcing negative cycle in that disability is both a cause and a consequence of poverty. Poverty can cause disability with its characteristics like malnutrition, poor health and sanitation, isolation and powerlessness. Conversely, disability can trap people in a life of poverty because of the barriers that persons with disabilities face and the limited opportunities to access education and employment and the exclusion they experience in social activities. In addition, families with disabled members face negative impact such as, Additional costs resulting from the disability; Loss of income and/or opportunities to work; Marginalization or exclusion from services and/or social and community activities etc.

221) We recognize the government's efforts to improve the livelihoods of persons with disabilities through the introduction of schemes such as the Special Grant in 2009/2010 financial year, which supports groups to develop income generation schemes throughout the country. According to records from Ministry of gender labour and social development over 900 groups of persons with disabilities had already benefited from this grant by December 2012. However, we note that the Special Grant

⁵⁰ National Housing and Corporation Act, Chapter 313.

⁵¹ In an interview with the Gulu district speaker who actually showed interest in enhancing disability rights by refusing to operate from the newly constructed district buildings that seemed to deny persons with disabilities the right to entry

was introduced as a directive from the Ministry of Finance and there is nothing to prevent the withdrawal of this grant in the future. The Special Grant also does not acknowledge other challenges facing persons with disabilities such as the procurement of assistive devices or new technologies. The State Report mentions the savings and credit scheme (SACCOS) for disabled people in Eastern Uganda, but at the time of writing this report the scheme had collapsed for unknown reasons.

222) **According to a *Cross-Sector Situational Analysis on Youth in Uganda 2011*, the majority of Government programmes working to address unemployment do not include youth with disabilities and there is a misconception that they are not enterprising.** The Uganda Human Rights Commission (UHRC) reported, “PWDs did not benefit from government programs such as NAADS and NUSAF because they were regarded as people who cannot satisfy conditions of access. These programs were meant to benefit the active poor, and not the poor or the poorest where PWDs fall.”

223) The Uganda Citizenship and Immigration Control Act (Ch 66) 1999 prohibit refugees with disabilities from enjoying the fundamental human right of access to employment. In addition, the Refugee Act 2006 prohibits refugees from accessing the benefits of social security, unemployment, or disability insurance. This makes refugees with disabilities more vulnerable and ineligible to access social services.

Recommendations

224) Government should come up with clear measures to mainstream all categories of persons with disabilities in its poverty reduction programmes such as NAADS and Community Driven Development (CDD).

225) Government should provide for affirmative action to address the specific needs of persons with disabilities in all social protection programmes in order to improve their standard of living. In particular Government should ensure that all categories of disabilities are equitably targeted in the social assistance programme.

226) Government should review and increase the cash amounts transferred to beneficiaries under the Social Assistance Grant for Empowerment so as to reduce the dependency of persons with disabilities.

227) Government should include a provision on access to housing for persons with disabilities in the National Housing Policy.

228) Government should develop a policy on the Special Grant so that it is not a political statement without a policy directive. This policy should include provisions to support persons with psychosocial and intellectual disabilities and their families.

229) There is a need for Government to consider the special needs of refugees with disabilities in regard to social security.

Article 29 Participation in Political and Public Life

230) The State correctly reports that this right is enshrined in the Constitution and the Persons with Disabilities Act. It further cites other laws that seek to protect this right including the Parliamentary

Elections Act (2005), Electoral Commission Act (1997) and Local Government Act (1997) and that it has ensured representation of persons with disabilities at all levels.

231) Although the legal framework recognizes the political rights of persons with disabilities, this is not accorded to persons with psychosocial and intellectual disabilities. Despite the nonexistence of any provision preventing them from voting in the electoral law, other laws exclude persons with psychosocial disabilities and intellectual disabilities from being elected to any political position ⁵² contrary to Article 29 of the UNCRPD.

232) Currently, Parliament amended the National Council for Disability Act (2003) and the Local Government Act to provide for elections of PWDs; taking away the responsibility of organizing and funding elections from NUDIPU to the Electoral Commission. Whereas this step is highly commended by DPOs, we note that the disability coding made in schedule (B) to the Act does not mention some disability categories such as cerebral palsy, hydrocephalus epilepsy etc. This therefore restricts the right to vote of these people. We further note that the procedures of voting in the electoral law at the various levels in regard to political party representation and regional balance were not stipulated in the law which is likely to confuse the voters. In addition, disability and gender representation may be difficult to achieve since the law provides for only five people at all levels.

233) In Uganda it is estimated that there are 2952 councilors representing persons with disabilities at Sub County level and 228 councilors at district level with 50% gender balance together with 5 Members of Parliament. Whereas Government is commended for its involvement of persons with disabilities in decision making, there are still bottlenecks in this representation. Resource allocation is still minimal, discussion of disability issues in councils is almost unheard of and any evidence of beneficiaries in Government development programmes is inadequate. The field research also indicates that this system of political representation faces a number of challenges which may impact on the lives of persons with disabilities. For example there is evidence that political representation in parliament is influenced by party politics. Most of the Members of Parliament pay more allegiance to their party affiliation rather than the effective representation of persons with disabilities. Additionally there is evidence that persons without disabilities compete to stand for posts reserved for persons with disabilities in the law. An experience was shared in Kyankwanzi district where a petition has been submitted against the practice. While there is no Law prohibiting persons with disabilities from contesting for the mainstream political positions, the community' negative attitude tends to discourage them from contesting.

234) Findings from the four districts sampled showed that although there are some provisions for persons with disabilities to vote in Uganda, practice suggests otherwise. There is no evidence that any special consideration is given to persons with disabilities at the polling stations. The voting materials are not provided in accessible formats. In many cases this means that persons with disabilities vote with the help of "any available person". This in effect means that there is no secret ballot and any person with disabilities who does not have someone to support them is denied the right to vote.

235) The Uganda Constitution provides for eleven National Commissions and one Service

⁵² Local Government Act, chapter 243, section 116 (2) (a)

Commission in every district. These are laid out in the following articles: 32 (3) for the Equal Opportunities Commission, 51 for the Uganda Human Rights Commission, 60 for the Electoral Commission, 146 for the Judicial Service Commission, 165 for the Public Service Commission, 167 for the Education Service Commission, 169 for the Health Service Commission, 194 for the Local Government Finance Commission, 198 for the District Service Commissions, 238 for the Uganda Land Commission, 248 for the Law Reform Commission and 249 for the Disaster Preparedness and Management Commission. The challenge however is that most of these Commissions lack any representation of persons with disabilities. Consequently there are no identified persons responsible for disability issues and this means that disability perspectives are not represented and issues therefore not addressed.

Recommendations

236) Government should speed up the review of the Parliamentary Elections Act and the formulation of regulations to the National Council for Disability (amendment) Act, 2013 and the Local Governments (amendment) Act, 2013 to provide guidance on how the elections of PWDs will be conducted considering gender, disability, regional and political party representation.

237) The legislative framework should recognise the rights of persons with disabilities including those with psychosocial, intellectual and multiple disabilities to participate in the political process as candidates and voters and steps should be taken to repeal provisions which restrict these rights, in particular section 4 (a) of the Parliamentary Election Act 2005. In addition, the disability coding should be expanded by the Minister to capture all categories of disabilities eligible for voting.

238) Government should ensure that effective representation of persons with disabilities on all government bodies is implemented by developing better strategies such as disability prioritisation in relation to resource allocation and discussion.

239) Since the National Constitution (1995) vests all powers of appointment of government Commissions in the President (except in the case of District Service Commissions which are appointed by the Public Service Commission), DPOs request the Office of the President to consider persons with disabilities in the appointment of commissions.

240) In order that disability issues are raised and addressed, parliament should make a provision in all the appropriate legislations that disability be mainstreamed through the establishment of units within the secretariats of all government commissions until direct representation is achieved.

241) Government through the Electoral Commission should provide civic education and ensure that during voting the ballots are user friendly and the environment is accessible to persons with disabilities.

Article 30: Participation in Cultural Life, Recreation, Leisure and Sport

242) Under the State Report, it is provided that under the Constitution of Uganda⁵³ and the Persons

⁵³ Article 35(1) and 37

with Disabilities Act⁵⁴ persons with disabilities have a right to respect and human dignity to belong, to enjoy, practice, profess, maintain, and promote any culture, institution, language, tradition, creed or religion in community with others. Apart from referring to these laws the state has not made any effort to report on what it has done to implement these rights.

243) Most importantly, accessibility of cultural events, museums, libraries, playgrounds, cinema halls, still remains a challenge to PWDs.

244) The findings from the field indicate that the government has organized sports galas for persons with disabilities in some districts⁵⁵, but there has not been nationwide coverage. The Ministry of Education and Sports together with National Council of Sports through Uganda Paralympics Committee is mandated to organize annual sports competitions for children with different disabilities at different levels i.e. community, primary, secondary and out of school. Unfortunately due to limited resources these competitions are irregular. Furthermore, the Ministry organizes separate games for persons with disabilities thereby reinforcing segregation and limiting inclusion in the broader world of sports.

245) While CSOs are aware of the Shs4bn allocated to Ministry of Education and Sports for the development of sports in the country, Uganda Paralympics Committee (UPC), an association promoting PWDs sport and recreational activities receives only shs 10m per year. This allocation to UPC is inadequate to facilitate sports activities for PWDs throughout the country. For example, due to the limited resources UPC can only facilitates 30 coaches, 6 officiating officials and 4 classifiers in all the 16 Sports associations/discipline of different disabilities. At present in Uganda, there is no requirement for Professional Managers of various sports to be trained in the different communication skills needed by persons with disabilities. As a result persons with disabilities are discriminated against and cannot participate in competitive sporting activities.

Recommendations

246) Ministry of Gender, Labour and Social Development in collaboration with other relevant ministries e.g. Tourism, Wildlife and Antiquities should take into consideration the needs such as physical accessibility and access to information to persons with disabilities in their recreation, leisure and cultural services.

247) Government through Ministry of Education and Sports should increase the budget for developing sports and leisure activities for persons with disabilities.

248) National Council of Sports should train more coaches in the different sporting activities and procure up to date sports equipment. In addition the professional Managers should be trained in different communication modes needed by persons with disabilities e.g. sign language, tactile, Easy Read.

⁵⁴ Section 30 read together with section 38.

⁵⁵ The government organized a sports gala in 2010 that was held in Masaka district and teams of persons with disabilities from selected districts including Iganga participated” This was reported by the District Education and Sports Officer of Iganga district

249) The National Council for Sports should design specific programmes to enable people with multiple disabilities to participate in sports.

250) Government should mainstream disability into the existing sports programmes. This will show the public what people with disabilities can achieve and thus present a positive image.

SECTION D: WOMEN AND CHILDREN WITH DISABILITIES

251) This Section covers Articles 6 and 7 of the UNCRPD. As already noted in the introduction, these articles are cross cutting almost all the other articles of the UNCRPD and by discussing them independently there is a risk of repeating the points already discussed in the other articles. It is however very important to review them independently because they address two critical groups of persons with disabilities.

Article 6: Women with Disabilities

252) It should be noted that although the Constitution generally addresses issues of marginalisation, it fails to recognise or make specific provisions for persons facing multiple discrimination such as women with disabilities.

253) Women with disabilities especially in rural areas still face early and forced marriages resulting into unwanted pregnancies, increased risk of HIV/AIDS and their children cannot obtain the basic needs. According to the most recent survey by UBOS, the percentage of widows with disabilities aged 15 and above has risen from 34.1% in 2005/06 to 56% in 2009/10. This is an indication that the vulnerability of women with disabilities is on the increase. In spite of this, there are no efforts being made by government to accord social protection to the victims.

254) Additionally some pieces of legislation such as the Penal Code still contain restrictions on the rights of these groups. For example Section 130 of the Penal Code criminalizes the conduct of a person who has or attempts to have a sexual relationship with a woman with a psychosocial disability or intellectual disability outside marriage.⁵⁶ The potential discriminatory effect of such a provision on the right of women with intellectual or psychosocial disabilities to enjoy their sexuality on an equal basis with others is apparent. There is an assumption that these women can under no circumstance have sexual relations which conflicts with the right to enjoy and exercise legal capacity as stated in the UNCRPD and at the same time puts them at greater risk of abuse given that their testimony and legal standing carry less weight. In addition, this section still describes women with psychosocial disabilities as idiots and imbeciles which in itself is dehumanizing and discriminatory.

255) It is important to note that, as already discussed in the Articles above, women with disabilities still face a number of additional challenge such as lack of police & judicial training on disability & gender; accessible shelters and victim support services & information; accessible complaints mechanisms; collection of data including disaggregated by disability; accessible sexual and reproductive health education, information and services as well as sexual violence and abuse, challenges to access of healthcare and discrimination based on cultural beliefs. In 2010 the committee on CEDAW came up with specific concluding observations on forms of violence against women with disabilities. The government however has not developed any action plan to address these observations of the committee.

⁵⁶ The Penal Code, Chapter 120, article 130 “Any person who, knowing a woman or girl to be an idiot or imbecile, has or attempt to have unlawful carnal knowledge of her under circumstances not amounting to rape, but which prove that the offender knew at the time of the commission of the offence that the woman or girl was an idiot or imbecile, commits a felony and is liable of imprisonment for fourteen years”

256) The Human Rights Watch Report on Women and Disabilities in Uganda (2010) notes that women with disabilities are especially vulnerable to HIV because of poverty, difficulty in negotiating safe sex, lack of accessible information and susceptibility to violence and rape. Recent research undertaken by NUDIPU confirms that gender based violence against women with disabilities in Uganda is pervasive and women with psycho social disabilities and physical disabilities are considered to be particularly vulnerable to sexual violation. (NUDIPU Rapid Survey on Gender Based Violence against Women with Disabilities and the Condition of Persons with Ppsychosocial disabilities, 2012).

257) LAPD statistics show a rising number of reported cases of domestic violence over a four year period (LAPD Statistics 2009 – 2012).

258) The National Women’s Council (Amendment) Act 2002 promotes the representation of women with disabilities on the national and lower council structure. However, in several districts women with disabilities have been denied the opportunity to be represented on the council. For example, the districts of Lira, Gulu, Kabale, Wakiso among others have no women representatives.

259) Studies on the relationship between land ownership and gender show that there is still a gender bias entrenched in the community system towards women acquiring, accessing and owning land. The finding shows that 65.3% of persons with disabilities who own land are men compared to 34.7% who are women. It can therefore, be stated that there is a gender disparity among disabled persons as far as land ownership is concerned. The major factor contributing to this is cultural discrimination against women contributing to 84.9% of gender discrimination in the ownership of land. These factors have been reinforced by the apparent lack of knowledge on the land instruments established within the Uganda Constitution, Land Act, policies and program⁵⁷.

260) Sufficing to note that older woman with disabilities face challenges accessing basic needs, neglected and isolated by family members. It is also true that the Older Persons Policy does not cater for older persons with disabilities especially women with disabilities.

Recommendations

261) Government should give special attention to the vulnerable situation of older women with disabilities and take necessary measures to combat stigma and discrimination against them both through private actors and in government programmes. Government to adopt special programmes to alleviate poverty within these groups of women, including the introduction of a universal non-contributory pension scheme within the framework of a broader strategy that expands social protection measures for different categories, as outlined in the National Development Plan (2010/2011- 2014/2015). Disaggregated data should be collected on the specific programmes and their outcomes.

262) Government to sensitise law enforcement and judiciary personnel on issues relating to violence against women with disabilities and build their capacity to serve victims of violence effectively. In addition, the Electoral commission should ensure that women with disabilities are fully represented on all women councils at all levels as specified by the law.

⁵⁷ NUDIPU 2008; Report on land rights of PWDs in Uganda.

263) Government should implement the concluding observations on women with disabilities as stipulated in the CEDAW report 2010⁵⁸.

Article 7: Children with Disabilities

264) This Article calls upon States Parties to take all necessary measures to ensure the full enjoyment by children with disabilities of all human rights and fundamental freedoms on an equal basis with other children. Just like Article 6 on women, the rights of children are cross cutting and must be taken into account throughout the other provisions of the UNCRPD. The consideration under this Article is that the best interests of the child must be the primary consideration in all actions concerning children with disabilities. These children have the right to express their views on all matters affecting them and have them taken seriously, on an equal basis with other children. The evolving capacities of children must also be considered in the implementation of all rights under the UNCRPD.

265) The State Report highlights that children with disabilities in Uganda enjoy protection both generally and specifically. According to this report, children are protected from discrimination under the general equality clause in Article 21 of the Constitution⁵⁹ as well as the provisions in the Persons with Disabilities Act which protect all persons with disabilities (including children) from discrimination in the areas of education⁶⁰, health⁶¹ as well as access to goods, services and facilities.⁶²

266) Gaps in the current legal framework include the fact that, The Children Act (2003) fails to provide clear provisions on anti-discrimination to protect children with disabilities. The law also does not expressly recognise that children with disabilities enjoy all the rights guaranteed by this particular law. Section 9 is the only specific provision in The Children Act that deals with children with disabilities. However it is also unclear regarding the responsibility of duty bearers to guarantee these rights. It places the obligation of early assessment, appropriate treatment, rehabilitation and equal opportunities upon both parents of children with disabilities and the State without clarifying who is actually responsible.

267) Children with disabilities face many forms of abuse including physical, sexual, emotional and economical. There is evidence that many deaf blind children are neglected by their parents or guardians resulting in malnutrition, denial of basic services and sometimes leading to death. The study conducted by the African Child Policy Forum (ACPF) in Uganda in 2009, established that children with disabilities suffered abuse and ill-treatment at the hands of their families “*My step*

58 Para 46 Concluding Observations CEDAW - Uganda - October 2010,

http://www.bayefsky.com/docs.php/area/concllobs/treaty/cedaw/state/179/node/3/filename/uganda_t4_cedaw_47

⁵⁹ OHCHR, *Op. Cit.*, at p.7.

⁶⁰ Sections 5 and 6

⁶¹ Sections 7 and 8

⁶² Section 25

mother forced me to do similar work like other children. When I failed to complete the work she beat me up and sometimes refused to give me food-Respondent, Uganda”⁶³

268) The Orphans and Vulnerable Children Policy (OVC), managed by the Ministry of Gender, Labour and Social Development, includes the “child with psychosocial or physical vulnerability” in its definition of vulnerable children. However there are no specific measures to address the needs of children with disabilities within the policy.

Recommendations

269) Through the Law Reform Commission, the government should review the Children Act (2003) to cater for the early childhood development of children with disabilities.

270) Government should support and ensure that physiotherapists carry out community outreaches in homes to support and train parents who have children with multiple disabilities in the skills of handling and caring for their children to maximise their health and wellbeing.

271) The Family Protection Unit of police should enforce the provisions of the Children Act by arresting those parents/guardians who lock up their children in houses.

272) Government should enforce the provision in the Children Act to keep registers at every village in order to identify, assess, care for and support children with disabilities.

273) The OVC Policy should be broadened to include specific measures to address the issues of children with disabilities.

⁶³ ACPF2001: Violence against children with disabilities in Africa: Field studies from Cameroon, Ethiopia, Senegal, Uganda and Zambia. Addis Ababa: The African Child Policy Forum

SECTION E: SPECIFIC OBLIGATIONS - ARTICLES 31-33

Article 31: Statistics and Data Collection

274) Under this provision, State Parties undertake to collect appropriate information including statistical and research data to enable them to formulate and implement policies to give effect to the present Convention. The article acknowledges that there is a general lack of relevant disability statistics. Issues to consider here include whether the state has any statistics which will allow monitoring of the human rights of persons with disabilities and if the State is using indicators to monitor the human rights situation in general and whether their statistics disaggregated by disability.

275) The state report rightly notes that data is dispersed in various ministries, NGOs, DPOs and CBOs. It also rightly observes that although structures of the Council on Disability and those of DPOs exist up to the Sub-County level and below, they are not yet comprehensively used for data collection. We also agree that current data is predominantly based on estimates and the data captured by the Uganda Bureau of Statistics is too general and may be insufficient to guide planning processes. The data is also collected in different formats and is not disaggregated.

276) Refugees with disabilities remain among the most vulnerable and socially excluded groups in any community. They are often hidden in refugee and displaced communities, and are subsequently not identified in data collection or included in needs assessments. Mainstream assistance programs may also be inaccessible to people with disabilities due to societal, environmental and communication barriers.

Recommendations

277) NCD should carry out research and share its findings with government and DPOs.

278) UBOS should involve persons with disabilities in the design of questions to be used in the forthcoming census 2014.

279) UBOS should carry out a national survey on disability to help government in getting appropriate data for future planning covering all areas and across all Ministries. Data collected at various levels should be disaggregated by disability and gender.

280) National Surveys and assessments should target refugees with disabilities

Article 32: International Cooperation

281) This Article recognizes the importance of international cooperation and its promotion in support of national efforts for the realisation of the purpose and objectives of the Convention. The State Report notes that the National Development Plan (2010/2011-2014/2015) which was developed through a participatory process is the primary national strategic plan and the foundation for all government strategy. The State Report however fails to link this point with the issue of international cooperation. It should be noted that the National Development Plan provides a benchmark for narrowing of income inequalities amongst communities in Uganda.

282) The goal of the plan is to be achieved through the legitimate provision of opportunities, social service and infrastructure, through the development of the appropriate economic cultures and through full human resource development. All these are achieved through ensuring that there is international cooperation with the development partners. The distribution of the country's resources is determined by what is incorporated into the NDP. Indeed development partners in practice refer to the priorities mentioned in the National Development Plan before they can fund any sector. We acknowledge the fact that the recently adopted development plan makes mention of some disability issues however there have been no visible steps taken by the government to ensure that the implementation of this plan includes disability issues. Consequently disability issues may be left out even as the government gets official developmental assistance. The urgent need for effective involvement of DPOs, right from planning, monitoring and up to the evaluation stage of the NDP process, cannot be over-emphasised if the needs of people with disabilities are to be taken into account in securing development assistance.

Recommendations

283) Government should involve DPOs in the planning, implementation and monitoring of the National Development Plan to ensure that all disability related indicators are fulfilled.

284) Development partners should develop and incorporate disability related policies as part of the grant giving process and should encourage their grantees to target persons with disabilities.

Article 33: National Implementation and Monitoring

285) The Constitution of Uganda establishes the Uganda Human Rights Commission as the independent monitoring body for all international human rights instruments including the CRPD. UHRC meets the Paris principles and has an A status. For instance, it publishes annual reports on the state of human rights in the country. However, the Uganda Human Rights Commission Act does not provide for the representation of PWDs among Commissioners on the Commission. Furthermore, UHRC has a vulnerable group desk that addresses concerns of all marginalised groups. This makes it difficult to track progress on the implementation of the CRPD and the involvement of PWDS since there is no specific programme on the same.

286) The government has also established the National Council for Disability as the coordinating body. According to the state report, the National Council for Disability Act of 2003 (as amended) mandates the National Council for Disability to monitor and evaluate the implementation of disability policies in the country. It also mentions that the government is funding the National Council for Disability to strengthen its activities.

287) Although we appreciate the current efforts of government, we also note with concern that the capacity of the National Council for Disability needs to be further strengthened to ensure that it effectively coordinates and advises government on disability mainstreaming as provided for under the UNCRPD. Furthermore, although we note the funding increment as indicated by the state report, the funding for the Council is still insufficient.

288) whereas government has made some effort to establish focal points such as Ministry of Gender, Ministry of Education, Ministry of Health, and Equal Opportunities Commission with the aim to ensure that disability issues are addressed, these focal points have insufficient funds to adequately implement the UNCRPD provisions. Additionally, a considerable number of government departments and ministries have not appointed focal points making it difficult for disability concerns to be considered. It should also be noted that the Ministry of Gender Labour and Social Development has not done much to sensitise other ministries regarding the provisions of the UNCRPD, this explains why other ministries may not have focal points.

Recommendations.

289) The Minister in charge of disability should spear head the development of regulations to effect the implementation of the NCD Act 2013.

290) Office of the High Commissioner for Human Rights should strengthen the capacity of NCD in order to make it understand its roles in coordinating and advising government on disability mainstreaming at National, district and Sub county levels as provided for under the UNCRPD.

291) Focal points should be established and financially strengthened in every Ministry to facilitate the mainstreaming of disability issues in all plans, budgets and programmes.

292) Parliament should amend the Uganda Human Rights Commission Act to provide for the representation of PWDs on the Commission. In addition, the Uganda Human Rights Commission should develop specific programmes to first track the implementation of the CRPD.

LIST OF DPOS THAT PARTICIPATED IN THE DEVELOPMENT OF THE REPORT:

1. Action on Disability and Development (ADD)
2. Centre for Health, Human rights and Development (CEHURD)
3. Community Based Rehabilitation Alliance (COMBRA)
4. Epilepsy Support Association (ESAU)
5. Federation of the Hard of Hearing (FHH)
6. Iganga Women in Development Association (IDWA)
7. Katelemwa Cheshire Home
8. Katutandike Uganda
9. Little People of Uganda (LPU)
10. Mental Health Uganda (MHU)
11. National Association of Deaf Blind Persons of Uganda
12. National Union of disabled Persons of Uganda (NUDIPU)
13. National Union of Women with Disabilities of Uganda (NUWODU)
14. Sense International
15. Sign Health Uganda Spinal Code Injuries Association (SCIA)
16. Uganda Albino's Association (UAA)
17. Uganda foundation for the blind (UFB)
18. Uganda National Association of the Blind (UNAB)
19. Uganda National Association of the Deaf (UNAD)
20. Uganda Parents Association of Children with Learning Disabilities (UPACLED)
21. United Young Deaf Women's Group
22. Wakiso District Union
23. Youth with Physical Disabilities Development Forum (YPDDF)