

# SENSITIZATION AND POPULARISATION OF THE PERSONS WITH DISABILITIES ACT, 2021

## PUBLIC INFORMATION BROCHURE



### Introduction

Following years of relentless advocacy involving a variety of parties including Persons with Disabilities, CSOs and other stakeholders, The Gambia National Assembly on 6<sup>th</sup> July, 2021 passed the Persons with Disabilities Bill which was subsequently assented to on 4<sup>th</sup> August 2021, by President Adama Barrow who signed the Persons with Disabilities Act, 2021, making it effective. Consequently, Persons with disabilities now have a full-fledged law that defends their fundamental rights and freedoms. According to the Act, “the health care, social support, accessibility, rehabilitation, education and vocational training, communication, employment and work, protection and promotion of basic rights for persons with disabilities and for connected matters” are all included. This is a significant step for the Gambia fulfilling its international obligations, particularly those imposed by the Convention on the Rights of Persons with Disabilities (CRPD), which it ratified in July 2015.

### Overview

The Gambia is a party to the UN Convention on the Rights of Persons with Disabilities (UN CRPD). Until recently the country did not adopt any domestic legislative mechanism to give effect to the country’s human rights obligations arising from the UN CRPD which it ratified in July 2015. The recently enacted Persons with Disabilities Act 2021, is the first comprehensive legislation on disability rights in The Gambia. The objective of the Act is to protect, promote and uphold the inherent rights of persons with disabilities as guaranteed in the UN and in section 31 (1) (2) and (3) of the 1997 Constitution of The Gambia. It will safeguard and protect the rights and freedoms of persons with disabilities that have been long neglected. The Act is an effective

to address barriers faced by persons with disabilities in exercising their rights.

(3) The Advisory Committee shall assume responsibility for the dissemination of these statistics and ensure their accessibility to persons with disabilities and others.

### S. 27 Register of persons with disabilities

(1) The Director shall after consultation with the Advisory Committee, establish and maintain a register of persons with disabilities to be known as the Persons with Disabilities Register. (2) Entries and other alterations in the register shall be made in such a manner as the Director may from time to time, determine.

(3) A person who makes an unauthorized entry or alteration on the register commits an offence and is liable for forgery.

(4) The register established under sub-section (1) shall only be used for identification and other statistical purposes.

(5) A person with a disability shall decide whether to be registered on the register

## PART XII – ACCESS TO BUILDINGS, SERVICES, INFORMATION AND PHYSICAL ENVIRONMENT

### S. 44 Access to the physical environment

(1) All persons with disabilities shall be entitled to a barrier free and disability friendly environment to enable them to have access to public premises, facilities, roads, communications and other social amenities to assist and promote their mobility.

(2) The Minister shall in consultation with the Minister responsible for works ensure that every publicly accessible building complies with the accessibility requirements under this Act.

(3) Every public or private body shall comply with accessibility regulations to such extent as is practical and, in particular shall; -

- (a) Do so at the time of the construction, material alteration or extension of a public building; or
- (b) If by doing so, access to public buildings would be provided to a greater number of persons with disabilities with more cost effective manner than otherwise be the case.

(4) Architects, construction engineers and other persons who are involved in design and construction of physical environment shall observe and comply with accessibility requirements to ensure that all new buildings, roads, playgrounds, transport facilities and renovations, conform to designs aimed at creating access for persons with disabilities.

(5) The head of public body shall as far as practicable, ensure the whole or part of a heritage site or tourism facility or activity to which the public has access is also accessible to persons with disabilities in accordance with this Act.

(6) The Minister may in consultation with the Advisory Committee by order published in the gazette, exempt any building from the conditions provided under this section.

### S. 45 Access to service provided by a public body

Where a service is provided by a public body, the head of the body shall; -

- (a) Ensure that the service is also accessible to persons with disabilities, and seek external advice or expertise where appropriate or necessary; and
- (b) If necessary, authorize at least one of his officers to provide, arrange or coordinate the provision of assistance and guidance to persons with disabilities in accessing its services.

### S. 46 Access to information

(1) Every responsible Government authority shall promote the rights of persons with disabilities to access information through; -

- (a) The development and use of sign language and sign language interpreters in all public institutions and at public functions;
- (b) Brailing and synthesizing (audio) of public information, such

as Government documents, Government newspapers and other publications; and

(c) Ensuring that communications with the public is available in all accessible formats to persons with disabilities.

(2) A person who owns; -

(a) A television station shall provide sign language inset or subtitles in at least one major newscast programme each day and in all special programs of national significance; and

(b) A telephone company shall provide special telephone devices for the hearing-impaired and tactile marks on telephone sets to enable persons with visual disability to communicate through the telephone system.

(3) The Minister may by order published in the Gazette, set a period during which the requirements under sub-sections (1) and (2) shall be complied with.

### S. 47 Access to public transport facilities

(1) A person providing a public transport services shall provide access to all transport-disadvantaged persons.

(2) For the purpose of sub-section (1), “transport disadvantaged persons include” persons; - (a) Using mobility devices such as crutches or calipers, or wheel chairs;

(b) Using sensory devices such as white canes, low vision devices or hearing aids;

(c) Who need assistance such as those using sign language in other support in communication; and

(d) Having difficulty in negotiating steps, climbing stairs or walking long distance including persons having health problems, or those carrying heavy loads.

## PART XIII – PARTICIPATION OF PERSONS WITH DISABILITIES IN POLITICAL AND PUBLIC LIFE; SOCIAL INCLUSION AND PROTECTION

### S. 55 Participation of persons with disabilities in political and public life

(1) Every person with a disability who is an adult is entitled to enjoy and exercise the right to vote, hold public office and otherwise participate in political and public life as any other citizens without any form of discrimination.

(2) A person with a disability has the right to participate in public administration, civil society, political parties and other associations or organization.

(3) A person with a disability has the right to fully participate and take part in decision-making process.

(4) The Minister shall after consultation with the Advisory Committee and Independent Electoral Commission; -

(a) Guarantee that persons with disabilities can exercise their political rights by; -

(i) Ensuring that political campaigns are fully accessible and easy to understand by all persons with disabilities (particularly in use of the media),

(ii) Ensuring that voting procedures, facilities and materials are appropriate, accessible and easy to understand and use,

(iii) Ensuring that voter registration locations are accessible to persons with disabilities,

(iv) Ensuring that all polling places in each voting Centre have accessible requirements to voters with disabilities including accommodation of voters who use wheelchairs, devices for persons with low vision and tactile ballot templates for visually impaired and deaf blind persons, and provision of a sign language interpreter for the deaf/hard of hearing,

(v) Providing training for poll workers on the rights of the persons with disabilities and the practical means of ensuring their rights,

(vi) Ensuring that voters with disabilities have the same degree of information available when casting their ballot as others.

(vii) Encouraging and providing reasonable accommodation to persons with disabilities to stand for elections and to hold office and perform all political functions at all levels in the Government; introduction of a minimum quota at the National Assembly

(viii) Guaranteeing the free expression of the will of the persons with disabilities as electors, and where necessary, at their request, allowing assistance in voting by a person of their own choice, or

(ix) Setting up criteria and procedures to be applied in appointing qualified persons with disabilities to be elected or appointed to represent persons with disabilities in all decision and policy making process during the elections, through affirmative action or special prescribed arrangements;

(b) Actively promote an environment in which persons with disabilities can effectively and fully participate in the conduct of public affairs without discrimination; encourage their participation in the public affairs including; -

(i) Participation in non-governmental organizations and associations concerned with public and political life of the country including the activities and administration of political parties, or

(ii) Forming and joining organizations of persons with disabilities to represent their interest at all levels.

5) Where a voting Centre is inaccessible to persons with disabilities, an alternative location shall be identified and publicized to be used by such persons.

(6) The Government shall initiate and encourage the appointment of persons with disabilities in the organs of Government at all levels.

(7) A person aggrieved by a decision of the Advisory Committee may petition the courts of law or the Ombudsman for a review of the complaint.

(8) Where a person with a disability is a party to any judicial proceedings, the adjudicating body shall take into account the physical and mental condition of the person with a disability.

## PART XV MISCELLANEOUS PROVISION

### S. 70 Offences and penalties

(1) A person who; -

(a) Procures or by conduct causes a person with a disability not to be admitted to any place; (b) Discriminate against persons with disabilities for whatever reason;

(c) Hides, conceals or causes a person with a disability not to have access to or be admitted to schools or training institutions for whatever reason;

(d) Abandons, rejects or denies a person with a disability the right to social support;

(e) Denies the admission of the persons with disabilities to any heritage site or institution;

(f) Fails to conduct reasonable inquiry;

(g) Object a lawful order or obstruct any officer or institution in the performance of its functions;

(h) Builds or constructs any public premises that is not accessible to persons with disabilities; (i) Denies the participation of a person with a disability in social, economic and political activities;

(j) Fail to provide health care and rehabilitation to a person with a disability

(k) Without good cause, denies employment to a person with a disability; Commits an offence and on conviction and is liable; -

- (i) In case of body corporate, to a fine of D100,000.00; or
- (ii) In case of a natural person to a fine of D50, 000.00 or six months imprisonment or to both.

(2) A person who knowingly aids another person’s in committing an offence under sub-section (1) shall on conviction be deemed to have committed the offence.

instrument to address the diverse needs of persons with disabilities and potentially ensure their full social inclusion and participation in decision making in The Gambia.

The Act has 71 provisions that are divided into 16 parts

- Part I, deals with interpretation of key terms in disabilities advocacy and part II provides that the application of the Act should be guided by the interrelated principles of respect for human dignity, individual choices and the independence of persons with disabilities. It also requires the observance of non-discrimination as an overarching principle. The effective and full participation of persons with disabilities in decision making is also guaranteed with specific emphasis on equality and inclusion.

- Part III, imposes a duty on the Advisory Committee with the Ministry of Gender, Children and Social Welfare the mandate to ensure and promote the realization of all rights and freedoms of persons with disabilities without discrimination by undertaking measures that effectively comply with their rights as provided for under relevant human rights norms. It also requires the Ministry to collaborate with other public authorities to ensure the development and availability of universally designed goods, services, equipment, and facilities to meet their specific needs.

Part II further imposes a duty on the government to promote and raise awareness of disability rights in The Gambia.

- Part IV and V, deal with children and women with disabilities, as well as Youth and Older persons with disabilities. The former requires that the government recognizes that women and girls with disabilities are subject to multiple forms of discrimination particularly children with disabilities and shall take measures to ensure the full and equal enjoyment of all human rights and fundamental freedoms. With regards to youth with disabilities, the Act requires that the government develops programmes to overcome social and economic isolation by removing systemic barriers in the labour market for youth with disabilities.

- Part VI addresses the institutionalization of Persons with Disabilities, it makes provision for a range of accessible community based rehabilitation and inclusion services such as in house, residential and other community support services and personal assistance necessary to support living and integration into communities.

- Part VII imposes a specific obligation on Local Government Authorities to safeguard the rights of Persons with Disabilities. Overall, with the enactment of the Act, The Gambia has shown commitment towards the fulfillment of its international obligation by guaranteeing the rights and inclusion of Persons with Disability. This will also create a basis for accountability when these rights are violated.

#### **Objectives of the Persons with Disabilities Act, 2021**

- (a) To promote dignity and equal opportunities to persons with disabilities;
- (b) To develop and promote the participation of all persons with disabilities in all aspects of life in The Gambia;
- (c) To encourage the people and all sectors of government and community recognize, respect and accept difference and disability as part of humanity and human diversity;
- (d) To eliminate all forms of discrimination of persons with disabilities on the ground of their disabilities;
- (e) To encourage all sectors of government and community to promote

and include disability issues into all economic, political and social development policies and programmes;

(f) To Promote positive attitudes towards and images of persons with disabilities as capable and contributing members of society, sharing the same rights and freedoms as other members of society;

(g) To domesticate the United Nations Convention on the Right of Persons with Disabilities, alluded to in section 112 (k) of the Convention; and

(h) To further amplify are the rights of persons with disabilities in the Gambia, as encapsulated in section 31(1) (2) and (3) of the Constitution of the Republic of The Gambia 1997.

Below are selected Parts of an abridged version of the Persons with disabilities Act, 2021. The selection is based on the specific relevance of the "Parts" to the Stakeholders especially Local Authorities who are the principal targets in this sensitization campaign as it relates to their roles in the realization of the objectives of the Act.

#### **II (2) Principles and Obligations for realization of the Rights of Persons with Disabilities**

##### **S 4. Basic principles**

The principles of this Act shall be; –

- (a) Respect for human dignity, individual freedoms to make individual choices and the independence of persons with disabilities;
- (b) Non-discriminatory;
- (c) Full and effective participation and inclusion of persons with disabilities in all aspects in the society;
- (d) Equality of opportunity;
- (e) Accessibility;
- (f) Equality between men and women with disabilities and recognition of their rights and needs; and
- (g) Provision of basic standards of living and social protection.

##### **S 5. Obligations for the realization of the rights of persons with disabilities**

(1) The Advisory Committee shall work with the Ministry to:-

- (a) Ensure and promote the realization of all rights and freedoms of persons with disabilities without discrimination;
- (b) Undertake measures effectively comply with the rights of persons with disabilities as provided for under this Act, and international, regional and subregional conventions on the rights of persons with disabilities;
- (c) Take appropriate steps to ensure the realization of the rights of persons with disabilities in all national policies, programmes and legislation;
- (d) Refrain from engaging in any act or practice that is inconsistent with provisions of this Act, and to ensure that public authorities and institutions at all levels act in conformity with this Act;
- (e) Take all appropriate measures to eliminate discrimination on the basis of disability;
- (f) Collaborate with relevant institutions, undertake and promote research in relation to disability, development and the availability and use of;-

- i. Universally designed goods, services, equipment, and facilities to meet the specific needs of persons with disabilities, which should require the minimum possible adaptation and the least cost to meet the specific needs of a person with a disability and to promote universal design in the development of standards and guidelines; or
- ii. New technologies, including information and communication technologies, technical aids, devices and assistive technologies suitable for persons with disabilities, giving priority to technologies at an affordable cost;

(g) Provide accessible information to persons with disabilities on technical aids, devices and assistive technologies including new technologies as

well as other forms of assistance, support services and facilities; and

(h) Promote the training of professionals and staff who are working with persons with disabilities on their right and the rights of persons with disabilities, as recognized in the Act, so as to provide better assistance and services guaranteed by those rights.

(2) The Ministry of Gender, Children and Social Welfare shall take appropriate legislative and administrative measures with a view to achieving the full realization of rights of persons with disabilities as set out under the provisions of this Act.

(3) In the development and implementation of the rights under this Act, and in other decision making processes concerning issues relating to persons with disabilities, the minister shall consult representative organizations and other established mechanisms.

(4) The standards provided in this Act shall be minimum standards for the realization of the rights of persons with disabilities, without prejudice to their rights, individually or collectively, through their organizations or other legitimate entities.

##### **S. 6 Equality and non-discrimination**

The Government shall; -

- (a) Ensure that all persons with disabilities are treated equally with people without disabilities and fully entitled without discrimination to equal protection and benefits of the law.

#### **PART V - INTEGRATION OF PERSONS WITH DISABILITIES**

##### **S. 21 Living independently and being included in the community**

(1) Every person with disability shall be assisted by his or her local government authority, relative, disability organizations, civil society or any other person to live as decently as possible and be integrated into the community.

(2) The Minister shall in consultation with the Advisory Committee, make regulation and take such measures as may be necessary to enable and support persons with disabilities to live independently and fully integrated in to the community, including; -

- (a) Provision of equal opportunities for every person with a disability to choose his place of residence and living arrangements, in accordance with any relevant laws;
- (b) Provision of community services for the general public available without discrimination to persons with disabilities and are responsive to their basic needs; and
- (c) Provision of a wide range of accessible community based rehabilitation and inclusion services such as in-house, residential and other community support services, personal assistance, sign language interpretation, and any other measures necessary to support living and integration in the community, promote access to information about available support services, and to prevent disability based discriminations in the community.

##### **S. 22 Obligation to provide social support.**

(1) Every parent or guardian of a person with a disability shall have an obligation to provide social support to that person.

(2) Where it is established that a parent or guardian neglects to provide reasonable social support to a person with a disability the court may, on the application of either the person with a disability or a legal representative; -

- (a) Order the relative to make monthly payments of such sum as it may deem fit;
- (b) From time to time and by an order, vary or discharge any previous order made under subsection (a);
- (c) Where the court makes an order under subsection (a), the court may order the parent or guardian to secure to the satisfaction of the court, monthly payments to the person with a disability and may for that purpose give directions; and
- (d) In the event a parent denies paternity the court shall grant an order for DNA tests to be conducted.

##### **S. 23 Formulation of Programmes**

(1) The Minister shall in consultation with the Advisory Committee and relevant Ministers, formulate programmes in order to secure integral and inclusive social development of persons with disabilities including their vocational training and rehabilitation.

(2) The programmes provided in sub-section (1) may also provide for shelter, employment, marketing, accessibility and the promotion of innovation.

#### **PART VI – SUPPORT SERVICES FOR PERSONS WITH DISABILITIES BY LOCAL GOVERNMENT AUTHORITIES**

##### **S. 24 Duty of local government authorities to safeguard persons with disabilities**

(1) A Local Government Authority shall have the duty to safeguard and promote the rights and welfare of a person with disability within its jurisdiction.

(2) The Social Welfare Officer in the Local Government Authority shall exercise his or her function in relation to the rights and welfare of a person with disability and, can be assisted by such officers of the local government authority as the authority may determine.

(3) The Local Government Authority through a Social Welfare Officer shall request for the provision counseling services to the parents, guardians, relatives and persons with disabilities for the purpose of reducing or removing the degree of stigma among them.

(4) The Local Government Authority shall within its jurisdiction, be required to provide assistance to persons with disabilities in order to enable them to develop their potential, empowerment and self-reliance.

(5) Every Local Government Authority shall maintain a register of persons with disabilities and shall submit particulars therein to the Director.

##### **S. 25 Duty to report alleged infringement of rights of a child with disability**

(1) Any member of a community who has evidence or information that; -

- (a) The rights of a child with disability are being infringed; or
- (b) A parent, guardian or relative having custody of a person with a disability who is able to, but refuses or neglects to provide the right to play, medical care, leisure and education, shall report the matter to the Local Government Authority as well as any other relevant Authority of the area.

(2) The social welfare officer may on receiving the report, summon the person against whom the report has been made to discuss the matter and the decision shall be made by that officer in the best interest with the person with a disability.

(3) Where the person against whom report was made refuses to comply with the decision made under sub-section (2), the social welfare officer shall refer the matter to the court which shall hear the matter and in that respect order the parent, guardian or relative to execute a bond to exercise proper care and guardianship by signing an undertaking to provide the person with a disability with any or all of the requirements.

(4) Procedure for handling any matter under subsection (2) and (3) shall be as prescribed in The Children's Act 2005.

#### **PART VII - STATISTICS, DATA COLLECTION AND REGISTRATION OF PERSONS WITH DISABILITIES**

##### **S. 26 Statistics and Data Collection**

(1) The Government will undertake to collect appropriate information, including statistical and research data, to enable them to formulate and implement policies. The process of collecting and maintaining this information shall; -

- (a) Comply with legally established safeguards, including legislation on data protection, to ensure confidentiality and respect for the privacy of persons with disabilities; and
- (b) Comply with internationally accepted norms to protect human rights and fundamental freedoms and ethical principles in the collection and use of statistics.

(2) The information collected in accordance with this article shall be disaggregated, as appropriate, and used to assess the implementation