

UGANDA

Louis O Oyaró *

1 Population indicators

1.1 What is the total population of Uganda?

According to the 2002 National Housing and Population Census, Uganda has a total population of 24.4 million people. But with a Population growth rate of 3,2 per cent, Uganda's population was estimated to be at 34.1 million as at mid 2012.¹

1.2 Describe the methodology used to obtain the statistical data on the prevalence of disability in Uganda. What criteria are used to determine who falls within the class of persons with disabilities in Uganda?

Data on disability prevalence is varied. According to the official 2002 Uganda Population and Housing Census, disability prevalence was estimated at 4 per cent. Identification and measurement of disability prevalence though not specifically stated was based on the definition from the 1980 World Health Organization's (WHO) International Classification of Impairments, Disabilities and Handicaps.² According to the Census, 'disability' was defined

as a physical or mental handicap which has lasted for six months or more, or is expected to last at least six months, which prevents the person from carrying out daily activities independently, or from participating fully in education, economic or social activities.³

In contrast, the Uganda National Household Survey of 2009/2010 estimated disability to be at 16 per cent of Uganda's then 30.7 million population. This Survey followed a substantial functional limitation approach rather than an impairment based model to identify disability.⁴

* LLM Candidate, International and Comparative Disability Law and Policy, Center for Disability Law and Policy, National University of Ireland, Galway.

1 Uganda Bureau of Statistics (UBOS) 'Statistical abstract' (2012) 9.

2 WHO *International classification on impairments, disabilities and handicaps: A manual of classification relating to the consequences of disease* (1980) 27, 143 & 183.

3 Government of Uganda 'National Population and Housing Census' (2002) 17.

4 Uganda Bureau of Statistics (UBOS) 'Uganda National Household Survey' (2010) 156, available at <http://www.ubos.org/UNHS0910/unhs200910.pdf> (accessed 24 February 2014).

1.3 What is the total number and percentage of people with disabilities in Uganda?

As already stated, according to the 2002 Population and Housing Census, at least 1 out of every 25 people, or 4 per cent of Uganda's then 24.4 million population, are disabled. Later studies have however revealed a higher prevalence of disability in Uganda. According to the Uganda National Household Survey, the estimated disability population was 16 per cent or 5 088 000 people out of Uganda's then estimated 31.7 million population in 2010.⁵

1.4 What is the total number and percentage of women with disabilities in Uganda?

The 2002 National Population and Housing Census does not provide segregated data on prevalence rates of disability amongst women. The same is true for the National Household Survey 2012.

1.5 What is the total number and percentage of children with disabilities in Uganda?

According to the 2002 Population and Housing Census, disability prevalence was at 2 per cent amongst children. The National Household Survey on the other hand does not provide an estimate on prevalence rates amongst children.

1.6 What are the most prevalent forms of disability and/or peculiarities to disability in Uganda?

According to the National Population and Housing Census the most frequently observed types of disability were:

- Loss/limited use of limbs (35 per cent);
- Serious spine problems (22 per cent);
- Hearing impairments (15 per cent);
- Sight impairment (6.7 per cent);
- Speech impairment (3.9 per cent);
- Mental retardation (3.6 per cent);
- Mental illness (3.6 per cent); and
- Other disabilities (9.6%)⁶

⁵ As above.

⁶ National Population and Housing Census (n 3 above) 18.

2 Uganda's international obligations

2.1 What is the status of the United Nations Convention on the Rights of Persons with Disabilities (CRPD) in Uganda? Did Uganda sign and ratify the CRPD? Provide the date(s).

Uganda signed the CRPD and its optional protocol on 30 March 2007 and ratified both instruments on 25 September 2008 without reservations.⁷

2.2 If Uganda has signed and ratified the CRPD, when was its country report due? Which government department is responsible for submission of the report? Did Uganda submit its report? If so, and if the report has been considered, indicate if there was a domestic effect of this reporting process. If not, what reasons does the relevant government department give for the delay?

Uganda submitted its first CRPD country report in March 2013. However, it was due in 2010. The specific reason for the delay is unclear. However, despite having an in-house government department on disability (the Department of Elderly and Disability Affairs in the Ministry of Gender, Labour and Social Development) the National Council for Disability was instead directed by government to spearhead the preparation and submission of the national report on the CRPD.⁸

The committee is yet to review the Uganda country CRPD initial report.

2.3 While reporting under various other United Nations' instruments, or under the African Charter on Human and People's Rights, or the African Charter on the Rights and Welfare of the Child, did Uganda also report specifically on the rights of persons with disabilities in its most recent reports? If so, were relevant 'concluding observations' adopted? If relevant, were these observations given effect to? Was mention made of disability rights in your state's UN Universal Periodic Review (UPR)? If so, what was the effect of these observations/recommendations?

Generally, most of Uganda's reports to various UN conventions and regional instruments have not specifically addressed persons with disabilities but instead human rights concerns for all persons. There are however isolated cases of mention made of persons with disabilities, they include:

- The 2011 fourth Uganda periodic report to the African Commission on Human and Peoples' Rights on article 16 of African Charter makes mention of the government's mental health initiatives including the need for the enactment of a new national

⁷ UN Enable 'Convention and Optional Protocol signatures and ratifications': <http://www.un.org/disabilities/countries.asp?navid=12&pid=166> (accessed 24 February 2014).

⁸ Government of Uganda 'Initial status report on the United Nations Convention on the Rights of Persons with Disabilities' (2010) 4.

Mental Health Bill and the revision of the Mental Health Policy.⁹ The Reports also mention the activities of the Equal Opportunities Commission (EOC), its primary objective is to promote equality of opportunity of all marginalised groups including persons with disabilities.¹⁰ Unfortunately, the resultant concluding observations by the African Commission does not make reference to persons with disabilities.

- The 2010 Government of Uganda Report to the Committee of Experts on the Rights and Welfare of the Child notes the various kinds of discrimination faced by children with disabilities in educational institutions especially as a result of the non-provision of reasonable accommodation. It also highlights the various challenges faced by children with disabilities in their access to health services and justice and states that too often such children have been victims of negative community and cultural attitudes. As a solution, the report states that the government has established the National Council for Disability, to implement policy and advance advocacy in favour of persons with disabilities.¹¹ In response, the Committee of Experts recommended that the government put in place measures to raise awareness about disability in order to combat negative social perceptions and discrimination.¹² The Committee also recommended that the government of Uganda put in place measures to encourage integration of children in mainstream education and to promote the training of teachers accordingly.¹³
- Uganda's third periodic report to the United Nations Committee on the Elimination of Discrimination against Women (CEDAW) does not specifically report on women with disabilities. However, it notes with concern the diversity in class amongst women and that such differences often lead to further marginalisation.¹⁴

2.4 Was there any domestic effect on Uganda's legal system after ratifying the international or regional instruments in 2.3 above? Does the international or regional instrument that has been ratified require Uganda's legislature to incorporate it into the legal system before the instrument can have force in Uganda domestic law? Have Uganda's courts ever considered this question? If so, cite the case(s).

Yes. To pick one thematic instrument, the CEDAW and the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa or Maputo Protocol, have formed the basis for various legislation protecting the rights of women in Uganda. For example, the Prohibition of Female Genital Mutilation Act, 2010 was adopted in December 2009 to protect women from the harmful cultural practice of female genital mutilation and the Domestic Violence Act was adopted in 2010 to play a critical role in protecting women from violence at home and in the community.

According to the Ratification of Treaties Act,¹⁵ all treaties that have been ratified have to be presented before parliament (the legislature). However, the status of ratified treaties in domestic law is still unclear and any presentation before parliament may not have any bearing on its domestic applicability. This has not

9 Government of Uganda 'Fourth periodic report to the African Commission on Human and Peoples' Rights' (2011) 18.

10 Fourth Periodic Report (n 9 above).

11 Government of Uganda 'Implementation on the African Charter on the Rights and Welfare of the Child in Uganda' (2007) 13.

12 African Committee of Experts on the Rights and Welfare of the Child 'Recommendations and observations to the Government of the Republic of Uganda by the African Committee of Experts on the Rights and Welfare of the Child on the initial implementation Report of the African Charter on the Rights and Welfare of the Child' (2010) 2.

13 African Committee of Experts (n 12 above) 5.

14 Government of Uganda 'Third periodic report to the Committee on the Elimination of Discrimination against Women on the Convention on the Elimination of all forms of Discrimination against Women' (2000).

15 Laws of Uganda, Ratification of Treaty Act, Cap 204, secs 4 & 6; Constitution of the Republic of Uganda, 1995, art 123 (2).

been helped by the fact no regulations or rules have been made to enable the application of the Ratification of Treaties Act. Thus it should be noted that ratification of treaties and their coming into domestic effect has grown out of usage rather than as a result of standardisation by law.¹⁶

In addition, no superior court in Uganda has addressed the question of whether the legislature has to incorporate international treaties before they can have domestic effect. Regardless, there are instances where courts have positively applied international treaties. One of the most recent cases is the application of the treaty in the International Criminal Court (ICC) in the case of *Uganda v Thomas Kwoyelo*.¹⁷ Others include: *Attorney General v Susan Kigula*¹⁸ where the Supreme Court invoked international law to inform its decision on the death penalty and *Uganda v Peter Matovu*¹⁹ where the High Court relied on provisions of the CEDAW.

2.5 With reference to 2.4 above, has the CRPD or any other ratified international instrument been domesticated? Provide details.

Yes, there are a number of treaties whose provisions have been incorporated verbatim into domestic law, these include: the Rome Statute (every significant part has been incorporated in the International Criminal Court Act); the Geneva Convention (has specified provisions incorporated in the Geneva Convention Act); and the Diplomatic Relations Convention (has specific provisions incorporated in the Diplomatic Privileges Act). Additionally, treaties have been incorporated in schedules of specific Acts. Examples include all the above treaties that have appeared in the schedule of the above respective domestic legislation.

The CRPD has not been incorporated verbatim in any national legislation nevertheless as discussed above it has effect and domestic legal status.

3 Constitution

3.1 Does the Constitution of Uganda contain provisions that directly address disability? If so, list the provisions and explain how each provision addresses disability.

Yes, the Constitution contains provisions that directly address disability. The following are some of the constitutional provisions which make direct reference to the protection and promotion of persons with disabilities in Uganda:

- National Objective XVI provides that the state shall recognise the rights of persons with disabilities to respect and human dignity.
- National Objective xxiv(C) of the Constitution provides that the state shall promote the development of sign language for the deaf.
- Article 21 provides for equality and prohibits discrimination against all persons and specifically includes persons with disabilities.

16 See: H Onoria 'Uganda case study' in D Shelton (ed) *International law and domestic legal systems* (2011) 594-619.

17 HCT-00-ICD 02/2010 (unreported).

18 Constitutional Appeal No 3/2006 (2009) UGSC 6 (SC) (21 January 2009) 12.

19 Criminal Session Case No 146/2001 (2002) UGHC 72 (19 October 2002).

- Under article 32 the state shall take affirmative action in favour of marginalised groups including persons with disabilities and shall make laws including laws to establish and Equal Opportunities Commission for the full fulfilment of this clause.
- Article 35 provides for the rights of persons with disabilities to respect and human dignity. It also imposes a duty on the state to make laws appropriate for the protection of persons with disabilities.
- Article 75 provides for the composition of parliament to include such representatives including representatives of persons with disabilities.

3.2 Does the Constitution of Uganda contain provisions that indirectly address disability? If so, list the provisions and explain how each provision indirectly addresses disability.

Yes, the Constitution contains provisions that make reference to universal application of human rights for all persons and groups including persons with disabilities. Some of these include:

- Article 20 provides for the fundamental rights of all individuals and groups (including persons with disabilities) to be respected and protected by the state.
- Article 22 provides for the right to life of all persons.
- Article 24 protects all persons and groups from torture or cruel, inhuman or degrading treatment and punishment.
- Article 26 provides for the right to property for all persons.
- Article 28 provides for the right to a fair hearing for all persons in the formal justice system including disabled persons.
- Article 30 provides for the right to education for all.
- Article 31 provides for the right to found a family? for all persons.
- Article 36 provides for the rights of minorities to participate in the judicial making process.
- Article 38 provides for the civic rights for all persons.

4 Legislation

4.1 Does Uganda have legislation that directly addresses issues relating to disability? If so, list the legislation and explain how the legislation addresses disability.

Yes, Uganda has three primary disability specific legislations:

- The Persons with Disabilities Act, 2006²⁰ is the primary legislation for the protection of human rights for persons with disabilities. It makes provisions for the elimination of all forms of discrimination against persons with disabilities and calls for the equalisation of opportunities.
- The Mental Treatment Act²¹ enacted in 1938 (revised in 1964) is still applicable in Uganda today. The Act itself is primarily related to persons with mental disabilities and follows the old medical model approach to addressing issues. It provides for the declaration of unsound mind by the court and subsequent compulsory detention and treatment and/or rehabilitation.

20 Laws of Uganda, Persons with Disabilities Act, 2006 sec 3.

21 Laws of Uganda, Mental Treatment Act Cap 279 sec 4, 6 & 9.

- The National Council for Disability Act, 2003 establishes the National Council for Disability, its key function is to act as a national body through which the needs, problems, concerns, potential and ability of persons with disabilities of persons with disabilities can be communicated to the government and its agencies. The Council is also responsible for monitoring and evaluating the extent to which the government, nongovernmental organisations and private institutions include and meet the needs of persons with disabilities. Amongst its many functions the Council acts as a coordinating body between government departments, service providers and persons with disabilities.²²

4.2 Does Uganda have legislation that indirectly addresses disability? If so, list the main legislation and explain how the legislation relates to disability.

- The Employment Act, 2006 provides for the protection and equality of all persons employed in the work place including persons with disabilities.
- The Equal Opportunities Commission Act: The Commission was appointed in 2009 with one of its five members being a woman with a disability. The Commission, with a fully-fledged secretariat, has embarked on its work of promoting equal opportunities for marginalised groups, persons with disabilities included.
- The Business, Technical, Vocational Education and Training Act 12 of 2008, promotes equitable access to education and training for all disadvantaged groups, including disabled people.
- The Local Government Act, 1997 provides for representation of disabled people at the various Local Council levels.
- The Parliamentary Elections Statute, 1996: Section 37 of the Parliamentary Elections Statute provides for five seats in parliament for representatives of persons with disabilities.
- The Traffic and Road Safety Act, 1998, prohibits the denial of a driving permit on the basis of disability.
- The Uganda Communications Act, 1998 provides for the promotion of research into the development and use of new communications techniques and technologies, including those which promote accessibility of hearing-impaired people to communication services.
- The Uganda National Institute of Special Education Act, 1998 provides for the establishment of the Kyambogo National Institute of Special Education, training of teachers for children with special needs as well as special education teachers.
- The Workers' Compensation Act, 2000, provides compensation to workers who are injured or disabled through industrial accidents.
- The Equal Opportunity Act, 2006 and the Employment Act 6 of 2006 both prohibit discrimination of persons in employment based on disability.
- The Universities and Other Tertiary Institutions Act, as amended, provides for affirmative action during admission of persons with disabilities to public tertiary institutions.

22 Laws of Uganda, National Council for Disability Act, 2003 sec 4.

5 Decisions of courts and tribunals

5.1 Have the courts (or tribunals) in Uganda ever decided on issue(s) relating to disability? If so, list the cases and provide a summary for each of the cases with the facts, the decision(s) and the reasoning.

Yes, there are number of cases directly relating to disability that have been decided by courts in Uganda. However, due to poor reporting very few of these cases are readily available. Nonetheless, below are two recently decided cases relating to disability:

- ***Legal Action for Persons with Disabilities v Attorney General***²³

The applicants sued the Attorney General (the official government legal representative), Kampala Capital City Authority (KCCA) and Makerere University Kampala (MUK) on the grounds that public buildings and facilities within Kampala city and Makerere University (an institution of higher education) were not accessible to persons with disabilities. The applicants relied on the anti-discrimination provisions in the Constitution and the Persons with Disabilities Act of 2006 mandating that all public buildings be made accessible to persons with disabilities to enable them to fully participate in society.

In its judgement, the High Court held that KCCA and MUK had taken sufficient reasonable steps within their means to make their buildings and facilities accessible. The court also held that KCCA and especially MUK had limited resources and could not fully make all buildings immediately accessible and that the current state of inaccessibility was attributable to buildings constructed prior to the period when issues of disability became a pertinent national agenda. The court also noted that to expect MUK to prioritise resources to making buildings accessible would substantially increase the cost of education hence affect other students. On the above grounds, the court dismissed the application.

- ***Nyeko Okello & Santo Dwoka v Centenary Rural Development Bank Limited***²⁴

The plaintiffs, both persons with disabilities and customers of Centenary Rural Development Bank (CERUDEB), sued CERUDEB on the grounds that the bank, including access to the main banking hall, was inaccessible for persons with disabilities. Prior to the suit the plaintiffs had notified CERUDEB about the lack of ramps to facilitate their access to the bank but to no fruition. The plaintiffs sued. The bank afraid of costs arising from loss of the suit, eventually constructed the ramps. Since the breach had been remedied the judge advised the plaintiffs to settle the matter out of court. A consent judgement was later entered into between the parties with costs being awarded to the plaintiffs however no damages were awarded by the court.

23 High Court of Uganda, Misc App No 146/2011, judgment delivered 20 May 2014 (unreported), case excerpt available at <http://www.ulii.org/ug/judgment/high-court/2014/42> (accessed 23 June 2014).

24 High Court of Uganda Civil Suit No 23/2008 (unreported).

6 Policies and programmes

6.1 Does Uganda have policies or programmes that directly address disability? If so, list each policy and explain how the policy addresses disability.

- **The Uganda National Policy on Disability 2006**

The Policy provides the basis for national interventions and programmes in favour of persons with disabilities in all government departments and activities. The priority areas of focus are accessibility, participation, capacity building, awareness raising, prevention and management of disabilities, care and support, socio-economic security, research, communication (sign language, tactile and Braille literacy) and budgeting. Other aspects considered in this national policy include the protection and promotion of the rights of persons with disabilities in spheres of health including HIV/Aids interventions, education, social security, employment and access to basic human rights services for example access to justice.²⁵

- **National Community Based Rehabilitation Programme**

In 1991, the three government ministries of health, education and social development together with the Norwegian Association of the Disabled (NAD) developed a National Community Based Rehabilitation Programme as the main strategy for the delivery of rehabilitation services and ensuring full participation in poverty eradication programmes and inclusion for persons with disabilities.²⁶ The programme was also designed to ensure early identification, assessment and referral. The programme focuses on awareness, capacity building, livelihood and influencing policy change for persons with disabilities. Currently it is being implemented in the districts of Mbarara, Bushenyi, Mbale, Kabale, Mukono, Iganga, Kamuli, Ntungamo, Rukungiri, Butaleja, Busia and Kayunga.²⁷

- **The National Mine Action Programme**

The Landmine Victim's Assistance programme was launched in 2008 to raise awareness of Uganda's obligation as a state party to the Mine Ban Treaty²⁸ and the CRPD. The plan provides for the

establishment of a framework for rapid response to support landmine survivors and other persons with disabilities and older who are in emergency and conflict situations to enable them participate and re-integrate into the development process and raise awareness on Uganda's obligations.²⁹

25 Ministry of Gender, Labour and Social Development 'National Policy on Disability in Uganda' (2006).

26 Norwegian Association of the Disabled 'Evaluation the Community Based Rehabilitation Program in Uganda' Final Report (2005).

27 Community Rehabilitation Programme for the Disabled: <http://www.mglsd.go.ug/?p=485> (accessed 10 March 2014).

28 United Nations *Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on their Destruction* UN Treaty Series Volume 2056, 211.

29 Ministry of Gender, Labour and Social Development 'The Uganda comprehensive plan of action on victim assistance' (2008-2012) 2.

6.2 Does Uganda have policies and programmes that indirectly address disability? If so, list each policy and describe how the policy indirectly addresses disability.

Yes, these include:

- The National Gender Policy (2007) emphasises the protection of human rights for all women.
- The National Education Policy encourages equality for all in education related programming.
- The National Health Policy puts in place structures to ensure equality in the health sector.

7 Disability bodies

7.1 Other than the ordinary courts or tribunals, does Uganda have any official body that specifically addresses violation of the rights of people with disabilities? If so, describe the body, its functions and its powers.

Besides the general courts and tribunals, there are no other adjudicatory bodies that specifically address or are established to address violations of rights of persons with disabilities.

7.2 Other than the ordinary courts or tribunals, does Uganda have any official body that, though not established to specifically address violation of the rights of people with disabilities, can nonetheless do so? If so, describe the body, its functions and its powers.

The Equal Opportunities Commission, which is established by the Equal Opportunities Commission Act of 2007,³⁰ is a fully-fledged secretariat that has the mandate to investigate and inquire into matters on its own initiative or by a complaint made to it by persons belonging to marginalised groups including persons with disabilities where discrimination in relation to opportunities has occurred.

30 Laws of Uganda, Equal Opportunities Commission 2008, sec 14.

8 National human rights institutions, Human Rights Commission, Ombudsman or Public Protector

- 8.1 Does Uganda have a Human Rights Commission, Ombudsman or a Public Protector in your country? If so, does its remit include the promotion and protection of the rights of people with disabilities? If your answer is yes, also indicate whether the Human Rights Commission, Ombudsman or Public Protector of Uganda has ever addressed issues relating to the rights of persons with disabilities.**

Yes. Uganda has a national Human Rights Commission established by the Constitution.³¹ The Commission has the mandate to address all human rights violations including those relating to persons with disabilities. According to the Uganda Human Right Commission Act, the Commission has adjudicatory powers to investigate on its own initiative or by complaint made to it any alleged human rights violation.³² In October 2004, the Commission established the Vulnerable Persons Unit to address issues raised by vulnerable groups including people with disabilities.³³ The Unit amongst its functions, monitors government compliance with its human right obligations to vulnerable persons. It also undertakes activities aimed at ensuring national human rights protection for vulnerable persons. At the time of reporting, it was unclear whether the Commission has handled any cases relating to violations against persons with disabilities. However, the issues raised by people with disabilities for the attention of the Commission are centred on education, transport, employment and accessibility to basic services.³⁴

The second public protection body is the Inspectorate of Government established under chapter 13 of the Constitution. The Inspectorate does not specifically handle matters relating to persons with disabilities. Its primary functions involve the promotion of natural justice, fairness, efficiency and good governance in the administration of public offices.³⁵

9 Disabled peoples organisations (DPOs) and other civil society organisations

- 9.1 Does Uganda have organisations that represent and advocate for the rights and welfare of persons with disabilities? If so, list each organisation and describe its activities.**

Yes, there are a number of organisations in Uganda that represent and advocate for the rights of persons with disabilities. By their names it is easy to identify the

31 Arts 51 & 52 of the Constitution of Uganda .

32 Laws of Uganda, Uganda Human Right Commission Act Cap 24 sec 7 (1)a.

33 Uganda Human Rights Commission: http://www.uhrc.ug/?page_id=1675 (accessed 3 March 2014).

34 Uganda CRPD Country Report (n 8 above) 12.

35 Art 225 of the Constitution of Uganda.

specific disability on which they focus. These are often referred to as Disabled Peoples Organisations and they include:

- The National Union of Disabled Persons (NUDIPU). Its main role is to coordinate activities of DPOs in Uganda and provide a common platform to address disability issues.
- The National Union of Women with Disabilities of Uganda (NUWODU). The organisation is primarily focused on the protection and promotion of rights for women with disabilities in Uganda. It provides leadership and training for emerging women's organisations and focuses on economic development projects.
- The Disabled Women Network and Resource Organisation.
- The Uganda Disabled Women's Association.
- Uganda Parents Care for the Mentally Handicapped.
- Comprehensive Rehabilitation Services in Uganda (CoRSU) – a hospital for people with disabilities officially opened on 27 March 2009 and to date provides orthopaedic services, plastic/reconstructive services, and therapy services through facility based and community.
- Uganda Parents' Association of Children with Learning Disabilities (UPACLED).
- Legal Action on Persons with Disability (LAPD) provides legal aid services to persons with disabilities.
- Sight Savers International supports blind prevention and rehabilitation programmes.
- Katalamwa and other Cheshire Homes provides rehabilitation services to children with disabilities.
- Basic Needs UK in Uganda advocates for the rights of persons with psychosocial services.

Other Specific organisations include:

- The Spinal Injury Association (SIA)
- The Epilepsy Support Association of Uganda (ESAU)
- The National Association of the Deaf Blind (NADB)
- The Uganda National Association of the Blind
- The Uganda National Association of the Deaf
- The Uganda Mental Health Association
- The Uganda National Action on Physical Disability
- The Uganda Federation of the Hard of Hearing
- The Uganda Albino association
- The Little People of Uganda

(The list is not exhaustive)

9.2 In the countries in Uganda's region (East Africa) are DPOs organised/ coordinated at national and/or regional level?

In practice, in Uganda, the National Union of Disabled Persons Uganda (NUDIPU) represents an umbrella organisation that brings together DPO's. Currently it is comprised of 14 DPO's and 112 district unions.³⁶ Membership is voluntary and there is no particular legislation or policy obligating DPO's to join.

36 National Union of Disabled Persons of Uganda: <http://nudipu.org/about/membership/> (accessed 4 March 2014).

9.3 If Uganda has ratified the CRPD, how has it ensured the involvement of DPOs in the implementation process?

Following the ratification of the CRPD, DPO's have been actively engaged in informing and participating in the implementation of national programmes in favour of persons with disabilities. For example:

- DPO's were actively involved and interviewed during the preparation of the CRPD report to the UN Committee on the Rights of Persons with Disabilities.³⁷
- Since 2009 there has been debate between the government and DPOs on whether the current Persons with Disabilities Act should be annulled or amended to bring it in line with the CRPD – the government is in favour of annulment of the Act while the DPO's favour amendment of specific provisions.³⁸
- In 2009, the government embarked on the translation of the National Disability Policy into tangible activities. This process required a consultative process involving representatives from various DPO's.³⁹

9.4 What types of actions have DPOs themselves taken to ensure that they are fully embedded in the process of implementation?

DPO's have collectively and individually engaged in a wide range of activities and projects aimed at informing and ensuring their participation in the implementation process of pro-disability initiatives, some of these activities include:

- Conducting evidence based research and publishing subsequent reports intended to bring disability rights issues to the fore front, identify existing gaps and/or offer recommendations to the government.
- DPOs also carry out direct service provision and/or activities geared at protecting and/or promoting the rights of persons with disabilities.
- They also conduct public awareness campaigns geared at raising knowledge about disability rights, laws and changing attitudes of persons towards disability rights.

9.5 What, if any, are the barriers DPOs have faced in engaging with implementation?

DPOs have over the years faced a number of barriers:

- Financial constraints;
- Low government prioritisation and response;
- Low levels of enforcement of disability laws;
- Poor monitoring and accountability structures; and
- Negative public and individual attitude towards disabled persons.

9.6 Are there specific instances that provide 'best-practice models' for ensuring proper involvement of DPOs?

Nationally within Uganda, efforts are still being made to come up with best practices to ensure involvement of DPOs. However partnership with other countries and jurisdictions such as Norway and Japan, amongst others, is being

37 Uganda CRPD Country Report (n 8 above) 4.

38 Uganda CRPD Country Report (n 8 above) 7.

39 As above.

encouraged to discuss challenges and glean best practices for the involvement of all DPOs in Uganda.

9.7 Are there any specific outcomes regarding successful implementation and/or improved recognition of the rights of persons with disabilities that resulted from the engagement of DPOs in the implementation process?

As a result of their persistence, DPO's are slowly gaining recognition and are consequently actively involved by the government in implementation of disability programmes. DPOs played a crucial role in the development of the Persons with Disabilities Act and in the preparation of the CRPD Uganda report. Because of their efforts the government has been moved to adopt positive steps for persons with disabilities such as: enacting laws providing for the political representation of persons with disabilities, ratifying the CRPD, developing a national disability policy and promoting legislation that encourages employment of persons with disabilities. In 2012, Martin Mwesigwa Babu a member of staff of NUDIPU was successfully nominated by the government of Uganda as a member of the Committee of Persons with Disabilities.⁴⁰

9.8 Has your research shown areas for capacity building and support (particularly in relation to research) for DPOs with respect to their engagement with the implementation process?

Yes. In the first place, additional research and statistics are required including statistical data on disability prevalence and trends using the WHO International Classification of Functionality (ICF) model to identify disability. More national research towards understanding the correlation between disability and the community, poverty, employment, mortality, family, education, ownership of property, access to justice and health to mention but a few should also be carried out. These findings should then be used to inform comprehensive national legislation, policies and interventions for persons with disabilities.

Secondly, while there is a huge representation of physical disability and other sensory disability like a hearing impairment, persons with mental and/or intellectual disability have not been sufficiently represented. With the introduction of the CRPD more research, representation and advocacy should be directed towards this area.

Many government disability departments and even some DPO's still do not express a proper understanding of the social model human rights approach to disability adopted by the CRPD. This in consequence has led to continued acceptance of medical and charity based interventions for persons with disabilities with less than equal effort directed towards addressing social and physical barriers. As such strategic capacity building is required to address these gaps in ideological understanding.

Additional efforts are also needed to adopt proper advocacy strategies for persons with disabilities. Self advocacy, peer advocacy, group advocacy and family advocacy are some examples of advocacy strategies that have yielded particular

40 Office of the High Commissioner for Human Rights 'Elected members of the Committee on the Rights of Persons with Disabilities': <http://www.ohchr.org/EN/HRBodies/CRPD/Pages/Membership.aspx> (accessed 5 March 2014).

success in other jurisdictions. It is crucial that more research and initiatives be directed towards advancing and developing successful advocacy techniques.

9.9 Are there recommendations that come out of your research as to how DPOs might be more comprehensively empowered to take a leading role in the implementation processes of international or regional instruments?

Yes. Financial empowerment, capacity empowerment and full commitment by government is still required to enable DPO's to take a leading role in the implementation process of international, regional and national instruments. Recognition by the state of the status and role of DPO's in the disability movement is crucial as envisaged by the slogan repeated during the CRPD drafting process 'nothing about us without us'.⁴¹ Thus besides engaging them right from the inception of national programmes there should be a transparent and clear flow of information between government agencies dealing with disability and DPOs.

9.10 Are there specific research institutes in the region where Uganda is situated (East Africa) that work on the rights of persons with disabilities and that have facilitated the involvement of DPOs in the process, including in research?

There is no specific research institute singularly dedicated to persons with disabilities. In Uganda all research is regulated by the National Council for Science.⁴² Organisations, institutions and individuals conduct research generally and may at times focus on disability and require involvement with DPO's.

10 Government departments

10.1 Does Uganda have a government department or departments that is/are specifically responsible for promoting and protecting the rights and welfare of person with disabilities? If so, describe the activities of the department(s).

Yes, these are:

- The Department of Disability and Older Persons, within the Directorate of Social Protection under the Ministry of Gender, Labour and Social Development. This department is headed by a Commissioner under the political supervision of the Minister of Gender, Labour and Social Development assisted by the Minister of State for Elderly and Disability Affairs. It has the overall responsibility of overseeing disability based issues.
- The Ministry of Education and Sports has a Department of Special Needs Education and Career Guidance headed by a Commissioner to ensure the requirements of children with special needs are catered for in the programming of ministry activities.

41 Disability Rights in Uganda – Research Blog: <http://disability-uganda.blogspot.ie/2012/01/nothing-about-us-without-us.html> (accessed 6 March 2014).

42 Laws of Uganda, National Council for Science and Technology Act Cap 209.

- The Ministry of Health has the Disability Prevention and Rehabilitation section, its role is to mainstream disability rights in the health sector.
- At the District and Sub County levels, disability issues are also provided for in the Local Government Act (1997), and are handled under the Department of Community Development. The position of District Inspector of Schools in Charge of Special Needs Education also exists in the District Local Government structure.
- Suffice to mention, the National Council for Disability is an independent statutory body that was established to deal with matters related to disability, its main objectives are: to promote the implementation and the equalisation of opportunities for persons with disabilities; monitor and evaluate the impact of policies and programmes designed for equality and full participation of persons with disabilities; advocate for and promote effective service delivery and collaboration between service providers and persons with disabilities; advocate for the enactment of laws and the reviewing of existing laws with a view to complying with the equalisation of opportunities as stipulated in the Constitution, other national laws and international legal instruments.⁴³

11 Main human rights concerns of people with disabilities in Uganda

11.1 Contemporary challenges of persons with disabilities in Uganda? (for example, in some parts of Africa ritual killing of certain classes of PWDs, such as people with albinism, occurs).

The challenges faced by persons with disabilities in Uganda are not widely different from those faced by other sub Saharan African countries. Because of the rate at which they occur here are some examples that stand out: poverty, marginalisation and exclusion, discrimination, low government prioritisation resulting in inadequate or no institutional interventions, negative cultural and social attitudes, existence of environmental physical/structural barriers, low levels of education and unemployment to mention but a few.⁴⁴

11.2 Describe the contemporary challenges of persons with disabilities, and the legal responses thereto, and assess the adequacy of these responses to:

- **Access to public buildings**

All newly constructed public buildings such as schools and health facilities have to cater for the needs of persons with disabilities.⁴⁵ In collaboration with the Uganda National Action on Physical Disability, the Ministry of Gender and Labour and Social Development in 2010 developed accessibility standards for the removal of barriers to access buildings.⁴⁶ These standards require that all are accessible and include provisions such as ramps and elevators. In reality however, most buildings are still not accessible to persons with disabilities.

43 Secs 5 & 6 of the National Council for Disability Act.

44 'Disability scoping study: Final report' Commissioned by DFID Uganda (February 2009).

45 Secs 19 & 20 of the Persons with Disabilities Act.

46 Uganda National Action on Physical Disability in collaboration with the Ministry of Gender, Labour and Social Development 'Accessibility standards: A practical guide to create a barrier-free physical environment for persons with disabilities in Uganda' (2010).

- **Access to public transport**

Section 22 of the Persons with Disability Act provides a duty for any person involved in the business of public transport to provide facilities to enable access by DPOs. Section 44 poses penalties for any person who fails to meet these requirements.

- **Access to education**

The right to education is granted to all persons in Uganda by virtue of article 30 of the Constitution which provides that all persons have a right to education. The government is mandated to promote educational development of persons with disabilities⁴⁷ and any prohibition on the basis of disability is outlawed.⁴⁸ The Ministry of Education has a fully fledged Department of Special Needs Education and Career Guidance to promote the education of persons with disabilities.

To promote higher education for and the needs of persons with disabilities, all boards of public universities are mandated to have a member with a disability to represent persons with disabilities.⁴⁹ In addition, during admission to public universities, 4,5 points are awarded to applicants with disabilities to promote affirmative action.

- **Access to vocational training**

Section 11 of the Persons with Disability Act calls on the government to undertake measures to encourage vocational training for persons with disabilities and over the years, the Government of Uganda has been facilitating a vocational training programme to equip persons with disabilities with employable skills to promote their access to employment.⁵⁰

- **Access to employment**

The Persons with Disabilities Act, in section 12 prohibits discrimination in employment on the grounds of disability and details the grounds that are considered to constitute discrimination. Section 13 of the Act provides that persons with disabilities have a right to practice their professions and to carry on any lawful occupation, trade or business of their choice. It also calls on the government and private sectors to promote the right to employment of persons with disabilities, including those who acquire a disability during the course of their employment, to work on an equal basis with others and to earn a living by work. This stance is reechoed in the Employment Act which discourages discrimination on the basis of disability.⁵¹

- **Access to recreation and sport**

The Persons with Disabilities Act contains an extensive enumeration of the right to sports and recreational activities. Under section 30 of the Act, government is required to promote the rights of persons with disabilities to participate in recreational, leisure and sporting activities. The section also prohibits any related discrimination. In addition, in terms of section 30(4) of the Act, the government is required to use at least ten percent of all funds it commits to sports for the development of the recreation and sports of persons with disabilities.⁵²

- **Access to justice**

The various entities of the justice system – including police and courts- are covered by the provisions of Part V of the Persons with Disabilities Act. Section 25 of the

47 Sec 5 of the Persons with Disabilities Act.

48 Sec 6 of the Persons with Disabilities Act.

49 University and other Tertiary Institutions Act, 2001.

50 Uganda CRPD Country Report (n 8 above) 35.

51 Laws of Uganda, Employment Act, 2006, sec 6.

52 Also see Uganda CRPD Country Report (n 8 above) 35.

Persons with Disabilities Act prohibits such entities from excluding a person with disability from accessing services. Section 27 of the Act imposes an obligation on service providers to provide auxiliary aid or services to enable a person with a disability to use the service.

In terms of Court proceedings, the Evidence Act allows witnesses with speaking disabilities to give their testimony in writing or in signs.⁵³

• **Access to health care**

The Persons with Disabilities Act recognises the right of persons with disabilities to enjoy the same rights with other members of the public in all health institutions including general medical care.⁵⁴ It goes on to provide for the duty of the government to provide special health services required by persons with disabilities including providing access to reproductive health services which are relevant to Women with Disabilities (WWDs); enforcing user friendly hospital materials for use by persons with disabilities visiting hospitals; and encouraging population based public health programmes relevant to persons with disabilities.⁵⁵

The Ministry of Health has a Disability and Rehabilitation Section responsible for developing policies and guidelines for reducing the incidence and prevalence of disability, providing rehabilitation and promoting access to health services by persons with disabilities.⁵⁶

• **Access to social security**

There are periodical national budgetary grant schemes targeting PWDs. For example, in the 2010 national budget, the government introduced a Social Assistance Grant for Empowerment (SAGE) programme targeting poor households headed by amongst others persons with disabilities to be managed under the Ministry of Gender Labour and Social Development.⁵⁷

11.3 Do people with disabilities have a right to participation in political life (political representation and leadership) in Uganda?

The Constitution of Uganda recognises in article 59 the right to vote of every citizen irrespective of disability above 18 years of age. Article 38 recognises the right of every Ugandan citizen to participate in the affairs of the government, individually or through his or her representatives in accordance with law. However, persons of unsound mind cannot hold political positions.⁵⁸ Although no definition exists to identify what constitutes unsound mind, the declaration of unsound mind in Uganda involves an adjudicatory process before a Magistrate and is governed by the Mental Treatment Act.

Article 78(1)(c) of the Constitution provides that parliament shall be composed of representatives of amongst others persons with disabilities as parliament may determine. The Local Governments Act, 1997 (amended in 2002 and 2005) provides for the election of two persons with disabilities to district council and the lower councils.⁵⁹

53 Laws of Uganda, Evidence Act Cap 6, sec 118.

54 Sec 7 of the Persons with Disabilities Act.

55 Sec 8 of the Persons with Disabilities Act.

56 Ministry of Health: Community health: http://health.go.ug/mohweb/?page_id=267 (accessed 6 March 2014).

57 Government of Uganda '2010/2011 National Budget'.

58 Art 80(2)(a) & 107(1)(c) of the Constitution of Uganda.

59 Laws of Uganda, Local Government Act Cap 243 secs 10(d) & 23(d).

11.4 Are people with disabilities' socio-economic rights, including right to health, education and other social services protected and realised in your country?

See question 11.2 above.

11.5 Specific categories experiencing particular issues/vulnerability:

• **Women with disabilities**

Some of the particular issues affecting women with disabilities include concerns relating to availability of accessible and suitable reproductive health and birth services; sexual exploitation; extreme denial of the right to property, family, child support and education; and a lack of socio-cultural structures to address their needs.⁶⁰

• **Children with disabilities**

A specific concern relating to children with disabilities is in regard education. According to the 2008 data used in Uganda's first country report, there were only 183 537 children with disabilities in primary education.⁶¹ This figure when compared to the general enrollment in 2008 of 7 963 000 means that children with disabilities only represented 0,023 per cent of the general primary school population.⁶²

• **Other (persons with mental and intellectual disability)**

At present persons with mental and/or intellectual disabilities are minimally represented, there is limited research as to their status and experience and there is limited national intervention directed to their needs. As a result, they are left to wander the streets without food or family protection since in most cases they have been abandoned or neglected by even their families. The Mental Treatment Act that follows a predominantly medical model is the only law that governs their relationship with the state and legal structures. In the light of the CRPD standards and state obligations on equal recognition before the law for all disabled persons, autonomy, liberty, protection against compulsory detention and involuntary treatment a lot still needs to be done to adopt a humane approach to issues of persons with mental disability.

12 Future perspective

12.1 Are there any specific measures with regard to persons with disabilities being debated or considered in Uganda at the moment?

Yes, here are a few examples:

- Currently, there is ongoing debate and activity between the government, DPO's and civil society to bring the Persons with Disability Act in line with the CRPD (see 9.3 above).

60 Human Rights Watch "'As if we weren't human': Discrimination and violence against women with disabilities in Northern Uganda' (August 2010) 26-69.

61 Uganda CRPD country Report (n 8 above) 33.

62 Uganda Bureau of Statistic (UBOS) '2012 Statistical Abstract' 12 & 14.

- A Bill to Amend the National Council for Disability Act, 2003 has been tabled before parliament to streamline the election of persons with disabilities into parliament.⁶³
- The government plans to strengthen its monitoring role to ensure that disability programmes are implemented as per the work plans at the various levels.⁶⁴
- The government plans to consult with persons with disabilities and DPOs to fully provide for measures of reasonable accommodation in the Persons with Disabilities Act, the National Council for Disability Act and the National Disability Policy.⁶⁵
- By 2008, the government was finalising the development of regulations and guidelines aimed at ensuring domestic law compliance with the CRPD.⁶⁶

12.2 What legal reforms are being raised? What legal reforms would you like to see in Uganda? Why?

At present the government is committed to ensuring harmony between present and future laws with the CRPD. That said, it is important that:

- National legislation incorporates the interpretation of disability as enshrined in the CRPD in order to realise a human-rights approach to disability as opposed to the predominantly medical model identification.
- The Mental Treatment Act and other laws providing for guardianship, detention and forced treatment of persons with mental disabilities should be reviewed in line with the CRPD.
- Monitoring and enforcement measures of pro disability laws should be put in place and strengthened. This specifically relates to existing laws governing accessibility, employment and equal opportunity. Enforcement is important for the realisation of rights.
- Advocacy laws and programmes should be encouraged to increase awareness.
- Laws intended to organise DPO's and encourage their participation in national disability programmes should be encouraged.
- Laws, policies and guidelines should adopt and prioritise an inclusive approach for all including persons with disabilities.

63 Parliament of Uganda eNewsletter, Vol 5, issue no 23: <http://www.parliament.go.ug/enewsletter/index.php/home/view/126/monday-march-5-2012-friday-march-9-2012> (accessed 30 September 2013).

64 Uganda CRPD Country Report (n 8 above) 13.

65 As above.

66 As above.