

**ANALYZING THE ENFORCEMENT OF THE RIGHT TO HEALTH AND EDUCATION FOR
PEOPLE WITH DISABILITY**

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TABLE OF CONTENTS

DECLARATION.....	3
APPROVAL.....	4
DEDICATION.....	5
ABSTRACT.....	6
1.0 INTRODUCTION.....	7
1.1 RESEARCH OBJECTIVES.....	8
1.2 RESEARCH QUESTION	8
1.3 SIGNIFICANCE OF STUDY.....	8
1.4 METHODOLOGY.....	8
1.5 DEFINITION OF KEY TERMS.....	9
1.6 LITERATURE REVIEW.....	10
2.0 LEGAL FRAMEWORK.....	14
2.1 LEGAL FRAMEWORK ON RIGHT TO EDUCATION.....	15
2.2 LEGAL FRAMEWORK ON RIGHT TO HEALTH.....	21
3.0 HINDERANCES.....	24
4.1 CONCLUSION.....	26
4.2 RECOMMENDATION.....	27
4.3 BIBLIOGRAPHY.....	28

DECLARATION

This thesis is my original work and has not been presented for a degree or any other academic award in any University or Institution of Learning

.....
ACHII CHRISTINE MILLY

APPROVAL

I confirm that the work availed in this thesis was carried out by the candidate under my supervision

.....

DEDICATION

I ACHII CHRISTINE MILLY wish to dedicate this piece of work to my parents Dr Patrick Ojok and Ms Florence Akidi, my siblings and friends.

ABSTRACT

Article 24 and 25¹ provide for the right to education and health of persons with disability respectively. States are mandated to while fulfilling their obligation towards rights of person with disability to do so by equalization of opportunities means ensuring that the various systems of society and the environment, such as services, activities, information and documentation, are made available to all, particularly to persons with disabilities².

Aside from the Convention of rights of persons with disabilities, there are other regional laws that provide for the right to education and health of persons with disability. The Protocol to the African Charter on Human and People's Rights of Persons with Disabilities in Africa under Article 16 and 17 provides for the right to education and health of persons with disability respectively.

The right to health and education of persons with disabilities is adopted into Uganda's legislation under section 6 and 7 prohibiting any form of discrimination on the basis of disability. However there is still limited access to health and education by persons with disabilities; this is mainly as a result of poor education and health structure. Lack of trained personnel in giving assistance to persons with disabilities and stigmatization by society.

Government should create awareness to members of societies and above all infuse training of medical and educational professionals on how to treat and educate members with disability in the very fabric of the journey and education of becoming teachers and medical personnel as a course of its own.

¹ Convention on rights of persons with Disability(CRPWD)

² Standard Rules on the Equalization of Opportunities for Persons with Disabilities

CHAPTER ONE

1.0 INTRODUCTION

The Persons with Disability act defines disability act *means a substantial functional limitation of a person's daily life activities caused by physical, mental, or sensory impairment and environmental barriers, resulting in limited participation in society on an equal basis*³

Article 1⁴ defines disability include having long-term *physical, mental, intellectual or sensory impairments which in interaction with various barriers may hinder their full and effective participation in society on an equal basis with others.*

It is estimated that 15% of the world population is living with a disability, of whom 2-4% experience significant difficulties in functioning.⁵ According to the National Population and Housing Census, disability prevalence is 12.4 percent for persons aged two (2) years and above, while the equivalent for 5 years and above is close to 14%⁶

Persons with disability in most cases don't enjoy their rights due to reasons but mostly due to accessibility either physically or of information. For persons with disabilities to be able to access places of education and health facilities they are equipped with ramps or with lifts. The information that can be accessed by persons with disabilities in some cases should be translated by sign language or should be in format or braille if not then they shall be inaccessible to them.

³Persons with Disability Act

⁴CRPWD, (n 1)

⁵ World report on disability (2011)

⁶ National Population and Housing Census, 2014

1.1 RESEARCH OBJECTIVES

Primary Objective

To analyze the enforcement of the right to health and education of people with disabilities.

Secondary Objectives

To assess legal policy, framework, and mechanisms of enforcing the right to health and education of people with disabilities.

To identify and examine the gaps in enforcing the right to health and education of people with disabilities.

To identify the challenges hindering the enforcement of the right to health.

1.2 RESEARCH QUESTIONS

How is the right to health and Education of people with disability enforced in Uganda

What are the legal policy, framework and mechanisms of enforcing the right to health and education of people with disabilities.

What are the gaps in enforcing the right to health and education of people with disabilities

What are the challenges hindering the enforcement of the right to health.

1.3 SIGNIFICANCE OF THE STUDY

This thesis will contribute to the existing literature and knowledge on the enforcement of the right to education and health of persons with disability. was aimed at establishing the relationship between the right to education and health provided on paper and its actual realization on ground. It addresses the current state of the education and health structure and their capacity to provide services to persons with disabilities.

1.4 METHODOLOGY mixed method was used for this thesis, this involves desk review that is the review of relevant documents and doctrinal that is review of existing laws

1.5 DEFINITION OF KEY TERMS

Communication includes languages, display of text, Braille, tactile communication, large print, accessible multimedia as well as written, audio, plain-language, human-reader and augmentative and alternative modes, means and formats of communication, including accessible information and communication technology.⁷

Language includes spoken and signed languages and other forms of non-spoken languages.⁸

Discrimination on the basis of disability means any distinction, exclusion or restriction on the basis of disability which has the purpose or effect of impairing or nullifying the recognition, enjoyment or exercise, on an equal basis with others, of all human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field. It includes all forms of discrimination, including denial of reasonable accommodation⁹

Reasonable accommodation means necessary and appropriate modification and adjustments not imposing a disproportionate or undue burden, where needed in a particular case, to ensure to persons with disabilities the enjoyment or exercise on an equal basis with others of all human rights and fundamental freedoms.¹⁰

Universal design means the design of products, environments, programmes and services to be usable by all people, to the greatest extent possible, without the need for adaptation or specialized design.¹¹

⁷ Convention on Rights of Persons with Disability.

⁸ *ibid*

⁹ *ibid*

¹⁰ *ibid*

¹¹ *ibid*

1.6 LITERATURE REVIEW

1.6.1 Policies On the Right to Education for persons with Disability

In a bid to enforce the right education, the government adopted both inclusive education and special needs education. Inclusive education means a system where a learner with disability is taught together with other learners, in the same environment, and the government has as well established schools that provide special needs education.

Partrick Ojok, PhD¹² discusses the beginning of inclusive education in Uganda with the The White Paper on Education 1992 which tasked the government to assume responsibility for special schools and annexes and recommended the establishment of special schools in every region. In 1997, Uganda took a different direction when it indirectly saw the introduction of inclusive education under the Universal Primary Education (UPE) program. At the start, UPE was only targeting 4 children per household, however, priority was given to the girl child and the child with a disability.

According to him, Uganda follows the parallel system approach to one in which inclusive education and special schools and units co-exist with regular/inclusive schools and that existing policy regimes recognize both special and regular schools. He however asserts that special schools are very few and not evenly distributed across the country. By 2010, there were 138 units in the country (49 for learners with Hearing Impairments, 38 for intellectual impairments, 8 for physical impairments and 43 for learners with visual impairments). The government constructed 4 regional special schools, namely: a primary school in Gulu for children with hearing impairment, one in Mukono for children with visual impairments, and two secondary schools for the Deaf in Wakiso and Mbale Districts. this is in line with **Ministry of Gender Labour and Social development (MGLSD)**¹³. where it stated that there are only 113 special needs schools which are not in all districts of which most are funded by Non Governmental Organisation.

¹² Partrick Ojok, PhD, Inclusion and Disability Policy Watch Africa Ltd, A National Report on Disability Inclusion in SDGs Implementation in Uganda 2020.

¹³ Ministry of Gender Labour and Social development (MGLSD), Situational Analysis of Persons with Disabilities in Uganda, 2020.

According to **MGLSD**¹⁴ implementation of a fully inclusive education system requires systemic changes to curriculum, pedagogy and funding models, so wide-ranging reforms are needed to enable the flexibility that an inclusive education approach requires. **Patrick Ojok, PhD**¹⁵ applauds the government for its recent Curriculum reforms where the Ministry of Education & Sports said that the recently launched lower secondary school curriculum addresses the needs of learners with disabilities in all aspects. A subject called General Science has been designated to be taken by learners with visual impairment and those with severe physical impairments instead of the traditional sciences like biology, chemistry and physics. Also, sign language is now one of the elective subjects to be taught in secondary schools starting in the first term of 2020.

Marcia H. Rioux and Paula C. Pinto¹⁶ raise a very important aspect as regards inclusive education they argue that *getting children with disabilities in schools is not enough. If inclusion simply changes the location of the schooling of the child but the negative stereotyping persists, then the expectations for that child's learning will continue to be less than for other students. Being in a classroom, but not an integrated and equal participant in the very fabric of learning contradicts the purpose of schooling. They describe this as **soft inclusion** - inclusion that addresses place but not the substance of learning.* It therefore not enough to say persons with disability have a right to education and prohibit any form of discrimination on the basis of their disability but rather ensure as well that the education system and environment encourages equal participation of the people with disability in class and out of class during co-curricular activities hence it is not enough to provide for the right the system should be designed in a way that accommodates persons with disability.

¹⁴ *ibid*

¹⁵ Patrick Ojok, PhD, (n 12)

¹⁶ Marcia H. Rioux and Paula C. Pinto, time for the universal right to education: back to basic, 2010, Vol. 31, No.5, British Journal of Sociology of Education,

1.6.2 Policies on the Right to Health for Persons with Disability.

The right to health is a fundamental part of our human rights and of our understanding of a life of indignity. The right to the enjoyment of the highest attainable standard of physical and mental health, Internationally, was first articulated in the 1946 Constitution of the World Health Organization (WHO), whose preamble defines health as *a state of complete physical, mental and social well-being and not merely the absence of disease or infirmity*. The preamble further states that ‘‘the enjoyment of the highest attainable standard of health is one of the fundamental rights of every human being without distinction of race, religion, political belief, economic or social condition. Human rights are interdependent, indivisible and interrelated. This means that violating the right to health may often impair the enjoyment of other human rights, such as the rights to education.

The general comments number 14 confers responsibility on every state to ensure that citizens acquire the highest attainable health standard.

The right to health in all its forms and at all levels contains the following interrelated and essential elements; that is availability this relates to functioning public health and health care facilities, goods and facilities being available and sufficient, accessibility that is to say that goods and services are available to everyone without discrimination, should be physically accessible, and affordable , acceptability goods and services must be respectful of medical ethics and culturally appropriate and quality health facilities and goods and services must be scientifically and medically appropriate and of good quality. Health workers are mandated to attend to the health needs of all people including people with disabilities.

one of the essential points of General comment 14 is the human rights-based approach to health provides strategies and solutions to address and rectify inequalities, discriminatory practices and unjust power relations, which are often at the heart of inequitable health outcomes

People with disabilities have needs and in most cases their needs supersede those of people without disabilities they often have additional needs due to impairment or as a consequence of impairment Therefore depending on the impairment of the person with disability there restrictions to easy and adequate access to health will differ from person to person.

Patrick Ojok,PhD¹⁷ argues that persons with disabilities have less access to health care services and therefore experience unmet health care needs. He further states that non-communicable diseases, including chronic conditions such as obesity, hypertension, and mental health conditions, are all more prevalent amongst persons with disabilities. Although persons with disabilities are more vulnerable to poor health, they face more barriers in accessing healthcare services. According to him, when persons with disabilities seek healthcare, they receive poorer quality services which worsen their health conditions. Access to health facilities is often more difficult for those with mobility limitations, limited funds, or from more rural settings. This can be due to multiple factors including negative stereotypes and prejudice due to disability or due to health care professionals' lack of knowledge about the needs of PWDs. The right to health is supposed to be enjoyed without discrimination on the basis of disability, but the available evidence shows inequalities against persons with disabilities.

Patrick Ojok,PhD¹⁸ states that disability discrimination persists in health facilities but higher among certain categories. He makes reference to The 2017 Uganda Functional Difficulties Survey of 2017 which established that 9% of persons with disabilities felt disrespected or humiliated by the treatment and behavior of the staff at health facilities. Male persons with disabilities (8%), were slightly more discriminated against than their female counterparts (7%) when seeking help for physical problems. Mistreatment of the persons with disabilities while seeking health services was highest in northern Uganda (18%), followed by West Nile (15%) and lowest in the Eastern Uganda districts of Bukedi (9%), Busoga (8%), Teso (5%) and Bugisu (4%).

MGLSD¹⁹ states that there is no specific policy on inclusive health, and most of these services are provided through the Disability Prevention and Rehabilitation section. Some of these services can be considered disability-related, such as the provision of hospital, community and home-based rehabilitation and therapeutic services, provision of assistive devices such as prosthetics and orthotics, while others focus on the prevention of impairments , as well

¹⁷ Patrick Ojok,PhD, (n 12)

¹⁸ ibid

¹⁹ MGLSD,(n 13)

information on disability prevention and management and general medical services to all – including persons with disability

CHAPTER TWO

2.0 LEGAL FRAMEWORK AND PROTECTION PERSONS WITH DISABILITY HAVE TO EDUCATION AND HEALTH

Persons with disability face challenges in performing day to day activities as well the enjoyment of their rights entitled to them without any special assistance. By virtue of their disability, they are limited and therefore will face a lot of problems if services are not made accommodative for them.

As the saying goes, ‘education is the key to Success’ Education is instrumental in the success of individuals in life. Education is the major determinant of what kind of job one will have in the future . it is therefore essential for every human being to attain the highest level of education. Education unlocks economic growth. Generally university graduates have a better opportunity of obtaining employment as compared to those who have not completed university.

The government has a mandate to ensure that everyone has access to education. In this regard the government of Uganda launched universal primary and secondary education in fulfillment of the campaign of education for all. Education is as well a fundamental right which is enshrined in the constitution of Uganda under Article 21²⁰. Rights cannot be enjoyed by mere provisions by the law, they have to be enforced and implemented by the government. It is therefore not enough for the government to pass laws or ratify conventions providing for these rights but rather should ensure their implementation across the country.

When it comes to rights of persons with disability such as education the laws are laid out however they are not being enforced as many people with disability are out of school, many dropping before completion of their education.

The convention on rights for people with disability as well as the Persons with disability Act provide for inclusive education however no initiative has been taken to ensure this comes into force many learning institutions government and private do not have the capacity to admit

²⁰ The 1995 Constitution of the Republic of Uganda

persons with disability this is due to the lack of proper infrastructure such as building which can be accessed by the physically impaired, the teachers in this institutions do not know sign language hence cannot communicate with deaf. Despite passing these laws, the government has done nothing to ensure these institutions are up to a standard that can accommodate persons with disability. According to the Ministry of Education and Sports, in 2008, there were 183,537 children with disability in primary schools countrywide, and 11,145 students in secondary schools countrywide²¹

The right to health is often viewed as interdependent on other rights such as the right to education. If they are not in proper health, it affects their day to day activities as well as other rights. The ICESCR accords persons with the right to the highest attainable standard of health. This right is as well incorporated in the CRPD, the constitution of Uganda, and the PWDA. However, just like education and any other right awarded to persons with disabilities, their implementation is lacking therefore restricting the enjoyment of these rights by persons with disabilities.

The right to education and health for persons with disability is enshrined in various different legislations that are international, regional, and international.

This chapter looks at the implementation of the domestic, regional, and international laws that seek to protect the rights of persons with disability in relation to the right to education and health.

2.1 Legal Framework And Protection Persons With Disability Have To Education

Universal Declaration of Human Rights

Article 1 All human beings are born free and equal in dignity and rights. **Article 7** All are equal before the law and are entitled without any discrimination to equal protection of the law. All are entitled to equal protection against any discrimination in violation of this Declaration and against any incitement to such discrimination. **Article 26** Everyone has the right to education. Education shall be free, at least in the elementary and fundamental stages. Elementary education shall be compulsory. Technical and professional education shall be made generally available and higher education shall be equally accessible to all on the basis of merit

²¹ Ministry of Education and Sports, 2008

International Covenant on Economic, Social and Cultural Rights (ICESCR)

The convention recognises that human rights derive from the inherent dignity of a human being.

Article 2 provides for the principle of non discrimination when exercising rights provided for. They agree that education shall be directed to the full development of the human personality and the sense of its dignity, and shall strengthen the respect for human rights and fundamental freedoms, The States Parties to the present Covenant recognize that, with a view to achieving the full realization of this right: (a) Primary education shall be compulsory and available free to all; 5 (b) Secondary education in its different forms, including technical and vocational secondary education, shall be made generally available and accessible to all by every appropriate means, and in particular by the progressive introduction of free education

Convention on the Rights of Persons with Disability (CRPD)

Article 24 mandates states Parties to recognize the right of persons with disabilities to education. With a view to realizing this right without discrimination and on the basis of equal opportunity, States Parties shall ensure an inclusive education system at all levels and lifelong learning.

Article 24(2) provides that In realizing this right, States Parties shall ensure that: (a) Persons with disabilities are not excluded from the general education system on the basis of disability, and that children with disabilities are not excluded from free and compulsory primary education, or from secondary education, on the basis of disability; (b) Persons with disabilities can access an inclusive, quality and free primary education and secondary education on an equal basis with others in the communities in which they live. **Article 24(3)(a)** Facilitating the learning of Braille, alternative script, augmentative and alternative modes, means and formats of communication and orientation and mobility skills, and facilitating peer support and mentoring; Facilitating the learning of sign language and the promotion of the linguistic identity of the deaf community; **Article 24(4)**. In order to help ensure the realization of this right, States Parties shall take appropriate measures to employ teachers, including teachers with disabilities, who are qualified in sign language and/or Braille, and to train professionals and staff who work at all levels of education. Such training shall incorporate disability awareness and the use of appropriate

augmentative and alternative modes, means and formats of communication, educational techniques and materials to support persons with disabilities.

African Charter on Human and People's Rights (ACHPR)

Article 2 is to the effect that every individual shall be entitled to the enjoyment of rights and freedoms without discrimination. Article is to the effect that everyone is equal before the law. **Article 17** provides that every individual shall have a right to education and article 18 further states that the aged and persons with disability shall have a right to special measures of protection in releasing their physical and moral needs

Protocol to the African Charter on Human and People's Rights of Persons with Disabilities in Africa

Article 5 provides for non discrimination on the basis of disability. Article 6 provides for the right of equality before the law and the right to equal protection and benefit of the law. Article 15 asserts a right of accessibility that is right to barrier free access to the physical environment, transportation, information including communication, technologies, systems

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

Article 35 provides that 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. It also provides that parliament shall enact laws appropriate for protection of persons with s.disability. **Article 30** states that all persons have a right to education. **Article 34 (2)** of the Constitution states that every child is entitled to basic education which shall be the responsibility of the state and the parents of the child. **National Objective and Directive Principles XIV** provides for the right to enjoy access to education and health service

The Persons with Disabilities Act 2019

Section 1(1) provides that assistive devices" include; wheelchairs, calipers, crutches, whitecanes, orthopedic appliances, qualified readers; taped texts, audios, visual and pictorial recordings; braille and tactile equipments or materials, large print and other devices that support

persons with disabilities to participate effectively in all aspects of life **Section 6(1)** states that an institution of learning shall not discriminate against a learner with a disability, on the basis of the disability **Section 6(4)** requires an institution that enrolls a learner with disability to make the necessary structural adjustments to the buildings and premises of the institution of learning, to enable access to the building or premises by a learner with a disability, within three months from the date of admission of the learner. **Section 6(5)** requires an institution of learning which is owned or aided by the Government that enrolls a learner with a disability, to provide sign language services, learning instructional materials and assistive devices, suitable for the learner and required for examinations by the learner.

Uganda follows the parallel system approach to one in which inclusive education and special schools and units co-exist with regular/inclusive schools and that existing policy regimes recognize both special and regular schools.²² as per the MGLSD²³. There are only 113 special needs schools which are not in all districts of which most are funded by Non Governmental Organisation. However the CRPD discourages against segregated schools and encourages member states to focus on inclusive education to promote the right to education of persons with disability; it therefore infers the right to inclusive education.

The right to inclusive education encompasses a transformation in culture, policy and practice in all formal and informal educational environments to accommodate the differing requirements and identities of individual students, together with a commitment to remove the barriers that impede that possibility. It involves strengthening the capacity of the education system to reach out to all learners. It focuses on the full and effective participation, accessibility, attendance and achievement of all students²⁴.

The CRPD provides that inclusive advantages due to the fact that it ensures people with disability develop their full human potential, sense of dignity and self-worth, while strengthening of respect for human rights, fundamental freedoms and human diversity, it as well ensures that persons with disabilities develop their personality, talents and creativity, as well as

²² Patrick Ojok, PhD, (n 12)

²³ MGLSD, (n 13)

²⁴ General comment No. 4 (2016), Convention on the Rights of Persons with Disabilities

their mental and physical abilities, to their fullest potential, and Enables persons with disabilities to participate effectively in a free society.

Under Article 4²⁵ states are obligated to adopt all appropriate legislative, administrative and other measures for the implementation of the rights recognized in the present Convention. Uganda passed the Persons with Disability Act providing for rights of persons with disability. Section 6 provides for the right education. It prohibits institutions of learning from discriminating against any one on the basis of disability and requires that they make necessary adjustments so as to accommodate the learner with disability.

However, although this is a positive step towards realization of the rights of persons with disability, there is a significant gap between the existence of the right to education on paper and the actual realization of this right by persons with disabilities. Moving from the right provided for in legislation to on ground realization is lacking in Uganda many people with disability are still unable to enjoy their right to education although explicitly provided for.

Article 9²⁶ provides for accessibility by persons with disability it mandates state members to ensure that persons with disabilities access, on an equal basis with others, to the physical environment, to transportation, to information and communications, including information and communications technologies and systems, and to other facilities and services open or provided to the public, both in urban and in rural areas.

The general comment 4 provides that state parties when fulfilling their obligation of inclusive education should ensure that the education system is composed of these four interrelated principles; *Availability*-this requires institutions of learning and programmes must be available in sufficient quantity and quality are available to all learners at all levels throughout the community. *Accessibility* – this involves accessibility of the entire educational system including buildings, information and communication. *Acceptability* is the obligation to design and implement all education-related facilities, goods and services taking full account of and respecting the requirements, cultures, views and languages of persons with

²⁵ CRPD

²⁶ CRPWD,(N 1)

disabilities...*Adaptability* -requires states parties to apply the Universal Design for Learning (UDL) approach. UDL is a set of principles, providing teachers and other staff with a structure to create adaptable learning environments and develop instruction to meet the diverse needs of all learners²⁷.

States are there under the obligation to ensure that institutions of learning are in compliance with the four principles of availability, accessibility,affordability and adaptability,and as **Marcia H. Rioux and Paula C. Pinto**²⁸ discussion, inclusive education becomes futile if the very fabric of education is not integrated to accommodate persons with disability. If the system is not integrated then persons with disability will still continue to have a less experience of learning compared to their counterparts. Inclusive education therefore seeks to change the substance of education making it accommodative for persons with disability hence ensure equal enjoyment of the right to education by all.

Many institutions of learning in Uganda are generally physically inaccessible as they consist of storied buildings with staircases which cannot be accessed by the physically impaired. For instance schools like Seeta High School, Our Lady of Africa Namilyango comprise of storied buildings that form their classrooms blocks however they do not have ramps or lifts that can enable persons who are physically impaired to access these buildings. Some institutions have however taken strides to ensure that their buildings are accessible by persons with disability, for instance Uganda Christian University has ramps on its 'N' classroom block and a lift in its library. However most of its other classroom blocks and halls or residences are still inaccessible for persons with disability. St Joseph's Girls Senior Secondary School as well has ramps on one its classroom but still leaves other buildings inaccessible.

Most of the institutions of learning in Uganda are not integrated to support education of persons with disabilities. On the other hand, those that try to integrate mostly concentrate on physical accessibility. They failed to provide other assistive devices such as braille. Many institutions do not have not trained and equipped their teaching staff on how to handle persons with disabilities for instance such as communication using sign language. They therefore mostly create a solution

²⁷ n 24

²⁸ Marcia H. Rioux and Paula C. Pinto,(n 16)

for the physically impaired leaving out other kinds of persons with disability for instance the visually impaired, those with hearing impairments will therefore have limited options as to intuition from which they can acquire education

For instance during the outbreak of covid 19 which prompted countries to lockdown leading to closure of schools saw many institution resorting to online learning as a mode of education through the use of zoom, radios and television, newspapers, government as well distributed learning materials to learners in both urban and rural areas however they were only hard copy there was an attempt to distribute braille formats however this was not fully achieved. This however left out many persons with disability as they were no sign language interpreters; those visually impaired had limited access to education during this time most especially.

2.2 Legal Framework And Protection Of The Right To Health Of Persons With Disability

Convention on the Rights of Persons with Disability (CRPD)

Article 25 provides that States Parties recognize that persons with disabilities have the right to the enjoyment of the highest attainable standard of health without discrimination on the basis of disability. States Parties shall take all appropriate measures to ensure access for persons with disabilities to health services that are gender-sensitive, including health-related rehabilitation. In particular, States Parties shall: a) Provide persons with disabilities with the same range, quality and standard of free or affordable health care and programmes as provided to other persons, including in the area of sexual and reproductive health and population-based public health programmes; b) Provide those health services needed by persons with disabilities specifically because of their disabilities, including early identification and intervention as appropriate, and services designed to minimize and prevent further disabilities, including among children and older persons; c) Provide these health services as close as possible to people's own communities, including in rural areas; d) Require health professionals to provide care of the same quality to persons with disabilities as to others, including on the basis of free and informed consent by, inter alia, raising awareness of the human rights, dignity, autonomy and needs of persons with disabilities through training and the promulgation of ethical standards for public and private health care; e) Prohibit discrimination against persons with disabilities in the provision of

health insurance, and life insurance where such insurance is permitted by national law, which shall be provided in a fair and reasonable manner; f) Prevent discriminatory denial of health care or health services or food and fluids on the basis of disability.

The Persons with Disabilities Act 2019

Section 7(1) states that a health unit shall not discriminate against a person with a disability, on the basis of the disability

International Covenant on Economic, Social and Cultural Rights (ICESCR)

Article 12 (1) The States Parties to the present Covenant recognize the right of everyone to the enjoyment of the highest attainable standard of physical and mental health **Article 12(2)(d)** The creation of conditions which would assure to all medical service and medical attention in the event of sickness.

The CRPD mandates states while fulfilling the rights under the convention should ensure accessibility both physically and to information as well. Inaccessibility of health services is a problem in Uganda in terms of both physical accessibility and other practical matters such as accessible communications and health providers who are trained in disability issues. Even though disability legislation provides for accessible services, the same is not true on ground. However there are some health facilities that ensure physical accessibility by persons with disabilities since they ramp up their facilities, for instance Mulago hospital, lifelink hospital.

Article 9²⁹ provides for accessibility by persons with disability it mandates state members to ensure that persons with disabilities access, on an equal basis with others, to the physical environment, to transportation, to information and communications, including information and communications technologies and systems, and to other facilities and services open or provided to the public, both in urban and in rural areas.

Many health facilities are still physically inaccessible by persons with disability as buildings are designed in a way that doesn't ensure their access. The health sector is already strained right to health in general to all Uganda is still lacking. Health care is often not accessible or available to

²⁹ CRPWD (n 1)

persons with disabilities on an equal basis with others because of factors like inaccessible buildings, lack of communications accommodations in the health care setting, and even denial of treatment based on a disability.

The right to health in all its forms and at all levels contains the following interrelated and essential elements; that is availability this relates to functioning public health and health care facilities, goods and facilities being available and sufficient, accessibility that is to say that goods and services are available to everyone without discrimination, should be physically accessible, and affordable , acceptability goods and services must be respectful of medical ethics and culturally appropriate and quality health facilities and goods and services must be scientifically and medically appropriate and of good quality. Health workers are mandated to attend to the health needs of all people including people with disabilities.³⁰

Rule 2³¹ provides that when it come to medical Care, there should be early intervention for prevention of disability while emphasizing of crucial principles related to access and delivery of medical services,provision of the same level of medical care within the same system as other persons, training and equipping of medical personnel in delivery of care to persons with disabilities and that they have, access to relevant treatment methods and technology, and medicines needed to preserve or improve level of functioning.

³⁰ General comment 14 of the International Covenant on Economic, Social and Cultural Rights

³¹ 1993 UN Standard Rules on the Equalization of Opportunities for Persons with Disabilities (Standard Rules)

CHAPTER THREE

3.0 HINDRANCE TO THE REALIZATION OF RIGHT TO EDUCATION AND HEALTH

Absence of Autonomy.

Autonomy is the right of an individual to make their own choices in matters relevant to his or her life³² In many cases, persons with disabilities may not have a choice on where to attain education or acquire health care services. Their choices are in most cases reduced as a result of lack of health and educational accommodation, absence of trained teaching staff and health personales on how to administer services to persons with disabilities, and above all physical accessibility of these facilities by persons with disabilities. These issues therefore give them little say and options on services available for them.

Inadequate learning equipment and trained teaching staff and health workers.

There are different kinds of disability each which have a different need from the other therefore teaching staff and health workers have to be equipped to tend to them. However, many schools are not well equipped as they do not have sign language interpreters or even braille for the visually impaired. There are very few teachers or health workers that can understand and use sign language. Since they don't have any capability and skill on how to render health and educational services, the rights of these people are then frustrated. **MGLSD**³³ lays down challenges affecting the implementation of right to education of people with disability this includes, a lack of appropriately trained teachers especially secondary education **MGLSD**³⁴ asserts that government faces challenges that hinder the proper implementation of right to health of people with disability which include, insufficient numbers of public health workers and human resources for health; long distances to facilities; limited accessibility to health facilities; limited services, lack training and awareness about working with patients with disabilities

³²Marcia H. Rioux and Paula C. Pinto, (n 16)

³³ Ministry of Gender Labour and Social development, Revised National Policy on Persons with Disability, 2023

³⁴ MGLSD,(n 13)

Physical inaccessibility.

The enjoyment of the right to education by persons with disability is restricted by inaccessible facilities. This comes as a result of how facilities are designed and constructed as well as improper toilets. School and health facilities in many cases especially in the central region of Uganda are designed and constructed in a manner that makes them inaccessible by persons with disabilities due to lack of ramps or lifts in the facilities. Very few facilities design their wash rooms with persons with disabilities in mind hence limiting accessibility.

Perception of society

Oftentimes members of societies have negative attitudes, myths, beliefs, associated stigma and discrimination towards persons with disability. Sometimes parents with children with disabilities will keep them at home without access to education³⁵ persistent discrimination against persons with disabilities as well as their isolation. Although the Persons with Disability Act prohibits discrimination of persons on the basis of their disability, the same is still true in institutions of learning and health facilities whereby at times they are denied opportunities because they are disabled. Stigma by members of the community and sometimes name calling negatively affects persons with disability because it gives the impression that others don't want to relate with them. This has led to school drop out by children with disabilities.³⁶

Patrick Ojok, PhD³⁷ argues that challenges hindering implementation include failure to commit the required resources for implementation and only focusing special needs education training on primary and secondary schools.

³⁵ Tsitsi Chataika, Judith Anne Mckenzie, Estelle Swart & Marcia LynerCleophas, Access to education in Africa: responding to the United Nations Convention on the Rights of Persons with Disabilities, (2012) , Vol. 27, No. 3, Disability & Society. Namukasa Lillian And Kamyia Julius, The State Of Special Needs Education, Employment Of Special Needs Education Teachers And Teachers With Disabilities In The Districts Of Kisoro, Lyantonde, Kamuli And Arua, 2011.

³⁶ Namukasa Lillian And Kamyia Julius, The State Of Special Needs Education, Employment Of Special Needs Education Teachers And Teachers With Disabilities In The Districts Of Kisoro, Lyantonde, Kamuli And Arua, 2011.

³⁷ Patrick Ojok, PhD, (n 12)

Poverty.

Majority of persons living with disability in Uganda are living below the poverty line³⁸. 35% of Ugandans live below the poverty line 24% of which are persons with disabilities this clearly indicates that most persons with disabilities are poor. Most Parents are poor; they cannot afford school fees, high school fees and medical fees and assistive devices due to poverty; this has affected parents and end up not taking their children to school.

CHAPTER FOUR**4.1 CONCLUSION**

The CRPD and PWDA both provide for the right to education and health for persons with disability however there is a huge gap between rights provided for on paper to its realization on ground. Noting that Uganda is developing, the government should then embark on progressive realization of these rights and institutions integrated over time into being fully accommodative to persons with disability.

Education and health are fundamental in the development of any human being most especially persons with disability therefore ensuring that systems of education and healthcare accommodative for persons should be a priority for the government.

Although the government has an obligation to ensure the fulfillment of rights of persons with disability, the community plays a huge role in how, especially by the way they view and treat persons with disabilities, hence change of attitudes of members of society is vital for persons with disability to feel appreciated and important in society.

³⁸ UN Department of Economics and Social Affairs (2018)

4.2 RECOMMENDATIONS

Awareness

Disability awareness has the power to create appreciation for the skills and abilities of this group of people, and the value they add to society³⁹. Government should create awareness and sensitize the public on the rights and well being of persons with disability. Awareness will help avert negative perceptions and stigmatization by members of society.

Capacity and support development

The values of inclusive education and disability issues should infuse the curriculum for teacher training and not just be an add-on to a module. Furthermore, in-service teacher training and support should be continuous and school-based, and tailor-made for the needs and contexts of school communities.⁴⁰

Budgetary allocation

Government should put realization of rights of persons with disability among its priorities and further increase finance allocated to the realization of their rights.

Health and educational facilities that are inaccessible by persons with disability should be held accountable and required to change the designs of their building and toilets so as to accommodate persons with disability.

³⁹Tsitsi Chataika, Judith Anne Mckenzie, Estelle Swart & Marcia LynerCleophas, (n 35)

⁴⁰ *ibid*

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