

Approved for tabling before the House.



THE NATIONAL ASSEMBLY

TWELFTH PARLIAMENT

(SIXTH SESSION)

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10/5/2022

NA. L&P.2022/COMM (042)

MAY 10, 2022

PAPER LAID

Hon. Speaker, I beg to lay the following Paper on the Table of the House, today,
Tuesday, May 10, 2022: -

REPORT OF THE DEPARTMENTAL COMMITTEE ON LABOUR
AND SOCIAL WELFARE ON ITS CONSIDERATION OF THE
PERSONS WITH DISABILITIES BILL (NATIONAL ASSEMBLY BILL
NO. 61 OF 2021)

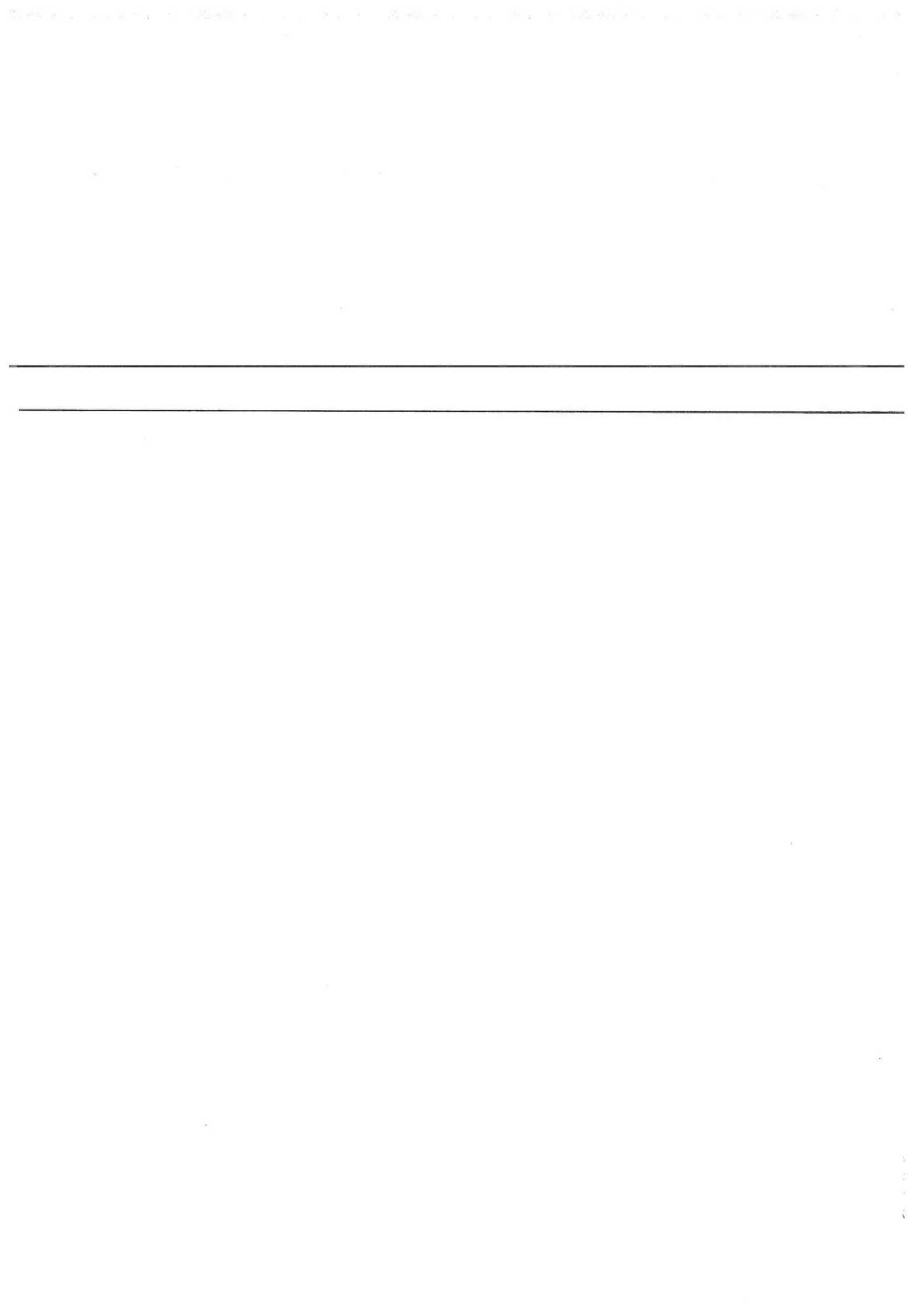
(CHAIRPERSON, COMMITTEE ON LABOUR AND SOCIAL WELFARE)

THE NATIONAL ASSEMBLY PAPER LAID	
DATE: 10 MAY 2022	DAY: TUESDAY
TABLED BY:	HON. TOM MBOYA ODEGE MEMBER ON BEHALF OF
CLERK-AT-THE-TABLE:	LABOUR COMMITTEE

Copies to:

The Speaker
Deputy Speaker
The Leader of the Majority Party
The Leader of the Minority Party
The Clerk
Hansard Editor
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The Press

10th May 2022



REPUBLIC OF KENYA



TWELFTH PARLIAMENT – SIXTH SESSION (2022)

THE NATIONAL ASSEMBLY

DEPARTMENTAL COMMITTEE ON LABOUR AND SOCIAL
WELFARE

**REPORT ON THE CONSIDERATION OF THE
PERSONS WITH DISABILITIES BILL, 2021**

(National Assembly Bill No. 61 of 2021)

MAY, 2022

**Directorate of Departmental Committee Services,
National Assembly,
Parliament Buildings,
NAIROBI.**

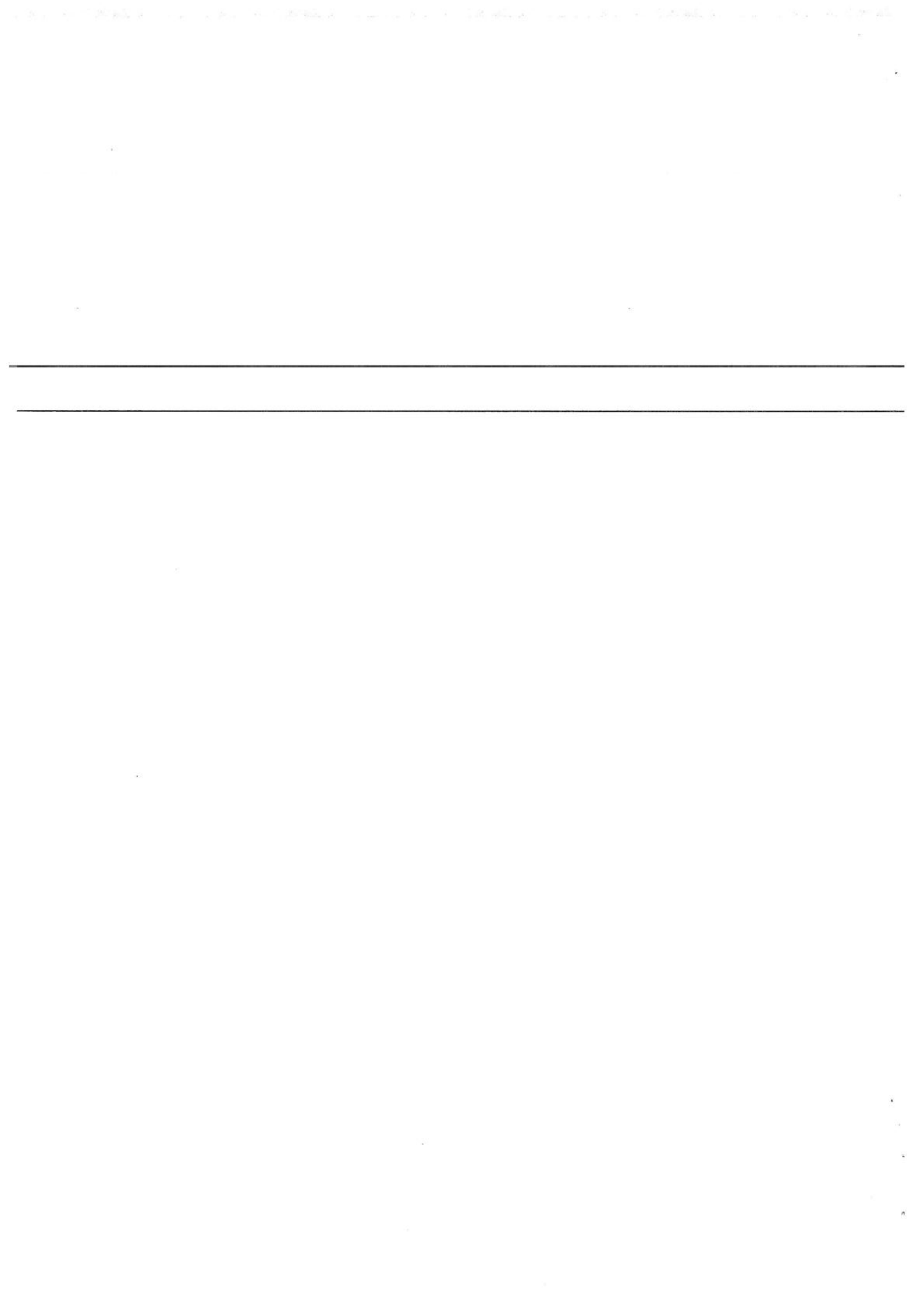


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LIST OF ABBREVIATIONS AND ACRONYMS

ACRPD	African Convention on the Rights of Persons with Disabilities
CDRA	Caucus on Disability Rights Advocacy
COG	Council of Governors
CRPD	Convention on the Rights of Persons with Disabilities
CS	Cabinet Secretary
KNCHR	Kenya National Commission on Human Rights
KSLIA	Kenya Sign Language Interpreters Association
MP	Member of Parliament
NA	National Assembly
NCPWD	National Council for Persons with Disabilities
NGEC	National Gender and Equality Commission
NISCOF	Nairobi Informal Sector Confederation
PBO	Public Benefits Organization
PWD	Persons with Disabilities
SO	Standing Orders
UDPK	United Disabled Persons of Kenya

LIST OF ANNEXURES

- Annexure 1:** Minutes of Committee sittings on the consideration of the Bill
- Annexure 2** Newspaper advertisement for public participation
- Annexure 3:** Signed list of Members who attended the sitting which considered and adopted the report
- Annexure 4:** Stakeholders' submissions

CHAIRPERSON'S FOREWORD

The Persons with Disabilities Bill, 2021 (*National Assembly Bill No. 61 of 2021*) underwent First Reading on 22nd February, 2022 and was immediately committed to the Departmental Committee on Labour and Social Welfare for review and reporting to the House pursuant to the provisions of Standing Order 127(1).

In summary, the Bill seeks to give effect to Article 54 of the Constitution that sets out the rights of Persons with Disabilities, restructure the National Council for Persons with Disabilities and provide its functions and powers; provide an institutional framework for protecting promoting and monitoring the rights of persons with disabilities among others.

If enacted, it shall repeal the Persons with Disabilities Act No. 14 of 2003, which is the flagship Act on Persons with Disabilities but not attuned to the significant Constitutional, legislative and policy changes and strides that have been made since its enactment. The Bill intends to tighten the weak points in policy and seal gaps that pose enforcement to strengthen the legislative framework relating to PWDs.

The Committee, pursuant to Article 118 of the Constitution and Standing Order 127 (3), invited the public to make representations on the Bill via advertisements in the daily newspapers of 24th February 2022. The Committee thereafter met the National Council for Persons with Disabilities and other stakeholders on 9th March, 2022 and 25th March, 2022 and received oral submissions on the Bill. The Committee also received and considered written submissions from various stakeholders including, the Kenya National Commission on Human Rights, the National Gender and Equality Commission, the Media Council of Kenya, and various Associations advocating for rights of people with disability among others.

Thereafter, the Committee retreated to consider the submissions and deliberated on the Bill. Accordingly, the Committee recommends that the Bill be **agreed to, subject to the proposed amendments** contained in the Schedule to this Report.

The Committee is grateful to the offices of the Speaker and Clerk of the National Assembly for the logistical and technical support accorded to it during its consideration of the Bill. The Committee further wishes to thank all stakeholders who submitted their comments on this Bill. Finally, I wish to express my appreciation to the Honourable Members of the Committee and the Committee Secretariat for their immense contribution towards the consideration of the Bill and ultimate production of this Report.

On behalf of the Departmental Committee on Labour and Social Welfare and pursuant to the provisions of Standing Order 199 (6), it is my pleasant privilege and duty to present to the House the report of the Committee on the Persons with Disabilities Bill, 2021, National Assembly Bills No. 20 of 2021.

HON. JOSPHAT KABINGA WACHIRA, OGW, M.P.

CHAPTER ONE

1.0 PRELIMINARIES

1.1. Committee Mandate

1. The Departmental Committee on Labour and Social Welfare is established in accordance with the provisions of Standing Order 216 of the National Assembly. Its mandate as provided for in S.O. 216(5) is to *inter-alia*:-
 - i. *To investigate, inquire into, and report on all matters relating to the mandate, management, activities, administration, operations and estimates of the assigned ministries and departments;*
 - ii. *To study the programme and policy objectives of ministries and departments and the effectiveness of the implementation.*
 - iii. *To study and review all legislation referred to it;*
 - iv. *To study, assess and analyse the relative success of the ministries and departments as measured by the results obtained as compared with their stated objectives;*
 - v. *To investigate and inquire into all matters relating to the assigned ministries and departments as they may deem necessary and as may be referred to them by the House;*
 - vi. *To vet and report on all appointments where the Constitution or any law requires the National Assembly to approve, except those under Standing Order 204 (Committee on Appointments); and*
 - vii. *To make reports and recommendations to the House as often as possible, including recommendation of proposed legislation.*
2. The Committee is mandated to consider the following subjects: -
 - i. Labour;
 - ii. Labour relations;
 - iii. Manpower or Human Resource Planning;
 - iv. Gender;
 - v. Youth;
 - vi. Social Welfare and Security;
 - vii. Children's Welfare; and
 - viii. Persons Living with Disabilities.
3. In executing its mandate, the Committee oversees the following government Ministries, departments and or agencies, namely:
 - i. The State Department for Labour;

- ii. The State Department for Social Protection;
- iii. The State Department for Gender;
- iv. The State Department for Youth;
- v. The State Department for Arid and Semi-Arid Lands;
- vi. National Gender and Equality Commission.

1.2. Committee Membership

4. The Committee comprises of the following members -

The Hon. Kabinga Wachira, OGW, MP (**Chairperson**)

Mwea Constituency

Jubilee Party

The Hon. Gideon Koske Kimutai, M.P (**Vice-Chairperson**)

Chepalungu Constituency

Chama Cha Mashinani (CCM)

The Hon. James Onyango K'Oyoo, M.P.
Muhoroni Constituency
Orange Democratic Movement (ODM)

The Hon. Janet Marania Teyiaa, M.P.
Kajiado County
Jubilee Party

The Hon. Gideon Keter, M.P.
Nominated M.P.
Jubilee Party

The Hon. Ronald Kiprotich Tonui, M.P.
Bomet Central
Jubilee Party

The Hon. Moses Malulu Injendi, M.P.
Malava Constituency
Jubilee Party

The Hon. Tom Odege, M.P.
Nyatike Constituency
Orange Democratic Movement (ODM)

The Hon. Rose Museo, M.P.
Makueni County
Wiper Democratic Movement (WDM)

The Hon. Caleb Amisi, M.P.
Saboti Constituency
Orange Democratic Movement (ODM)

The Hon. Omboko Milemba, M.P.
Emuhaya Constituency
Amani National Congress Party (ANC)

The Hon. Charles Kanyi Njagua, M.P.
Starehe Constituency
Jubilee Party

The Hon. Fabian Kyule Muli, M.P.
Kangundo Constituency
Muungano Party

The Hon. Abdi Mude Ibrahim, M.P.
Lafey Constituency
Economic Freedom Party (EFP)

The Hon. Titus Mukhwana Khamala, M.P.
Lurambi Constituency
Amani National Congress Party (ANC)

The Hon. Safia Sheikh Adan, M.P.
Marsabit County
Jubilee Party

The Hon. Ole Sankok David, M.P.
Nominated M.P.
Jubilee Party

The Hon. Wilson Sossion, M.P.
Nominated M.P.
Orange Democratic Movement (ODM)

1.3 Committee Secretariat

5. The secretariat comprises the following officers –

- i. Ms. Cherotich Maritim, **Principal Clerk Assistant II/ Head of Secretariat**
- ii. Mr. John Mugoma, Clerk Assistant II
- iii. Ms. Doreen Karani, Legal Counsel I
- iv. Mr. Sidney Lugaga, Legal Counsel I
- v. Mr. James Muguna, Research Officer
- vi. Ms. Winnie Kiziah, Media Relations Officer
- vii. Ms. Sheila Jebotibin, Sergeant-at-Arms
- viii. Mr. Nickson Mutai, Audio Officer

CHAPTER TWO

2.0 INTRODUCTION AND BACKGROUND

2.1 Overview of the Bill

6. The object of the Bill is to repeal the persons with Disabilities Act, No. 14 of 2003 and enact a law that is consistent with the Constitution of Kenya, 2010. The Bill emphasises the human rights approach towards the realisation of the rights of persons with disabilities in Kenya and the societal responsibility to protect and promote them.

7. **Part I** of the Bill contains preliminary provisions. These include the interpretation section of the Bill that defines terms used in the Bill and a statement of the guiding principles for the Bill.
8. **Part II** of the Bill sets out the rights of persons with disabilities as articulated in the Constitution. These rights include the right to equality and non-discrimination, legal capacity, the right to a family, the right to privacy the right to health. The Bill also spells out the rights of women, children and older persons with disabilities. It also provides for the safety and protection of persons with disabilities and their right to education, justice, sports and recreation and a barrier-free environment. This part also provides for the need to ensure accessibility of persons with disabilities, adjustment orders and enforcement of rights.
9. **Part III** of the Bill provides for the establishment, powers and functions of the National Council for persons with disabilities. It states that the headquarters of the council shall be in Nairobi but other offices may be set up across the nation. This Part also makes financial provisions.
10. **Part IV** of the Bill deals with reliefs and incentives. It provides for tax reliefs for employees with disabilities and also tax exemption for materials and equipment imported for use by persons with disabilities. It provides tax incentives for donations, bequests and subsidies made for the benefit of persons with disabilities. Included in the tax exemption expenses incurred by an employer to make reasonable accommodation in their premises for the benefit of employees with disabilities.
11. **Part V** of the Bill sets out the interaction between the national and county governments on matters of disability. Each county is enjoined to enact its legislation to establish an institutional framework for ensuring inclusiveness of person with disability and their representative organisations at the county level.
12. **Part VI** of the Bill deals with offences and penalties. The offences include discrimination, abuse and exploitation of a person with disabilities, degrading treatment and denial of food.

This Part also criminalises negligence by health professionals, especially where such negligence causes disability.

13. **Part VII** of the Bill contains miscellaneous provisions, including the repeal of Act No. 14 of 2003 and proceeds to provide for the transition provisions that cater for existing offices under the law that is to be repealed as well as actions taken thereunder. This part also provides that the existing National Fund for Persons with Disabilities shall be regularised under the Public Finance Management Act, 2012.
14. **First Schedule** provides for the conduct of the business and affairs of the Council.
15. **Second Schedule** provides for access to Public Building, Auxiliary aid, Spotting venues and public facilities.

2.2 Legal Framework for Persons with Disabilities

16. The Persons with Disabilities Act No 14 of 2003, the Convention on the Rights of Persons with Disabilities and the Optional Protocol thereto as well as the Protocol to the African Charter on Human and Peoples Rights on Persons with Disabilities in Africa, are the legal instruments that provide for promotion and protection of human rights and fundamental freedoms for PWDs, participation of persons with disabilities and their representative organisations in decision-making processes.
17. The protocol to the African Charter on Human and Peoples Rights on Persons with Disabilities in Africa was adopted by the African Union Assembly of Heads of States and Governments in January 2018. Subsequently, Decision 750 (XXII) of the Executive Council at its Twenty-Second Ordinary Session held in Addis Ababa, Ethiopia, from 21st to 25th January 2013, endorsed the African Union Disability Architecture (AUDA), of which the Protocol on the Rights of Persons with Disabilities to the African Charter is a central legal pillar.
18. On 24 July 2018, the former UK Department for International Development (DFID), along with the International Disability Alliance (IDA) and the Government of Kenya, hosted the first Global Disability Summit in London. This was preceded by a Civil Society Forum on 23 July 2018. The Summit brought together state and non-state actors. During the summit, Kenya made several commitments; among them was to ratify the Protocol on Human and Peoples Rights on the Rights of Older Persons and Persons with Disabilities. Many governments and organisations have taken a keen interest in Kenya due to the progressive policies and legislative and programmatic interventions.
19. The views received from government bodies, human rights institutions, and Disabled Peoples Organizations affirmed that the protocol addresses key human and people's rights and requests the government to ratify it to the benefit of Persons with Disabilities in Kenya.
20. This Bill, therefore, seeks to give legislative teeth to the protection of persons with disabilities following the ratification of the CPRD and African Charter protocol.

2.3 Public Participation

21. The Persons with Disabilities Bill, 2021 (*National Assembly Bill No. 61 of 2021*) underwent First Reading on 22nd February, 2022 and was subsequently committed to the Departmental Committee on Labour and Social Welfare for review and report to the House pursuant to the provisions of Standing Order 127(1).
22. Pursuant to Article 118 of the Constitution and Standing Order 127(3) of the National Assembly, the Committee vide an advertisement in the daily newspapers of 24th February 2022 (*Annexure 2*) invited the public to make representations on Bill.

23. The Committee also identified and wrote to key stakeholders to make written submissions to the Committee, including the National Treasury, the National Gender and Equality Commission and the Media Council of Kenya.

2.3.1 National Council for Persons with Disabilities

24. The National Council for Persons with Disabilities, led by Mr. Peter Muchiri, Council Chairperson and Mr. Harun Hassan, the Executive Director, made written and oral submissions before the Committee on 9th March 2022, as follows-
 - (a) This Bill seeks to replace the Persons with Disabilities Act (No. 14 of 2003) which has been Kenya's flagship law on disability for the past two decades.
 - (b) Four significant events in the last two decades necessitated a review of the existing law on PWDs. First, in 2008, Kenya became a party to the United Nations Convention on the Rights of Persons with Disabilities (2006) (CRPD), which established transformative norms and standards on the rights of persons with disabilities. Second, in 2010, the Constitution of Kenya was promulgated, including specific and robust provisions covering the rights of persons with disabilities. Thirdly, in 2015, the Committee on the Rights of Persons with Disabilities issued its initial concluding observations to Kenya, making multiple recommendations on how Kenya should ensure the rights of persons with disabilities. Finally, in January 2022, Kenya deposited its instrument of ratification on the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Persons with Disabilities in Africa (2018) (Disability Rights Protocol), which affirms and contextualises the rights of persons with disabilities on the continent.
 - (c) In the meantime, during the past decade, disability stakeholders have made more than 40 unsuccessful attempts to enact new disability legislation. Several draft Bills were discussed and lobbied the Executive to enact them with little success.
 - (d) The Council, therefore, welcomed the move by the Executive to publish the Bill currently before the House. The Bill takes into account many proposals that disability stakeholders have made over the years.
 - (e) The proposals by the Council are guided by the following key considerations:
 - i. The enacted law on disability must respect the letter and spirit of the Constitution, which establishes a clear framework for exercising human rights

by persons with disabilities and their full participation in all spheres of life, including political, social and economic fields.

- ii. While flagship legislation for persons with disabilities is necessary, all national legislation should make provisions as necessary to address disability guided by the principles of inclusion and mainstreaming.
- iii. The enacted law must abide and be guided by the rights approach to disability encapsulated in the CRPD.
- iv. The law must be anchored on the social model of disability, which recognises that it is the society that disables the individual by failing to address physical, social and economic barriers.
- v. The language and terms of art used in the law must abide by minimum standards of accepted usages, thereby ensuring effective communication and avoiding repetition, ableism and stigmatisation.
- vi. Some of the provisions in Act No. 14 remain revolutionary in their service to persons with disabilities, and many elements in the current Act must be retained in the new law.

(f) The Council made specific proposals as contained in Chapter 3.0 of this Report.

2.3.2 Other Stakeholders

25. The Committee received written memoranda from the following stakeholders-

- i. The Association of People with Disability Small Traders Organization in the Nairobi Informal Sector Confederation;
- ii. The Caucus on Disability Rights Advocacy;
- iii. The Council of Governors;
- iv. The CRADLE;
- v. The Kenya Deaf Association
- vi. The Kenya National Commission on Human Rights;
- vii. The Kenya Sign Language Interpreters Association;
- viii. The Media Council of Kenya;
- ix. The Muslims Deaf Association;
- x. The Narok County Local Urban Forum;
- xi. The National Council for Persons with Disabilities ;
- xii. The National Gender and Equality Commission;
- xiii. The National Treasury;
- xiv. The United Disabled Persons of Kenya; and

- xv. Individuals (Mr. Laban JM, Ms. Noylene Jepkemboi, Mr. Evans Gichia, Ms. Virginia Wanjiru Wathuge, Ms. Lucy Wambui Mwangi, Mr. Timoro Samuel, Mr. Alex Mugeni Juma; Prof. Michael Ndurumo, Mr. Ogola Kennedy, Mr. Peter Ntonjira and Mr. Jefwa Mweri).
26. The detailed submissions are contained in Chapter 3.0 of this Report as captured in a matrix alongside the Committee's resolution on the proposals. The actual submissions are annexed hereto as *Annexure 4*.
- ~~27. The Committee considered the contents of the oral and written submissions from which it~~
~~drew its recommendations.~~
-

CHAPTER THREE

3.0 CLAUSE-TO-CLAUSE CONSIDERATION OF THE BILL

28. In considering the Bill and while conducting public participation, the Committee observed that there was agreement generally among stakeholders on the need to overhaul the legislative framework on Persons with Disabilities.
29. The National Council for Persons with Disabilities made a general observation regarding nomenclature and proposed editing the language throughout the Bill to refer to 'persons with disabilities' and not 'persons with disability'. This conforms to standard English and the standard established in the Convention on the Rights of Persons with Disabilities.
30. The Committee observed that the following specific clauses in the Bill elicited diverse views that called for in-depth scrutiny and accordingly considered the same and made the observations and recommendations on each clause as contained in the matrix below –

CLAUSE	STAKEHOLDER	PROPOSAL	JUSTIFICATION	COMMITTEE RESOLUTION
PART I-PRELIMINARY				
PART II-RIGHTS OF PERSONS WITH DISABILITIES				
LONG TITLE	UDPK ¹ & CDRA	Delete the entire framing of the preamble to the Bill and substitute therefor the following new framing: "AN ACT of Parliament to give effect to the constitution, to re-establish the National Council for Persons with Disabilities and to provide for its functions and powers; to provide for the institutional framework for protecting, promoting and monitoring the rights of persons with disabilities; and for connected purposes."	The framing in the Bill, by specifically citing Article 54, restricts and/or limits the scope of the gains on the rights and entitlements of Persons with Disabilities in the Constitution to that Article. The rights and entitlements of Persons with Disabilities transcend the entire Constitution. The recommended framing is broad and covers the relevant components of the Bill.	The Committee observed that the Bill did not seek to give effect to the entire Constitution but only the specific provisions regarding persons with disabilities, their rights and how to ensure the realisation of the same. However, it agreed to amend the long title by including the words "to provide for incentives and reliefs" after the words "rights of persons with disabilities";

¹ United Disabled Persons of Kenya

CLAUSE	STAKEHOLDER	PROPOSAL	JUSTIFICATION	COMMITTEE RESOLUTION
	NCPWD ²	Replace with the following: 'AN Act of Parliament to give effect to the Constitution; to make further provisions on the rights of persons with disabilities; to re-establish the National Council for Persons with Disabilities; to provide for incentives and reliefs; and for connected purposes.'	Captures relevant components of the Bill.	
	KSLIA ³	AN ACT of Parliament to give effect to Article (7)(3)(b) of the Constitution on the promotion, development and use of Kenyan Sign Language; to give effect to article 54(1)(d); to provide for the framework for full and complete inclusion of deaf persons in	Sign language interpretation for a Deaf person is not only limited to education and legal proceedings but is necessary for all sectors. It should be used in all communication domains, including but not limited to education and legal proceedings.	

² National Council for Persons with Disabilities

³ Kenya Sign Language Interpreters Association

CLAUSE	STAKEHOLDER	PROPOSAL	JUSTIFICATION	COMMITTEE RESOLUTION
Clause 2- Interpretation of Definition of "Disability"	KSLIA	all communication settings and for connected purposes. In the definition of "Cabinet Secretary, delete "disability" and substitute therefor "language and culture."	interpretation as a profession is different from teaching.	The responsible CS should be the one responsible for matters of PWDs generally
	NCPWD, KNCHR ⁴ , UDPK, & CDRA	Delete the definition of "disability" and substitute therefor the definition in article 260 of the Constitution, namely - "disability" includes any physical, sensory, mental, psychological or other impairment, condition or illness that has, or is perceived by significant sectors of the community to have, a substantial or long-term effect on an individual's ability to carry out ordinary day to day activities."	The definition in the Bill is not aligned with either the Constitution or the Convention on the Rights of Persons with Disabilities (UNCRPD)	The Committee agreed to the proposed amendment that seeks to align the definition of "disability" with the definition in the Constitution

⁴ Kenya National Commission on Human Rights

CLAUSE	STAKEHOLDER	PROPOSAL	JUSTIFICATION	COMMITTEE RESOLUTION
	Muslims Deaf Association	the proposed inclusion of more categories of persons to include intellectual disability, autism, deaf and blindness, Down Syndrome, multiple handicaps, emotional and psychological disorders, speech and language disorders and specific learning disabilities in the definition of "persons with disabilities"		The Committee did not concur as the definition of disability is broad enough to capture the proposed categories of disability
Definition of "persons with disabilities"	Narok County Urban Forum, KNCHR UDPK & CDRA	Delete the word "permanent" in the definition of "persons with disabilities" and substitute therefor the word "long-term."	There is a need for consistency in framing. The definition in the Bill is not aligned with either the Constitution or the Convention on the Rights of Persons with Disabilities(UNCPRD)	The Committee concurred with the proposal
	Council of Governors	Amend to read 'Disability mainstreaming' means a strategy through which concerns, needs and experiences of persons with	PWDs have a right to participate in the budget-making process. This is crucial since it provides them with a chance to give input to the budget. Further, PWDs concerns should be	The committee proposed to adopt the definition in the National Disability Mainstreaming Strategy

CLAUSE	STAKEHOLDER	PROPOSAL	JUSTIFICATION	COMMITTEE RESOLUTION
		disabilities are made an integral part or dimension of the design, budgeting, implementation, monitoring, reporting	addressed in law and in all contexts, including the cultural spheres.	
New definition	CRADLE	"employment agency" means a person regularly undertaking with or without compensation to procure employees opportunities to work for an employer and includes an agent of such a person.	It is necessary to include this definition in prohibiting these agencies from discriminatory methods of recruiting employees.	The Committee did not concur with the proposed new definition because the term is not used in the Bill.
New definition	National Equality Commission	"exploitation" includes any act which has the purpose and effect of taking unfair advantage of any limitation of persons with disability;	The term appears eight times in the Bill but has not been interpreted.	The Committee agreed to the proposal
New definition	National Equality Commission	"harmful practices" include behaviour, attitudes and practices based on tradition, culture, religion, superstition or other reasons, which negatively	Clause 60 (1) makes mention of the offence of harmful practice cultural practices.	The Committee agreed to the proposal

CLAUSE	STAKEHOLDER	PROPOSAL	JUSTIFICATION	COMMITTEE RESOLUTION
		affect the human rights and fundamental freedoms of persons with disability or perpetuate discrimination against such persons;		
New definition	NATIONAL GENDER & EQUALITY COMMISSION	"marginalised group" means a group of people who, because of laws or practices before, on, or after the effective date, were or are disadvantaged by discrimination on one or more of the grounds in Article 27(4);	There is a need to include a section on persons with disabilities who are marginalized or from minority groups. There is need for policy and legal provisions that are specific to the welfare and protection of persons with disabilities who are marginalized or from minority groups. This group of people face multiple vulnerabilities and need access to justice, education, economic wellbeing, physical security and health, including reproductive health issues.	The committee did not concur with the proposal as the same is defined in the Constitution

CLAUSE	STAKEHOLDER	PROPOSAL	JUSTIFICATION	COMMITTEE RESOLUTION
	Media Council of Kenya	"Media enterprise" as defined under section 2 of the Media Council Act	Ease of reference. Has been provided in law.	Agreeable
New definition	National Gender & Equality Commission ⁵	"older member of society" means a person who has attained the age of sixty years		Agreeable. This is the definition in the Constitution
New definition	CRADLE	"Place of public accommodation" means a business, educational institution, refreshment, entertainment, recreation, health, or transportation facility of any kind, whether licensed or not whose goods, services, facilities, privileges, advantages, or accommodations are extended, offered, sold or otherwise made available to the public.	This definition goes towards prohibition of discriminatory practices in places of public accommodation.	The Committee did not concur with the proposed new definition because the term is not used in the Bill.

⁵ National Gender and Equality Commission

CLAUSE	STAKEHOLDER	PROPOSAL	JUSTIFICATION	COMMITTEE RESOLUTION
New definition	CRADLE	"Public service" means a public facility, department, agency, board, or commission owned, operated or managed by or on behalf of this state or by a subdivision of this state, a county, city, village, township, or independent or regional district in this state or a tax exempt private agency established to provide service to the public, except that public service does not include a state or county correctional facility with respect to actions or decisions regarding an individual serving a sentence of imprisonment.	This definition goes towards prohibition of discriminatory practices when accessing public services.	The Committee did not concur with the proposed new definition as it creates ambiguity
New definition	CRADLE	"Real estate transaction" means the sale, exchange, rental or lease of real property or an interest therein.	This definition goes towards placing greater protections on the right to housing.	The Committee did not concur with the proposed new definition because the term is not used in the Bill

CLAUSE	STAKEHOLDER	PROPOSAL	JUSTIFICATION	COMMITTEE RESOLUTION
New definition	CRADLE	"Real property" includes a building, structure, mobile home, real estate, land, mobile home	This definition goes towards placing greater protections on the right to housing.	The Committee did not concur with the proposed new definition because the term is not used in the Bill
Clause 3- Guiding Principles	NCPWD	3(a) deletion of the phrase 'in the conduct of their private affairs' 3(d) In the word 'differences', delete the letter's'.	The principle of independence is broad and should not be limited only to conduct of the private affairs of persons with disabilities Correct reference to the principle – 'respect for difference' – Cf. CRPD Art. 3(d).	The Committee did not agree to this as there must be respect to the individual PWD's independence in conduct of their private affairs. Agreed to proposal in 3(d)
	Nalok LJF	New principles- <ul style="list-style-type: none">• Full, effective and meaningful participation and inclusion in all spheres of life in the Society.• Accessibility and reasonable accommodation.• Barrier-free society.	There is a call to underscore the need of involving persons with disability meaningfully in the mainstream development agenda and not as routine exercise, this idea is well espoused in the UNCRPD. The vision of inclusion is to achieve a barrier-free society where persons with disability will enjoy their rights	The clause as drafted in the Bill is sufficient. It is anchored on Article 3 of CPRD.

CLAUSE	STAKEHOLDER	PROPOSAL	JUSTIFICATION	COMMITTEE RESOLUTION
		<ul style="list-style-type: none"> • Non-derogation of rights • Human rights-based approach • Empowerment 	<p>on an equal basis with other without hindrances presented by barriers and hence barrier-free society should be one of our guiding principles. It has been through experience that some rights of persons with disabilities are derogated after sometimes i.e. when they are required to register afresh so as to continue enjoying their rights, this act as a deterrence to inclusion and enjoyment of fundamental rights and freedoms envisioned in our Constitution, Non-Derogation of rights should be a core values. Including reasonable Accommodation as one of the guiding principal in the Bill will comprehensively capture and tie together chapter 27 of the Bill about Accessibility and address the overarching desire to move toward this direction. Empowerment will address the need to empower and strengthen capacities of persons with disabilities to meaningfully</p>	

CLAUSE	STAKEHOLDER	PROPOSAL	JUSTIFICATION	COMMITTEE RESOLUTION
			participate in Mainstream development agenda in the country including economic empowerment	
	KS/LIA	ensure that there is compliance in development, recognition, promotion and integration of Kenyan sign language as a language in Kenya; and	Should be specific that it is Kenyan Sign Language	Agreed to align with language in the Constitution
Clause 4(1)(a)- Right to equality and no- discrimination	NCPWD, UDPK & CDRA	Delete sub-clause 1(a) in its entirety and substitute therefor "Every person with a disability is equal before and under the law and is entitled without any discrimination to protection and to equal benefit of the law"	Unnecessary phrasing. There are four critical elements which the new framing captures; namely 'under, before, protection and equality before the law'.	Committee did not concur. The clause in the Bill is sufficient
	Narok Local Urban Forum	Add "provision of reasonable accommodation" after the words "entitled to"	reasonable accommodation is key in promoting equality and elimination of discrimination. The idea is to capture reasonable accommodation	The Committee rejected the proposed as the proposal suggests that the equal and full enjoyment of goods, services, facilities or

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			as part of the rights of persons with disabilities.	accommodations is a sole direct causal effect of provision of accommodation. However this is not the only manner in which equality/ enjoyment of rights can be attained.
	Council of Governors	(3)(F) 3(f) Promoting access to information and inclusion in	Women and girls are disproportionately subjected to multiple forms of discrimination and one of the barriers to empowerment for women and girls with disabilities is lack of access to information and failure	Agreed to amend to add a new principle on "promoting access to information"

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		8. Every woman and girl with disability has the right to enjoyment of her human rights and fundamental freedoms without discrimination on equal basis with others, including right to	The term 'woman' often refers to adult women. The term 'women and girls' should be utilized in order to ensure that even the young women with disabilities are also provided for by the Bill.	
Clause 5- Right to legal capacity	Narok Local Urban Forum (LUF)	County Add "to participate in electoral processes" in clause 5(3) to read; (3) Persons with disabilities have equal right to own or inherit property, to control their financial affairs, to participate in electoral processes and to have equal access to bank loans,	Current laws around participation in electoral process are not expressive about participation of persons with disabilities in electoral processes. They may be disqualified to participate because of some wordings in the current la i.e. of unsound mind. Inclusion of the political right here as part of the right to legal capacity will secure the gains.	Not agreed to as this is addressed under clause 21

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		mortgages and other forms of financial credit.		
	Council of Governors	Amend to read as follows; (3) every person with disability has an equal right to own and inherit property, to control his or her own financial affairs and to have equal access to savings and loan facilities, mortgages and other forms of financial credit.	The clause provides only for bank loans and has no provision for savings facilities in financial institutions. The proposed amendment will enhance access to savings and credit facilities in all financial institutions, not just banks.	agreeable
	Council of Governors	4(g) Early Childhood Development and education, Evolving capacities, identities and to enjoy a full and decent life, in conditions which promote and ensure dignity, self-reliance and independence.	Education is critical in preparing children to enter and succeed in their academic pursuit as well as enhancing their physical, emotional and social well-being.	Proposal is unclear. The proposals in (a) and (b) are comprehensive

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Clause 6- Right to have a family	NCPWD, UDPK & CDRA	Delete the word 'sexuality' in subclause 6(2) and substitute therefor the word 'sexual'	'Sexual' is the universally accepted referencing.	Committee did not concur as the terms used in the Bill are broader. It came to the Committee's attention that persons who suffer a disability concerning their reproductive organs are often subjected to procedures aimed at 'correcting' their sexual identity which sometimes result in more harm; either physically, mentally or emotionally.
	Kenyan Language Interpreters Association	Sign Use of KENYAN SIGN ENGLISH Instead use KENYAN SIGN LANGUAGE	A person whose first or preferred language is the Kenyan Sign Language is entitled to use the KSL	The proposal is misplaced.
Clause 7	KSLIA	7(g) Ensure that institutions offering teacher training offer, as part of their curriculum, courses	The training necessary for Sign Language Interpretation is distinct from teaching.	The committee did not concur with the proposal because it was unclear. Clause 7 addresses right to

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		on Kenyan sign language and interpretation	The skills, techniques and competencies required for a professional interpreter are completely different from those necessary for	privacy and it does not deal with teaching or curriculum
Clause 8-Women with disabilities	Narok County LUF and Council of Governors	Include the word "girl" to the clause to read; "Every woman and girls with a disability..."	Including girls in the introductory part will comprehensively capture all range of women and also add to the specificity and intentional in inclusion of the girl child. The term 'woman' often refers to adult women.	Committee did not concur since girls fall under the category of children who are protected under section 9
	Council of Governors	Amend to read as follows; (vi) introduction of Kenya sign language interpretation course in all learning and training institutions.	The Competency Based Curriculum provides for the inclusion of Kenya Sign Language as a means of instruction in all schools and training institutions for learners and trainees with special needs.	

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Clause Children with Disabilities				
	Narok County LUF	Add new sub-clause (e) to read; (e) in all actions concerning children with disabilities, the best interest of the child shall be a primary consideration.	The idea is to ensure that the rights of the child are upheld and protected.	Agreed to as a new subclause
	Council Governors	Of Age and gender appropriate assistance in 9(d) to realize his or her rights	PWDs differ in most areas of life including in regard to gender. There is therefore need to pay special attention to their specific needs including in regard to gender in offering assistance to them	AGREEABLE
	National Equality Commission	Gender & Amend by inserting the following additional rights-; e) living with his or her family for as long as is necessary f) Accessing quality education g) Accessing appropriate health care services.	There have been reported cases where some children with disabilities are either abandoned who then find their way to child rescue centers. Some children with disabilities are taken to special schools never to be collected by their families. Others are out rightly rejected by their families condemning them to	Committee adopted with amendment

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		i) be free from abuse, exploitation and harmful practices.	remain in learning institutions for the rest of their lives.	
NEW CLAUSE	KSLIA	<p>The Cabinet Secretary shall create an office of the Registrar for Interpreters. The office of Registrar of Interpreters shall work in consultation with; most representative registered association of the Deaf</p> <p>-</p> <p>most representative registered association for sign language interpreters, - National Council of Persons with Disability Any duty in section 9,10, 11, 12,13,14, 15, 16, 17, 18, 19 assigned to the Cabinet Secretary, shall be under the jurisdiction of the Registrar of Interpreters</p>	<p>The office as provided in the Bill does not have the capacity to provide standard accreditation of interpreters.</p>	Not agreed to. Money bill effects

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NEW CLAUSE	KSLIA	<p>(1) The Cabinet Secretary shall, through an open, transparent and competitive process, recruit a suitably qualified person to be the Registrar of the Interpreters.</p> <p>(2) A person is qualified for appointment as the Registrar of the Interpreters, if the person— (a) is a citizen of Kenya;</p> <p>(b) holds a bachelor's degree in social sciences or equivalent, from a university recognized in Kenya;</p> <p>(c) has had at least five years proven experience in sign language proficiency in Kenya;</p> <p>(d) Meet the requirements of Chapter Six of</p>		

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		the Constitution and the Leadership and Integrity Act. (3) The Registrar shall serve for a term of five years and may subject to satisfactory performance, be eligible for appointment of a single further term of five years.		
Clause 10-Youth with Disabilities	NCPWD UDPK & CDRA	amendment of subclause (1) by deleting the word 'young' and substituting with the word 'youth'	to avoid ambiguity, since the Constitution defines 'youth' and not 'young person'	Committee agreed to a redraft of this clause
	NCPWD, KNCHR UDPK & CDRA	10(2) Replace the introductory sentence as "Ministries, departments and other state agencies shall, subject to the advice and oversight of the Council, take legislative, policy,	The provision in the Bill is based on a fundamental misconception of governance. The primary obligation to provide services to all persons, whether disabled or not, lies with the government through its various line ministries/departments. It is the	The Committee did not concur with the proposed redraft of subclause (2) for the reason that the body responsible for the safeguard of the rights of all persons with disabilities,

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		administrative and other measures to ensure that the rights of youth with disabilities are fully respected, including by—"	government that makes laws and policies. The Council primarily provides technical support/advice to state ministries/departments to ensure the services they ordinarily provide to all persons include disability-specific considerations. The Council can never have the capacity to become the Ministry of Health or the Ministry of Education; but it should support/advice the ministries to ensure they include/mainstream disability in their service-provision. The effect of the Bill's proposal would be to marginalise persons with disabilities. Also note that the Bill should, for technical reasons, not make provisions on County Governments	including the youth, is the National Council for Persons with Disabilities. The Council bears overall responsibility in this respect and must ensure it coordinates and facilitates collaboration of all stakeholders. In view of this key role, the Council should retain responsibility to ensure that rights of youth with disabilities are safeguarded as opposed to delegation of the responsibility to all Ministries, state departments and state agencies and other bodies as proposed.

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			the responsibility from the relevant duty bearers.	
Clause 10(1)	Nairobi Informal Sector Confederation (NISCOF6)	Amend 10(1) to read 10(1)(a) and add 10(1)b to specify the age bracket of the youth with disability to be 18-40 years.		Committee did not concur. The term "Youth" reflects the definition in the Constitution
Clause 11 - Older members of the society with disabilities	National Gender & Equality Commission	a. Amend Clause 11 (a) by inserting after the word "Programmes" the following "for themselves and their care givers"	Older members with disability require around the clock care giving services and this can only be achieved through support of the full-time care givers by way of stipend. Inclusive Services means housekeeping service once per week, linen and towel change once per week, use of electricity, gas, water, sewerage, council tax, TV license.	Committee retains the clause as it is but proposes to include the definition of "inclusive services" in definitions in order to enhance clarity

⁶ Nairobi Informal Sector Confederation

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Clause 12-Right to Documents of Registration and Registration	Narok County LUF	Add "National Council Disability Card" to the clause to read; Every person has the right to be issued with a certificate of birth, national identification card, passport, National Council Disability Card and any other document of registration or identification. We also propose to give disability cards more weight, like when a person produce it they can receive certain privileges like free treatment and other subsidized services.	The proposal sought to be amended maybe unrealistic in the current settings but caregiving services is practical if the caregivers can benefit from the social protection programs as proposed in Clause (a). We think the NCPWD card is vital document for persons with disabilities which affords them some privileges and identification. So there is need to recognize the card expressively.	Committee concurred to redraft the clause so as to include the proposal to add the right to access a disability card

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New Clause 12A - Right to life	NCPWD, UDPK & CDRA	Introduce the following new substantive clause and re-number the subsequent clauses appropriately: "Every person with disability has an inherent right to life, and integrity and that right shall be respected and protected".	Persons with disabilities are human persons entitled to life and protection of that life as other human persons.	Committee found that Article 26 of the Constitution is sufficient.
Clause 16- Protection and safety of persons with disabilities in situations of risk and humanitarian emergencies	Narok County LUF	Add the terms "involvement and participation" in sub-clause 16(5) for it to read; 5. Construction and reconstruction emergency or humanitarian programmes and activities undertaken by the Government and any other establishment whether public or private, shall after consultation with the council, take into account the involvement, participation and accessibility	All emergency response plans including recovery and preparedness plan should meaningfully involve persons with disabilities as envisioned in UNCRPD and our other laws around participation. The whole section should have participation and involvement of persons with disabilities as an overall prevailing idea.	The Committee did not concur with the proposed amendment as the draft clause deals with accessibility of buildings. In respect of public involvement/participation during an emergency, the council would be the best representative.

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Clause 18-Right to education	The CRADLE	<p>Insert new sub-clause 18(9) and (10) to read:</p> <p>18(9) An educational institution shall not:</p> <p>Discriminate in any manner in the full utilization of or benefit from the institution, or the services provided and rendered by the institution to an individual because of a disability that is unrelated to the individual's ability to utilize and benefit from the institution or its services, or because of the use by an individual of adaptive devices or aids.</p> <p>Exclude, expel, limit, or otherwise discriminate against an individual seeking admission as a student or an</p>	<p>This provision prohibits not only discrimination by schools against persons with disability but it also prohibits expulsions, inquiries and announcements against admission of persons with disabilities. Schools often make inquiries prior to admission of a student on their disability or extent of their disability so as to bar the child from admission.</p>	<p>The Committee was of the considered opinion that the proposed additions create confusion</p>

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		<p>individual enrolled as a student in the terms, conditions, and privileges of the institution, because of a disability that is unrelated to the individual's ability to utilize and benefit from the institution, or because of the use by an individual of adaptive devices or aids.</p> <p>Make or use a written or oral inquiry or form of application for admission that elicits or attempts to elicit information, or make or keep a record, concerning the disability of an applicant for admission for reasons contrary to the provisions or purposes of this act.</p> <p>Print or publish or cause to be printed or published a catalogue or other notice or advertisement indicating a preference, limitation,</p>		

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		<p>specification, or discrimination based on the disability of an applicant that is unrelated to the applicant's ability to utilize and benefit from the institution or its services, or the use of adaptive devices or aids by an applicant for admission to the educational institution.</p> <p>Announce or follow a policy of denial or limitation through a quota or otherwise of educational opportunities of a group or its members because of a disability that is unrelated to the group or member's ability to utilize and benefit from the institution or its services, or because of the use by the members of a group or an individual in the group of adaptive devices or aids.</p>		

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		Develop a curriculum or utilize textbooks and training or learning materials which promote or foster physical or mental stereotypes. (10) An educational institution may adopt and carry out a plan to eliminate present effects of past discriminatory practices or assure equal opportunity with respect to persons with disabilities if the plan is filed with the commission, under rules of the commission and the commission has not disapproved the plan.		
Clause 18(1)	NCPWD	Delete the word 'free' preceding the word 'primary'; and insert the phrase 'and post-secondary' after the word 'secondary'.	To clarify that persons with disabilities have the right to inclusive and quality basic education as well as post-secondary education (university, college, etc.) – Cf. Basic Education Act (No. 14	The Committee agreed to redraft the proposal to bring clarity and distinguish between the right to free basic education and the

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			of 2013); Universities Act (No. 22 of 2012). Note the question of free basic education is captured better in clause 18(2), hence deleting it here is not consequential	right to access education at all levels of education.
Clause 18(3)	UDP & CDRA	Delete sub-clause 18(3) and substitute therefor: "The relevant ministries , departments and agencies shall facilitate , subject to consultation with and oversight of the National Council for Persons with Disabilities , participation of persons with disabilities in accessible and adaptable continuing adult education programmes in both public and private institutions of learning on equal basis with others"	The mandate of the National Council for persons with Disabilities is largely advisory and oversight and not policy and statutory making.	The subclause (3) is in order. The council cannot oversight the function of facilitating adult education programs by the national government.

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Sub-clause 18(4)	UDPK & CDRA	Delete the framing and substitute therefor : "The relevant ministries , departments and agencies shall subject to consultation with and oversight of the National Council for Persons with Disabilities and ensure that persons with disabilities have access to inclusive education without discrimination and on an equal basis with others at all levels"	The mandate of the National Council for persons with Disabilities is largely advisory and oversight and not policy and statutory making.	The function should be retained with both the National and county governments as per their respective constitutional mandates. This cannot be subjected to the oversight of the council
Clause 18(8)	KNCHR & UDPK & CDRA	Replace clause with the following: "Relevant Government ministries, departments and institutions shall, in consultation with the Council, ensure that—	The mandate of the National Council for persons with Disabilities is largely advisory and oversight and not policy and statutory making. The Ministry of Education is responsible for fulfilling the right to education, including for persons with disabilities. However, the	The Committee rejected the proposed redraft for the reason that the body responsible for the safeguard of the rights of all persons with disabilities, including the youth, is the National Council for Persons with Disabilities. It

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			Ministry may consult with the National Council in carrying out its functions. From a disability mainstreaming perspective, it is critical that each ministry, department and agency 'owns' disability and does not see disability as purely the mandate of the National Council for Persons with Disabilities. The Council may play an advisory role but cannot be responsible for ensuring education for learners with disabilities. (see the formulation in Clause 18(12) (1) which places certain responsibilities on the Cabinet Secretary responsible for education in a clear way, so there is no confusion about whose role it is. Clause 26(2) on sports, recreation, leisure and culture also does this well - making it clear that the responsibility lies with the specified cabinet secretary.	retains general oversight and coordinating role.
Sub clause 18(8)(c)(ii)	UDPK & CDRA	Delete the phrase	Deleted phrase is superfluous	

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		'development of a least restrictive environment by 'so that it reads...' adaptation and structural adjustments of all educational institutions to the needs of persons with disabilities'		
Subclause 18(8)(c)(v)	UDPK & CDRA	Delete the word 'adoptive' and substitute therefor the word: 'adaptive'	'adaptive' has the meaning of adjusting to given circumstances.	Agreed to
Clause 18	National Gender & Equality Commission	Amend by substituting the word "children" with "learners" Amend further by inserting a new sub clause 9(2) as follows; "9(b) All examination bodies shall make provision for recognition of attainment of competencies"	The interpretation of child in the Constitution is an individual who has not attained the age of eighteen years; Many learners with disabilities have delayed milestones and need to be recognized at any level/competencies they have been able to achieve. Appropriate placement is crucial for learners with disability so that they	Not agreed to. The clause referring to children is perfectly in order as it concerns free basic education The Committee did not concur with proposals to add a new subclause 9(b) because they are well catered for by the broad

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		Amend the clause further by inserting an additional sub clause as follows-"Each learner has a right to be assessed and be placed in appropriate learning institution in accordance with the assessment".	can benefit from education offered from formative stages and advance themselves.	language used in the existing subclause 9
	Narok County LUF	Insert new sub-clause (14) to read; 18(14). Children with intellectual or developmental disabilities will be assessed through EARCs before their placement to any learning institution and no learning institution will reject the placement of the children.	The idea is to ensure that all learners regardless of nature of their disability attain education and that the children are not moved from the school on the account that they were not assessed before placement.	The Committee agreed to include a clause on preadmission assessment/ with a view to enhancing the capacity of KISE

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19-Right to work and employment for persons with disabilities	NCPWD, UDPK & CDRA Narok County LUF	Delete the word 'qualified' wherever it appears.	It is redundant	Agreed to. The word is not necessary.
	NCPWD	Delete the word 'solely'.	Use of the word 'solely' effectively allows employers to discriminate employees on grounds other than disability. It is essential that the law recognises that discrimination happens on multiple and intersecting grounds, and that persons with disabilities should be protected from discrimination on all these bases – Cf. Art. 27(4)-(5) of the Constitution; Sec. 5(3) of the Employment Act (No. 11 of 2007).	Agreed to. The word is not necessary.
	Laban JM	Retirement age to remain like other people.	The person becomes unproductive as he ages.	Did not concur. Progression in life and opportunities given to PwD is often at a delayed age/stage hence the need for affirmative action to enable PwDs earn a

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				livelihood for a longer duration.
	National Gender & Equality Commission	Amend clause 19(3) by inserting the before the word "annual" the following words "job vacancy advertisements and"	Job advertisements submitted to the Council will be posted on its website and circulated within the networks of persons with disability and enable them to apply for available jobs.	Not concurred with. This clause is provided for in section 28 of the National Employment Act which is a comprehensive framework for employment management. It creates duplication of duties
		Amend Clause 19(3) further by inserting after the word "Council" whenever it appears in the clause the following "and The National Gender and Equality Commission"	The National Gender and Equality Commission's mandate is promotion of Gender equality and freedom from discrimination and persons with disability as a Special Interest group is one of the target groups of the Commission.	Not concurred with. The commission may access the information required from the Council.

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		Amend by inserting a new sub clause 19 (7)(iii) as follows-; "(iii) Facilitating employees with disabilities with assistive allowance "		Agreeable
	The CRADLE	Insert new clause 19(5) immediately after clause (6) to read: An employment agency shall not fail or refuse to refer for employment, or otherwise discriminate against an individual because of a disability or classify or refer for employment an individual on the basis of a disability that is unrelated to the individual's ability to perform the duties of a particular job or position.	Employment agencies which conduct job placements and referrals often discriminate against persons with disability. The provision seeks to prohibit such action.	Committee did not concur. In light of the principles of agency, an agent should not be vicariously liable for the principal's actions (employer act/decisions).

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	NAROK LUF	County		
		Add "and 30% of all contracts reserve for SIGs" in clause 19(2)(a) to read: Reserve at least five per cent of direct employment opportunities and 30% of all contracts for SIGs for to secure employment.	We add the contracts reserved for SIGs because they are part of employment.	Not agreed to. This is amply catered for in the public procurement and disposal act.
		Delete the word "solely" appearing in clause 19(2)(c)	Usage of the word solely in this context seems to indicate that you can discriminate on other grounds which is still not lawful or right.	agreed
		There is need to qualify what "appropriate modifications" are, what criterion do we use to measure appropriate modifications.		There is no justification for the proposal
		Insert new paragraph (f) in clause 19(2) to read;	The idea is to ensure that accessibility barriers that exclude persons with disabilities from applying or getting information	The Committee did not approve as the same will face serious implementation challenges

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		(f) Advertise any job opportunities in accessible ways and accessible formats	about job opportunities are addressed.	
	KNCHR	Delete the word "solely" in clause 19(2)(c) and clause 20	The word 'solely' weakens the provisions; and makes it seem permissible to discriminate or dismiss and employee on grounds of disability if additional justifications for that discrimination or dismissal can be found. There is need for the law to recognise that discrimination happens on multiple and intersecting grounds, and that persons with disabilities should be protected from discrimination on all these bases. Indeed, Article 27(4) - (5) of the Constitution and Section 5(3) of the Employment Act No. 11 of 2007 recognises this.	Agreed

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		Insert a sub clause 19(3) to provide for the penalty for employers who fail to submit their report on the status of employment of persons with disabilities within their establishments.	Provision of a penalty enhances enforceability (and it is worth noting that the general penalty under clause 78 is not applicable as it only applies to sections of the Bill that create offences – which Clause 19 does not).	The Committee didn't concur as this law intends to encourage compliance rather than being punitive.
Subclause 19(2)	UDPK & CDRA	Delete the phrase 'every employer' and introduce and re-number the following new paragraphs- "19(2)(a) Every public employer shall reserve at least five percent direct employment opportunities for persons with disabilities to secure employment" "19(2)(aa) Every private sector employer shall , subject to verifiable economic performance , reserve at least five percent direct employment opportunities for persons with	Public employers are obligated to implement the 5% provision of the Constitution, with penalties for non-compliance.	The proposal was not agreed to. Consult with stakeholders to address the further implementation challenges with respect to clause 19(2)(a)

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		disabilities to secure employment" Insert a new subclause 19(2)(b) with the following framing and assign roman numerical to (b) to (e) in appropriate order: "19(2)(b) notwithstanding the provisions of paragraphs (a) and (aa) above , every employer shall..."		
Subclause 19(2)(c)	NCPWD, UDPK & CDRA	Delete the word 'solely'	The current framing excludes other forms of discrimination against persons with disabilities.	Agreed to
Subclause 19(5)(d),(e),(f)	NCPWD, UDPK & CDRA	Delete the word 'qualified'	It is redundant	Agreed to
Subclause 19(7)(c)(ii)	UDPK & CDRA and NCPWD	Delete and substitute with 'denying opportunities to persons with disabilities'	Ambiguous framing	Nor agreed. The clause is in order save for addition of the word "to" after the word "opportunities"

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Subclause 19(7)(c)(iii)	NCPWD, UDFK & CDRA	Delete the phrase "for the known physical or mental limitations of an employee with disabilities"	Superfluous	Agreed to
Clerk 20 - No dismissal of a person with disability	UDPK & CDRA	Delete the word 'solely'	The current framing excludes other forms of discrimination against persons with disabilities.	Agreed to
Clause 21(1)- Incentive for private employer	UDPK & CDRA	Insert a comma immediately after the word 'apply' and insert the phrase "in prescribed form"	Need for compliance with established uniform procedures	The proposal was not agreed to. The procedures for application will be well elaborated by the revenue collector.
Clause 21- incentive for private employer	National Equality Commission	Amend by substituting the words "private employer" with "Private sector employer" whenever the words appear.	Private employer means a person who has one or more employees employed in the same business, or in or about the same establishment, under any contract of hire, express or implied, oral or written which is not the same as a private sector employer	The Committee did not concur as it was not clear on what mischief the proposal sought to cure.

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	NCPWD	Delete the phrase 'with the required skills or qualifications'.	Redundant.	Agreed to
Clause 22-Right to Health	KNCHR UDPK & CDRA	<p>The Commission propose s to add the following sub-clauses:</p> <p>Persons with disabilities shall be provided with health services as close as possible to their own communities. Persons with disabilities shall be provided with care of the same quality as others, including on the basis of free and informed consent.</p>	<p>In line with article 25 of the CRPD on health. Persons with psychosocial disabilities are often institutionalised and provided with treatment against their free and informed consent. In its concluding observations to Kenya in 2015 (CRPD/C/KEN/CO/1), the UN Committee on the Rights of Persons with Disabilities urged Kenya to develop a wide range of community-based services that respond to the needs of persons with disabilities and respect the person's autonomy, choices, dignity and privacy.</p> <p>Having a provision that specifically addresses these concerns in the Persons with Disabilities Bill is important.</p>	<p>The Committee did not concur as it may be impractical especially where specialised medical services may be unavailable in the community however the quality-of-care ought to be of the same quality for all Kenyans.</p>

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		<p>Delete of Clause 22 (6) of the Bill and insert the following new clause;</p> <p>(2) Persons with disabilities, including children, have the right to retain their fertility on an equal basis with others.</p>	<p>To align the Bill with Article 23(1)(c) of the CRPD on respect for home and the family. Under this Article, States Parties shall take effective and appropriate measures to eliminate discrimination against persons with disabilities in all matters relating to marriage, family, parenthood and relationships, on an equal basis with others, so as to ensure that persons with disabilities, including children, retain their fertility on an equal basis with others.</p>	<p>In the Committee's view the clause is sufficient as drafted. The redraft did not appear to address a mischief</p>
	National Equality Commission	<p>Propose to amend sub clause 22(4) by inserting after the word "Facility" the following :-</p> <p>"and shall be signed by a designated and gazetted County Medical Officer"</p>	<p>Rationale- this will speed up the issuance of cards because there will no longer a need to have cards signed by the Director of Medical Services in Nairobi</p>	<p>The word facility does not exist under 22(4) and s.23 of Fourth Schedule is a national function</p>
			<p>All health institutions which are part of places where services are offered</p>	<p>Proposal is not adopted.</p>

CLAUSE	STAKEHOLDER	PROPOSAL	JUSTIFICATION	COMMITTEE RESOLUTION
		Amend by substituting the words "Every national or referral" with the word "All"	to the public need sign language interpretation services.	Redraft to provide that the intention is for health institutions to employ health practitioners who are trained in sign language or facilitate training of their staff.
Clause 22(3)	Council Of Governors	Persons with disability shall be entitled to medical care and treatment at an affordable cost in public health institutions	The cost of medical care and treatment cannot be entirely free as it may negatively impact the sustainability of the hospitals. However, they can be rendered at an affordable cost	The committee did not concur with the proposed amendment as government shall be allocated funds to facilitate free medical care and treatment.

CLAUSE	STAKEHOLDER	PROPOSAL	JUSTIFICATION	COMMITTEE RESOLUTION
	Council of Governors	Amend to read as follows; (6) No person shall subject a person with disability to any medical procedure which leads to or could lead to infertility without that person's express consent: Provided that where the person with disability is a minor or has intellectual disability such procedure may in case of medical necessity confirmed by a medical practitioner, be performed with the parent or guardian's consent	A person with intellectual disability may not make proper judgement by virtue of their impaired mental capacity even in cases where medical procedures might have otherwise been beneficial to them and hence may also require parent's or guardian's consent	Provided for under 64(6)
Clause 23- Council in health programmes	KNCHHR, NCPWD	The Commission recommends that the provision be reworded in a manner that places responsibility for providing these services in the relevant ministry (health). The Ministry can consult the National Council for Persons	This is in line with an inclusive and mainstreaming approach to disability.	Not adopted. Similar reasons as prior stated where a similar redraft is proposed. The Council should play key oversight and coordinative role. It should be well represented

CLAUSE	STAKEHOLDER	PROPOSAL	JUSTIFICATION	COMMITTEE RESOLUTION
		with Disabilities, but it should not be up to the Council to carry out the listed functions under this provision.		in the health programmes at both levels of government.
	UDPK & CDRA	Delete the introduction to sub-clause 23(1) and substitute with - "Relevant ministries , departments and agencies shall , subject to consultation with and oversight of the Council , implement health programs for the purpose of..."	Good governance and disability mainstreaming.	

CLAUSE	STAKEHOLDER	PROPOSAL	JUSTIFICATION	COMMITTEE RESOLUTION
Clause 23A - Access to information and communication technology services	NCPWD CDRA UDPK &	Introduce a new clause 23A and assign the current marginal note in clause 24 to the new clause 23A and insert the following phrase - "Every person with disability has a right to access information and to use appropriate means of communication including Kenya Sign Language , display of text including Kenya Sign Language insets or subtitles and closed captioning on television programmes , Braille , tactile communication , large print , accessible multimedia as well	Conformity with the Constitution. The right as stated in the Bill is convoluted. The aim here is to assert the right of persons with disabilities to access information using accessible formats and communication technologies. Note to the reference to 'talking software' is a mischaracterisation.	Committee did not concur. Clause 24 addresses the issues raised in the proposal.

CLAUSE	STAKEHOLDER	PROPOSAL	JUSTIFICATION	COMMITTEE RESOLUTION
Clause 24 - Access to information and communication technology services	NCPWD, UDPK & CDRA	as written , audio , plain language , human reader and augmentative and alternative modes , means and formats of communication , including accessible information and communication technology.		
		Delete the current marginal note for clause 24 and substitute therefor "Freedom of expression" and insert the following - "Every person with disability has the right to freedom of expression and opinion, including the freedom to seek, receive and impart information and ideas, and the right to access information on equal basis with others in a timely manner and without additional costs.	Freedom of expression is omitted in the Bill. The framing of this right, too, is convoluted. The right to access information is a component of the right to freedom of expression, not the reverse.	Marginal note- not agreed to The Committee proposed to redraft the text in subclause (1) by deleting the words "including the right to" and substituting therefor the word "the"

CLAUSE	STAKEHOLDER	PROPOSAL	JUSTIFICATION	COMMITTEE RESOLUTION
Clause 24(2)	NCPWD	Replace the phrase: 'It shall be the obligation of public institutions to' with the phrase 'Public institutions shall'.	To enhance clarity and precision.	Agreed to
	National Equality Commission	Amend by inserting the word "and private" whenever the word appears in the provisions in the entire clause.	All institutions whether private or public must provide information and technology services to members of public that they provide services to in accessible formats.	
Clause 24(8)	NCPWD	Delete the word 'public'.	This sub-clause does not specify sanctions for private institutions which violate the provisions in the clause. For example, is there a reason why the licences of private television stations without Kenyan Sign Language insets (sub-clause (6) should not be suspended? How should private telecommunications entities which violate sub-clause (4) be sanctioned? At the same time, though, sanctions for the whole clause should be graduated, say, from a warning, to limited	Not agreed to. The resultant effect would be too punitive as implementation requires intensive capital investment.

CLAUSE	STAKEHOLDER	PROPOSAL	JUSTIFICATION	COMMITTEE RESOLUTION
			suspension and in due course to permanent suspension.	
Clause 24(4)	Media Council of Kenya	Replace television and radio stations with "media enterprises"	Under the Media Council Act, 2013 (No. 46 of 2013) section 2 states that a "media enterprise" means an organisation whose business involves the collection, dissemination of news or news articles, or in entertainment and education through media.	agreeable
New clause 24A	NCPWD	Insert the following new clause: "Institutions that provide financial services, including online services and mobile money, shall ensure that their services, equipment and platforms are available to	Media enterprise is therefore the collective word for television and radio stations as provided in law. to ensure financial institutions use universal design in service-provision for all.	Agreeable but to be drafted in a manner to encourage compliance but not mandatory immediately / no offence to be created.

CLAUSE	STAKEHOLDER	PROPOSAL	JUSTIFICATION	COMMITTEE RESOLUTION
		persons with disabilities in accessible formats and technologies'.		
Clause 25 - Access to justice	National Equality Commission	Gender & Amend by inserting after the word 'accommodations' the following "and accessible build environment"	The courts need to be accessible to all categories of persons with disability. Inaccessibility of courts is one of the greatest impediments on access to justice.	Not agreed to. Issue of accessibility to buildings is addressed in clause 27.
	NISCOF	Amend 25(3) and add that those sentenced be held in facilities that are favourable and conducive to the PWD.		Not agreed to. Issue of accessibility to buildings is addressed in clause 27.
Clause 26(4)- Sports, recreation, leisure and culture	KNCHHR	Add the word 'accessible' - in addition to 'sensitive'	The word 'accessible' has a legal meaning in the disability rights context, giving rise to legal obligations (article 54(1)(c) of the Constitution and Article 9 of the CRPD), unlike the word 'sensitive'	Agreed to. Add before the word "sensitive"
		We propose an additional clause to the effect that the Cabinet Secretaries responsible shall:	In line with article 30 of the CRPD. The Commission has received complaints from persons with disabilities to the effect that they are not given the full opportunity to	Not agreed to. This is addressed under clause 26(2) &(7)

CLAUSE	STAKEHOLDER	PROPOSAL	JUSTIFICATION	COMMITTEE RESOLUTION
		'Ensure that persons with disabilities have an opportunity to organize, develop and participate in disability-specific sporting and recreational activities and, to this end, encourage the provision, on an equal basis with others, of appropriate instruction, training and resources.'	participate in disability-specific sporting activities, and that the management of these activities is not inclusive.	
Clause 27- Accessibility	Laban JM	Any environmental set up needs to consider them in terms of mobility and usage.		The Committee observed there was no proposal to amend the clause. Barrier free and disability friendly environment enhancing clarity in subclause (4) by including the words of "his or her choice "after the words "use of assistive device

CLAUSe	STAKEHOLDER	PROPOSAL	JUSTIFICATION	COMMITTEE RESOLUTION
	NCFWD, UDPK & CDRA	Delete the current framing for clause 27(4) and substitute therefor - "Every person with disability has a right to personal mobility, including the use of assistive devices of his or her choice and no person with disability shall be denied access to any place ordinary open to the public because of the nature of his or her assistive devices.	To remove ambiguity	Their proposal is to be redrafted to enhance clarity
	National Equality Commission	Amend 27(7)V by inserting the term "walkways" after "sidewalks"	A sidewalk is a footpath, usually paved, at the side of a road for the use of pedestrians by extension, any paved footpath, even if not located at the side of a road while walkway is a clearly defined path for pedestrians. Persons with disabilities and with limited mobility need appropriate walkways to be able to move freely without fear of competing with	Agreed to.

CLAUSE	STAKEHOLDER	PROPOSAL	JUSTIFICATION	COMMITTEE RESOLUTION
Clause 28- Adjustment order	KNCHR	The Commission recommends that a new paragraph be introduced immediately after Clause 28 (2) providing that the Council can be moved (through complaints or petitions) by any organization or person to commence the process of issuing an adjustment order. While the Council is the primary actor, it can be assisted in identification of non-accessible buildings by affected persons or organizations.	Private individuals/organizations should be able to lodge a complaint and trigger the adjustment orders mechanism as long as the Council is the body mandated to move the procedure forward as opposed to waiting for the Council to solely commence the process.	Not agreed to. This function should be performed by the council. The Cabinet Secretary will prescribe the process in subsidiary legislation.
	Council of Governors	Amend to Include Two persons representing the Counties nominated by the Council of Governors	The Council should be an entity conceptualised as a joint entity of the national and County Governments. Representation of the Counties is thus crucial	It was unclear where the proposal was to be included

CLAUSE	STAKEHOLDER	PROPOSAL	JUSTIFICATION	COMMITTEE RESOLUTION
Clause Adjustment order 28-	National Equality Commission	Amend by inserting after the word "Council" the following "in collaboration with the relevant Regulatory Agencies"	The Council as established does not have enforcement powers. There is need for collaboration with Regulatory agencies e.g. KeNHA, NTSA, KURA etc. which can enforce the orders issued.	The Committee did not concur. The council will be expected to consult these regulatory agencies if relevant on a case-to-case basis.
	UDPK & CDRA	Delete the current framing in sub-clause 28(2) and substitute therefor- "If relevant ministries , departments and agencies in consultation with and oversight of the National Council for persons with disabilities , considers that any premises , services or amenities are inaccessible to persons with disabilities by any structural , physical , administrative or other impediment to such access , the ministries , departments and agencies shall subject to this section serve upon the proprietor of the premises or	The mandate of the National Council for persons with Disabilities is largely advisory and oversight and not policy and statutory making.	Not agreed to. This function should be performed by the council in its regulatory role to avoid creating different centres of power. The Cabinet Secretary will prescribe the process.

CLAUSE	STAKEHOLDER	PROPOSAL	JUSTIFICATION	COMMITTEE RESOLUTION
		provider of services or amenities concerned , an adjustment order ... "		
	The CRADLE	<p>Insert new clause 28 to read;</p> <p>A person shall not;</p> <p>Deny an individual the full and equal enjoyment of the goods, services, facilities, privileges, advantages, and accommodations of a place of public accommodation or public service because of a disability that is unrelated to the individual's ability to utilize and benefit from the goods, services, facilities, privileges, advantages, or accommodations or because of the use by an individual of adaptive devices or aids.</p> <p>Print, circulate, post, mail, or otherwise cause to be published a statement,</p>	<p>This provision speaks on the rights of persons to enjoy goods services within public spaces.</p>	<p>The proposals are adequately addressed in various clauses in the Bill particularly in clause 4 of the Bill on right to equality and freedom from discrimination.</p>

CLAUSE	STAKEHOLDER	PROPOSAL	JUSTIFICATION	COMMITTEE RESOLUTION
		advertisement, or sign which indicates that the full and equal enjoyment of the goods, services, facilities, privileges, advantages, and accommodations of a place of public accommodation or public service will be refused, withheld from, or denied an individual because of a disability that is unrelated to the individual's ability to utilize and benefit from the goods, services, facilities, privileges, advantages, accommodations or because of the use by an individual of adaptive devices or aids, or that an individual's patronage of or presence at a place of public accommodation is objectionable, unwelcome, unacceptable, or undesirable because of a disability that is unrelated to the individual's		

CLAUSE	STAKEHOLDER	PROPOSAL	JUSTIFICATION	COMMITTEE RESOLUTION
		ability to utilize and benefit from the goods, services and facilities.		
Clause 29 - Civic and political rights for persons with disabilities	NISCOF	Amend 29(2) and add to read "Allowing and or giving them express priority during voting"		Not concurred with. The voting/election rules and regulations and administrative arrangements provide for voting priorities.
Clause 29(2) - Civic and political rights for persons with disabilities	National Gender & Equality Commission	Amend 29(2) by inserting an additional clause as follows-; "(d)Ensuring that there is compliance by political parties on the requirement of nominative seats reserved for persons with disability. "	This will entrench the rights of persons with disabilities in nominative seats and attach an obligation of the electoral body to ensure compliance with the provisions on special interest seats in the houses.	Rejected, it is a constitutional requirement.
Clause 30 -Right to independent living	KNCHR	The allowance in clause 30(2) should be renamed, for example 'caregiver allowance'. The Commission is in consensus that financial support is crucial for family	The common understanding of 'hardship allowance' is that this is an extra amount of money that someone is paid for working in difficult conditions. The use of the term in the context of disability may further stigmatize disability, adding	Not agreed to. The nomenclature in the Bill is suitable.

CLAUSE	STAKEHOLDER	PROPOSAL	JUSTIFICATION	COMMITTEE RESOLUTION
		carers, who often live in situations of poverty	to the negative connotation of disability as a 'burden'.	
		Add a sub-clause to the effect that States Parties should provide adequate support services to family carers so they can, in turn, support their child or relative to live independently in the community. This support should include respite care services, childcare services and other supportive	According to the General Comment of the UN Committee on the Rights of Persons with Disabilities, States Parties should empower family members to support the family members with disabilities to realize their right to live independently and be included in the community. (General Comment on article 19 of the CRPD, para 55)	Not agreed to. Clause 30 is sufficient.

CLAUSE	STAKEHOLDER	PROPOSAL	JUSTIFICATION	COMMITTEE RESOLUTION
		parenting services. Other supports include counselling services, state-funded peer support services, among other support options.	caregivers and respite services. This is also in line with the General Comment on article 19 of the CRPD (Para 67).	
		The Commission proposes an additional sub-clause to the effect that the relevant ministry shall establish mechanisms for monitoring service providers, adopt measures which protect persons with disabilities from being hidden in the family or isolated in institutions and children from being abandoned or institutionalized on the grounds of disability, and establish appropriate mechanisms to detect situations of violence against persons with disabilities by third parties. It can also identify older persons with	This is in line with the General Comment on article 19 of the CRPD (Para 52).	This is addressed under offences.

CLAUSE	STAKEHOLDER	PROPOSAL	JUSTIFICATION	COMMITTEE RESOLUTION
		disabilities who are also vulnerable to institutionalisation.		
	NCPWD, UDPK & CDRA	Delete the marginal note for sub-clause 30(1) and substitute therefor- "Living in the community" and delete "independent living"	Contextualizing UN CRPD in Kenya.	Not agreed to. The proposed nomenclature loses the meaning and intention of the Bill.
Clause 30 - Living in the Community	UDPK & CDRA	Delete the marginal note for sub-clause 30(1) and substitute therefor- "Living in the community" and delete "independent living"	Contextualizing UN CRPD in Kenya.	Not agreed to. The proposed nomenclature loses the meaning and intention of the Bill.
30(2)	UDPK & CDRA	Delete in its entirety and substitute therefor - "Right to adequate standard of living and social protection" "Every person with disability has a right to an adequate	Current framing is misplaced.	Not agreed to. There is no clear justification for the proposal. Further, Social Protection matters have been addressed in the social assistance act.

CLAUSE	STAKEHOLDER	PROPOSAL	JUSTIFICATION	COMMITTEE RESOLUTION
		standard of living and for social protection.		
New Clause 31A - Disability data and standards	UDPK & CDRA	<p>Introduce a new clause 31A with the following marginal note and text -</p> <p>"Disability Data Standards"</p> <p>The National Council for Persons with Disabilities shall work with relevant ministries , departments and agencies , including the Kenya National Bureau of Statistics towards collection of accurate and timely data on persons with disabilities. This data shall be disaggregated including on the basis of gender , age , disability status and geographical location for use of disability inclusion , planning , programming implementation and monitoring"</p>	The Bill has omitted the aspect of data which is a key component in disability	Not agreed to. The KNBS is the statutory body mandated to conduct census and keep records on PWDs. The council may obtain official data from this body

CLAUSE	STAKEHOLDER	PROPOSAL	JUSTIFICATION	COMMITTEE RESOLUTION
New Clause 31A - data and standards	NCPPWD	Introduce the following new clause: Relevant ministries, departments and agencies shall, subject to the advice and oversight of the Council, ensure the collection of accurate and timely data on persons with disabilities, which shall be disaggregated including on the basis of gender, age, disability status and geographical location, for use in disability-inclusive planning, programming, implementation and monitoring	To support effective mainstreaming and inclusion of persons with disabilities.	Not agreed to. The KNBS is the statutory body mandated to conduct census// collect this data. The council may obtain official data from this body
Clause 32- Registration of persons with disabilities	Noylene Jepkenboi	Council role in registering person with disabilities should be included in the Bill.		Addressed under clause 32

CLAUSE	STAKEHOLDER	PROPOSAL	JUSTIFICATION	COMMITTEE RESOLUTION
	Alex Mugeni Juma	Persons with permanent physical disabilities to be exempted from this new registration that is proposed in the Bill. They should just be given the new identification document without following too much laid down processes.	Permanent physical disability is irreversible.	Agreed to- all current registrations to be provided for in the saving provisions
		Persons with permanent physical disability should be exempted from renewing their "medical report".	Permanent physical disability is irreversible.	
	NISCOF	Amend 33 (2) by deleting (c)		Not agreed to as no justification is provided. A body corporate is capable of borrowing in its own name.
PART III-ESTABLISHMENT, POWERS AND FUNCTIONS OF THE NATIONAL COUNCIL FOR PERSONS WITH DISABILITIES				
Clause 34-Headquarters	UDPK & CDRA	Delete and substitute - "The Council shall establish its offices and decentralize its	There is need to acknowledge devolution	Committee did not concur. The council will assess demand and decentralise

CLAUSE	STAKEHOLDER	PROPOSAL	JUSTIFICATION	COMMITTEE RESOLUTION
and other offices of the Council		services to every county and to any other parts of the country as it considers necessary in accordance with article 6(3) of the constitution"		services while determining areas of need to avoid wastage of public resources
	NCPWD	Insert the phrase 'every county and'.	At the very minimum, in line with Art. 6 of the Constitution, the Council should be present in each of the 47 counties.	
Clause 35- Functions of the council	KNCHR	The entire clause should be re-drafted to clarify that the role of fulfilling rights/service delivery is the role of the relevant ministries, and the National Council for Persons with Disabilities should only come in to issue adjustment orders, proffer advice (including on disability mainstreaming) and lead in the formulation of disability-specific policies and laws.	This is in line with an inclusive and mainstreaming approach to disability.	The Committee observed that no draft was presented on which the proposal was unclear.

CLAUSE	STAKEHOLDER	PROPOSAL	JUSTIFICATION	COMMITTEE RESOLUTION
		Introduce a new sub-clause on capacity building relating to disaster preparedness/that provides the Council with the responsibility of advising bodies that manage disaster and humanitarian crisis on disability issues and put in place modalities for accessible disaster and humanitarian crisis management.	To align it with and domesticate Article 11 of the Convention on the Rights of Persons with Disabilities.	The Committee agreed and observed the need to draft a provision on the proposal.
	UDPK & CDRA	Amend 35(v) and add "instantly" Delete 35(1)(a) and substitute therefor - "The Council shall advise, supervise and monitor all relevant ministries, departments and agencies for accessibility of information, goods, and services and built environment for persons with	The role of the Council is largely oversight and statutory.	Not agreed to because the proposal is impractical. The provisions in the Bill are adequate.

CLAUSE	STAKEHOLDER	PROPOSAL	JUSTIFICATION	COMMITTEE RESOLUTION
		disabilities and for provision of reasonable accommodation for effective participation of persons with disabilities in society.		
	National Equality Commission	Amend by including an additional function as follows-; j) Set up a fund and administer it pursuant to section 3(f) of the Act	Powers of the Council The Bill does not establish a Fund, unlike the current PWD Act 2003, which has the National Fund for Persons with Disability which currently caters for the proposed functions in b) v) and vi)	The re-establishment of the Fund to be done vide Regulations in the PFM Act. To draft a clause requiring the Cabinet Secretary of the National Treasury to make the regulations within one year and retain administration of the fund with the council
Clause 35(1)(c)	UDPK & CDRA	Delete the word "Facilitate" and substitute with "advise"	The role of the Council is largely oversight and statutory.	Agreed to
Clause 36 - Powers of the Council	NISCOF	Amend by deleting (i)		No justification tabled hence not agreed to.
Clause 38(1)(d)(ii)	KNCHR	Delete the word 'mental'.	Persons with mental/psychosocial disabilities can be substantive	The clause was meant to cater for person with

CLAUSE	STAKEHOLDER	PROPOSAL	JUSTIFICATION	COMMITTEE RESOLUTION
Composition of the Council			members of the Council - indeed there has been one such member on the past. These individuals do not need to be represented by their parents/can self - represent in line with Article 22 of the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Persons with Disabilities in Africa.	SEVERE disability including mental disability who cannot represent themselves and may be amended to reflect this
	NCPWD	Replace the phrase 'mental disability' with the phrase 'high support requirements'.	The aim of this provision is to ensure the Council's membership includes the parents of persons with severe disabilities. Persons with mental disabilities can sit and have sat on the Council on their own behalf and do not need to be represented by their parents.	
	UDPK & CDRA	Delete the phrase "parents of persons with mental disabilities" and substitute therefor the phrase "parents of children with disabilities"	Acknowledgement of children with disabilities and the multiple burdens put on parents.	

CLAUSE	STAKEHOLDER	PROPOSAL	JUSTIFICATION	COMMITTEE RESOLUTION
	NISCOF	Amend 38(b) to be specific on who to represent the PS e.g. Head of Department for Persons with Disabilities		Not agreed to. The Principal Secretary will designate the representative in writing
	NISCOF	Amend 38(1) b and add to read "two persons nominated by Association for Persons with Disability from the Informal Enterprise"		Not agreed to. Representation of PWD associations/ organisations are provided for in 18(1)(d)(i)
Clause 40	Council of Governors	Amend by deleting the section	Good and modern governance practice disallows the position of Vice Chairperson. In the absence of the Chair, members should appoint a chair for the meeting.	The committee did not concur with the proposal as it has been the practice for the council to elect a vice-chairperson
PART IV-RELIEFS AND INCENTIVES				
Clause 53- Exemptions	Lucey Wambui	Mwangi	Persons with permanent congenital disability should be exempted from renewing	Not agreed to The law on tax is regulated by Tax legislation

CLAUSE	STAKEHOLDER	PROPOSAL	JUSTIFICATION	COMMITTEE RESOLUTION
		tax exemption certificate every five years.		
	National Treasury and Planning	Amend subclause 2 to insert the words "in accordance with the provisions of income tax act"	To offer clarity that the approval if such exemptions shall be in accordance with the Income tax Act	This proposal was agreed to
		Proposed deletion of subclauses 3-6	To avoid duplication of provisions in the East Africa Community Customs Management Act and the VAT Act that provide these exemptions	This proposed deletion of subclauses 3-6 was not agreed to. There is need to highlight the tax provisions concerning Persons with Disabilities in the law concerning their affairs
	CDPOK ⁷	Parents/Guardians of children with disabilities who are in employment may as well apply to the Cabinet Secretary responsible for finance for exemption for income tax from employment.	This will ensure that registered care givers of children with severe disabilities use their income to support the children. The Children do require special care that comes with financial responsibilities that burden their	Not agreed to Social assistance is provided under the Social assistance act laws

⁷ Consortium of Disabled Persons Organizations in Kenya

CLAUSE	STAKEHOLDER	PROPOSAL	JUSTIFICATION	COMMITTEE RESOLUTION
		Clause 53(1) should read; A person with disability or a registered caregiver of a child with severe disability who is in employment may apply to the cabinet secretary responsible for finance for exemption from income tax on employment income.	care givers. Such are in constant medication and other needs to have people that are employed to take care of them.	
	NCPWD	Delete the phrase 'specially designed'; and replace the rest of the clause after the phrase 'value-added tax' with the following phrase: 'which would in any way increase their cost to the disadvantage of persons with disabilities'.	The key relevant factor is that the duty and value-added tax-exempt material, articles or equipment are for use by persons with disabilities. It is not moot that such should be specially-designed. The tax-exempt status is a specific measure for equalising persons with disabilities with other persons, noting the extra costs of disability.	Accepted. The Committee observed the need to seek for data on cost implication.
	National Equality Commission	Amend clause 53(3) by substituting the words "motor vehicles specially designed for use by persons with disabilities as follows-;	Exempting taxes on only vehicles that have been designed for use by persons with disability is tantamount to discrimination against other categories of disabilities who	Accepted. The Committee observed the need to seek for data on cost implication

CLAUSE	STAKEHOLDER	PROPOSAL	JUSTIFICATION	COMMITTEE RESOLUTION
		(3) "motor vehicles, for the use of persons with disabilities"	are unable to drive a car whether designed or not e.g. Visual impairment or upper limbs amputee or deformity. The law legislating against inequality and discrimination should not further the same among the beneficiaries. Any PWD who needs a car and can afford ought to receive an exemption for the same reason that all categories get exemption on income.	
	NISCOF	Amend and change 1 to read 1(a) and add (b) to read "a person with disabilities who is engaged in medium and small enterprise shall be exempted from any levies and or trading license"		The Committee was of the opinion that the clause be redrafted to maintain the current situation in the subsisting legislation
	UDPK & CDRA	Delete the phrase "specially designed "and substitute therefor "which would in not in any way lead to increased	Global uniformity	The Committee did not approve the proposal and found that this clause was sufficient. The incentive

CLAUSE	STAKEHOLDER	PROPOSAL	JUSTIFICATION	COMMITTEE RESOLUTION
		costs so as to disadvantage persons with disabilities"		should be as per legislation on taxes
	Alex Mjugeni Juma	Persons living with permanent physical disability should not be subjected to renewal of "tax exemption certificate".	Why should they be renewing yet their disability cannot be renewed? It is there to stay (permanent).	The Committee Rejected the proposal and justification because this renewal is important and shall be subject to existing Tax Legislation
	Timoro Samuel	Issues of disability guide allowances to be improved from 20k to 30k.		There is no specific clause sought to be addressed. The matter can be amended through regulations of each institution.
		Issue of renewal of tax exemption certificate for disability to be permanent.		Not approved. There is need to ensure the regular checks are done.
	Laban JM	Degree for disability needs to be determined.	This will help KRA to collect revenue without cheating.	The council has this data and provides the same

CLAUSE	STAKEHOLDER	PROPOSAL	JUSTIFICATION	COMMITTEE RESOLUTION
		Persons with disabilities should not be wholly tax exempt. They should pay at least a third of any tax due.		Exemptions are either wholly or partly. Under 53(2)
	Noylene Jepkenboi	Persons living with permanent disability tax exemption should be permanent and not being renewed every five years.	A permanent disability ailment does not recover as opposed to a person living with temporary disability.	Not approved. There is need to ensure the regular checks are done.
		Importation of tax-free motor vehicle has been made impossible for persons living with disability which I suggest it to be looked into.		No proposed amendment
		Most employers are notorious when it comes to implementing Tax exemption for their employees who have	The notorious institutions are police services, teachers service commission, Kenya pipeline and central bank of Kenya. They	The rights can be enforced through the court system.

CLAUSE	STAKEHOLDER	PROPOSAL	JUSTIFICATION	COMMITTEE RESOLUTION
		been awarded the tax certificate at the same time KRA does not refund the period that the disabled person has lost. All this should be looked at and a penalty be introduced to such employers.	maliciously have introduced another vetting of investigating the process which takes almost a year.	
	KNCHR	We propose that the tax exemption should be a transparent figure applicable across the board, for example, currently, it is for earnings above KES 150,000/-	Leaving the tax exemption to the discretion of the Cabinet Secretary to be determined on a case-by-case basis adds a layer of bureaucracy and opaqueness unnecessarily.	The proposal is impractical. Further there is no proposed figure.
	NGPWD, UDPK & CDRA	53(4) Insert a comma immediately after the words "value added tax" and insert the following phrase followed by another comma "which would in any way defeat the purposes of or increase the costs of such donations..."	Multiple taxes on donation inhibit access to such donations by persons with disabilities.	Not agreed to as the tax laws should provide this.

CLAUSE	STAKEHOLDER	PROPOSAL	JUSTIFICATION	COMMITTEE RESOLUTION
		53(5) Insert a comma immediately after the words "value added tax" and insert the following phrase followed by another comma "which would in any way defeat the purposes of or increase the costs of such donations..."	Multiple taxes on donation inhibit access to such donations by persons with disabilities.	
	NISCOF	Amend and add 3 to read that "Person with Disabilities to be given priority or consideration in tender applications with the government" Also add that "Incentives be extended to Persons with Disabilities to avoid VAT during supply on Government Tenders		Reservations and preferences are set out under the Public Procurement and Disposal Act

CLAUSE	STAKEHOLDER	PROPOSAL	JUSTIFICATION	COMMITTEE RESOLUTION
Clause 54- Incentives	National and Planning Treasury	Deletion of this clause	This provision is not necessary as it is in accordance with the provisions of the income tax act	This proposed deletion and justification was not agreed to. There was need to highlight the tax incentives concerning Persons with Disabilities in the law concerning their affairs
Clause 55-Access to credit	KNCHR	redraft The Cabinet Secretary responsible for matters relating to credit unions, cooperatives and other lending institutions Shall, in consultation with the Council, develop guidelines to ensure the equal right of persons with disabilities to have equal access to bank loans, mortgages and other forms of financial credit.	This is in line with Article 12(5) of the UN Convention on the Rights of Persons with Disabilities. The clause is crafted in very weak language.	Committee proposes a redraft of the clause to requires specific action as suggested and not just "ensuring"

CLAUSE	STAKEHOLDER	PROPOSAL	JUSTIFICATION	COMMITTEE RESOLUTION
Clause 56(1)(b) Exemption from taxable income of employers of PwDs	UDPK & CDRA	Delete the phrase "to meet the special needs of" and substitute therefor - "for accessibility of"	The right at issue here is barrier-free access.	agreed to
	National Treasury and Planning	Deletion of this clause	This provision is not necessary as it is in accordance with the provisions of the income tax act	This proposed deletion and justification was not agreed to. There's need to highlight the exemptions concerning Persons with Disabilities in the PwD law.
Clause 57 - Exemption from postal charges	NISCOF	Amend 57 (b) and add (iv) to read Registered Associations of Persons with Disabilities within the informal enterprises		The Committee observed that this proposal was Covered under 57(1)(iii)
	National Treasury and planning.	Reconsider the clause on consultation with the Ministry responsible for communication	This provision may pose and implementation challenge for private entities that provide postal services.	The Committee concurred with the proposed justification and proposed to amend the clause to limit the application of the proposal to postage fees by public entities

CLAUSE	STAKEHOLDER	PROPOSAL	JUSTIFICATION	COMMITTEE RESOLUTION
Clause 58	Council Governors	of Amend subclause 2 to read The Council offices at county level shall in consultation with the County Government implement the function of the council and shall for that purpose ...	Disability concerns/ rights cut across sectors, and some relate to concurrent and exclusive functions. For effectiveness, there is a need for consultation and collaboration between the two-levels of Government	The Committee did not agree to the proposal as the national government functions of the council at the decentralised units are still performed independently. The committee acknowledged the need for consultation or liaison where necessary and observed that there are established mechanisms provided for such consultation where applicable
PART V-OFFENCES AND PENALTIES				
Clause 59(2)	NCPWD, UDPK & CDRA	Delete the word "only"	Use of the word 'only' effectively allows persons with disabilities to be denied services based on other prohibited grounds	Agreed to
Clause 60(1)			The word "only" is superfluous	

CLAUSE	STAKEHOLDER	PROPOSAL	JUSTIFICATION	COMMITTEE RESOLUTION
Clause 60 Prohibition of abuse, exploitation and violence	KNCHR	Harmonise the offences and penalty under these clauses with the provisions of the Prevention of Torture Act.	The offence as crafted is likely to cause statutory disharmony. Torture is prescribed as a criminal offence under the Prevention of Torture Act with a penalty of imprisonment for not more than 25 years or life imprisonment if death is occasioned. Furthermore, under Section 251 of the Penal Code, assault causing actual bodily harm attracts liability to imprisonment for five years.	No specific proposal submitted
	NATIONAL GENDER & EQUALITY COMMISSION	Amend by deleting the offence of "concealment" in clause 60 (2)(b) without replacement.	The offence of concealment and penalties as provided for in Clause 61	Agreed
Clause 61(1)	NCPWD UDPK & CDRA	Delete the word "knowingly."	Superfluous	The Committee rejected the proposed deletion as the words create a criminal intention
Clause 62 denial of food and fluids	NCPWD UDPK & CDRA	Delete the word "knowingly."	Superfluous	The Committee rejected the proposed deletion as the words create a criminal intention

CLAUSE	STAKEHOLDER	PROPOSAL	JUSTIFICATION	COMMITTEE RESOLUTION
Clause 63- Degrading treatment of a person with disability	KNCHR	Harmonise the offence and penalty with the provisions of the Prevention of Torture Act.	For uniformity purposes. Under Section 7 of the Prevention of Torture Act, any person who commits cruel, inhuman or degrading treatment commits an offence and is liable, on conviction, to a fine not exceeding one million shillings or imprisonment for a term not exceeding fifteen years or both.	The proposal is not agreed to. The offences in the Prevention of Torture Act are distinct
			Furthermore, section 31 of the Prevention of Torture Act provides that if there is a conflict between the provisions of this Act and the provisions of any other law in regard to the crime of torture or cruel, inhuman or degrading treatment or punishment, the provisions of the Prevention of Torture Act shall prevail.	
	NCPWD	Delete the phrase 'voluntarily or knowingly'.	Supra Clause 62.	The Committee rejected the proposed deletion as the words create a criminal intention

CLAUSE	STAKEHOLDER	PROPOSAL	JUSTIFICATION	COMMITTEE RESOLUTION
Clause 64 Negligence by medical practitioners	KNCHR	An additional provision to place an obligation on medicals to protect the privacy of PWDs	Medical professionals often handle sensitive information relating to persons with disabilities. Under Article 22(2) of the CRPD on privacy, the privacy of medical information is specifically protected, and it is recommended to domesticate that provision in this law.	The Committee rejected the proposal since the right to medical privacy is incorporated under clause 22
Clause 64(4)	UDPK & CDRA	States Parties shall protect the privacy of personal, health and rehabilitation information of persons with disabilities on an equal basis with others	The Bill concerns persons with disabilities and not "other persons"	The Committee found that the clause related to negligence by medical officers, yet subclause (4) attempted to govern persons who are not health professionals. The clause is also unclear and may be deleted.
	NISCOF	Amend 64(8) and add within three months of enactment of this Act		Agreeable- Insert a timeline

CLAUSE	STAKEHOLDER	PROPOSAL	JUSTIFICATION	COMMITTEE RESOLUTION
PART VII-MISCELLANEOUS				
Clause 73	Council Governors	of All government ministries, counties, departments and agencies shall establish a disability mainstreaming unit.	As per the new presidential directive, assessment of PWDs will be a major function of the counties hence their critical role cannot be gainsaid	The Committee agreed to the inclusion of county governments as part of the stakeholders to establish the disability mainstreaming unit
Clause 74- Housing	KNCHR	The clause should contain a provision placing responsibility on the relevant Government agencies to ensure accessibility of the houses.	In line with Article 9 of the CRPD.	The Committee did not concur and proposed to delete the clause as it would be difficult to implement.
Clause 75- Markets	The CRADLE	Insert new clause 75 to read: 75(1) An owner or any other person engaging in a real estate transaction or a real estate broker or salesman shall not, on the basis of a disability of a buyer or renter, of a person residing in or intending to reside in a dwelling after it is sold,	Persons with disabilities often fail to find living accommodations based on their disability. The provision goes towards limiting any discriminatory behaviour which bars them from enjoying their right to access housing.	Rejected. The specified clause 75 deals with the reservation of markets spaces for PWDs

CLAUSE	STAKEHOLDER	PROPOSAL	JUSTIFICATION	COMMITTEE RESOLUTION
		<p>rented, or made available, or of any person associated with that buyer or renter, that is unrelated to the individual's ability to acquire, rent, or maintain property or use by an individual of adaptive devices or aids:</p> <p>Refuse to engage in a real estate transaction with a person.</p> <p>Discriminate against a person in the terms, conditions, or privileges of a real estate transaction or in the furnishing of facilities or services in connection with a real estate transaction.</p> <p>Refuse to receive or fail to transmit a bonafide offer to engage in a real estate transaction from a person.</p>		

CLAUSE	STAKEHOLDER	PROPOSAL	JUSTIFICATION	COMMITTEE RESOLUTION
		<p>Refuse to negotiate for a real estate transaction with a person.</p> <p>Represent to a person that real property is not available for inspection, sale, rental, or lease when in fact it is available, fail to bring a property listing to a person's attention, refuse to permit a person to inspect the real property, or otherwise deny or make real property unavailable to a person.</p> <p>Make, print, circulate, post, or mail or cause to be made or published a statement advertisement, or sign, or use a form of application for a real estate transaction, or make a record of inquiry in connection with a prospective real estate transaction, which indicates, directly or indirectly, an intent to make a</p>		

CLAUSE	STAKEHOLDER	PROPOSAL	JUSTIFICATION	COMMITTEE RESOLUTION
		<p>limitation, specification, or discrimination with respect to a real estate transaction.</p> <p>Offer, solicit, accept, use, or retain a listing of real property with the understanding that a person may be discriminated against in a real estate transaction or the furnishing of facilities or services in connection with a real estate transaction.</p> <p>Discriminate against a person in the brokering or appraising of real property.</p>		
Clause 75 - Markets	NISCOF	Amend 75 and add "and shall give priority to those Persons with Disabilities belonging to the local informal enterprises		The Committee did not agree to the proposal and found that the proposal in the Bill is okay because the 5% reservation is already provided for.

CLAUSE	STAKEHOLDER	PROPOSAL	JUSTIFICATION	COMMITTEE RESOLUTION
Clause 82 - New clause	NISCOF	Add 82 to read, "The council of Persons with Disabilities shall hold forums with Persons with Disabilities at least twice a year to hear their concerns."		The Committee did not agree to the proposal as it did not address a mischief
Schedule	NISCOF	Allocate timelines for implementation of the Act		The Committee did not agree to the proposal since the implementation of the whole Act is a continuous process.
New PART VI	UDPK & CDRA	Introduce a new Part VI - National Development Fund for Persons with Disabilities with the following marginal notes and provisions; Establishment of the Fund 65(1) There is established a Fund to be known as the National Development Fund for Persons with Disabilities	Conformity with the globally established dictum	The Committee proposed that transitional provisions should save the administration of the Fund to the Council.

CLAUSE	STAKEHOLDER	PROPOSAL	JUSTIFICATION	COMMITTEE RESOLUTION
		<p>Sources of and Payments from Fund</p> <p>Sources of the Fund</p> <p>Trustees to manage funds</p> <p>Managed by a Board of Trustees</p> <p>Application of the Fund Expenses</p>		
New PART	National Gender & Equality Commission	<p>Amend by inserting a new Part on the Role of National Human rights Commissions and the Civil Society</p> <p>1. The Kenya National Commission on Human Rights and the National Gender and Equality Commission shall be the designated organs for monitoring the national implementation of the</p>	<p>This is in compliance with Article 33 of the Convention on the Rights of Persons with Disability (CRPD) on the national implementation and monitoring of the Convention.</p> <p>Article 33</p> <p>National implementation and monitoring</p> <p>2. States Parties shall, in accordance with their legal and administrative systems, maintain, strengthen, designate or establish within the State Party a framework, including</p>	<p>The Committee took note of the proposal and that it would require further stakeholder engagement</p>


CLAUSE	STAKEHOLDER	PROPOSAL	JUSTIFICATION	COMMITTEE RESOLUTION
		<p>Convention on the Rights of Persons with Disability.</p> <p>2. All public entities shall submit quarterly reports on compliance with mainstreaming of disability in their respective entities to the National Gender and Equality Commission, which shall issue a certificate of compliance that will determine budgetary allocations.</p> <p>3. Civil societies shall be part of the governance structures at both national and County Levels to represent the interests of persons with disabilities and their organisations and shall be involved and participate fully in the monitoring process of the Convention.</p>	<p>one or more independent mechanisms, as appropriate, to promote, protect and monitor the implementation of the present Convention. When designating or establishing such a mechanism, States Parties shall take into account the principles relating to the status and functioning of national institutions for the protection and promotion of human rights.</p> <p>3. Civil society, in particular persons with disabilities and their representative organizations, shall be involved and participate fully in the monitoring process.</p>	

CLAUSE	STAKEHOLDER	PROPOSAL	JUSTIFICATION	COMMITTEE RESOLUTION

CHAPTER FOUR

4.0 COMMITTEE GENERAL RECOMMENDATION

31. The Committee, having considered the Persons with Disabilities Bill, 2021 (National Assembly Bill No. 61 of 2021), recommends that the Bill be **agreed to, subject to the amendments contained in the matrix in Chapter three.**

SIGNED..........DATE.....10th May 2022.....

HON. JOSPHAT KABINGA WACHIRA, M.P. (CHAIRPERSON)

DEPARTMENTAL COMMITTEE ON LABOUR AND SOCIAL WELFARE

MINUTES OF THE 36TH SITTING OF THE DEPARTMENTAL COMMITTEE ON LABOUR AND SOCIAL WELFARE HELD ON FRIDAY, 29TH APRIL, 2022, AT 2.10 P.M. IN THE PENTHOUSE CONFERENCE ROOM, ENGLISH POINT MARINA HOTEL, MOMBASA

PRESENT

1. The Hon. Josphat Kabinga Wachira, OGW, M.P. – Chairperson
2. The Hon. Gideon Koske Kimutai, M.P. – Vice-Chairperson
3. The Hon. Ronald Kiprotich Tonui, M.P.
4. The Hon. Rose Museo Mumo, M.P.
5. The Hon. Janet Marania Teyiaa, M.P.
6. The Hon. Abdi Mude Ibrahim, M.P.
7. The Hon. Caleb Amisi, M.P.
8. The Hon. Charles Kanyi Njagua, M.P.
9. The Hon. David Ole Sankok, M.P.
10. The Hon. Gideon Keter, M.P.
11. The Hon. Safia Sheikh Adan, M.P.

APOLOGY

1. The Hon. James Onyango K'Oyoo, M.P.
2. The Hon. Moses Malulu Injendi, M.P.
3. The Hon. Nelson Koech, M.P.
4. The Hon. Titus Mukhwana Khamala, M.P.
5. The Hon. Omboko Milemba, M.P.
6. The Hon. Fabian Kyule Muli, M.P.
7. The Hon. Tom Mboya Odege, M.P.
8. The Hon. Wilson Sossion, M.P.

IN ATTENDANCE

Committee Secretariat

- | | | |
|------------------------|---|------------------------------|
| 1. Ms. Susan Maritim | - | Principal Clerk Assistant II |
| 2. Mr. John Mugoma | - | Clerk Assistant II |
| 3. Ms. Doreen Karani | - | Legal Counsel I |
| 4. Mr. Adan Abdi Ahmed | - | Fiscal Analyst |
| 5. Mr. James Muguna | - | Research Officer |
| 6. Mr. Onesmus Kiragu | - | Sergeant-At-Arms |
| 7. Mr. Nickson Kibet | - | Audio Officer |

AGENDA

1. Prayers;
2. Preliminaries;
 - i. Introductions;
 - ii. Adoption of the Agenda;
 - iii. Communication from the Chairperson;
3. Consideration and adoption of the following Reports:
 - i. Report on the Persons with Disabilities Bill (NA Bill No. 61 of 2021)

- ii. **Report on the Inquiry into the mistreatment of Kenyan Migrant Workers in Saudi Arabia and other Middle East Countries.**
- 4. Any Other Business; and
- 5. Adjournment.

MIN.NO. DC/LSW/2022/139

PRAYER AND PRELIMINARIES

The meeting commenced at 2.10 pm with the Prayer followed by introductions and welcoming remarks from the Chairperson.

MIN.NO. DC/LSW/2022/ 140

ADOPTION OF THE AGENDA

The Agenda was adopted without amendments, having been proposed and seconded by the Hon. Gideon Keter, M.P. and the Hon. Ronald Tonui, M.P. respectively.

MIN.NO. DC/LSW/2022/ 141

CONSIDERATION OF NATIONAL TREASURY SUBMISSIONS REGARDING THE PERSONS WITH DISABILITIES BILL 2021

The Committee was informed that the National Treasury made the following submissions on the PWD Bill –

- 1) The provision on establishing a Fund has been removed, and the transitional clause indicates that the existing Persons with Disabilities Fund will transition and be operationalised under the PFMA 2012.
- 2) Concerning taxation, the government's policy is to consolidate matters relating to taxation and tax incentives to tax laws. In this regard, any tax incentive should be provided for under the relevant tax laws.

3) Clause 53

- i) Clause 53 (1) and (2) provides for the application and approval of exemption from income tax for persons with disability. These provisions do not contravene the Income Tax Act considering that it is not an express exemption from income tax. However, to provide clarity, there is a need to provide in subsection 2 that the approval of such exemptions shall be in accordance with the Income Tax Act. In this regard, Treasury proposed that the following words be added at the end of subsection 53(2) after the words "or partially" as follows:

"in accordance with the provisions of the Income Tax Act"

Proposal agreed to.

- ii) Clause 53 (3), (4) and (5) provides for exemption from import duty and VAT on goods for persons with disability. As indicated in the general comments above, such exemptions are supposed to be provided for under the respective tax laws. The exemptions are already provided for under paragraph 8 of the Fifth Schedule to the East African Community Customs Management Act and paragraph 39 of the First Schedule to the VAT Act. In this regard, it is recommended that paragraphs (3). (4). (5) and (6) of Clause 53 be deleted from the Bill to avoid

duplication with the provisions under the East African Community Customs Management Act and the VAT Act.

The proposed deletion of subclauses 3-6 was not agreed to. There is a need to highlight the tax provisions concerning Persons with Disabilities in the law relating to their affairs.

4) Clause 54 and 56

The two clauses seek to provide for deductions in computing taxable income for donations and expenses incurred relating to the employment of disabled persons. The provision implies that the deductions shall be in accordance with the provisions of the Income Tax Act. In this regard, the two clauses (54 and 56) are unnecessary and should, therefore, be deleted from the Bill.

The proposed deletion and justification was not agreed to. There is a need to highlight the tax incentives concerning Persons with Disabilities in the law concerning their affairs.

- 5) Clause 57** provides for exemption from postal charges for materials received by persons with disability through postal mail. However, exemption from user charges may pose challenges in the delivery of the services. In addition, we note that currently, most of the delivery services are offered by private entities, and as such, the proposed exemption may not apply. Considering that these are user charges by the postal services providers, the competent authority to provide comments on this clause is the Ministry responsible for matters relating to communication.

The Committee concurred with the proposed justification and proposed to amend the clause to limit the application of the proposal to postage fees by public entities.

MIN.NO. DC/LSW/2022/141

ADOPTION OF THE REPORT ON THE PERSONS WITH DISABILITIES BILL (NA BILL NO. 61 OF 2021)

The Committee considered and unanimously **adopted the Report on the Consideration of the Children Bill, 2021 with amendments**, having been proposed by the Hon. David Ole Sankok, M.P and Seconded by the Hon. Rose Museo Mumo, M.P.

The Committee further observed that:-

- 1) The Bill did not seek to give effect to the entire Constitution but only the specific provisions regarding persons with disabilities, their rights and how to ensure the realisation of the same.
- 2) There is a need for clarity to distinguish between the right to free basic education and the right to access education at all levels of education.
- 3) The Council cannot oversight the function of facilitating adult education programmes by the National Government.

- 4) The progression in life and opportunities given to PwD is often at a delayed stage and age hence the need for affirmative action to enable PwDs to earn a livelihood for a longer duration.
- 5) The health institutions need to employ health practitioners trained in sign language or facilitate training of their staff to make it easy for the deaf to access medication.
- 6) The re-establishment of the PWDs Fund should be done vide Regulations in the PFM Act. The Cabinet Secretary of the National Treasury should make the regulations and retain the administration of the Fund with the Council.
- 7) County governments should be part of the stakeholders in establishing the disability mainstreaming units.

MIN.NO. DC/LSW/ 2022/142 ADOPTION OF THE REPORT ON THE INQUIRY INTO THE MISTREATMENT OF KENYAN MIGRANT WORKERS IN SAUDI ARABIA AND OTHER MIDDLE EAST COUNTRIES

The Committee considered and unanimously adopted the Report, having been proposed by the Hon. David Ole Sankok, M.P and Seconded by the Hon. Ronald Tonui, M.P.

The Committee made various recommendations based on the following key issues as contained in the main Report:-

1. Correlation between nature of skills held by workers and challenges faced;
2. Violation of workers' rights and unfair labour practices;
3. Distress calls and deaths of migrant workers;
4. Contracts of services;
5. The Kafalah System;
6. Legislation and Policies;
7. Salaries for domestic workers;
8. Expansion of the Labour Attaché's office in Riyadh, Saudi Arabia;
9. Training and Pre-departure processing;
10. Bilateral Labour Agreement and MoUs;
11. Labour Information Management System; and
12. Private Employment Agencies.

MIN.NO. DC/LSW/ 2022/143 ADJOURNMENT

There being no other business, the meeting was adjourned at 3.30 p.m. The date of the next meeting will be communicated by notice.

SIGNED:


THE HON. JOSPHAT KABINGA WACHIRA, OGW, M.P.
(CHAIRPERSON)

DATE: 10th May 2022

MINUTES OF THE 21ST SITTING OF THE DEPARTMENTAL COMMITTEE ON LABOUR AND SOCIAL WELFARE HELD ON FRIDAY, 25TH MARCH, 2022 AT 3.15 P.M. IN THE PIER CONFERENCE ROOM, ENGLISH POINT MARINA HOTEL IN MOMBASA COUNTY

PRESENT

1. The Hon. Josphat Kabinga Wachira, OGW, M.P. – Chairperson
2. The Hon. Gideon Koske Kimutai, M.P. – Vice-Chairperson
3. The Hon. James Onyango K'Oyoo, M.P.
4. The Hon. Ronald Kiprotich Tonui, M.P.
5. The Hon. Abdi Mude Ibrahim, M.P.
6. The Hon. Caleb Amisi, M.P.
7. The Hon. Charles Kanyi Njagua, M.P.
8. The Hon. David Ole Sankok, M.P.
9. The Hon. Fabian Kyule Muli, M.P.
10. The Hon. Gideon Keter, M.P.
11. The Hon. Tom Mboya Odege, M.P.
12. The Hon. Safia Sheikh Adan, M.P.

APOLOGY

1. The Hon. Janet Marania Teyiaa, M.P.
2. The Hon. Rose Museo Mumo, M.P.
3. The Hon. Moses Malulu Injendi, M.P.
4. The Hon. Nelson Koech, M.P.
5. The Hon. Titus Mukhwana Khamala, M.P.
6. The Hon. Wilson Sossion, M.P.
7. The Hon. Omboko Milemba, M.P.

IN ATTENDANCE

Committee Secretariat

- | | | |
|-------------------------|---|------------------------------|
| 1. Ms. Susan Maritim | - | Principal Clerk Assistant II |
| 2. Ms. Doreen Karani | - | Legal Counsel I |
| 3. Mr. Sydney Lugaga | - | Legal Counsel I |
| 4. Mr. John Mugoma | - | Clerk Assistant II |
| 5. Mr. Mohamed Said | - | Sergeant-At-Arms |
| 6. Mr. James Muguna | - | Research Officer |
| 7. Ms. Winfred Kiziah | - | Media Relations Officer |
| 8. Mr. Nickson Kibet | - | Audio Officer |
| 9. Ms. Samantha Musenya | - | Intern |

1. Prayers;
2. Preliminaries;
 - a. Introductions;
 - b. Adoption of the Agenda;
 - c. Communication from the Chairperson;
3. Consideration and adoption of the Report on the Children Bill, 2021 (Bill No. 38 of 2021)

4. Consideration and adoption of the Report on the Persons with Disabilities Bill (Bill No. 61 of 2021)
5. Any Other Business; and
6. Adjournment.

MIN.NO. DC/LSW/2022/076: PRAYER AND PRELIMINARIES

The meeting commenced at 3.15 p.m. with the Prayer. The Chairperson informed the Committee Members that the main agenda of the afternoon Session was to conclude with the Stakeholders' submissions on the Persons with Disabilities Bill, 2021.

MIN.NO.DC/LSW/2022/077: CONSIDERATION OF STAKEHOLDERS' SUBMISSIONS OF PWDS BILL, 2021

The Committee was informed that the submissions from the Media Council of Kenya, Kenya Sign Language interpreters Association and the Council of Governors were received late.

The Committee then considered the memoranda by the stakeholders containing the proposals and justifications and thereafter made recommendations on whether to accept or reject the proposal as captured in the matrix below:-

Clause	Stakeholder	Proposal	Justification	Committee Recommendation
Subclause 21(1)- Incentive for private employer	UDPK & CDRA	Insert a comma immediately after the word 'apply' and insert the phrase "in prescribed form"	Need for compliance with established uniform procedures	Rejected. Doesn't cure a mischief
Clause 21- incentive for private employer	NGEC	Amend by substituting the words "private employer" with "Private sector employer" whenever the words appear.	Private employer means a person who has one or more employees employed in the same business, or in or about the same establishment, under any contract of hire, express or implied, oral or written which is not the same as a private sector employer	Rejected
Clause 22- Right to Health	KNCHR	The Commission propose s to add the following sub-clauses: Persons with disabilities shall be provided with health services as close as possible to their own communities. Persons with disabilities shall be provided with care of the same quality as others, including on the basis of free and informed consent.	In line with article 25 of the CRPD on health. Persons with psychosocial disabilities are often institutionalized and provided with treatment against their free and informed consent. In its concluding observations to Kenya in 2015 (CRPD/C/KEN/CO/1), the	Agreed to

Clause	Stakeholder	Proposal	Justification	Committee Recommendation
			UN Committee on the Rights of Persons with Disabilities urged Kenya to develop a wide range of community-based services that respond to the needs of persons with disabilities and respect the person's autonomy, choices, dignity and privacy. Having a provision that specifically addresses these concerns in the Persons with Disabilities Bill is important.	
		Delete of Clause 22 (6) of the Bill and insert the following new clause; (2) Persons with disabilities, including children, have the right to retain their fertility on an equal basis with others.	To align the Bill with Article 23(1)(c) of the CRPD on respect for home and the family. Under this Article, States Parties shall take effective and appropriate measures to eliminate discrimination against persons with disabilities in all matters relating to marriage, family, parenthood and relationships, on an equal basis with others, so as to ensure that persons with disabilities, including children, retain their fertility on an equal basis with others.	Rejected Doesn't address any mischief
	NGEC	Propose to amend sub clause 22(4) by inserting after the word "Facility" the following ;- "and shall be signed by a designated and gazetted County Medical Officer" Amend by substituting the words "Every national or referral" with the word "All"	Rationale- this will speed up the issuance of cards because there will no longer a need to have cards signed by the Director of Medical Services in Nairobi. All health institutions which are part of places where services are offered to the public need sign	Rejected It is unclear since the word facility not in the Bill Agreed to

Clause	Stakeholder	Proposal	Justification	Committee Recommendation
			language interpretation services.	
Clause 22- Right to Health	UDPK & CDRA	Introduce new subclauses after clause 22 as follows - 22 A "Persons with disabilities shall be entitled to be provided with health services as close as possible to their own communities" 22B "Persons with disabilities shall be provided with care of the same quality as others , including on the basis of free and informed consent"	Need for compliance	Rejected
Clause 23- Council in health programmes	KNCHR	The Commission recommends that the provision be reworded in a manner that places responsibility for providing these services in the relevant ministry (health). The Ministry can consult the National Council for Persons with Disabilities, but it should not be up to the Council to carry out the listed functions under this provision.	This is in line with an inclusive and mainstreaming approach to disability.	Rejected
	UDPK & CDRA	Delete the introduction to sub-clause 23(1) and substitute with - "Relevant ministries , departments and agencies shall , subject to consultation with and oversight of the Council , implement health programs for the purpose of..."	Good governance and disability mainstreaming.	Rejected
Clause 23 A - Access to information and communication technology services	UDPK & CDRA	Introduce a new clause 23A and assign the current marginal note in clause 24 to the new clause 23A and insert the following phrase - "Every person with disability has a right to access information and to use appropriate means of communication including Kenya Sign Language , display of text including Kenya Sign Language insets or subtitles and closed captioning on television programmes , Braille , tactile	Conformity with the constitution.	Rejected No capacity implement it. already address in clause 24

Clause	Stakeholder	Proposal	Justification	Committee Recommendation
		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.		
Clause 24 - Access to information and communication technology services	UDPK & CDRA	Delete the current marginal note for clause 24 and substitute therefor "Freedom of expression " and insert the following - "Every person with disability has the right to freedom of expression and opinion , including the freedom to seek , receive and impart information and ideas , and the right to access information on equal basis with others in a timely manner and without additional costs.	Freedom of expression is omitted in the Bill.	Rejected
	NGEC	Amend by inserting the word "and private" whenever the word appears in the provisions in the entire clause.	All institutions whether private or public must provide information and technology services to members of public that they provide services to in accessible formats.	Rejected
25 - Access to justice	NGEC	Amend by inserting after the word 'accommodations' the following " and accessible build environment"	The courts need to be accessible to all categories of persons with disability. Inaccessibility of courts is one of the greatest impediments on access to justice.	Rejected
	NISCOF	Amend 25(3) and add that those sentenced be held in facilities that are favorable and conducive to the PWD.		Rejected
Clause 26(4)-Sports, recreation, leisure and culture	KNCHR	Add the word 'accessible' - in addition to 'sensitive'	The word 'accessible' has a legal meaning in the disability rights context, giving rise to legal obligations (article 54(1)(c) of the Constitution and Article 9	Rejected

Clause	Stakeholder	Proposal	Justification	Committee Recommendation
			of the CRPD), unlike the word 'sensitive'	
		We propose an additional clause to the effect that the Cabinet Secretaries responsible shall: 'Ensure that persons with disabilities have an opportunity to	In line with article 30 of the CRPD. The Commission has received complaints from persons with disabilities to	Rejected Already address under clause 26(and (7)
		organize, develop and participate in disability-specific sporting and recreational activities and, to this end, encourage the provision, on an equal basis with others, of appropriate instruction, training and resources.'	the effect that they are not given the full opportunity to participate in disability-specific sporting activities, and that the management of these activities is not inclusive.	
Clause 27- Accessibility	Laban JM	Any environmental set up needs to consider them in terms of mobility and usage.		Rejected
	UDPK & CDRA	Delete the current framing for clause 27(4) and substitute therefor - "Every person with disability has a right to personal mobility , including the use of assistive devices of his or her choice and no person with disability shall be denied access to any place ordinary open to the public because of the nature of his or her assistive devices.	To remove ambiguity	Rejected
	NGEC	Amend 27(7)V by inserting the term "walkways" after "sidewalks"	A sidewalk is a footpath, usually paved, at the side of a road for the use of pedestrians by extension, any paved footpath, even if not located at the side of a road while walkway is a clearly defined path for pedestrians. Persons with disabilities and with limited mobility need appropriate walkways to be able to move freely without fear	Rejected The terms are defined in the Bill. Proposing amend a clause that doesn't exist

Clause	Stakeholder	Proposal	Justification	Committee Recommendation
			of competing with vehicles or human traffic on the side walks.	
28-Adjustment order	KNCHR	The Commission recommends that a new paragraph be introduced immediately after Clause 28 (2) providing that the Council can be moved (through complaints or petitions) by any organization or person to commence the process of issuing an adjustment order. While the Council is the primary actor, it can be assisted in identification of non-accessible buildings by affected persons or organizations.	Private individuals/organizations should be able to lodge a complaint and trigger the adjustment orders mechanism as long as the Council is the body mandated to move the procedure forward as opposed to waiting for the Council to solely commence the process.	Rejected
	NGEC	Amend by inserting after the word "Council " the following " in collaboration with the relevant Regulatory Agencies"	The Council as established does not have enforcement powers. There is need for collaboration with Regulatory agencies e.g., KeNHA, NTSA, KURA etc. which can enforce the orders issued.	Rejected
	UDPK & CDRA	Delete the current framing in sub-clause 28(2) and substitute therefor- "If relevant ministries , departments and agencies in consultation with and oversight of the National Council for persons with disabilities , considers that any premises , services or amenities are inaccessible to persons with disabilities by any structural , physical , administrative or other impediment to such access , the ministries , departments and agencies shall subject to this section serve upon the proprietor of the premises or provider of services or amenities concerned , an adjustment order ..."	The mandate of the National Council for persons with Disabilities is largely advisory and oversight and not policy and statutory making.	Rejected

Clause	Stakeholder	Proposal	Justification	Committee Recommendation
	The CRADLE	<p>Insert new clause 28 to read; A person shall not;</p> <p>(a) Deny an individual the full and equal enjoyment of the goods, services, facilities, privileges, advantages, and accommodations of a place of public accommodation or public service because of a disability that is unrelated to the individual's ability to utilize and benefit from the goods, services, facilities, privileges, advantages, or accommodations or because of the use by an individual of adaptive devices or aids.</p> <p>(b) Print, circulate, post, mail, or otherwise cause to be published a statement, advertisement, or sign which indicates that the full and equal enjoyment of the goods, services, facilities, privileges, advantages, and accommodations of a place of public accommodation or public service will be refused, withheld from, or denied an individual because of a disability that is unrelated to the individual's ability to utilize and benefit from the goods, services, facilities, privileges, advantages, accommodations or because of the use by an individual of adaptive devices or aids, or that an individual's patronage of or presence at a place of public accommodation is objectionable, unwelcome, unacceptable, or</p>	<p>This provision speaks on the rights of persons to enjoy goods services within public spaces.</p>	<p>Rejected Already addressed</p>

Clause	Stakeholder	Proposal	Justification	Committee Recommendation
		undesirable because of a disability that is unrelated to the individual's ability to utilize and benefit from the goods, services and facilities.		
29 - Civic and political rights for persons with disabilities	NISCOF	Amend 29(2) and add to read "Allowing and or giving them express priority during voting"		Rejected
29(2) - Civic and political rights for persons with disabilities	NGEC	Amend 29(2) by inserting an additional clause as follows-; “(d)Ensuring that there is compliance by political parties on the requirement of nominative seats reserved for persons with disability.”	This will entrench the rights of persons with disabilities in nominative seats and also attach an obligation of the electoral body to ensure that there is compliance with the provisions on special interest seats in the houses.	Rejected Provided for in t constitution a other releva clause deali with elections
Clause 30- Right to independent living	KNCHR	The allowance in clause 30(2) should be renamed, for example 'caregiver allowance'. The Commission is in consensus that financial support is crucial for family carers, who often live in situations of poverty	The common understanding of 'hardship allowance' is that this is an extra amount of money that someone is paid for working in difficult conditions. The use of the term in the context of disability may further stigmatize disability, adding on to the negative connotation of disability as a 'burden'. According to the General Comment of the UN Committee on the Rights of Persons with Disabilities, States Parties should empower family members to support the family members with disabilities to realize their right to live independently and be included in the community. (General Comment on article 19 of the CRPD, para 55)	Agreed to To retain hardsh allowance so th whoever making payme to clarify on t nature of hardshi

Clause	Stakeholder	Proposal	Justification	Committee Recommendation
		Add a sub-clause to the effect that States Parties should provide adequate support services to family carers so they can in turn support their child or relative to live independently in the community. This support should include respite care services, childcare services and other supportive parenting services.	This is in line with the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Persons with Disabilities in Africa, which Kenya ratified in 2022. Article 14(2)(b) of the Protocol provides that persons with disabilities	Rejected Subclauses (1) and (2) are already sufficient
		Other supports include counselling services, state funded peer support services among other support options.	who require intensive support and their families should have adequate and appropriate facilities and services, including caregivers and respite services. This is also in line with the General Comment on article 19 of the CRPD (Para 67).	
		The Commission proposes an additional sub clause to the effect that the relevant ministry shall: establish mechanisms for monitoring service providers, adopt measures which protect persons with disabilities from being hidden in the family or isolated in institutions and children from being abandoned or institutionalized on the grounds of disability, and establish appropriate mechanisms to detect situations of violence against persons with disabilities by third parties. It can also identify older persons with disabilities, who are also vulnerable to institutionalisation.	This is in line with the General Comment on article 19 of the CRPD (Para 52).	Rejected Catered for under offences
	UDPK & CDRA	Delete the marginal note for sub-clause 30(1) and substitute therefor- "Living in the community " and delete "independent living"	Contextualizing UN CRPD in Kenya.	Rejected This is a different concept
30- Living in the Community	UDPK & CDRA	Delete the marginal note for sub-clause 30(1) and substitute therefor- "Living in the community " and	Contextualizing UN CRPD in Kenya.	Rejected

Clause	Stakeholder	Proposal	Justification	Committee Recommendation
		delete "independent living"		
30(2)	UDPK & CDRA	Delete in its entirety and substitute therefor - "Right to adequate standard of living and social protection" "Every person with disability has a right to an adequate standard of living and for social protection."	Current framing is misplaced.	Rejected Need to qualified sin they are those w/ are bei supported in oth ways
31A - Disability data and standards	UDPK & CDRA	Introduce a new clause 31A with the following marginal note and text - "Disability Data Standards" The National Council for Persons with Disabilities shall work with relevant ministries , departments and agencies , including the Kenya National Bureau of Statistics towards collection of accurate and timely data on persons with disabilities. This data shall be disaggregated including on the basis of gender , age , disability status and geographical location for use of disability inclusion , planning , programming implementation and monitoring"	The Bill has omitted the aspect of data which is a key component in disability	Rejected KNBS mandated collect the data The counsel c therefore get t data from KNBS
32- Registration of persons with disabilities	Noylene Jepkemboi	Council role in registering person with disabilities should be included in the Bill.		Rejected Already provi for in the B under clause 32
	Alex Mugeni Juma	Persons with permanent physical disabilities to be exempted from this new registration that is proposed in the Bill. They should just be given the new identification document without following too much laid down processes.	Permanent physical disability is irreversible.	To be redrafted
		Persons with permanent physical disability should be exempted from renewing their "medical report".	Permanent physical disability is irreversible.	To be redrafted

Clause	Stakeholder	Proposal	Justification	Committee Recommendation
	NISCOF	Amend 32(1) b and add to read "two persons nominated by Association for Persons with Disability from the Informal Enterprise"		Rejected
	NISCOF	Amend 33 (2) by deleting (c)		Rejected

PART III-ESTABLISHMENT, POWERS AND FUNCTIONS OF THE NATIONAL COUNCIL FOR PERSONS WITH DISABILITIES

34- Headquarters and other offices of the Council	UDPK & CDRA	Delete and substitute - "The Council shall establish its offices and decentralize its services to every county and to any other parts of the country as it considers necessary in accordance with article 6(3) of the constitution"	Need to acknowledge devolution	Rejected
Clause 35- Functions of the council	KNCHR	The entire clause should be re-drafted to clarify that the role of fulfilling rights/service delivery is the role of the relevant ministries, and the National Council for Persons with Disabilities should only come to issue adjustment orders, proffer advice (including on disability mainstreaming) and lead in the formulation of disability specific policies and laws.	This is in line with an inclusive and mainstreaming approach to disability.	Rejected
		Introduce a new sub clause on capacity building relating to disaster preparedness/that provides the Council with the responsibility of advising bodies that manage disaster and humanitarian crisis on disability issues and put in place modalities for accessible disaster and humanitarian crisis management.	To align it with and domesticate Article 11 of the Convention on the Rights of Persons with Disabilities.	Rejected It should be progressive through regulations
	UDPK & CDRA	Amend 35(v) and add "instantly" Delete 35(1)(a) and substitute therefor - "The Council shall advise, supervise and monitor all relevant ministries, departments and	The role of the Council is largely oversight and statutory.	Rejected Not practical Rejected Already provided for

Clause	Stakeholder	Proposal	Justification	Committee Recommendation
		agencies for accessibility of information , goods , and services and built environment for persons with disabilities and for provision of reasonable accommodation for effective participation of persons with disabilities in society.		
	NGEC	Amend by including an additional function as follows; j) Set up a fund and administer it pursuant to section 3(f) of the Act	Powers of the Council 3(f). seek and receive any grants, testamentary gifts, donations and make legitimate disbursements from such grants, testamentary gifts and donations for its purposes. The repealed Bill does not establish a fund unlike the current PWD Act 2003 which has the National Fund for Persons with Disability which currently caters for the proposed functions in b) v) and vi) An empowerment Fund has been proposed to be established under the Public Finance Management Act and the Council will not	Agreed to but be redrafted to protect the administration of the fund by the council. Retrain administrative structure of the fund with the council
35(1)(c)	UDPK & CDRA	Delete the word "Facilitate " and substitute with "advice"	The role of the Council is largely oversight and statutory.	Rejected
36 -Powers of the Council	NISCOF	Amend by deleting (i)		Rejected No justification
Clause 38(1)(d)(ii) Composition of the Council	KNCHR	Delete the word 'mental'.	Persons with mental/psychosocial disabilities can be substantive members of the Council - indeed there has been one such member on the past. These individuals do not need to be represented by their	Agreed to

Clause	Stakeholder	Proposal	Justification	Committee Recommendation
	UDPK & CDRA	Delete the phrase "parents of persons with mental disabilities" and substitute therefor the phrase "parents of children with disabilities"	parents/can self - represent in line with Article 22 of the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Persons with Disabilities in Africa.	Agreed to
			Acknowledgement of children with disabilities and the multiple burdens put on parents.	
	NISCOF	Amend 38(b) to be specific on who to represent the PS e.g Head of Department for Persons with Disabilities		Rejected
PART IV-RELIEFS AND INCENTIVES				
53-Exemptions	Lucy Mwangi Wambui	Persons with permanent congenital disability should be exempted from renewing tax exemption certificate every five years.		Rejected Provided for in tax laws
	CDPOK	Parents/Guardians of children with disabilities who are in employment may as well apply to the Cabinet Secretary responsible for finance for exemption for income tax from employment. Clause 53(1) should read; A person with disability or a registered caregiver of a child with severe disability who is in employment may apply to the cabinet secretary responsible for finance for exemption from income tax on employment income.	This will ensure that registered care givers of children with severe disabilities use their income to support the children. The Children do require special care that comes with financial responsibilities that burden their care givers. Such are in constant medication and other needs to have people that are employed to take care of them.	Rejected To be provided under soc protection Bill Agreed to
	NGEC	Amend clause 53(3) by substituting the words "motor vehicles specially designed for use by persons with disabilities as follows-;	Exempting taxes on only vehicles that have been designed for use by persons with disability is tantamount to discrimination against other categories of disabilities who are unable to drive a car whether	Agreed to

Clause	Stakeholder	Proposal	Justification	Committee Recommendation
		(3) "motor vehicles, for the use of persons with disabilities"	designed or not. e.g. Visual impairment or upper limbs amputee or deformity. The law legislating against inequality and discrimination should not further the same among the beneficiaries. Any PWD who needs a car and can afford ought to receive an exemption for the same reason that all categories get exemption on income.	Retain as it is the Bill
	NISCOF	Amend and change 1 to read 1(a) and add (b) to read "a person with disabilities who is engaged in medium and small enterprise shall be exempted from any levies and or trading license"		Agreed to
	UDPK & CDRA	Delete the phrase "specially designed" and substitute therefor "which would in not in any way lead to increased costs so as to disadvantage persons with disabilities"	Global uniformity	Already considered
	Alex Mugeni Juma	Persons living with permanent physical disability should not be subjected to renewal of "tax exemption certificate".	Why should they be renewing yet their disability cannot be renewed? It is there to stay (permanent).	Already considered since is subject existing tax laws
	Timoro Samuel	Issues of disability guide allowances to be improved from 20k to 30k.		Rejected No justification
		Issue of renewal of tax exemption certificate for disability to be permanent.		
	Laban JM	Degree for disability needs to be determined.	This will help KRA to collect revenue without cheating.	Rejected The counsel t categories

Clause	Stakeholder	Proposal	Justification	Committee Recommendation
		Persons with disabilities should not be wholly tax exempt. They should pay at least a third of any tax due.		Rejected Already address
	Noylene Jepkemboi	Persons living with permanent disability tax exemption should be permanent and not being renewed every five years.	A permanent disability ailment does not recover as opposed to a person living with temporary disability.	Rejected
		Importation of tax free motor vehicle has been made impossible for persons living with disability which I suggest it to be looked into.		Rejected
		Most employers are notorious when it comes to implementing Tax exemption for their employees who have been awarded the tax certificate at the same time KRA does not refund the period that the disabled person has lost. All this should be looked at and a penalty be introduced to such employers.	The notorious institutions are police services, teachers service commission, Kenya pipeline and central bank of Kenya. They maliciously have introduced another vetting of investigating the process which takes almost a year.	Rejected Right to enforced through court systems
	KNCHR	We propose that the tax exemption should be a transparent figure applicable across the board, for example, currently, it is for earnings above KES 150,000/-	Leaving the tax exemption to the discretion of the Cabinet Secretary to be determined on a case-by-case basis adds a layer of bureaucracy and opaqueness unnecessarily.	Rejected Under regulation
	UDPK & CDRA	53(4) Insert a comma immediately after the words "value added tax" and insert the following phrase followed by another comma "which would in any way defeat the purposes of or increase the costs of such donations..." 53(5) Insert a comma immediately after the words "value added tax" and insert the following phrase followed by another comma "which would in any way defeat the purposes of or	Multiple taxes on donation inhibit access to such donations by persons with disabilities. Multiple taxes on donation inhibit access to such donations by persons with disabilities.	Rejected Rejected

Clause	Stakeholder	Proposal	Justification	Committee Recommendation
		increase the costs of such donations..."		
	NISCOF	Amend and add 3 to read that "Person with Disabilities to be given priority or consideration in tender applications with the government" Also add that "Incentives be extended to Persons with Disabilities to avoid VAT during supply on Government Tenders"		Rejected Covered in Publ Procurement Act
Clause 55- Access to credit	KNCHR	The clause is crafted in very weak language. It reads: The Cabinet Secretary responsible for matters relating to credit unions, cooperatives and other lending institutions may on the advice of the Council, from time to time, ensure access to credit by persons with disabilities. The Cabinet Secretary responsible for matters relating to credit unions, cooperatives and other lending institutions Shall, in consultation with the Council, develop guidelines to ensure the equal right of persons with disabilities to have equal access to bank loans, mortgages and other forms of financial credit.	This is in line with Article 12(5) of the UN Convention on the Rights of Persons with Disabilities.	Rejected Already provided for in the Bill
56(1)(b) Exemption from taxable income of employers of PwDs	UDPK & CDRA	Delete the phrase "to meet the special needs of" and substitute therefor - "for accessibility of"	The term 'special needs' is restrictive	Agreed to
57 - Exemption from postal charges	NISCOF	Amend 57 (b) and add (iv) to read Registered Associations of Persons with Disabilities within the informal enterprises		Agreed to

PART V-OFFENCES AND PENALTIES

Clause	Stakeholder	Proposal	Justification	Committee Recommendation
59(2)	UDPK & CDRA	Delete the word "only"	Superfluous	Agreed to Had already been considered in the Bill
60(1)	UDPK & CDRA	Delete the word "only"	Superfluous	Agreed to
Clause 60 Prohibition of abuse exploitation and violence	KNCHR	Harmonise the offences and penalty under these clauses with the provisions of Prevention of Torture Act.	The offence as crafted is likely to cause statutory disharmony. Torture is prescribed as a criminal offence under the Prevention of Torture Act with a penalty of imprisonment for not more than 25 years or life imprisonment if death is occasioned. Furthermore, under Section 251 of the Penal Code, assault causing actual bodily harm attracts liability to imprisonment for five years.	Rejected No specific proposal
	NGEC	Amend by deleting the offence of "concealment" in clause 60 (2)(b) without replacement.	The offence of concealment and penalties is provided for in Clause 61	Need to harmonise
61(1)	UDPK & CDRA	Delete the word "knowingly"	Superfluous	Already dealt with
62	UDPK & CDRA	Delete the word "knowingly"	Superfluous	Already dealt with
Clause 63- Degrading treatment of a person with disability	KNCHR	Harmonise the offence and penalty with the provisions of Prevention of Torture Act.	For uniformity. Under Section 7 of the Prevention of Torture Act, any person who commits cruel, inhuman or degrading treatment commits an offence and is liable, on conviction, to a fine not exceeding one million shillings or imprisonment for a term not exceeding fifteen years or both. Furthermore, section 31 of	Rejected No provision

Clause	Stakeholder	Proposal	Justification	Committee Recommendation
			the Prevention of Torture Act provides that if there is a conflict between the provisions of this Act and the provisions of any other law in regard to the crime of torture or cruel, inhuman or degrading treatment or punishment, the provisions of the Prevention of Torture Act shall prevail.	
Clause 64 Negligence by medical practitioners	KNCHR	An additional provision to place obligation on medics to protect privacy of PWDs States Parties shall protect the privacy of personal, health and rehabilitation information of persons with disabilities on an equal basis with others	Medical professionals often handle sensitive information relating to persons with disabilities. Under Article 22(2) of the CRPD on privacy, the privacy of medical information is specifically protected, and it is recommended to domesticate that provision in this law.	Rejected Already provided for in the B under clause 22
64(4)	UDPK & CDRA	Delete the phrase "who causes disability of another person or" immediately after medical practitioner and substitute therefor "any person including doctors"	The Bill concerns persons with disabilities and not for "other persons"	Agreed to To delete 64(4)
	NISCOF	Amend 64(8) and add within three months of enactment of this Act		Rejected Not practical
PART VI-MISCELLANEOUS				
Clause 74- Housing	KNCHR	The clause should contain a provision placing on relevant Government agencies to ensure accessibility of the houses.	In line with Article 9 of the CRPD.	Rejected
Clause 75- Markets	The CRADLE	Insert new clause 75 to read: 75(1) An owner or any other person engaging in a real estate transaction, or a real estate broker or salesman shall not, on the basis of a disability of a buyer or renter, of a person residing in or intending to reside	Persons with disabilities often fail to find living accommodation based on their disability. The provision goes towards limiting any discriminatory behaviour which bars them from enjoying their right to access to housing.	Rejected

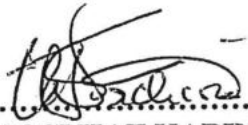
Clause	Stakeholder	Proposal	Justification	Committee Recommendation
		in a dwelling after it is sold, rented, or made available, or of any person associated with that buyer or renter, that is unrelated to the individual's ability to acquire, rent, or maintain property or use by an individual of adaptive devices or aids:		
		(a) Refuse to engage in a real estate transaction with a person.		
		(b) Discriminate against a person in the terms, conditions, or privileges of a real estate transaction or in the furnishing of facilities or services in connection with a real estate transaction.		
		(c) Refuse to receive or fail to transmit a bonafide offer to engage in a real estate transaction from a person.		
		(d) Refuse to negotiate for a real estate, transaction with a person.		
		(e) Represent to a person that real property is, not available for inspection, sale, rental, or lease when in fact it is available, fail to bring a property listing to a person's attention, refuse to permit a person to inspect real property, or otherwise deny or make real property unavailable to a person.		
		(f) Make, print, circulate, post, or mail or cause to be made or published a statement advertisement, or sign, or use a form of application for a real estate transaction, or make a record of inquiry in connection with a prospective real estate transaction, which indicates, directly or indirectly, an intent to make a limitation, specification, or		

Clause	Stakeholder	Proposal	Justification	Committee Recommendation
		discrimination with respect to a real estate transaction. (g) Offer, solicit, accept, use, or retain a listing of real property with the understanding that a person may be discriminated against in a real estate transaction or in the furnishing of facilities or services in connection with a real estate transaction. (h) Discriminate against a person in the brokering or appraising of real property.		
75 - Markets	NISCOF	Amend 75 and add "and shall give priority to those Persons with Disabilities belonging to the local informal enterprises"		Rejected Not necessary
82 - New clause	NISCOF	Add 82 to read "The council of Persons with Disabilities shall hold forums with Persons with Disabilities at least twice a year to hear their concerns"		Rejected To be under regulations
Schedule	NISCOF	Allocate timelines on implementation of the Act		Rejected Not practical
New Part VI	UDPK & CDRA	Introduce a new Part VI - National Development Fund for Persons with Disabilities with the following marginal notes and provisions; Establishment of the Fund 65(1) There is established a Fund to be known as the National Development Fund for Persons with Disabilities Sources of and Payments from Fund Sources of the Fund Trustees to manage funds Managed by a Board of Trustees Application of the Fund Expenses	Conformity with globally established dictum	Rejected
New Part	NGEC	Amend by inserting a new part on the Role of National Human rights Commissions and the Civil Society 1. The Kenya National	This is in compliance with Article 33 of the Convention on the Rights of Persons with Disability (CRPD) on the national implementation and	Rejected It os bthye function of the CS

Clause	Stakeholder	Proposal	Justification	Committee Recommendation
		Commission on Human Rights and the National Gender and Equality Commission shall be the designated organs for monitoring the national implementation of the Convention on the Rights of persons with Disability.	monitoring of the convention. Article 33 National implementation and monitoring	
		2. All public entities shall submit quarterly reports on compliance of mainstreaming of disability in their respective entities to the National Gender and Equality Commission who shall issue a certificate of compliance that will determine budgetary allocations.	2. States parties shall, in accordance with their legal and administrative systems, maintain, strengthen, designate or establish within the State Party, a framework, including one or more independent mechanisms, as appropriate, to promote, protect and monitor implementation of the present Convention. When designating or establishing such a mechanism, States Parties shall take into account the principles relating to the status and functioning of national institutions for protection and promotion of human rights.	
		3. Civil societies shall be part of the governance structures at both national and County Levels to represent the interests of persons with disabilities and their organisations and shall be involved and participate fully in the monitoring process of the Convention.	3. Civil society, in particular persons with disabilities and their representative organizations, shall be involved and participate fully in the monitoring process.	

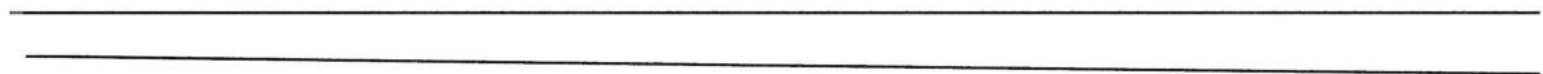
MIN.NO. DC/LSW/ 2022/078: ADJOURNMENT

There being no other business, the meeting was adjourned at 7.10 p.m. until 26th March 2022, at 10.00 am in the same venue.

SIGNED:

THE HON. JOSPHAT KABINGA WACHIRA, OGW, M.P.
(CHAIRPERSON)

DATE:5/4/2022



MINUTES OF THE 18TH SITTING OF THE DEPARTMENTAL COMMITTEE ON LABOUR AND SOCIAL WELFARE HELD ON WEDNESDAY, 9TH MARCH, 2022 AT 3.05 P.M. IN THE INNER PIER CONFERENCE ROOM, ENGLISH POINT MARINA HOTEL IN MOMBASA COUNTY

PRESENT

1. The Hon. Josphat Kabinga Wachira, OGW, M.P. – Chairperson
2. The Hon. Gideon Koske Kimutai, M.P. – Vice-Chairperson
3. The Hon. James Onyango K'Oyoo, M.P.
4. The Hon. Ronald Kiprotich Tonui, M.P.
5. The Hon. Abdi Mude Ibrahim, M.P.
6. The Hon. Caleb Amisi, M.P.
7. The Hon. Charles Kanyi Njagua, M.P.
8. The Hon. David Ole Sankok, M.P.
9. The Hon. Fabian Kyule Muli, M.P.
10. The Hon. Gideon Keter, M.P.
11. The Hon. Omboko Milemba, M.P.
12. The Hon. Tom Mboya Odege, M.P.
13. The Hon. Titus Mukhwana Khamala, M.P.
14. The Hon. Wilson Sossion, M.P.

APOLOGY

1. The Hon. Janet Marania Teyiaa, M.P.
2. The Hon. Rose Museo Mumo, M.P.
3. The Hon. Moses Malulu Injendi, M.P.
4. The Hon. Safia Sheikh Adan, M.P.
5. The Hon. Nelson Koech, M.P.

IN ATTENDANCE

Committee Secretariat

- | | | |
|-----------------------|---|------------------------------|
| 1. Mr. John Mutega | - | Deputy Director |
| 2. Ms. Susan Maritim | - | Principal Clerk Assistant II |
| 3. Ms. Doreen Karani | - | Legal Counsel I |
| 4. Mr. John Mugoma | - | Clerk Assistant II |
| 5. Mr. Onesmus Kiragu | - | Sergeant-At-Arms |
| 6. Mr. James Muguna | - | Research Officer |
| 7. Mr. Nickson Kibet | - | Audio Officer |

The National Council for Persons with Disabilities

- | | | |
|----------------------------|---|--|
| 1. Mr. Peter Muchiri | - | Board Chairperson, NCPWD |
| 2. Mr. Harun Hassan | - | Executive Director, NCPWD |
| 3. Mr. Moses Murithi Kamau | - | Assistant Director, State Department for Social Protection |

4. Ms. Juliet Ruwa	- NCPWD County Officer, Mombasa County
5. Mr. Alex Munyere	- Rehabilitation Officer
6. Dr. Samuel Tororei	- Consultant, Disability Matters
7. Mr. Lawrence Mute	- Consultant Legal Officer
8. Mr. John Kuria	- Finance Officer
9. Ms. Madrine Murithi	- Partnership Relations Officer
10. Mr. Francis Anyenda	- Public Relations and Communication Officer
11. Mr. Joshua Mutisya	- Personal Assistant to the Executive Director
12. Mr. Peter Ariaga Kevin	- Legal Intern

MIN.NO. DC/LSW/2022/065: PRAYER AND PRELIMINARIES

The meeting commenced at 3.05 p.m. with the Prayer. The meeting was convened to continue consideration of the PWD Bill 2021.

MIN.NO. DC/LSW/2022/066: CONSIDERATION OF THE MEMORANDUM BY THE NATIONAL COUNCIL FOR PERSONS WITH DISABILITIES

The National Council for Persons with Disabilities submitted the following amendments to the Bill for consideration by the Committee. The memorandum contains the proposals, justification and Committee recommendations:-

Clause/Issue	Proposal	Justification	Committee Recommendation
Language	Edit language throughout Bill to refer to 'persons with disabilities', not 'persons with disability'.	In line with standard English and to conform to the standard established in the CRPD.	Agreed to
Preamble	Replace with the following: 'AN Act of Parliament to give effect to the Constitution; to make further provisions on the rights of persons with disabilities; to re-establish the National Council for Persons with Disabilities; to provide for incentives and reliefs; and for connected purposes.'	Captures relevant components of the Bill clearly.	Rejected Need to point out specific provision or article is very key. The long title gives a quick snapshot of the Bill.
2 – interpretation	Replace definition of 'disability' with the following:	In line with its definition in Art. 260 of the Constitution.	Agreed to The definition is very comprehensive

Clause/Issue	Proposal	Justification	Committee Recommendation
	“disability” includes any physical, sensory, mental, psychological or other impairment, condition or illness that has, or is perceived by significant sectors of the community to have, a substantial or long-term effect on an individual’s ability to carry out ordinary day to day activities’ - Cf. Constitution Art. 260		
3(a) – guiding values and principles	Delete the phrase ‘in the conduct of their private affairs’.	The principle of independence is broad and should not be limited only to conduct of the private affairs of persons with disabilities – Cf. CRPD Art. 3(a).	The Committee to re-look at the amendment during the next meeting
3(d)	In the word ‘differences’, delete the letter ‘s’.	Correct reference to the principle – ‘respect for difference’ – Cf. CRPD Art. 3(d).	Agreed to As per the Article 3 (d) of CRPD
4(1)(a) – equality and non-discrimination	Replace the sub-clause with the following: ‘equal before and under the law and are entitled without any discrimination to the equal protection and equal benefit of the law’.	to remove redundant phrasing; and so that the provision covers the four relevant elements of equality – before, under, protection and benefit – Cf. CRPD Art. 5.	Agreed to
6(2) – right to marry and form a family	Replace the word ‘sexuality’ with the word ‘sexual’.	The standard reference is to ‘sexual and reproductive health’ – Cf. CRPD Art. 25(a).	The Committee to re-look at the amendment
10(1) – youth with disabilities	Replace the word ‘young’ with the word ‘youth’.	To avoid ambiguity, since the Constitution defines ‘youth’ and not ‘young person’.	Agreed to To be redrafted
10(2)	Replace clause with the following: ‘Ministries, departments and other state agencies shall, subject to the advice and	The provision in the Bill is based on a fundamental misconception of governance. The primary obligation to provide	Agreed to To be redrafted

Clause/Issue	Proposal	Justification	Committee Recommendation
	oversight of the Council, take policy, legislative, administrative and other measures to ensure that the rights of youth with disabilities are fully respected, including by—	services to all persons, whether disabled or not, lies with the government through its various line ministries/departments. It is the government that makes laws and policies.	
		The Council primarily provides technical support/advice to state ministries/departments to ensure the services they ordinarily provide to all persons include disability-specific considerations. The Council can never have the capacity to become the Ministry of Health or the Ministry of Education; but it should support/advice the ministries to ensure they include/mainstream disability in their service-provision. The effect of the Bill's proposal would be to marginalise persons with disabilities. Also note that the Bill should, for technical reasons, not make provisions on County Governments.	
12A – right to life	Insert the following new clause: 'Every person with disability has the inherent right to life and integrity, and that right shall be respected and protected.'	Violations of the right to life of persons with disabilities continues to happen, for example, with the killing of persons with albinism, and the law should cover this.	Agreed to The CoK 2010 provides the same rights
18(1) – right to education	Delete the word 'free' preceding the word 'primary'; and insert the phrase 'and post-secondary' after the word 'secondary'.	To clarify that persons with disabilities, have the right to inclusive and quality basic education as well as post-secondary education (university,	Rejected Use the term "Basic Education" instead of Primary and Secondary Education.

Clause/Issue	Proposal	Justification	Committee Recommendation
		college, etc.) – Cf. Basic Education Act (No. 14 of 2013); Universities Act (No. 22 of 2012). Note the question of free basic education is captured better in clause 18(2), hence deleting it here is not consequential.	It is a progressive amendment that needs concurrence of the National Treasury
18(4)	Replace chapeau with the following: 'Relevant ministries, departments and other state agencies shall, subject to the advice and oversight of the Council, ensure that—'	Supra justification for clause 10(2) above.	To re-look at the amendments during the next meeting.
18(8)	Replace chapeau with the following: 'Relevant ministries, departments and other state agencies shall, subject to the advice and oversight of the Council, ensure that—'	Ibid.	To re-look at the amendments during the next meeting.
18(8)(c)(ii)	Delete the phrase 'development of a least restrictive environment by'.	To clarify that the government should ensure that learning environments do not in any way restrict learning for persons with disabilities – Cf. CRPD Art. 24(2)(e), (3)(c).	Agreed to The phrase is universally not accepted
18(8)(c)(v)	Replace the word 'adoptive' with the word 'adaptive'.	Correct term is 'adaptive technology'.	Agreed to
19(1) – right to work and employment	Delete the word 'qualified'.	That word is redundant. The law cannot require employers to employ unqualified persons. Law should simply require that employers treat persons with disabilities on the basis of equality with other persons – Cf. CRPD	Agreed to The word 'qualified' is redundant

Clause/Issue	Proposal	Justification	Committee Recommendation
		Art. 27(1).	
19(2)(c)	Delete the word 'solely'.	Use of the word 'solely' effectively allows employers to discriminate employees on grounds other than disability. It is essential that the law recognises that discrimination happens on	Agreed to
		multiple and intersecting grounds, and that persons with disabilities should be protected from discrimination on all these bases – Cf. Art. 27(4)-(5) of the Constitution; Sec. 5(3) of the Employment Act (No. 11 of 2007).	
19(5)(d)	Delete the word 'qualified'.	Supra justification in clause 19(1).	Agreed to
19(5)(e)	Delete the word 'qualified'.	Ibid.	Agreed to
19(5)(f)	Delete the word 'qualified'.	Ibid.	Agreed to
19(7)(c)(ii)	Replace paragraph with the following: 'denying employment opportunities to persons with disabilities'.	Ibid.	Agreed to To be redrafted
19(7)(c)(iii)	Delete the phrase 'the known physical or mental limitations of'.	Redundant usage. The term 'reasonable accommodation' has already been defined in the Bill, so it is not necessary to qualify or limit its meaning in this provision.	Agreed to To be redrafted
20 – no dismissal	Delete the word 'solely'.	Supra justification for clause 19(2)(c).	Reject- The Clause need to be re-looked at based on comparative analysis. It is a challenge keeping an

Clause/Issue	Proposal	Justification	Committee Recommendation
			employee who isn't working/performing duties.
21 – incentives	Delete the phrase 'with the required skills or qualifications'.	Redundant.	Rejected.
23(1) – Council to participate in health programmes	Replace the chapeau with the following: 'The implementation of health programmes by relevant state ministries, departments and other agencies shall be undertaken subject to the advice and oversight of the Council for the purpose of-'	To clarify meaning of chapeau.	Agreed to Laws are made for prosperity
23(2)	Replace the clause with the following: 'Every person with disability has the right to access information using accessible formats and communication technology, including Kenyan Sign Language, Braille, tactile communication, large print, accessible multimedia, and written, audio, plain-language, human-reader and augmentative and alternative modes, means and formats of communication.'	The right as stated in the Bill is convoluted. The aim here is to assert the right of persons with disabilities to access information using accessible formats and communication technologies. Note the reference to 'talking software' is a mischaracterisation.	Agreed to It should be an independent Clause. It should be under Clause 24
24(1) – access to information	Replace the clause with the following: 'every person with disability has the right to freedom of expression and opinion, including the freedom to seek, receive and impart	The framing of this right, too, is convoluted. The right to access information is a component of the right to freedom of expression, not the reverse.	Agreed to To align with Art 21 of CRPD and access to Information Act

Clause/Issue	Proposal	Justification	Committee Recommendation
	information and ideas, and the right to access information on an equal basis with others in a timely manner and without additional cost.'		
24(2)	Replace the phrase: 'It shall be the obligation of public institutions to' with the phrase 'Public institutions shall'.	To enhance clarity and precision.	Agreed to
24(8)	Delete the word 'public'.	This sub-clause does not specify sanctions for private institutions which violate the provisions in the clause. For example, is there a reason why the licences of private television stations without Kenyan Sign Language insets (sub-clause (6) should not be suspended? How should private telecommunications entities which violate sub-clause (4) be sanctioned? At the same time, though, sanctions for the whole clause should be graduated, say, from a warning, to limited suspension and in due course to permanent suspension.	Agreed to
24A	Insert the following new clause: 'Institutions that provide financial services, including online services and mobile money, shall ensure that their services, equipment and platforms are available to persons with disabilities in accessible formats and	to ensure financial institutions use universal design in service-provision for all.	To re-look at it It should be based on the best practice globally

Clause/Issue	Proposal	Justification	Committee Recommendation
	technologies’.		
27(2) accessibility	– Replace the phrase ‘be provided with such accessibility to’ with the word ‘access’.	For clarity and elegant drafting.	Agreed to
27(4)	replace the sub-clause with the following: ‘every person with disability has the right to personal mobility, including the use of assistive devices of his or her choice, and no person with disability shall be denied access to any place ordinarily open to the public because of the nature of his or her assistive devices.’	This clause in fact focuses on personal mobility and should be crafted accordingly. While related to the right to freedom of movement, the two rights are conflated here. It is not necessary to make specific reference to guide animals since there are so many other types of assistive devices, and Kenyans hardly use such animals.	To relook at it later What is the rationale of using animals as assistive device?
30(1) – right to independent living	Replace the phrase ‘independent living and’ with the phrase ‘living in the community with choices on an equal basis with others including’.	The right to independent living has under the CRPD been overtaken by the right to live in the community – Cf. Art. 19.	Agreed to
30(2)	Delete sub-clause.	Quite unclear why this provision is placed under this clause. Guidelines for hardship allowance should apply to employees with disabilities in the same way as they apply to other employees. The undertones of the provision in the Bill may be social protection, a subject better addressed elsewhere. It is indeed recommended that clauses on adequate standard of living and social protection be included in the Bill.	Agreed to

Clause/Issue	Proposal	Justification	Committee Recommendation
32A - data and statistics	Introduce the following new clause: 'Relevant ministries, departments and agencies shall, subject to the advice and oversight of the Council, ensure the collection of accurate and timely data on persons	To support effective mainstreaming and inclusion of persons with disabilities.	Agreed to Clause 32A should however be redrafted to make it easy for the Council to transit those who have already been registered
	with disabilities, which shall be disaggregated including on the basis of gender, age, disability status and geographical location, for use in disability-inclusive planning, programming, implementation and monitoring.'		
34(2) headquarters	– Insert the phrase 'every county and'.	In the very minimum, in line with Art. 6 of the Constitution, the Council should be present in each of the 47 counties.	Rejected
38(1)(d)(ii) composition	– Replace the phrase 'mental disability' with the phrase 'high support requirements'.	The aim of this provision is to ensure the Council's membership includes the parents of persons with severe disabilities. persons with mental disabilities can sit and have sat on the Council on their own behalf and do not need to be represented by their parents.	Agreed to To use appropriate term instead of "severe"
53(3) exemptions	Delete the phrase 'specially designed'; and replace the rest of the clause after the phrase 'value-added tax' with the following phrase: 'which would in any way increase their cost to the disadvantage of persons	The key relevant factor is that the duty and value-added tax-exempt material, articles or equipment are for use by persons with disabilities. It is not moot that such should be specially-designed. The tax-exempt	Get the views of the National Treasury on the proposed amendment

Clause/Issue	Proposal	Justification	Committee Recommendation
	with disabilities’.	status is a specific measure for equalising persons with disabilities with other persons, noting the extra costs of disability.	
53(4)	Replace the rest of the sub-clause after the phrase ‘value added tax’ with the phrase ‘which would in any way defeat the purposes of or increase the cost of the said donations’.	The reason for the exemption should be explicit to ensure tax laws support and do not undermine the provision’s purpose.	Related to Clause 53 (5)
53(5)	Replace the rest of the clause after the phrase ‘value-added tax’ with the following phrase: ‘which would in any way increase their cost to the disadvantage of persons with disabilities’.	Ibid.	Related to Clause 53 (4)
56(1)(b) exemption from taxable income	Replace the phrase ‘meet the special needs of’ with the phrase ‘accessibility for’.	The right at issue here is barrier-free access.	Agreed to
57(1) – exemption from postal charges	Delete the phrase ‘Pursuant to Article 54(1)(e) of the Constitution’.	Superfluous.	Agreed to
59(2) – discrimination	Delete the word ‘only’ after the word ‘reason’.	Use of the word ‘only’ effectively allows persons with disabilities to be denied services on the basis of other prohibited grounds. It is essential that the law recognises that discrimination happens on multiple and intersecting grounds, and that persons with disabilities should be protected from discrimination on all these bases – Cf. Art. 27(4)-(5)	Agreed to

Clause/Issue	Proposal	Justification	Committee Recommendation
		of the Constitution.	
60(1) – prohibition from abuse	Delete the word ‘only’ after the word ‘reason’.	Ibid.	Agreed to
61(1) concealment	Delete the word ‘knowingly’.	This crime should not be limited. The act and intent will be proved as a matter of evidence.	Agreed to
62 – denial of food and fluids	Delete the word ‘knowingly’.	Ibid.	Agreed to
60(2)(c)	Delete the word ‘cultural’.	The correct usage is ‘harmful practices’. This concept is broader since it covers harmful cultural practices as well as other harmful practices such as those deriving from religion. It is in fact recommended that the Bill should define ‘harmful practices’ as follows: “Harmful practices” include behaviour, attitudes and practices based on tradition, culture, religion, superstition or other reasons, which negatively affect the human rights and fundamental freedoms of persons with disabilities or perpetuate discrimination’. Cf. Art. 1 of the Disability Rights Protocol.	Agreed to
63 – degrading treatment	Delete the phrase ‘voluntarily or knowingly’.	Supra Clause 62.	Agreed to
70(1) – denial of admission to premises	Delete the word ‘alone’.	Ibid.	Agreed to
70(2)	Delete the word ‘alone’.	Ibid.	Agreed to
75 – markets	Delete the phrase ‘and county’.	this law cannot make substantive provisions covering county	Withdrawn

Clause/Issue	Proposal	Justification	Committee Recommendation
		governments; or it would also need to be referred to the Senate.	
81(2) – transitional and savings	Delete and replace with provisions covering the National Development Fund for Persons with Disabilities in Act No. 14.	The law should entrench the National Development Fund for Persons with Disabilities. This is a gain in Act No. 14 which should not be lost.	To re-look at the Clause

Way-Forward

Having considered the submissions by the NCPWD, the Committee resolved to seek memoranda from the following key stakeholders, particularly on clauses relating to their mandate, vis-à-vis the Bill: The National Treasury, the National Gender and Equality Commission, the Media Council of Kenya and the Council of Governors.

MIN.NO. DC/LSW/ 2022/067: ADJOURNMENT

There being no other business, the meeting was adjourned at 7.30 p.m. until Thursday, 10th March 2022, at 9.30 a.m. in the same venue.

SIGNED:

THE HON. JOSPHAT KABINGA WACHIRA, OGW, M.P.
(CHAIRPERSON)

DATE: 5/4/2022

MINUTES OF THE 17TH SITTING OF THE DEPARTMENTAL COMMITTEE ON LABOUR AND SOCIAL WELFARE HELD WEDNESDAY, 9TH MARCH, 2022 AT 10.00A.M. IN THE INNER PIER CONFERENCE ROOM, ENGLISHPOINT HOTEL

PRESENT

1. The Hon. Josphat Kabinga Wachira, OGW, M.P. – Chairperson
2. The Hon. Gideon Koske Kimutai, M.P. – Vice-Chairperson
3. The Hon. James Onyango K'Oyoo, M.P.
4. The Hon. Ronald Kiprotich Tonui, M.P.
5. The Hon. Abdi Mude Ibrahim, M.P.
6. The Hon. Caleb Amisi, M.P.
7. The Hon. Charles Kanyi Njagua, M.P.
8. The Hon. David Ole Sankok, M.P.
9. The Hon. Fabian Kyule Muli, M.P.
10. The Hon. Gideon Keter, M.P.
11. The Hon. Omboko Milemba, M.P.
12. The Hon. Tom Mboya Odege, M.P.
13. The Hon. Titus Mukhwana Khamala, M.P.
14. The Hon. Wilson Sossion, M.P.

APOLOGY

1. The Hon. Janet Marania Teyiaa, M.P.
2. The Hon. Rose Museo Mumo, M.P.
3. The Hon. Moses Malulu Injendi, M.P.
4. The Hon. Safia Sheikh Adan, M.P.
5. The Hon. Nelson Koech, M.P.

IN ATTENDANCE

Committee Secretariat

- | | | |
|-----------------------|---|------------------------------|
| 1. Mr. John Mutega | - | Deputy Director |
| 2. Ms. Susan Maritim | - | Principal Clerk Assistant II |
| 3. Ms. Doreen Karani | - | Legal Counsel I |
| 4. Mr. John Mugoma | - | Clerk Assistant II |
| 5. Mr. Onesmus Kiragu | - | Sergeant-At-Arms |
| 6. Mr. James Muguna | - | Research Officer |
| 7. Mr. Nickson Kibet | - | Audio Officer |

The National Council for Persons with Disabilities

- | | | |
|----------------------------|---|--|
| 1. Mr. Peter Muchiri | - | Board Chairperson, NCPWD |
| 2. Mr. Harun Hassan | - | Executive Director, NCPWD |
| 3. Mr. Moses Murithi Kamau | - | Assistant Director, State Department for Social Protection |

4. Ms. Juliet Ruwa	- NCPWD County Officer, Mombasa County
5. Mr. Alex Munyere	- Rehabilitation Officer
6. Dr. Samuel Tororei	- Consultant, Disability Matters
7. Mr. Lawrence Mute	- Consultant Legal Officer
8. Mr. John Kuria	- Finance Officer
9. Ms. Madrine Murithi	- Partnership Relations Officer
10. Mr. Francis Anyenda	- Public Relations and Communication Officer
11. Mr. Joshua Mutisya	- Personal Assistant to the Executive Director
12. Mr. Peter Ariaga Kevin	- Legal Intern

MIN.NO. DC/LSW/2022/062: PRAYERS AND OPENING REMARKS

The meeting commenced at 10.00 a.m. with the Prayer.

Chairperson's Remarks

The Chairperson then welcomed the stakeholders from the National Council for Persons with Disabilities to the meeting.

In his opening remarks, the Chairperson informed the meeting that there is a need to expedite the process of considering the Bill so as to address issues affecting the PWDs and also align the Bill to the 2010 Constitution and other international treaties on PWDs.

Remarks by Mr. Harun Hassan, Executive Director, NCPWD

Mr. Hassan informed the Committee that the Bill has been under review since 2014 and it addresses a number of issues that are not provided for in the existing PWD Act.

The Council is the only hope for the PWDs and that is currently in the process of overhauling its system and standardizing its operations. The new system will give real-time data on PWDs in the country.

The Council is also working on the National Council for Persons with Disabilities policy which together with the Bill will help Kenya to ratify many pending International Conventions On Rights For Persons With Disabilities.

Remarks by Mr. Peter Muchiri, NCPWD Chairman

Mr. Muchiri, informed the Committee that the Bill is important to the persons living with disabilities. It is a holistic document that will take care of all the needs of the PWDs.

He emphasised the need to ensure that the National Development Fund for PWDs, managed by the NCPWD is established as proposed in the Bill since the Fund is crucial for the funding of the Council's operations.

Background of the PWD Bill

Dr. Samuel Tororei informed the Committee that the government appointed a task force to review all laws relating to people with disabilities in 1990.

The current PWD Act was enacted in 2003. It preceded the Convention on the Rights of PWDs and the Constitution of Kenya 2010.

He emphasised the need to pass the Bill for the benefit of PWDs.

Development of the Persons with Disabilities Bill, 2021

Commissioner Lawrence Mute informed the Committee that –

- a) The PWD Act was enacted in 2003 although during implementation it was noted that there were many policy gaps on the issues relating to persons with disabilities.
- b) During the Global Disability Summit, Kenya committed to taking action on the rights of persons with disabilities.
- c) Cabinet approved the Draft PWD Bill in 2018 but it experiences challenges because there was no concurrence between the parent Ministry and the National Treasury on the establishment of the PWD Fund.
- d) The published PWD 2021 There are basic outstanding issues that need to be addressed in the Bill, especially language and concept.
- e) There were delays in the processing of the Bill from the Office of the Attorney General and the National Treasury.
- f) There are specific provisions included in the Bill different from what was approved by the Cabinet, e.g., the Clause on the transition of the Fund to PFMA and tax exemptions.

MIN.NO. DC/LSW/2022/063:

CONSIDERATION OF THE PERSONS WITH DISABILITIES BILL, 2021

Overview of the Bill

1. The object of the Bill is to repeal the persons with Disabilities Act, No. 14 of 2003 and enact a law that is consistent with the Constitution of Kenya, 2010.
2. The Bill emphasises a human rights approach toward realising the rights of persons with disabilities in Kenya and the societal responsibility to protect and promote them.
3. **Part I** of the Bill contains preliminary provisions, including the interpretation section of the Bill that defines terms used in the Bill and a statement of the guiding principles for the Bill.
4. **Part II** of the Bill sets out the rights of person with disabilities as articulated in the Constitution.
5. **Part III** of the Bill provides for the establishment, powers and functions of the National Council for Person with Disabilities.

6. **Part IV** of the Bill deals with reliefs and incentives. It provides tax reliefs for employees with disabilities and tax exemption for materials and equipment imported for use by persons with disabilities.
7. **Part V** of the Bill sets out the interaction between the national and county governments on matters of disability. Each county is enjoined to enact its legislation to establish an institutional framework for ensuring the inclusiveness of a person with a disability and their representative organisations at the county level.
- ~~8. **Part VI** of the Bill deals with offences and penalties. The offence includes discrimination, abuse and exploitation of persons with disabilities, degrading treatment and denial of food.~~
The section in this part also criminalises negligence by health professionals, especially where such failure causes disability.
9. **Part VII** of the Bill contains miscellaneous provisions, including the repeal of Act No. 14 of 2003, and proceeds to provide for the transition provisions that cater to existing offices under the law that are to be repealed, and actions are taken thereunder.
10. **First Schedule** provides for the conduct of the Business and affairs of the Council.
11. **The Second Schedule** provides access to Public Building, Auxiliary aid, Spotting venues and public facilities.
12. That the Persons with Disabilities Act No 14 of 2003, the Convention on the Rights of Persons with Disabilities and the Optional Protocol to it as well as the protocol to the African Charter on Human and Peoples Rights on Persons with Disabilities in Africa, are the legal instruments that provide for promotion and protection of human rights and fundamental freedoms for PWDs, participation of persons with disabilities and their representative organisations in decision-making processes.
13. The protocol to the African Charter on Human and Peoples Rights on Persons with Disabilities in Africa was adopted by the African Union Assembly of Heads of States and Governments in January 2018. Subsequently, Decision 750 (XXII) of the Executive Council at its Twenty-Second Ordinary Session held in Addis Ababa, Ethiopia, from 21st to 25th January 2013, endorsed the African Union Disability Architecture (AUDA), of which the Protocol on the Rights of Persons with Disabilities to the African Charter is a central legal pillar.
14. Kenya co-hosted the Global Disability Summit held in London in July 2018, bringing together state and non-state actors. During the summit, Kenya made several commitments, among them was to ratify the Protocol on Human and Peoples Rights on the Rights of Older Persons and Persons with Disabilities.
15. Many governments and organisations have taken a keen interest in Kenya due to the progressive policies and legislative and programmatic interventions.

16. The views received from government bodies, human rights institutions, and Disabled Peoples Organizations affirmed that the protocol addresses key human and people's rights and requested the government to ratify it to benefit Persons with Disabilities in Kenya.
17. This Bill, therefore, seeks to give legislative teeth to the protection of persons with disabilities following the ratification of the CPRD and African Charter protocol.

Plenary Discussions

It was noted that the Government was aligning all Funds to be under PFMA through regulations and whether the Council would lose the Fund if it is managed through the PFMA.

Under the current Act of 2003, the Fund has a relationship with the Council in terms of who the Board Members are.


That the existing PWD Act does not provide for the Board of Trustees.

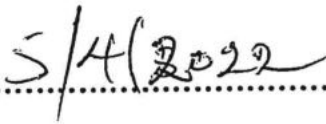
Clause 9: The Provisions in the Children Bill are more comprehensive than that provided for in the Disabilities Act. That provisions in the Children Bill and other relevant Acts or Constitutions, including international treaties, should be retained in the Bill.

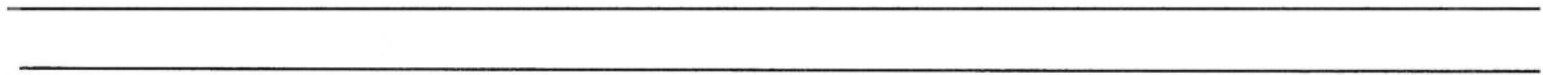
MIN.NO. DC/LSW/ 2022/064 ADJOURNMENT

There being no other business, the meeting was adjourned from 2.10p.m until 3.05 pm the same day in the same venue.

SIGNED:


THE HON. JOSPHAT KABINGA WACHIRA, OGW, M.P.
(CHAIRPERSON)

DATE: 



► This was the third meeting which the president has presided over at the Nyeri venue.

► Uhuru used forum to make Mt Kenya region see his perspective regarding handshake and BBI.

ALLAN MUNGAI, NAIROBI

Sagana, tucked on the edge of the Mt Kenya Forest in Nyeri County, has become symbolic to the 2022 presidential contest.

It was a sort of launching pad for ODM leader Raila Odinga's "hike up the mountain".

That statement became a truism yesterday when President Uhuru Kenyatta unsurprisingly endorsed Raila over his deputy William Ruto.

Uhuru hosted delegates from his political base of Mt Kenya for a meeting which was heavily touted as giving the region political direction. It was the third meeting of the sort.

For Uhuru's supporters, the meet-

ing lived up to the billing, complete with the song *Reke Tumanwo* by Peter Kigia whose literal translation is "let us part ways" and which came in perfectly right after the president agreed with an attendee who shouted Raila's name when he (Uhuru) was referring to whom he will hand over office to.

But if the meeting yesterday was the crescendo, then the song itself was composed and started playing much earlier.

It was the undertone in two similar meetings held in Sagana in November 2019 and then again in September 2020.

In 2019, Uhuru attempted to have the region see things from his perspective regarding the Handshake and the Building Bridges Initiative (BBI) taking the country back to the violence that followed the 2007 and 2017 election and the relative calm since.

Slowly by slowly, Uhuru has been building up to the moment when he declares his stand on the election. He gave the first teaser in 2018 when he told supporters that when he ulti-

mately declares the time to hand power to, Kioko will be shocked.

First, it was to win the support of the MCA's to support the promising the most grants.

He insisted that BBI was the General Election to unite the country.

At the outset, it was a region which was lukewarm and former Prime Minister Raila bid to amend the Constitution. Uhuru told the media that he and Raila were dynasties and hence trashed, yet the truth has been shortchanging resource allocation.

The BBI was an exercise he conceded but he realised there was value to be gained, for example by having national scholarships, there would be more bursaries.

An increase in parliamentary salaries, he said, was a small price to ensure more resources



REPUBLIC OF KENYA

THE NATIONAL ASSEMBLY

TWELFTH PARLIAMENT (SIXTH SESSION)

DEPARTMENTAL COMMITTEE ON LABOUR AND SOCIAL WELFARE
AND THAT ON DEFENCE AND FOREIGN RELATIONS

In the Matter of Article 118 (1)(b) of the Constitution and National Assembly Standing Order 127(3)
and

In the Matter of consideration by the National Assembly of -

- 1) The Persons With Disabilities Bill, 2021 (National Assembly Bill No.61 of 2021); and
- 2) The Military Veterans Bill, 2022 (National Assembly Bill No. 4 of 2022)

PUBLIC PARTICIPATION (SUBMISSION OF MEMORANDA)

Article 118(1)(b) of the Constitution provides that, "Parliament shall facilitate public participation and involvement in the legislative and other businesses of Parliament and its Committees". National Assembly Standing Order (S.O.) 127(3) provides that "the Departmental Committee to which a Bill is committed shall facilitate public participation and take into account the views and recommendations of the public when the Committee makes its report to the House".

The Persons With Disabilities Bill (National Assembly Bill No.61 of 2021), sponsored by the Leader of the Majority Party, was read a First Time on Tuesday, 22nd February 2022 and thereafter committed to the Departmental Committee on Labour and Social Welfare for consideration and reporting to the House. The Bill seeks to give effect to Article 54 of the Constitution to restructure the National Council for Persons with Disabilities and to provide for its functions and powers to provide for the institutional framework for protecting, promoting and monitoring the rights of persons with disabilities; and for connected purposes.

The Military Veterans Bill (National Assembly Bill No. 4 of 2022), sponsored by the Leader of the Majority Party was read a First Time on Tuesday, 22nd February 2022 and thereafter committed to the Departmental Committee on Defence and Foreign Relations for consideration and reporting to the House. The Bill seeks to establish a regulatory and institutional framework for the management of military veterans' affairs; for the provisions of benefits to military veterans and military veterans' dependants; to establish the dependants' Education Fund; to establish the Defence Forces Retirement Home and for connected purposes.

Now therefore, in compliance with Article 118 (1) (b) of the Constitution and National Assembly Standing Order 127(3), the Committees hereby invite the general public and stakeholders to submit memoranda on the two Bills. Copies of the Bills are available at the National Assembly Table Office or on www.parliament.go.ke/the-national-assembly/house-business/bills.

The memoranda may be submitted to the Clerk of the National Assembly, P.O. Box 41842-00100, Nairobi; hand-delivered to the Office of the Clerk of the National Assembly, Main Parliament Buildings, Nairobi; or emailed to clerk@parliament.go.ke; to be received on or before Friday, 11th March, 2022.

MICHAEL R. SIALAI, CBS



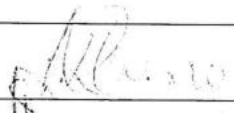
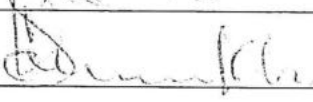
**THE NATIONAL ASSEMBLY
12TH PARLIAMENT - SIXTTH SESSION (2022)
DC- LABOUR AND SOCIAL WELFARE**

REPORT ADOPTION SCHEDULE

**REPORT ON THE CONSIDERATION OF THE PERSONS WITH DISABILITIES
BILL, 2021 (National Assembly Bill No. 61)**

DATE: 29th APRIL, 2022

No.	HON MEMBER	SIGNATURE
1.	The Hon. Josphat Kabinga Wachira, M.P – (Chairperson)	
2.	The Hon. Gideon Koske Kimutai, M.P. (Vice Chairperson)	
3.	The Hon. Ronald Kiprotich Tonui, MP	
4.	The Hon. Abdi Mude Ibrahim, MP	
5.	The Hon. Caleb Amisi, M.P.	
6.	The Hon. Charles Kanyi Njagua, MP	
7.	The Hon. Fabian Kyule Muli, MP	
8.	The Hon. Gideon Keter, M.P.	
9.	The Hon. James Onyango K'Oyoo, MP	
10.	The Hon. Janet Marania Teyiaa, MP	
11.	The Hon. Moses Malulu Injendi, M.P	
12.	The Hon. Nelson Koech, M.P	
13.	The Hon. Ole Sankok David, MP	

No.	HON MEMBER	SIGNATURE
14.	The Hon. Omboko Milemba, MP	
15.	The Hon. Rose Museo, MP	
16.	The Hon. Safia Sheikh Adan, MP	
17.	The Hon. Titus Mukhwana Khamala, M.P.	
18.	The Hon. Tom Mboya Odege, MP	
19.	The Hon. Wilson Sossion, MP	

MEMORANDUM ON THE PERSONS WITH DISABILITIES BILL (2022)

Submitted to the Departmental Committee on Labour and Social Welfare by
the National Council for Persons with Disabilities

9 March 2022

I. Introduction

1. This memorandum has been prepared by the National Council for Persons with Disabilities (Council) for its engagements with the Departmental Committee on Labour and Social Welfare of the National Assembly (Committee). The memorandum focuses on the Persons with Disabilities Bill (2022) (Bill) which is being considered by the Committee after it was tabled in the National Assembly for its first reading in January 2022.
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2. The memorandum proposes amendments which the Committee should consider towards the enactment of a law with optimal guarantees and institutional arrangements for ensuring the rights of persons with disabilities. The memorandum provides justifications for each of the suggested amendments.

II. Important considerations for a new law on persons with disabilities

3. This Bill seeks to replace the Persons with Disabilities Act (No. 14 of 2003) which has been Kenya's flagship law on disability for the past two decades.
4. Four significant events have taken place in the last two decades which have made the Act an anachronism. First, in 2008, Kenya became party to the United Nations Convention on the Rights of Persons with Disabilities (2006) (CRPD) which established transformative norms and standards on the rights of persons with disabilities. Second, in 2010, the Constitution of Kenya was promulgated, including specific and robust provisions covering the rights of persons with disabilities. Then, in 2015, the Committee on the Rights of Persons with Disabilities issued its initial concluding observations to Kenya, making multiple recommendations on how Kenya should ensure the rights of persons with disabilities. Finally, last month, Kenya deposited its instrument of ratification on the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Persons with Disabilities in Africa (2018) (Disability Rights Protocol), which affirms and contextualises the rights of persons with disabilities on the continent.
5. In the meantime, during the past decade, disability stakeholders have made over 40 unsuccessful attempts to enact new disability legislation. They have doggedly discussed multiple draft bills, and lobbied and badgered the executive and parliament repeatedly to table bills for replacing the Act. On the few occasions Parliament has published repeal or amendment bills (invariably as private members' bills), they have lapsed for want of priority.

6. The Council, therefore, welcomes the fact that the Government, finally, is the sponsor of the 2022 Bill. The Council also welcomes the fact that the tabled Bill takes account of many proposals which disability stakeholders have made over the years.
7. The suggestions for amendments made in this memorandum are guided by the following key considerations:
 - a. That the enacted law on disability must respect the letter and spirit of the Constitution which establishes a clear framework for the exercise of human rights by persons with disabilities as well as their full participation in all spheres of life, including political, social and economic fields.
 - b. That while flagship legislation for persons with disabilities is necessary, all national legislation should make revisions as necessary to address disability guided by the principles of inclusion and mainstreaming.
 - c. That the enacted law must abide and be guided by the rights approach to disability encapsulated in the CRPD.
 - d. That the law must be anchored on the social model of disability which recognises that it is society that disables the individual by failing to address physical, social and economic barriers.
 - e. That the language and terms of art used in the law must abide by minimum standards of accepted usages, thereby ensuring effective communication and avoiding repetition, ableism and stigmatisation.
 - f. That some of the provisions in Act No. 14 remain revolutionary in their service to persons with disabilities, and that there are many elements in that Act which must be retained in the new law.

III. Amendments and justifications

8. The Council calls on the Committee to consider making amendments to the Bill in respect of the provisions set out hereunder.

Clause/Issue	Proposal	Justification
Language	Edit language throughout Bill to refer to 'persons with disabilities', not 'persons with disability'.	In line with standard English and to conform to the standard established in the CRPD.
Preamble	Replace with the following: 'AN Act of Parliament to give effect to the Constitution; to make further provisions on the rights of persons with disabilities; to re-establish the National Council for Persons with Disabilities; to provide for incentives and reliefs; and for connected purposes.'	Captures relevant components of the Bill clearly.
2 – interpretation	Replace definition of 'disability' with the following: "disability" includes any physical, sensory, mental, psychological or other impairment, condition or illness that has, or is perceived by significant sectors of the community to have, a substantial or long-term effect on an individual's ability to carry out ordinary day to day activities' - Cf. Constitution Art. 260	In line with its definition in Art. 260 of the Constitution.
3(a) – guiding values and principles	Delete the phrase 'in the conduct of their private affairs'.	The principle of independence is broad and should not be limited only to conduct of the

		private affairs of persons with disabilities – Cf. CRPD Art. 3(a).
3(d)	In the word 'differences', delete the letter 's'.	Correct reference to the principle – 'respect for difference' – Cf. CRPD Art. 3(d).
4(1)(a) – equality and non-discrimination	Replace the sub-clause with the following: 'equal before and under the law and are entitled without any discrimination to the equal protection and equal benefit of the law'.	to remove redundant phrasing; and so that the provision covers the four relevant elements of equality – before, under, protection and benefit – Cf. CRPD Art. 5.
6(2) – right to marry and form a family	Replace the word 'sexuality' with the word 'sexual'.	The standard reference is to 'sexual and reproductive health' – Cf. CRPD Art. 25(a).
10(1) – youth with disabilities	Replace the word 'young' with the word 'youth'.	To avoid ambiguity, since the Constitution defines 'youth' and not 'young person'.
10(2)	Replace clause with the following: 'Ministries, departments and other state agencies shall, subject to the advice and oversight of the Council, take policy, legislative, administrative and other measures to ensure that the rights of youth with disabilities are fully respected, including by—'	The provision in the Bill is based on a fundamental misconception of governance. The primary obligation to provide services to all persons, whether disabled or not, lies with the government through its various line ministries/departments. It is the government that makes laws and policies. The Council primarily provides technical support/advice to state ministries/departments to ensure the services they ordinarily provide to all persons include disability-specific considerations. The Council can never

		have the capacity to become the Ministry or Health or the Ministry of Education; but it should support/advice the ministries to ensure they include/mainstream disability in their service-provision. The effect of the Bill's proposal would be to marginalise persons with disabilities. Also note that the Bill should, for technical reasons, not make provisions on County Governments.
12A – right to life	Insert the following new clause: 'Every person with disability has the inherent right to life and integrity, and that right shall be respected and protected.'	Violations of the right to life of persons with disabilities continues to happen, for example, with the killing of persons with albinism, and the law should cover this.
18(1) – right to education	Delete the word 'free' preceding the word 'primary'; and insert the phrase 'and post-secondary' after the word 'secondary'.	To clarify that persons with disabilities have the right to inclusive and quality basic education as well as post-secondary education (university, college, etc.) – Cf. Basic Education Act (No. 14 of 2013); Universities Act (No. 22 of 2012). Note the question of free basic education is captured better in clause 18(2), hence deleting it here is not consequential.
18(4)	Replace chapeau with the following: 'Relevant ministries, departments and other state agencies shall, subject to the advice and oversight of the Council,	Supra justification for clause 10(2) above.

	ensure that—‘	
18(8)	Replace chapeau with the following: ‘Relevant ministries, departments and other state agencies shall, subject to the advice and oversight of the Council, ensure that—‘	Ibid.
18(8)(c)(ii)	Delete the phrase ‘development of a least restrictive environment by’.	To clarify that the government should ensure that learning environments do not in any way restrict learning for persons with disabilities – Cf. CRPD Art. 24(2)(e), (3)(c).
18(8)(c)(v)	Replace the word ‘adoptive’ with the word ‘adaptive’.	Correct term is ‘adaptive technology’.
19(1) – right to work and employment	Delete the word ‘qualified’.	That word is redundant. The law cannot require employers to employ unqualified persons. Law should simply require that employers treat persons with disabilities on the basis of equality with other persons – Cf. CRPD Art. 27(1).
19(2)(c)	Delete the word ‘solely’.	Use of the word ‘solely’ effectively allows employers to discriminate employees on grounds other than disability. It is essential that the law recognises that discrimination happens on multiple and intersecting grounds, and that persons with disabilities should be protected from discrimination on all these bases – Cf. Art. 27(4)-(5)

		of the Constitution; Sec. 5(3) of the Employment Act (No. 11 of 2007).
19(5)(d)	Delete the word 'qualified'.	Supra justification in clause 19(1).
19(5)(e)	Delete the word 'qualified'.	Ibid.
19(5)(f)	Delete the word 'qualified'.	Ibid.
19(7)(c)(ii)	Replace paragraph with the following: 'denying employment opportunities to persons with disabilities'.	Ibid.
19(7)(c)(iii)	Delete the phrase 'the known physical or mental limitations of'.	Redundant usage. The term 'reasonable accommodation' has already been defined in the Bill, so it is not necessary to qualify or limit its meaning in this provision.
20 – no dismissal	Delete the word 'solely'.	Supra justification for clause 19(2)(c).
21 – incentives	Delete the phrase 'with the required skills or qualifications'.	Redundant.
23(1) – Council to participate in health programmes	Replace the chapeau with the following: 'The implementation of health programmes by relevant state ministries, departments and other agencies shall be undertaken subject to the advice and oversight of the Council for the	To clarify meaning of chapeau.

	purpose of-	
23(2)	Replace the clause with the following: 'Every person with disability has the right to access information using accessible formats and communication technology, including Kenyan Sign Language, Braille, tactile communication, large print, accessible multimedia, and written, audio, plain-language, human-reader and augmentative and alternative modes, means and formats of communication.'	The right as stated in the Bill is convoluted. The aim here is to assert the right of persons with disabilities to access information using accessible formats and communication technologies. Note too the reference to 'talking software' is a mischaracterisation.
24(1) – access to information	Replace the clause with the following: 'every person with disability has the right to freedom of expression and opinion, including the freedom to seek, receive and impart information and ideas, and the right to access information on an equal basis with others in a timely manner and without additional cost.'	The framing of this right, too, is convoluted. The right to access information is a component of the right to freedom of expression, not the reverse.
24(2)	Replace the phrase: 'It shall be the obligation of public institutions to' with the phrase 'Public institutions shall'.	To enhance clarity and precision.
24(8)	Delete the word 'public'.	This sub-clause does not specify sanctions for private institutions which violate the provisions in

		the clause. For example, is there a reason why the licences of private television stations without Kenyan Sign Language insets (sub-clause (6)) should not be suspended? How should private telecommunications entities which violate sub-clause (4) be sanctioned?
		At the same time, though, sanctions for the whole clause should be graduated, say, from a warning, to limited suspension and in due course to permanent suspension.
24A	Insert the following new clause: 'Institutions that provide financial services, including online services and mobile money, shall ensure that their services, equipment and platforms are available to persons with disabilities in accessible formats and technologies'.	to ensure financial institutions use universal design in service-provision for all.
27(2) – accessibility	Replace the phrase 'be provided with such accessibility to' with the word 'access'.	For clarity and elegant drafting.
27(4)	replace the sub-clause with the following: 'every person with disability has the right to personal mobility, including the use of assistive devices of his or her choice, and no person	This clause in fact focuses on personal mobility and should be crafted accordingly. While related to the right to freedom of movement, the two rights are conflated here. It is not necessary to make

	with disability shall be denied access to any place ordinarily open to the public because of the nature of his or her assistive devices.'	specific reference to guide animals since there are so many other types of assistive devices, and Kenyans hardly use such animals.
30(1) – right to independent living	Replace the phrase 'independent living and' with the phrase 'living in the community with choices on an equal basis with others including'.	The right to independent living has under the CRPD been overtaken by the right to live in the community – Cf. Art. 19.
30(2)	Delete sub-clause.	Quite unclear why this provision is placed under this clause. Guidelines for hardship allowance should apply to employees with disabilities in the same way as they apply to other employees. The undertones of the provision in the Bill may be social protection, a subject better addressed elsewhere. It is indeed recommended that clauses on adequate standard of living and social protection be included in the Bill.
32A - data and statistics	Introduce the following new clause: 'Relevant ministries, departments and agencies shall, subject to the advice and oversight of the Council, ensure the collection of accurate and timely data on persons with disabilities, which shall be disaggregated including on the basis of gender, age, disability status and geographical	To support effective mainstreaming and inclusion of persons with disabilities.

	location, for use in disability-inclusive planning, programming, implementation and monitoring.'	
34(2) – headquarters	Insert the phrase 'every county and'.	In the very minimum, in line with Art. 6 of the Constitution, the Council should be present in each of the 47 counties.
38(1)(d)(ii) – composition	Replace the phrase 'mental disability' with the phrase 'high support requirements'.	The aim of this provision is to ensure the Council's membership includes the parents of persons with severe disabilities. persons with mental disabilities can sit and have sat on the Council on their own behalf and do not need to be represented by their parents.
53(3) exemptions	Delete the phrase 'specially designed'; and replace the rest of the clause after the phrase 'value-added tax' with the following phrase: 'which would in any way increase their cost to the disadvantage of persons with disabilities'.	The key relevant factor is that the duty and value added tax exempt material, articles or equipment are for use by persons with disabilities. It is not moot that such should be specially-designed. The tax-exempt status is a specific measure for equalising persons with disabilities with other persons, noting the extra costs of disability.
53(4)	Replace the rest of the sub-clause after the phrase 'value added tax' with the phrase 'which would in any way defeat	The reason for the exemption should be explicit to ensure tax laws support and do not undermine the provision's

	the purposes of or increase the cost of the said donations’.	purpose.
53(5)	Replace the rest of the clause after the phrase ‘value-added tax’ with the following phrase: ‘which would in any way increase their cost to the disadvantage of persons with disabilities’.	Ibid.
56(1)(b) exemption from taxable income	Replace the phrase ‘meet the special needs of’ with the phrase ‘accessibility for’.	The right at issue here is barrier-free access.
57(1) – exemption from postal charges	Delete the phrase ‘Pursuant to Article 54(1)(e) of the Constitution’.	Superfluous.
59(2) – discrimination	Delete the word ‘only’ after the word ‘reason’.	Use of the word ‘only’ effectively allows persons with disabilities to be denied services on the basis of other prohibited grounds. It is essential that the law recognises that discrimination happens on multiple and intersecting grounds, and that persons with disabilities should be protected from discrimination on all these bases – Cf. Art. 27(4)-(5) of the Constitution.
60(1) – prohibition from abuse	Delete the word ‘only’ after the word ‘reason’.	Ibid.
61(1) concealment	Delete the word ‘knowingly’.	This crime should not be limited. The act and intent will be proved as a matter of evidence.

62 – denial of food and fluids	Delete the word 'knowingly'.	Ibid.
60(2)(c)	Delete the word 'cultural'.	The correct usage is 'harmful practices'. This concept is broader since it covers harmful cultural practices as well as other harmful practices such as those deriving from religion. It is in fact recommended that the Bill should define 'harmful practices' as follows: "Harmful practices" include behaviour, attitudes and practices based on tradition, culture, religion, superstition or other reasons, which negatively affect the human rights and fundamental freedoms of persons with disabilities or perpetuate discrimination'. Cf. Art. 1 of the Disability Rights Protocol.
63 – degrading treatment	Delete the phrase 'voluntarily or knowingly'.	Supra Clause 62.
70(1) – denial of admission to premises	Delete the word 'alone'.	Ibid.
70(2)	Delete the word 'alone'.	Ibid.
75 – markets	Delete the phrase 'and county'.	this law cannot make substantive provisions covering county governments; or it would also need to be referred to the Senate.
81(2) – transitional and savings	Delete and replace with provisions covering the National Development Fund for Persons with	The law should entrench the National Development Fund for Persons with Disabilities. This is a gain in Act No. 14 which should

	Disabilities in Act No. 14.	not be lost.
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KENYA NATIONAL COMMISSION ON HUMAN RIGHTS

ADVISORY ON THE PERSONS WITH DISABILITIES BILL, 2021

(National Assembly Bills No. 61)

PRESENTED TO

**THE DEPARTMENTAL COMMITTEE ON LABOUR AND SOCIAL WELFARE AND
THAT ON DEFENCE AND FOREIGN RELATIONS**

10th March 2022

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A. INTRODUCTION

1. The Kenya National Commission on Human Rights (“KNCHR” or “National Commission”) is an independent National Human Rights Institution established under Article 59 of the Constitution with a broad mandate to promote a culture of respect for human rights in the Republic of Kenya. The operations of the National Human Rights Commission are guided by the United Nations Paris Principles on the establishment and functioning of Independent National Human Rights Institutions commonly referred to as the Paris Principles and is accredited as an ‘A’ status institution for its compliance with the Paris Principles by the Global Alliance of National Human Rights Institutions (GANHRI). The Commission also enjoys Affiliate Status before the African Commission on Human and Peoples’ Rights.
2. The National Commission under Article 249 of the Constitution has a mandate to secure observance of all state organs of democratic values and principles and to promote constitutionalism. Article 10 of the Constitution requires all state organs to ensure they uphold constitutionalism and the rule of law whenever they make public policy decisions or interpret the constitution. One of the strategies pursued by the Commission to secure observance of all state organs of democratic values and principles is through the issuance of advisories.
3. The Commission submits this memorandum pursuant to its constitutional mandate and special mandate to monitor implementation of the UN Convention on the Rights of Persons with Disabilities (Article 33(2) of the CRPD) and the Prevention of Torture Act (section 12). The advisory is divided into three parts: **Part A:** The Introductory part; **Part B:** General Comments; and **Part C:** Specific Recommendations (on specific Clauses in the Bill).

B. GENERAL COMMENTS ON THE BILL

4. The Constitution obligates all state organs and all public officers to address the needs of vulnerable groups within society. In this regard, the Kenya National Commission on Human Rights welcomes the efforts to amend the Persons with Disabilities Act enacted in 2003. The Act came into force prior to the Constitution and Kenya’s ratification of the United Nations Convention on the Rights of Persons with Disabilities in 2008.
5. The Constitution provides for an expanded bill of rights, which provides specific protection to persons with disabilities. Article 21 (3) of the Constitution identifies vulnerable groups in society as including persons with disabilities. Article 54 of the

Constitution obligates the state to put in place measures to ensure access to educational institutions and facilities for persons with disabilities that are integrated into society, reasonable access to all places, public transport and information, to use sign language, braille or other appropriate means of communication and access to materials and devices to overcome constraints arising from a person's disability. Article 54 (2) obligates the state to ensure the progressive implementation of ensuring that at least five percent of members of the public in elective and appointive bodies are persons with disabilities. The Constitution establishes a devolved system of governance and attributes responsibilities on both the national and county governments under the fourth schedule of the Constitution.

6. The United Nations Committee on the Rights of Persons with Disabilities in its review of Kenya's state report submitted under article 35 of the Convention has called upon Kenya to, ***'complete as a matter of priority and within a specified time frame of the process to review the Persons with Disabilities Act 2003 and to bring it in line with the provisions of the Convention and human rights-based approach to disability.'***¹
7. The adoption of the 2010 constitution and the ratification of the United Nations Convention on the Rights of Persons with Disabilities therefore necessitate the revision of the Persons with Disabilities Act. Furthermore, the 2030 Agenda for Sustainable Development in which Kenya fully participated in and whose clarion call is to leave no one behind provides further impetus to ensuring that vulnerable members of society, including persons with disabilities, are protected and included in development.
8. On a positive note, the Commission welcomes the clarity provided by the Bill on the relationship between the national government and the county governments on matters disability. This is critical towards ensuring that the respective governments understand their roles in protecting and promoting the rights of persons with disabilities.
9. The Commission lauds the additional provisions in the Bill that seek to adequately provide for the rights of persons with disabilities captured in the Convention on the Rights of Persons with Disabilities. In deed the much-awaited Bill affords an opportune moment for the country to not only align the provisions with the Constitution but also domesticate the progressive provisions of the CRPD which Kenya ratified over a decade ago. As such, the Commission welcomes the introduction of the guiding values and

¹ United Nations Committee on the Rights of Persons with Disabilities 'Concluding Observations on the Initial Report of Kenya (CRPD/C/KEN/CO/1 30th September 2015)' available at <https://documents-ddsny.un.org/doc/UNDOC/GEN/G15/223/37/PDF/G1522337.pdfpara6> (a)

principles under Clause 3 of the bill, which are aligned with Constitutional principles, as well as the UN Convention on the Rights of Persons with Disabilities ratified by Kenya in 2008. Furthermore, Part II of the Bill has outlined under the respective clauses rights such as those relating to equality and non-discrimination (Clause 4), legal capacity (Clause 5), right to marry and form a family (Clause 6), right to privacy (Clause 7), women with disabilities (Clause 8), children with disabilities (Clause 9), right to education (Clause 18), right to health (Clause 22), access to justice (Clause 25), right to independent living (Clause 30) amongst other provisions are in line with the requirements and provisions under the CRPD. In addition, the Commission notes that the Bill has reflected the progressive provisions in the Protocol to the African Charter on Human and Peoples' Rights on the Persons with Disabilities in Africa, which Kenya is in the process of ratifying. These include clauses on youth with disabilities (Clause 10), older members of the society with disability (Clause 11) and protection from harmful practices.

10. In making accessibility to persons with disabilities a reality through measures such as issuance of adjustment orders, the Commission notes that the adjustment orders under Clause 28 of the Bill shall apply to all premises, public and private, and there are no reservations in issuance of the orders on government institutions that were provided under Section 27 of the Principal Act. This therefore obligates all private and public entities to institute measure to promote accessibility to premises by persons with disabilities. This echoes the provisions of Article 9 (1) of the CRPD on accessibility. There should be stricter enforcement of the adjustment orders so as to quicken the realization of this right to persons with disabilities.
11. The Commission further proposes an inclusion in the bill, which specifically designates the Kenya National Commission on Human Rights as an independent national monitoring and reporting agency of implementation of the Persons with Disabilities Bill and the Convention on the Rights of Persons with Disabilities. As mentioned in point No. 3 above, the Commission is currently designated (vide a letter) as the national monitoring agency under **Article 33 (2)** of the Convention on the Rights of Persons with Disabilities.² The Commission is expected to work with the National Gender and Equality Commission in its role as the monitoring agency. The re-designation of KNCHR as the monitoring agency under Article 33 of the Convention was made pursuant to the Concluding Observations of the Committee on the Rights of Persons with Disabilities

² Letter from the Hon Attorney General dated 9th June 2017 re-designating the Commission as the National Monitoring Agency under Article 33 (2) of the Convention on the Rights of Persons with Disabilities.

upon Kenya's review on its implementation of the Convention in 2015. The CRPD Committee in expressing its concern that the Commission did not form part of the national mechanism for monitoring the Convention specifically recommended that *'...the state party establish a national mechanism to monitor the implementation of the Convention with the participation of the Commission as an institution in compliance with the Paris Principles'*. The designation of the Commission is important towards monitoring and advising the state on its obligations under the CRPD and the Constitution of Kenya, 2010. Recognising the role of the Commission as the independent mechanism under Article 33(2) takes into account, *'... principles relating to the status and functioning of national institutions for protection and promotion of human rights'* within the wording of the Convention. Such a move would enhance the monitoring role under the CRPD. Noteworthy, this role is distinct of the executive role played by the National Council for Persons with Disabilities under Article 33(1) of the Convention, which requires State parties to designate a focal point on implementation.

C. SPECIFIC RECOMMENDATIONS

No.	Clause	Proposed Amendment	Justification	
1.	Clause 2 - of disability	Delete the current definition of disability under the Bill and use the definition of disability under Article 260 of the Constitution: “disability” includes any physical, sensory, mental, psychological or other impairment, condition or illness that has, or is perceived by significant sectors of the community to have, a substantial or long-term effect on an individual’s ability to carry out ordinary day to day activities’	To ensure compliance with article 260 of the Constitution of Kenya.	
2.	Clause 2 - of persons with disabilities	Replace the term ‘permanent’ with ‘long-term’.	To align the definition with that of Article 1 of the UN Convention on the Rights of Persons with Disabilities. Furthermore, persons with mental/psychosocial disabilities (which are episodic in nature) may not fit neatly under the ‘permanent’ definition, and yet are part of the category ‘persons with disabilities’ under article 260 of the Constitution of Kenya.	
3.	Clause 10(2) Youth with disabilities	Replace the introductory clause with the following: ‘The National and County Governments and other state agencies shall, in consultation with the Council, take policy, legislative, administrative and other measures to ensure that the rights of youth with disabilities are fully	This will make it clear that the role of the Council is not to fulfil the rights of youth with disabilities (including education, training, labour/employment etc) but rather is to oversight such provision by the relevant Ministries, Departments and Agencies.	

No.	Clause	Proposed Amendment	Justification
		respected, including by—'	<p>The primary obligation to provide services to all persons (including persons with disabilities) lies with the State through various substantive government ministries/departments. Article 21(1) of the Constitution clarifies that: 'It is a fundamental duty of the State and every State organ to ... fulfil the rights and fundamental freedoms in the Bill of Rights'.</p> <p>This calls for mainstreaming disability - so that every agency/body takes the relevant measures to mainstream disability in its work. The role of the council should not appear to be the fulfilling of rights, it can advise and in the case of enforcement orders enforce, but this should not be seen as taking away the responsibility from the relevant duty bearers.</p>
4.	Clause 18(8) education	<p>Replace chapeau with the following: 'Relevant Government ministries, departments and institutions shall, in consultation with the Council, ensure that—'</p> <p>As crafted, it appears that the Council is responsible for ensuring reasonable accommodation and support for learners.</p>	<p>The Ministry of Education is responsible for fulfilling the right to education, including for persons with disabilities. However, the Ministry may consult with the National Council in carrying out its functions. From a disability mainstreaming perspective, it is critical that each ministry, department and agency 'owns' disability and does not see disability as purely the mandate of the National Council for Persons with Disabilities. The Council may play an advisory role, but cannot be responsible for <i>ensuring</i> education for learners with disabilities. (see the formulation in Clause 18(12) (1) which places certain</p>

No.	Clause	Proposed Amendment	Justification	
			responsibilities on the education in a clear way, so there is no confusion about whose role it is. Clause 26(2) on sports, recreation, leisure and culture also does this well - making it clear that the responsibility lies with the specified cabinet secretary.	Cabinet Secretary responsible for
5.	Clause 19 (3)- Right to work and Employment for Persons with disability.	Insert a sub clause under Clause 19 (3) to provide for the penalty for employers who fail to submit their report on the status of employment of persons with disabilities within their establishments.	Provision of a penalty enhances enforceability (and it is worth noting that the general penalty under clause 78 is not applicable as it only applies to sections of the Bill that create offences – which Clause 19 does not).	
6.	Clause 19(2)(c) and Clause 20 Right to work and employment for persons with disabilities & No dismissal for employee with a disability	Delete the word 'solely'	The word 'solely' weakens the provisions; and makes it seem permissible to discriminate or dismiss and employee on grounds of disability if additional justifications for that discrimination or dismissal can be found. There is need for the law to recognise that discrimination happens on multiple and intersecting grounds, and that persons with disabilities should be protected from discrimination on all these bases. Indeed Article 27(4)-(5) of the Constitution and Section 5(3) of the Employment Act No. 11 of 2007 recognises this.	
7.	Clause 22 -Right to Health.	The Commission propose s to add the following sub-clauses: Persons with disabilities shall be provided with health	In line with article 25 of the CRPD on health. Persons with psychosocial disabilities are often institutionalised and provided with treatment against their-	

No.	Clause	Proposed Amendment	Justification
		<p>services as close as possible to their own communities.</p> <p>Persons with disabilities shall be provided with care of the same quality as others, including on the basis of free and informed consent.</p>	<p>free and informed consent. In its concluding observations to Kenya in 2015 (CRPD/C/KEN/CO/1), the UN Committee on the Rights of Persons with Disabilities urged Kenya to develop a wide range of community-based services that respond to the needs of persons with disabilities and respect the person's autonomy, choices, dignity and privacy.</p> <p>Having a provision that specifically addresses these concerns in the Persons with Disabilities Bill is important.</p>
		<p>The Commission proposes a deletion of Clause 22 (6) of the Bill, which states that 'No person shall subject a person with disability to any medical procedure which leads to or could lead to infertility without that person's express consent; Provided that where the person with a disability is a minor such procedure may in cases of medical necessity confirmed by a medical practitioner be performed with the parent or guardian's consent'. We propose to replace with the following proposed new sub clause 2:</p> <p><i>(2) Persons with disabilities, including children, have the right to retain their fertility on an equal basis with others.</i></p>	<p>To align the Bill with Article 23(1)(c) of the CRPD on respect for home and the family. Under this Article, States Parties shall take effective and appropriate measures to eliminate discrimination against persons with disabilities in all matters relating to marriage, family, parenthood and relationships, on an equal basis with others, so as to ensure that persons with disabilities, including children, retain their fertility on an equal basis with others.</p>
8.	Clause 23 Council in health programmes	<p>The Commission recommends that the provision be reworded in a manner that places responsibility for providing these services in the relevant ministry (health). The Ministry can consult the National Council for Persons with Disabilities, but it should not be up to the Council to</p>	<p>This is in line with an inclusive and mainstreaming approach to disability.</p>

No.	Clause	Proposed Amendment	Justification	
		carry out the listed functions under this provision.		
9.	Clause 26(4) Sports, recreation, leisure and culture	Add the word 'accessible' - in addition to 'sensitive'	The word 'accessible' has a legal meaning in the disability rights context, giving rise to legal obligations (article 54(1)(c) of the Constitution and Article 9 of the CRPD), unlike the word 'sensitive'.	
		We propose an additional clause to the effect that the Cabinet Secretaries responsible shall: 'Ensure that persons with disabilities have an opportunity to organize, develop and participate in disability-specific sporting and recreational activities and, to this end, encourage the provision, on an equal basis with others, of appropriate instruction, training and resources.'	In line with article 30 of the CRPD. The Commission has received complaints from persons with disabilities to the effect that they are not given the full opportunity to participate in disability-specific sporting activities, and that the management of these activities is not inclusive.	
10	Clause 28 - Adjustment Orders	The Commission recommends that a new paragraph be introduced immediately after Clause 28 (2) providing that the Council can be moved (through complaints or petitions) by any organization or person to commence the process of issuing an adjustment order. While the Council is the primary actor, it can be assisted in identification of non-accessible buildings by affected persons or organizations.	Private individuals/organizations should be able to lodge a complaint and trigger the adjustment orders mechanism as long as the Council is the body mandated to move the procedure forward as opposed to waiting for the Council to solely commence the process.	

No.	Clause	Proposed Amendment	Justification
11	Clause 30 (2) Right to independent living	<p>The clause provides that an employer may provide hardship allowance to/for the family of a person with a disability.</p> <p>We recommend that the allowance should be renamed, for example 'caregiver allowance'. The Commission is in consensus that financial support is crucial for family carers, who often live in situations of poverty.</p>	<p>The common understanding of 'hardship allowance' is that this is an extra amount of money that someone is paid for working in difficult conditions. The use of the term in the context of disability may further stigmatize disability, adding on to the negative connotation of disability as a 'burden'.</p> <p>According to the General Comment of the UN Committee on the Rights of Persons with Disabilities, States Parties should empower family members to support the family members with disabilities to realize their right to live independently and be included in the community. (General Comment on article 19 of the CRPD, para 55)</p>
		<p>Add a sub-clause to the effect that States Parties should provide adequate support services to family carers so they can in turn support their child or relative to live independently in the community. This support should include respite care services, childcare services and other supportive parenting services. Other supports include counselling services, state funded peer support services among other support options.</p>	<p>This is in line with the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Persons with Disabilities in Africa, which Kenya ratified in 2022. Article 14(2)(b) of the Protocol provides that persons with disabilities who require intensive support and their families should have adequate and appropriate facilities and services, including caregivers and respite services. This is also in line with the General Comment on article 19 of the CRPD (Para 67).</p>
		<p>The Commission proposes an additional subclause to the effect that the relevant ministry shall: establish mechanisms for monitoring service providers, adopt measures which protect persons with disabilities</p>	<p>This is in line with the General Comment on article 19 of the CRPD (Para 52).</p>

No.	Clause	Proposed Amendment	Justification	
		from being hidden in the family or isolated in institutions and children from being abandoned or institutionalized on the grounds of disability, and establish appropriate mechanisms to detect situations of violence against persons with disabilities by third parties. It can also identify older persons with disabilities, who are also vulnerable to institutionalisation.		
12	Clause 35 Functions of the council	<p>The entire clause should be re-drafted to clarify that the role of fulfilling rights/service delivery is the role of the relevant ministries, and the National Council for Persons with Disabilities should only come in to issue adjustment orders, proffer advice (including on disability mainstreaming) and lead in the formulation of disability-specific policies and laws.</p> <p>Introduce a new sub clause on capacity building relating to disaster preparedness/that provides the Council with the responsibility of advising bodies that manage disaster and humanitarian crisis on disability issues and put in place modalities for accessible disaster and humanitarian crisis management.</p>	<p>This is in line with an inclusive and mainstreaming approach to disability.</p> <p>To align it with and domesticate Article 11 of the Convention on the Rights of Persons with Disabilities.</p>	
13	Clause 38(1)(d)(ii) Composition of the Council	Delete the word 'mental'.	Persons with mental/psychosocial disabilities can be substantive members of the Council - indeed there has been one such member on the past. These individuals do not need to be represented by their parents/can self - represent in line	

No.	Clause	Proposed Amendment	Justification
			with Article 22 of the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Persons with Disabilities in Africa.
14	Clause 53 Exemptions	<p>The Clause provides that: <i>'The Cabinet Secretary responsible for finance shall, in consultation with the Council, assess all applications received under subsection (1), exempt the applicant wholly or partially'</i>.</p> <p>We propose that the tax exemption should be a transparent figure applicable across the board, for example, currently, it is for earnings above KES 150,000/-.</p>	Leaving the tax exemption to the discretion of the Cabinet Secretary to be determined on a case-by-case basis adds a layer of bureaucracy and opaqueness unnecessarily.
15	Clause 55 Access to credit	<p>The clause is crafted in very weak language. It reads: The Cabinet Secretary responsible for matters relating to credit unions, cooperatives and other lending institutions may on the advice of the Council, from time to time, ensure access to credit by persons with disabilities.</p> <p>The Cabinet Secretary responsible for matters relating to credit unions, cooperatives and other lending institutions Shall, in consultation with the Council, develop guidelines to ensure the equal right of persons with disabilities to have equal access to bank loans, mortgages and other forms of financial credit.</p>	This is in line with Article 12(5) of the UN Convention on the Rights of Persons with Disabilities.

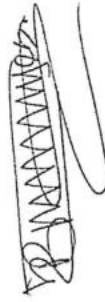
No.	Clause	Proposed Amendment	Justification	
16	Clause 60 Prohibition of abuse exploitation and violence and Clause 63 Degrading treatment of a person with a disability	<p>Harmonise the offences and penalty under these clauses with the provisions of Prevention of Torture Act.</p> <p>Clause 60(1) provides that 'Any person who treats persons with disabilities or does any of the acts specified in subsection (2) by reason only of such persons' disability is guilty of an offence and shall, upon conviction, be liable to a fine not exceeding one million shillings or to imprisonment for a term not exceeding two years.</p> <p>2) The acts referred to in subsection (1) include—</p> <p>a) physical violence occasioning actual bodily harm or any form of physical or psychological torture;</p> <p>d) any other form of cruel, inhuman or degrading treatment.</p>	<p>The offence as crafted is likely to cause statutory disharmony. Torture is prescribed as a criminal offence under the Prevention of Torture Act with a penalty of imprisonment for not more than 25 years or life imprisonment if death is occasioned.</p> <p>Furthermore, under Section 251 of the Penal Code, assault causing actual bodily harm attracts liability to imprisonment for five years.</p>	
17	Clause 63 Degrading treatment of a person with disability	<p>Harmonise the offence and penalty with the provisions of Prevention of Torture Act. The Clause provides that:</p> <p>Any person who voluntarily or knowingly commits or abets the degrading treatment of a person with disability by words, either spoken or written, or by signs or by visible representations or otherwise, commits an offence and is liable on conviction to a fine not exceeding two hundred thousand shillings or to a term of imprisonment not exceeding one year or to both.</p>	<p>For uniformity. Under Section 7 of the Prevention of Torture Act, any person who commits cruel, inhuman or degrading treatment commits an offence and is liable, on conviction, to a fine not exceeding one million shillings or imprisonment for a term not exceeding fifteen years or both.</p> <p>Furthermore, section 31 of the Prevention of Torture Act provides that if there is a conflict between the provisions of this Act and the provisions of any other law in regard to the crime of torture or cruel, inhuman or degrading treatment or</p>	

No.	Clause	Proposed Amendment	Justification
			punishment, the provisions of the Prevention of Torture Act shall prevail.
18	Clause 64 Negligence by medical practitioners	An additional provision to place obligation on medics to protect privacy of PWDs States Parties shall protect the privacy of personal, health and rehabilitation information of persons with disabilities on an equal basis with others.	Medical professionals often handle sensitive information relating to persons with disabilities. Under Article 22(2) of the CRPD on privacy, the privacy of medical information is specifically protected, and it is recommended to domesticate that provision in this law.
19	Clause 74 Housing	The clause should contain a provision placing on relevant Government agencies to ensure accessibility of the houses.	In line with Article 9 of the CRPD.
20		The Commission further proposes an inclusion in the bill, which specifically designates the Kenya National Commission on Human Rights as an independent national monitoring and reporting agency of implementation of the Persons with Disabilities Bill and the Convention on the Rights of Persons with Disabilities. The Commission is	The Commission is currently designated (vide a letter) as the national monitoring agency under Article 33 (2) of the Convention on the Rights of Persons with Disabilities.

No.	Clause	Proposed Amendment	Justification	
		expected to work with the National Gender and Equality Commission in its role as the monitoring agency.		
21		<p>The Commission recommends that introduction of a new Clause on disability data and standards.</p> <p>“The National Council for Persons with Disabilities shall work with relevant ministries, departments and agencies, including the Kenya National Bureau of Statistics towards collection of accurate and timely data on persons with disabilities. This data shall be disaggregated including on the basis of gender, age, disability status and geographical location for use of disability inclusion, planning, programming implementation and monitoring”</p>	<p>Kenya has signed up to the Inclusive Data Charter, (IDC), which was launched at the High-Level Political Forum in 2018 as a global mechanism which galvanizes the commitment of governments, <i>inter alia</i> to work to improve the quality, quantity, financing, and availability of inclusive and disaggregated data as well as the capacity and capability to produce and use it, in accordance with internationally accepted standards. Yet the Bill has not comprehensively addressed the aspect of data which is a key component in disability inclusion, development planning and resource allocation. The inclusive data charter is available here: https://www.data4sdgs.org/sites/default/files/file_uploads/Kenya-IDC-actionplan.pdf</p>	

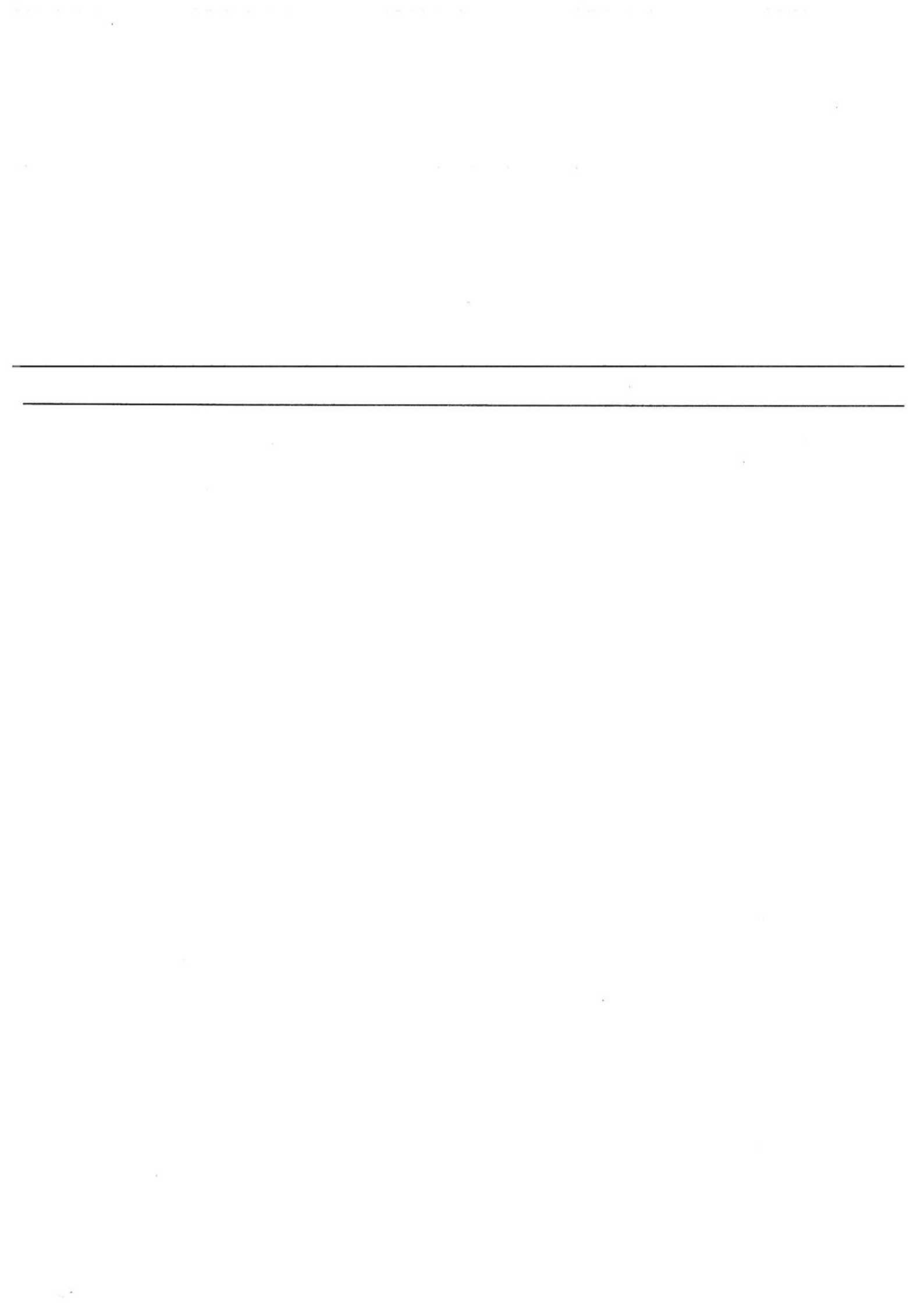
No.	Clause	Proposed Amendment	Justification
22	Throughout the bill	Replace 'persons with disability' with 'persons with disabilities'	Consistency with the UN Convention on the Rights of Persons with Disabilities, and standard use of grammar.

SIGNED BY:



Dr. Bernard Mogesa, PhD., CPM

Commission Secretary



MEMORANDUM WITH COMMENTS AND INPUTS ON THE PERSONS WITH DISABILITY BILL, 2021

Submitted to: clerk@parliament.go.ke

S/NO	PROVISION	PROPOSAL FOR AMENDMENTS	RATIONALE/JUSTIFICATION
1.	New proposed interpretations Older members of society	“older member of society” means a person who has attained the age of sixty years	
	Marginalised groups	marginalised group means a group of people who, because of laws or practices before, on, or after the effective date, were or are disadvantaged by discrimination on one or more of the grounds in Article 27(4);	There is a need to include a section on of persons with disabilities who are marginalized or from minority groups. There is need for policy and legal provisions that are specific to the welfare and protection of persons with disabilities who are marginalized or from minority group. This group of people face multiple vulnerabilities and need access to justice, education, economic wellbeing, physical security and health, including reproductive

				health issues.	
	"harmful practices"		Harmful practices "include behaviour, attitudes and practices based on tradition, culture, religion, superstition or other reasons, which negatively affect the human rights and fundamental freedoms of persons with disability or perpetuate discrimination against such persons;	In clause 6b. (1) Makes mention of the offence of harmful practice cultural practices.	
	Exploitation		"exploitation" includes any act which has the purpose and effect of taking unfair advantage of any limitation of persons with disability;	The term appears eight times in the Bill but has not been interpreted.	
2.	PART II – RIGHTS OF PERSONS WITH DISABILITY Clause 9 Children with disabilities 9. Every child with disability has the right and freedom on an equal basis with other children in respect to (a) a name and registration immediately after birth; (b) evolving capacities, identities and to enjoy a full and decent life, in conditions which promote and ensure dignity, self-reliance, and independence; (c) freedom to express his or her	Amend by inserting the following additional rights-; e) living with his or her family for as long as is necessary f) Accessing quality education g) Accessing appropriate health care services. i) be free from abuse, exploitation and harmful practices.	There have been reported cases where some children with disabilities are either abandoned who then find their way to child rescue centers. Some children with disabilities are taken to special schools never to be collected by their families. Others are out rightly rejected by their families condemning them to remain in learning institutions for the rest of their lives.		Many children with disability are victims

	views on all matters affecting him or her; and to realize his or her (d) age-appropriate assistance rights.		of multiple types of abuse in their homes and residential institutions. They are also exploited through begging and peddling drugs and are used as guinea pigs for research purposes. Then there are those who are not taken to school or for medical attention by their care givers which is appropriate.
3.	Clause 11 Older members of society with disabilities Older members of society who have disabilities have the right to enjoyment of human rights and fundamental freedoms on an equal basis with others including the right to— (a) access social protection programmes; (b) exercise their legal capacity and that appropriate measures and safeguards are put in place to provide them with the support they may require to exercise their legal capacity; and (c) Access inclusive services.	a. Amend Clause 11 (a) by inserting after the word “Programmes” the following “for themselves and their care givers” c. Amend clause 11(c) by substituting the term “inclusive” with “care giving”	Older members with disability require around the clock care giving services and this can only be achieved through support of the full time care givers by way of stipend. Inclusive Services means housekeeping service once per week, linen and towel change once per week, use of electricity, gas, water, sewerage, council tax, TV license. The proposal sought to be amended maybe unrealistic in the current settings but caregiving services is practical if the caregivers can benefit from the social protection programs as proposed in Clause (a).
4.	Clause 18 Right to Education.	Amend by substituting the word “children” with “learners”	The interpretation of child in the constitution is an individual who has not attained the age of eighteen years;

	(9)The Cabinet Secretary in charge of education shall develop an adaptable examination framework and award a certificate to children with intellectual disabilities after completion of their education	Amend further by inserting a new sub clause 9(2) as follows-; “9(2) All examination bodies shall make provision for recognition of attainment of competencies” Amend the clause further by inserting an additional sub clause as follows-; “Each learner has a right to be assessed and be placed in appropriate learning institution in accordance with the assessment”.	Many learners with disabilities have delayed milestones and need to be recognized at any level/competencies they have been able to achieve. Appropriate placement is crucial for learners with disability so that they can benefit from education offered from formative stages and advance themselves.	
5.	Clause 19 Right to work and Employment for Persons with Disabilities. 19(3) Every employer shall submit an annual, report on the status of employment of persons with disabilities within their establishments to the Council in a format as may be prescribed by the Council.	Amend clause 19(3) by inserting the before the word “annual” the following words “job vacancy advertisements and” Amend Clause 19(3) further by inserting after the word “Council” whenever it appears in the clause the following “and The National Gender and Equality Commission” Amend by inserting a new sub clause 19 (7)(iii) as follows-; “(iii) Facilitating employees with disabilities with assistive allowance “	Job advertisements submitted to the Council will be posted on its website and circulated within the networks of persons with disability and enable them to apply for available jobs. The National Gender and Equality Commission's mandate is promotion of Gender equality and freedom from discrimination and persons with disability as a Special Interest group is one of the target groups of the Commission. The assistive allowance is to enable the employee with disability to engage the services of a personal assistant who can	

	<p>19.(7) For purpose of this section (a) “reasonable accommodation” for purposes of employment includes-</p> <p>(i) making existing facilities used by employees readily accessible to and usable by persons with disabilities; and</p> <p>(ii) job restructuring, part time or modified work schedules, reassignment to a vacant or suitable position, acquisition or modification of equipment or devices, appropriate adjustments or modifications of examinations, training materials or policies, the provisions of qualified readers or interpreters, and other similar accommodations for persons with disabilities.</p>		<p>help them to compete on the same basis with fellow employees.</p>
6.	<p>Clause 21</p> <p>incentive for private employer</p>	<p>Amend by substituting the words “private employer” with “Private sector employer” whenever the words appear.</p>	<p>Private employer means a person who has one or more employees employed in the same business, or in or about the same establishment, under any contract of hire, express or implied, oral or written which is not the same as a private sector employer</p>

<p>7.</p> <p>Clause 22 Right to Health. 22(4) Medical assessment reports for persons with disabilities, including for purposes of registration under the Act, shall be done free of charge in public health institutions</p> <p>22(5) Every national or referral health institution shall employ at least two Kenya Sign Language interpreters with gender consideration in their institutional structure;</p>	<p>Propose to amend sub clause 22(4) by inserting after the word "Facility" "the following ; - "and shall be signed by a designated and gazetted County Medical Officer"</p> <p>Amend by substituting the words "Every national or referral" with the word "All"</p>	<p>Rationale- this will speed up the issuance of cards because there will no longer a need to have cards signed by the Director of Medical Services in Nairobi</p> <p>All health institutions which are part of places where services are offered to the public need sign language interpretation services.</p>
<p>8.</p> <p>Clause 24 Access to information and communication technology services. (8) Any public institution which fails to comply with the provisions of this section shall have its license suspended and shall not be reinstated until it complies.</p>	<p>Amend by inserting the word "and private" whenever the word appears in the provisions in the entire clause.</p>	<p>All institutions whether private or public must provide information and technology services to members of public that they provide services to in accessible formats.</p>

9.	<p>Clause 25 Access to justice</p> <p>25. (1) Every person with disability has a right to effective access to justice on an equal basis with others, including through the provision of procedural and age-appropriate accommodations, in order to facilitate their effective role as direct and indirect participants, including as witnesses, in all legal proceedings, at investigative and other preliminary stages.</p>	Amend by inserting after the word ‘accommodations’ the following “and accessible build environment”	The courts need to be accessible to all categories of persons with disability. Inaccessibility of courts is one of the greatest impediments on access to justice.
	<p>Clause 27 Accessibility</p> <p>(7) The standards and guidelines promulgated under sub-section (3) shall ensure that they are age and gender appropriate and are applicable to-</p> <ul style="list-style-type: none"> i. all buildings and facilities used by the public; ii. permanent, temporary or emergency conditions; iii. road and rail based transport;aviation;maritime transport and ports; iv. pedestrian infrastructure including zebra crossings and 	Amend 27(7)V by inserting the term “walkways” after “sidewalks”	<p>A sidewalk is a footpath, usually paved, at the side of a road for the use of pedestrians by extension, any paved footpath, even if not located at the side of a road while walkway is a clearly defined path for pedestrians.</p> <p>Persons with disabilities and with limited mobility need appropriate walkways to be able to move freely without fear of competing with vehicles or human traffic on the side walks.</p>

	<p>sidewalks;</p> <p>v. public transport system;</p> <p>vi. any other mode of transport;</p> <p>in order to enable persons with disability to travel with safety and comfort</p>			
	<p>Clause 28</p> <p>Adjustment orders</p> <p>(3) Before serving the Adjustment Order under subsection (2), the Council shall serve notice upon the person concerned</p>	<p>Amend by inserting after the word "Council " the following " in collaboration with the relevant Regulatory Agencies"</p>	<p>The Council as established does not have enforcement powers. There is need for collaboration with Regulatory agencies e.g. KeNHA, NTSA, KURA etc. which can enforce the orders issued.</p>	
10.	<p>Civil and Political rights for persons with disabilities.</p> <p>29. (1) Every Person with disability has a right to participate in political and public life and the opportunity to enjoy them on an equal basis with others, and to vote for and be voted directly or through freely chosen representatives in any public or political office.</p> <p>(2) It shall be the responsibility of the body conducting elections to facilitate persons with disabilities in the exercise of their civic and political rights by-</p> <p>(a) providing voting procedures,</p>	<p>Amend 29(2) by inserting an additional clause as follows-;</p> <p>"(d)Ensuring that there is compliance by political parties on the requirement of nominative seats reserved for persons with disability."</p>	<p>This will entrench the rights of persons with disabilities in nominative seats and also attach an obligation of the electoral body to ensure that there is compliance with the provisions on special interest seats in the houses.</p>	

	<p>facilities and materials which are appropriate, accessible and easy to understand and use;</p> <p>(b) protecting the rights of persons with disabilities to vote by secret ballot in elections without intimidation and to offer themselves for elections;</p> <p>(c) allowing assistance in voting by a person of their own choice, on request and facilitating the use of assistive and appropriate technologies; and</p>		
<p>11.</p>	<p>Clause 35</p> <p>Functions of the Council</p> <p>(1) The functions of the Council shall be to work with other relevant Government agencies and the private sector to-;</p> <p>b(v) provide assistive devices, appliances and other equipment to persons with disabilities registered with the Council;</p> <p>(vi) make provision for assistance to students with disabilities registered with the Council in the form of scholarships, loan programs, fee subsidies, assistive devices and related</p>	<p>Amend by including an additional function as follows-;</p> <p>j) Set up a fund and administer it pursuant to section 3(f) of the Act</p>	<p>Powers of the Council</p> <p>3(f). seek and receive any grants, testamentary gifts, donations and make legitimate disbursements from such grants, testamentary gifts and donations for its purposes.</p> <p>The repealed Bill does not establish a fund unlike the current PWD Act 2003 which has the National Fund for Persons with Disability which currently caters for the proposed functions in b) v) and vi)</p> <p>An empowerment Fund has been proposed to be established under the Public Finance Management Act and the Council will not</p>

	technologies and other similar forms of assistance in both public and private institutions;		<p>be an administrator i.e-; Clause 81 2) The National Development Fund for Persons with Disabilities established in the Persons with Disabilities Act 2003 shall transition and be operationalized in accordance with the Public Finance Management Act, 2012.</p> <p>However, the council still has functions that require funding and it may be impractical to depend on other entities to fund the activities.</p> <p>The proposed fund to be administered by the Council will receive donations and grants as contemplated in section 3 and will be able to continue funding the proposed activities.</p>
12.	<p>Part IV</p> <p>Relief and incentives</p> <p>Clause 53</p> <p>(2) The Cabinet Secretary responsible for finance shall, in consultation with the Council, assess all applications received under subsection (1) and may exempt the applicant wholly or partially.</p> <p>(3) Materials, articles and equipment, including motor vehicles specially</p>	<p>Amend clause 53(3) by substituting the words “motor vehicles specially designed for use by persons with disabilities as follows-;</p> <p>(3) “motor vehicles, for the use of persons with disabilities”</p>	<p>Exempting taxes on only vehicles that have been designed for use by persons with disability is tantamount to discrimination against other categories of disabilities who are unable to drive a car whether designed or not.e.g Visual impairment or upper limbs amputee or deformity.</p> <p>The law legislating against inequality and discrimination should not further the same among the beneficiaries. Any PWD who needs a car and can afford ought to receive an exemption for the same reason that all categories get exemption on</p>

	designed for use by persons with disabilities, shall be exempt from import duty and value added tax to the extent provided under the tax laws.		income.
13	<p>Clause 60 Prohibition of abuse exploitation or violence. 60. (1) Any person who treats persons with disabilities or does any of the acts specified in subsection (2) by reason only of such persons' disability is guilty of an offence and shall, upon conviction, be liable to a fine not exceeding one million shillings or to imprisonment for a term not exceeding two years.</p> <p>(2) The acts referred to in subsection (1) include— (b) wrongful concealment, confinement or detention whether in residential premises or in an institution resulting in denial of a person with disability the opportunities and services available under this Act or any other law;</p> <p>Clause 61 Concealment of Persons with Disabilities 61. (1) A parent, guardian, next of kin or a person in charge of institution of</p>	Amend by deleting the offence of "concealment" in clause 60 (2)(b) without replacement.	The offence of concealment and penalties is provided for in Clause 61

	<p>persons with disabilities shall not knowingly conceal such person in such a manner as to deny any such a person the opportunities and services available under this Act or any other law</p> <p>(2) Any person who contravenes subsection (1) commits an offence and is liable on conviction to a fine not exceeding two hundred thousand shillings or to a term of imprisonment not exceeding one year or to both.</p>			
	<p>New part Role of National Human rights Commissions and the Civil Society</p>	<p>Amend by inserting a new part on the Role of National Human rights Commissions and the Civil Society</p> <p>1. The Kenya National Commission on Human Rights and the National Gender and Equality Commission shall be the designated organs for monitoring the national implementation of the Convention on the Rights of persons with Disability.</p> <p>2. All public entities shall submit quarterly reports on compliance of mainstreaming of disability in their respective entities to the National Gender and Equality Commission who shall issue a certificate of compliance</p>	<p>This is in compliance with Article 33 of the Convention on the Rights of Persons with Disability (CRPD) on the national implementation and monitoring of the convention.</p> <p>Article 33 National implementation and monitoring</p> <p>2. States parties shall, in accordance with their legal and administrative systems, maintain, strengthen, designate or establish within the State Party, a framework, including one or more independent mechanisms, as appropriate, to promote, protect and monitor</p>	

		<p>that will determine budgetary allocations.</p> <p>3. Civil societies shall be part of the governance structures at both national and County Levels to represent the interests of persons with disabilities and their organisations and shall be involved and participate fully in the monitoring process of the Convention.</p>	<p>implementation of the present Convention. When designating or establishing such a mechanism, States Parties shall take into account the principles relating to the status and functioning of national institutions for protection and promotion of human rights.</p> <p>3. Civil society, in particular persons with disabilities and their representative organizations, shall be involved and participate fully in the monitoring process.</p>
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PRESENTATIONS MADE TO THE DEPARTMENTAL COMMITTEE ON LABOUR AND SOCIAL PROTECTION BY FEDERATION OF AND FOR PEOPLE WITH DISABILITIES, ON PERSONS WITH DISABILITIES BILL, 2021.

A. Interpretations

“Disability” loss - Should be deleted because it is causing confusion and the watering down the Bill. Article 260 of the constitution has already defined disability. The bill should state disability is defined as per article 260 of the Constitution.

- “ persons with disabilities “ again should be defined on the basis of definition as per article 260 of the Constitution. Therefore the provision in the bill should be deleted.
- “ day-to-day activities”- Means the activities of daily living which an ordinary person would reasonably be expected to carry out.

It is important to have this interpretation brought forward from the current act, because the definition of disability in article 260 of the Constitution has used the same words.

By introducing in section 19, subsection 8 and lifting section 12 subsection 3 in the current Act and inserting as currently framed “ An employee with a disability shall be entitled to exemption from tax on all income accruing from his employment”. This important committee which represents all kenyan should not allow this important provision to be removed from the bill. We are aware at no stage in the formulation of the bill, was there a presentation from any kenyan that this provision be removed.

Furthermore, the Convention on the rights of persons with disabilities, which Kenya is a signatory as clearly provided, where a right has been given to persons with disabilities , it should not be done away with.

To introduce in section 26, subsection 8 and lift the whole of section 28 in 2003 act and insert it in the bill as follows:

(1) All persons with disabilities shall be entitled, free of charge to the use of recreational or sports facilities owned or operated by the Government during social, sporting or recreation activities.

(2) persons with disabilities shall be entitled to participate in all national and international sports events.

(3) For the purpose of subsection (2) the ministry responsible for sports shall, in consultation with the Council, provide the necessary environment including:

(a) architectural infrastructure

(b) apparatus and equipment

(c) training and medical personnel

(d) transportation facilities for the participants

(4) section (1) shall not apply in cases where there is exclusive private hire of such facilities.

By introducing section 29, subsection 2d as follows:

Formulating rules and regulations to ensure that political parties implement article 54 sub-article 2 of the constitution as far as representation of persons with disabilities in elective positions is concerned.

1. (1) (e.) should be deleted, because without registration, the Council may not be able to tell if one has a disability. It should be noted that registration of Persons with disabilities is a process which involves professionals such as Doctors. The Council just facilitates the registration. If the Provision is left, Council, will be exposed to litigations

By introducing subsection (e) after deleting (e) above and lifting provision in section 31 (3) of the current act as follows:

“ Notwithstanding the provisions of any other written law, organisations of or for persons with disabilities that are registered under this Act, shall be exempt from registration under Non - Governmental organisation Act,(No. 19 of 1990), and the societies act (Cap 108).

By introducing after section 35 subsection (h) which is provided in the current Act, section 33 (2) .:

- (i) contribute to the expenses, including capital expenses of organisations of or for persons with disabilities.
- (j) contribute to the expenses , including capital expenses of institutions that train persons in the care of persons with disabilities.

(k) Pay allowances to persons with disabilities falling in the following categories and who have no other source of income:

- (1) Persons with severe disabilities
- (2) aged persons with disabilities
- (3) unemployed persons with disabilities
- (4) single parents with children with disabilities and who cannot therefore seek employment
- (5) support families of persons with disabilities
- (l) make contributions for such purpose as maybe prescribed by the Council.

By returning section 33 (1) which had been deleted from the bill but appearing in the current Act as section 82 in the bill.

(1) Establishment of the Fund

There shall be established a Fund to be known as the National Development Fund for persons with disabilities in Kenya. The funds shall be utilised as permanent Fund and income therefrom shall be used for the benefit of persons with disabilities in kenya.

(2) The fund shall be administered by the Council.

(3) The source of the fund shall be -

- (a) such moneys as maybe appropriated thereto by parliament and which will not be less than 20 million per county.
- (b) income generated by investmets made by the Council.
- (c) any other donations which the council may receive for the purpose of the fund.

Reliefs and incentives

Section 36 of the current act should be lifted and inserted in section 53 (1) . 53 (1) in the bill should be deleted as it is provided in the introduced provision in section 19 (8).

To introduce a new subsection 53 (1) as follows: “ A person with disability who is in receipt of income other than that of employment, may apply to the cabinet secretary responsible for finance for exemption from income tax on such income.

(2) The cabinet secretary responsible for finance shall, in consultation with the Council, and taking into consideration council recommendation , assess all applications received under subsection (1), and will exempt the applicant wholly or partially.

(3) materials, articles and equipment including motor vehicles, shall be exempt from import duty, value added tax, demurrage charges, port charges, and any other government levy which would in any way increase their cost to the disadvantage of persons with disabilities.

(4) All goods, items, implements or equipment donated to institutions and organisations of or for persons with disabilities shall be exempt from import duties, value added tax , demurrage charges, port charges and any other government levy which would in any way defeat the purpose of or increase the cost of the said donations.

incentives

(1) Any donations, bequest, subsidy or financial aid which may be made to government agencies involved in the rehabilitation of persons with disabilities or to organisations involved in such rehabilitations and registered with the council for the purpose of this section shall, be allowed as deductions from the donors gross income for the purpose of computing taxable income.

(2) The Minister responsible for finance or other appropriate authority shall endeavor to provide, subject to the provision of any other relevant law, incentives to local manufacturers of technical aides and appliances used by persons with disabilities including, but not limited to :

- (a) additional expenses for labour expenses
- (b) tax and duty exemptions on imported capital equipment
- (c) tax credits on imported capital equipment
- (d) simplified customs procedures
- (e) unrestricted use of consigned equipment
- (f) employment of foreign nationals
- (g) exemptions from tax and duties from raw materials and
- (h) access to bonded manufacturing systems.

By introducing section 49 subsection (1) (d) :

Funds from a Fund established under section 82 of this act.

By introducing in section 74 subsection (2) as follows:

A person with disability who constructs or purchases a building will be exempt from government taxes including search fees, plans approval fees, transfer fees, capital gains tax, stamp duty and any other levies which may disadvantage a person with disability by increasing the cost of building or purchasing such a building.

By introducing in section 75 subsection :

(2) A person with disabilities shall be exempt from licence fees, payment of cess, hawking fees and other government and government agencies levies which may increase cost of doing business

(3) persons with disabilities shall not pay for water provided by the Government or Government agencies.

OUR REF: MCK/004/COMM/01/22

YOUR REF: NA/DDC/LSW/CORR/2022(009)

22nd March 2022

Mr. Michael Sialai, EBS,
Clerk of the National Assembly,
Clerks Chambers,
National Assembly,
Parliament Buildings,
P.O Box 41842-00100,
NAIROBI.

Dear Sir,

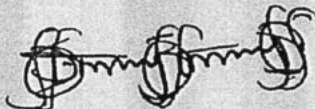
RE: COMMENTS ON THE PERSONS WITH DISABILITIES BILL (NATIONAL ASSEMBLY BILL NO.61 OF 2021).

We refer to the above matter and your letter Ref: NA/DDC/LSW/CORR/2022/(009) dated 16th March 2022.

Kindly find attached our comments on the Persons with Disabilities Bill (National Assembly Bill No. 61 of 2021).

Thank you for considering our input as a partner in protecting the rights and welfare persons with disabilities we look forward to further engagements with you.

Your Sincerely,



David Omwoyo Omwoyo

Chief Executive Officer & Secretary to the Council

PROPOSED AMENDMENTS TO THE PERSONS WITH DISABILITIES BILL (NO. 61. OF 2021)

SECTION	CURRENT PROVISION IN PERSONS WITH DISABILITIES BILL (NO. 61 OF 2021)	PROPOSED AMENDMENT	JUSTIFICATION
24 (4)	All televisions and radio stations....	Replace television and radio stations with “media enterprises”	Under the Media Council Act, 2013 (No. 46 of 2013) section 2 states that a “media enterprise” means an organization whose business involves the collection, dissemination of news or news articles, or in entertainment and education through media. Media enterprise is therefore the collective word for television and radio stations as provided in law.
2	Include the definition of media enterprise	Media enterprise as defined under section 2 of the Media Council Act	Ease of reference. Has been provided in law.

THE PERSONS WITH DISABILITIES BILL (NATIONAL ASSEMBLY
BILL NO.61 OF 2021)



REPUBLIC OF KENYA
THE NATIONAL TREASURY AND PLANNING

Telegraphic Address: 22921
FINANCE – NAIROBI
Fax No. 315779
Telephone: 2252299



THE NATIONAL TREASURY
P.O. Box 30007 - 00100
NAIROBI
KENYA

When replying please quote

Ref: ES 1/014 'A' (62)

20th April, 2022

Michael Sialai, CBS
Clerk of the National Assembly
Parliament Buildings
P. O. Box 41842-00100
NAIROBI

Dear

**RE: DEPARTMENTAL COMMITTEE ON LABOUR AND SOCIAL
WELFARE: CONSIDERATION OF THE PERSONS WITH DISABILITIES
BILL (NATIONAL ASSEMBLY BILL NO.61 OF 2021)**

Reference is made to your letter Ref. No. NA/DDC/LSW/CORR/2022/(009)
(50) dated 16th March, 2022 on the above subject.

We have critically reviewed the Bill and note that the previous provision on the establishment of a Fund has been removed and the transitional clause indicates that the existing Persons with disabilities Fund will transition and be operationalized under the PFMA, 2012.

With regard to taxation, we wish to clarify that the government policy is to consolidate matters relating to taxation and tax incentives to tax laws. In this regard, any tax incentive should be provided for under the relevant tax laws. Specifically, we would wish to advise as follows:

1. Clause 53

- i. Clause 53 (1) and (2) provide for application and approval of exemption from income tax for persons with disability. These provisions do not contravene the Income Tax Act considering that it is not an express exemption from income tax. However, in order to provide clarity, there is need to provide in subsection 2 that the approval of such exemptions shall be in accordance with the Income Tax Act. In this regard, we propose that the following words be added at the end of subsection 53(2) after the words "or partially" as follows:

"in accordance with the provisions of the Income Tax Act"

- ii. Clause 53 (3), (4) and (5) provides for exemption from import duty and VAT on goods for persons with disability. As indicated in the general comments above, such exemptions are supposed to be provided for under the respective tax laws. We note that the exemptions are already provided for under paragraph 8 of the Fifth Schedule to the East African Community Customs Management Act, and paragraph 39 of the First Schedule to the VAT Act. In this regard, it is recommended that paragraphs (3), (4), (5) and (6) of Clause 53 be deleted from the Bill, to avoid duplication with the provisions already provided for under the East African Community Customs Management Act and the VAT Act.

2. Clause 54 and 56

- iii. The two clauses seek to provide for deductions in computing taxable income for donations and expenses incurred relating to employment of disabled persons. The provision implies that the deductions shall be in accordance with the provisions of the Income Tax Act. In this regard, we note that the two clauses (54 and 56) are not necessary and should therefore, be deleted from the Bill.

3. Clause 57

- iv. Clause 57 provides for exemption from postal charges materials received by persons with disability through postal mail. However, exemption from user charges may pose challenges in delivery of the services. In

addition, we note that currently, most of the delivery services are offered by private entities and as such, the proposed exemption may not apply. Considering that these are user charges by the postal services providers, it is our view that the competent authority to provide comments on this clause is the Ministry responsible for matters relating to communication.

We wish to submit our comments for your further action.

Yours

HON. (AMB.) UKUR YATANI, EGH
CABINET SECRETARY/THE NATIONAL TREASURY & PLANNING

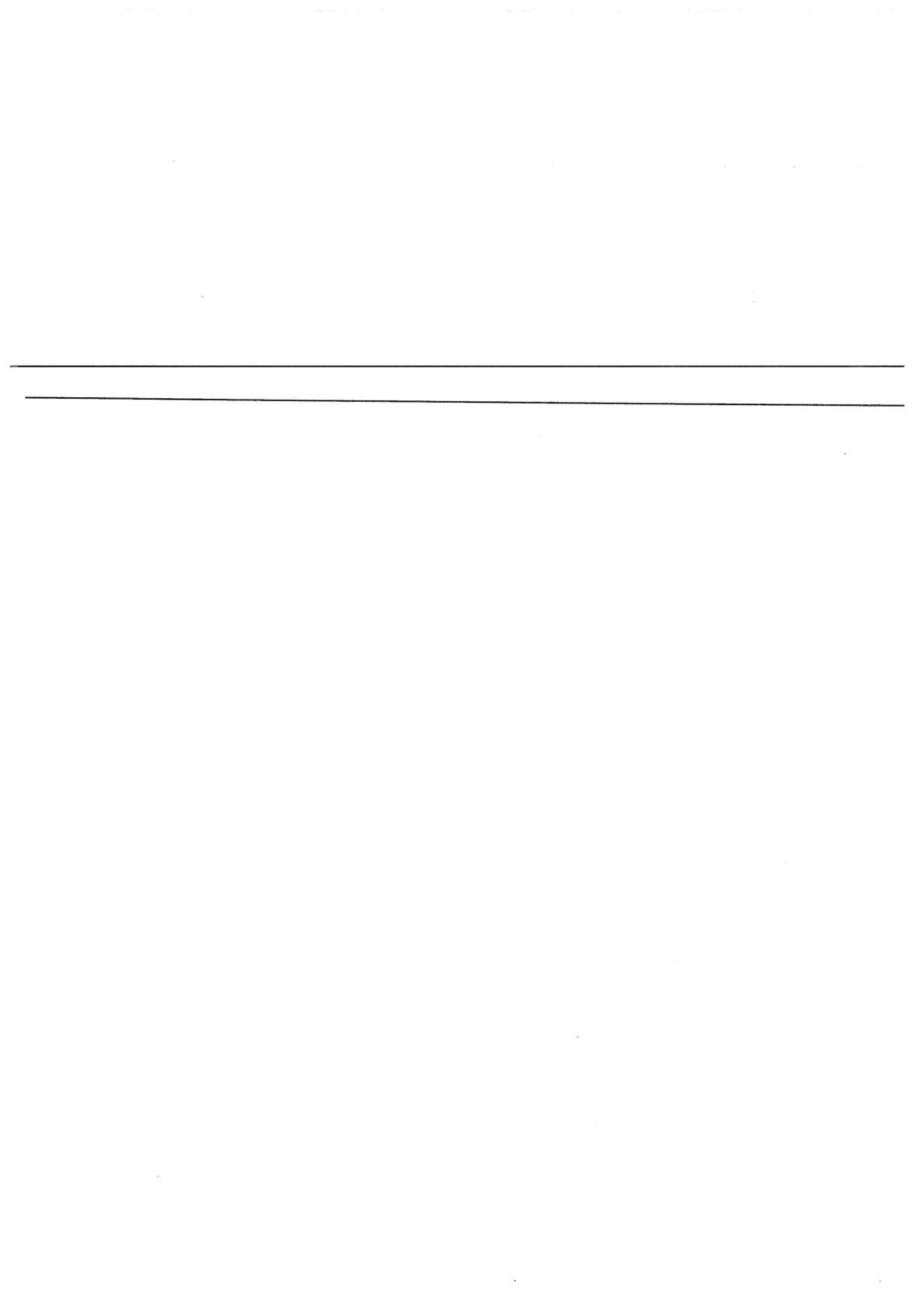
Copy to: Prof. Margaret Kobia, EGH
Cabinet Secretary
Ministry of Public Service, Gender, Senior Citizens
Affairs and Special Programmes
NAIROBI

H.E. (Hon.) Martin Wambora, EGH
Chairperson
The Council of Governors
NAIROBI

Dr. Joyce Mutinda, EBS
Chairperson
National Gender and Equality commission
NAIROBI

Mr. Maina Muiruri
Chairman
Media Council of Kenya
Britam Center, Upper Hill
NAIROBI







Pha Mgonia
pls facilitate
14/3/22



P, O BOX 38-Ololulunga
NAROK COUNTY

D/DC

Please deal.

Ge.
11/03/22

and

NAROK COUNTY LOCAL URBAN FORUM (LUF)

**MEMORANDUM
ON
THE PERSONS WITH DISABILITIES BILL, 2021**

NATIONAL ASSEMBLY BILL, NO 16 of 2021

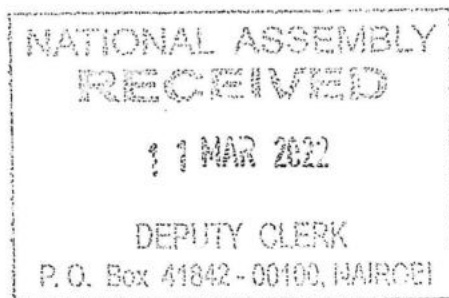
**SUBMITTED TO THE NATIONAL ASSEMBLY STANDING COMMITTEE
FOR LABOUR AND SOCIAL WELFARE**

THRO'

THE CLERK OF THE NATIONAL ASSEMBLY,

County Hall, Parliament Buildings
Parliament Road

11th March, 2022
NAIROBI, Kenya



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and United Disabled Persons of Kenya (UDPK)

LIST OF ACRONYMS

CRPD Convention on the Rights of Persons with Disabilities

LUF Local Urban Forum

~~DUPOTO Community Based Organization~~

KSPH Kenya Society of the Physically Handicapped

CBO Community based Organization

PS Principal Secretary

PWDs Persons with Disabilities

UDPK United Disabled Persons of Kenya

UNCRPD United Nations Convention on the Rights of Persons with Disabilities

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INTRODUCTION

Collaborating parties

1. This Memorandum has been prepared by the NAROK COUNTY LOCAL URBAN FORUM (LUF) and the DUPOTO CBO after collating input from persons with disabilities and other stakeholders.
2. The NAROK COUNTY LUF is a GROUP of Women, Youth, Persons with Disabilities and Minorities that is formed to enhance and deepen civic engagement and enhance participation of SIGs in County Governance and development processes. The LUFs are Envisioned in our Laws including in the County Government ACT (2012) PART VIII on citizen participation, Urban Areas and Cities ACT (2011) ON PART III – governance and management of urban areas and cities (Citizen Fora), Kenya Consitution 2010 and in the Public Finance and Management ACT (2012)
3. There are established 5 LUF in NAROK COUNTY in 5 Narok towns including MULOT, NAROK TOWN, KILGORIS, OLOLULUNGA and in NKARE. Together they form the larger NAROK COUNTY LUF group upon which this Memorandum is developed.
4. DUPOTO is a community Based Organization based in Narok County in Narok Town. The Organization Mandate is to advocate for the rights of persons with disabilities through collaboration and implementation of intervention geared toward levelling the playing field for persons with disabilities

GENERAL OBSERVATIONS

CRPD Alignment

Looking at the UNCRPD and the way this Bill has been framed, it is well aligned to the provisions of the Conventions as well as our Constitution 2010.

County and National Governments

There been no uniform understanding of the of matters relating to persons with disabilities in the functional mandates of the National and County governments. A majority of counties tend to consider disability issues as components of social development and therefore residual functional mandate of the National Government simply because it is not expressly assigned to either level.

Some counties have policies, laws, social development dockets and directorates, but still make negligible budgetary allocation and lay less emphasis on accessible service delivery to PWDs. The Bill as framed has cured this issues since it has provided for functional relationship between county and National Government with regard to this Bill

PROPOSALS AND RATIONALE

Part 1 – Preliminary, Section 2: Interpretation.

"Persons with Disabilities" are defined in the Bill as

Persons with Disabilities includes persons with permanent physical, mental, intellectual, developmental or sensory impairments including visual, hearing or Albinism which in interaction with various barriers may hinder their full and effective participation in society on an equal basis with others.

2.0 Proposal

The definition to substitute the term "Permanent" with "Long-Term"

Thus Reads

The definition could be: Persons with disabilities include those who have long-term physical, mental, intellectual or sensory impairments including visual, hearing or Albinism which in interaction with various barriers may hinder their full and effective participation in society on an equal basis with others.

2.1 Rationale

Inclusion of the term permanent in defining the persons with a disability connotes that one to be termed to be a person with disability permanency of the disability becomes core, this approach may disfranchise a persons who has non-permanent disability but their disability may be long-term thus during this long-term period they may not enjoy their full rights as persons with disabilities if we are to retain permanency as the marker for disability in the definition.

Part 1 – Preliminary, Section 3: Guiding values and principles.

The Bill has laid out the guiding principles in Guiding Principal and Values Section as

- a) Respect for inherent dignity, individual autonomy and independence of persons. The law should promote the human rights of persons with disabilities for the same reason it promotes the rights of everyone else.
- b) Equality and Non-Discrimination
- c) Full and effective participation and inclusion in the society in all spheres of life such as economic, social and political.
- d) Respect for difference. PWDs should not be expected to change so as to fit the structures that society has put in place.
- e) Equality of opportunities.
- f) Accessibility.
- g) Equality between men and women.
- h) Respect for the evolving capacities of children with disabilities. Children with disabilities face challenges with birth registration and accessing education.

3.0 Proposal

Including the 8 Principles and Values set out in the Bill already, It is proposed we add: -

1. Full, effective and **Meaningful** participation and Inclusion in all spheres of life in the Society
2. Accessibility and **Reasonable Accommodation**
3. Barrier-free Society;
4. Non Derogation of Rights
5. Human rights based approach
6. Empowerment

3.1 Rationale:

There is a call to underscore the need of involving persons with disability **meaningfully** in the mainstream development agenda and not as routine exercise, this idea is well espoused in the UNCRPD. The vision of inclusion is to achieve a barrier-free society where persons with disability will enjoy their rights on an equal basis with other without hindrances presented by barriers and hence **barrier-free society** should be one of our guiding principles.

It has been through experience that some rights of persons with disabilities are derogated after sometimes i.e. when they are required to register afresh so as to continue enjoying their rights, this act as a deterrence to inclusion and enjoyment of fundamental rights and freedoms envisioned in our Constitution, **Non-Derogation** of rights should be a core values

Including **reasonable Accommodation** as one of the guiding principal in the Bill will comprehensively capture and tie together chapter 27 of this Bill about Accessibility and address the overarching desire to move toward this direction. Empowerment will address the need to empower and strengthen capacities of persons with disabilities to meaningfully participate in Mainstream development agenda in the country including economic empowerment.

Part II – Rights of Persons with Disabilities, Section 4: Right to Equality and Non-Discrimination

There is need to capture **Reasonable Accommodation** as one of the measures necessary to eliminate discrimination

4.0 Proposal

It is proposed to add reasonable accommodation in the section 4(1) (b) which reads “entitled to the full and equal enjoyment of the goods, services, facilities, or accommodations on an equal basis with others”. To read as follows

“Entitled to provision of reasonable accommodation which will facilitate full and equal enjoyment of the goods, services, facilities, or accommodations on an equal basis with others”

4.1 Rationale

Reasonable Accommodation is key in promoting equality and elimination of discrimination. The idea is to capture Reasonable Accommodation as part of the Rights to persons with disabilities

Part II – Rights of Persons with Disabilities, Section 5: Right to Legal Capacity

This section provides rights of persons with disabilities vis a vis legal landscape.

5.0 Proposal

The proposal is to add to 5(3) in the section 5. Which reads “Persons with disabilities have equal right to own or inherit property, to control their own financial affairs and to have equal access to bank loans, mortgages

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and other forms of financial credit”.

We add so that the section Read as follows

“Persons with disabilities have equal right to own or ~~that~~ property, to control their own financial affairs, **to participate in electoral processes** and to have equal access to bank loans, mortgages and other forms of financial credit”.

5.1 Rationale

Current Laws around participation in the electoral process are not expressive about participation of persons with disabilities in the electoral processes. They may be disqualified to participate because of some wordings in the current Law i.e. of unsound Mind. Inclusion of Political Right here as part of the Right to Legal Capacity will secure the gains.

Part II – Rights of Persons with Disabilities, Section 8: Women with Disabilities

The proposal is to change introductory part of the section which reads “Every woman with disability has a right to enjoyment of her human rights and fundamental freedoms without discrimination on an equal basis with others, including the right to-

8.0 Proposal

The proposal is to include the word GIRL to the part so that it reads “Every woman and **girls** with disability has a right to enjoyment of her human rights and fundamental freedoms without discrimination on an equal basis with others, including the right to-



8.1 Rationale

Including girls in the introductory part will comprehensively capture all range of women and also add to the specificity and intentionality in inclusion of the girl child

Part II – Rights of Persons with Disabilities, Section 9: Children with Disabilities

9.0 Proposal

We propose we add 9(e) to the section 9. The proposed 9(e) to read as follows

9(e) in all actions concerning children with disabilities, the best interests of the child shall be a primary consideration.

9.1 Rationale

The idea is to ensure that the rights of the child are upheld and protected, this is in line with UNCRC

Part II – Rights of Persons with Disabilities, Section 12: Right to Documents of Registration and Identification

Section 12(1) states that “every person with disability has a right to be issued with a certificate of birth, national identification card, passport, and any other document of registration or identification”.

12.0 Proposal

We propose that we add **National Council Disability Card** to the section reads so that it reads "every person with disability has a right to be issued with a certificate of birth, national identification card, passport, **National Council Disability Card** and any other document of registration or identification".

~~We also propose to give the DISABILITY CARD more weight ,like~~
when a person produce it they can receive certain privileges like free treatment and other subsidized services

12.1 Proposal

We think NCPWD Disability Card is vital document for persons with disabilities which affords them some privileges and identification. So there is need to recognize the Card expressively

Part II – Rights of Persons with Disabilities, Section 16:Protection and safety of persons with disabilities in situations of risk and humanitarian Emergencies.

In this section 9 ,9(2) provides that "Construction and reconstruction emergency or humanitarian programmes and activities undertaken by the Government and any other establishment whether public or private shall, after consultation with the Council , take into account the accessibility requirements of persons with disabilities".

16.0 Proposal

Proposed to include the term **involvement and participation** so that it reads "Construction and reconstruction emergency or humanitarian

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programmes and activities undertaken by the Government and any other establishment whether public or private shall, after consultation with the Council, take into account the **involvement, participation** and accessibility requirements of persons with disabilities

16.1 Rationale

All emergency response plans including recovery and preparedness plan should meaningfully involve persons with disabilities as envisioned in UNCRPD and our other laws around participation

The whole of section 12 should have participation and involvement of persons with disabilities as overall prevailing idea

Part II – Rights of Persons with Disabilities, Section 18: Right to Education.

18,0 Proposal

The proposal is to add 18(14) to the section 18 which will read

18(14) Children with Intellectual or Developmental disabilities will be assessed through EARCs before their placement to any learning institution and no learning institution will reject the placement of the children

18,1 Rationale

The idea is to ensure that all learners regardless of nature of their disability attain education and that the children are not moved from the school on the account that they were not assessed before placement

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Part II – Rights of Persons with Disabilities, Section 19: Right to Work and Employment for persons with Disabilities.

Section 19 (1) Reads that “ No employer shall discriminate against a qualified person with disability in job application procedures, hiring, advancement and other terms, conditions, and privileges of employment”.

19.0 Proposal

The proposal is to remove the word “**qualified**” so that the section reads “No employer shall discriminate against a person with disability in job application procedures, hiring, advancement and other terms, conditions, and privileges of employment”.

19.1 Rationale

Usage of the word qualified in this context may seem to indicate that discrimination of unqualified persons with disability is allowed

19.2 Proposal

Section 19 (2) (a) Reads “Reserve at least five per cent direct employment opportunities for persons with disabilities to secure employment”;

We add 30% of all contracts reserve for SIGs so that it reads “reserve at least five per cent direct employment opportunities and 30% of all contracts for SIGs for to secure employment”;

19.3 Rationale

We add the contracts reserved for SIGs because they are part of employment

Section 19(2) (c) reads “when recruiting, not discriminate solely on account of disability”

12.2(c) Proposal

The proposal is to remove the word “Solely” so that the section reads “when recruiting, not discriminate on account of disability”;

12.3(c) Rationale

Usage of the word solely in this context seems to indicate that you can discriminate on other grounds which is still not lawful or right

12(2)(f) Proposal

We are proposing to **add 12(2) (f) to the section 12**, which will read as follows

12(2) (f):” Advertise any job opportunities in accessible way and in accessible formats”

12(3) (f) Rationale

The idea is to ensure that accessibility barriers that exclude persons with disabilities from applying or getting information about job opportunities are addressed

12.0(e) Proposal

Section 12(e) reads “be required to carry out appropriate modifications in their work premises to accommodate the employment of persons with disabilities”;

There is need to qualify what **appropriate modifications** are, what criterion do we use to measure the appropriate modifications. We can tie

CONSEQUENTIAL AMENDMENTS

It is proposed that the following pieces of legislation be reviewed to recognize, be alive to and facilitate realization of envisaged changes in the Bill: -

Proposal

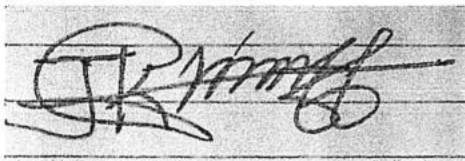
1. The occupational safety and health act, 2007
2. The County Governments Act, 2012
3. The Urban Areas and Cities Act, 2011
4. The Public Finance Management Act, 2012
5. Cooperative Societies Act (Chapter 490)

Rationale:

The review and linkage of the other pieces of legislation to the persons with disabilities Bill will create enabling environment for the seamless implementation of the Act.

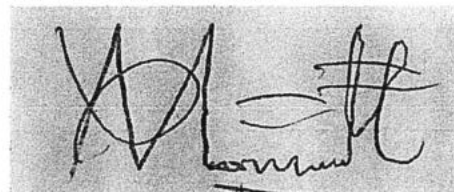
FOR AND ON BEHALF OF THE NAROK COUNTY LUIF AND DUPOTO

JOHN KOOL
DUPOTO CBO



PROGRAMS
COORDINATOR

REUBEN MPATIANY
NAROK COUNTY LUF



Dated at NAIROBI, Kenya
Friday 3/11/2022



D/DC
Please deal
11/03/22

John Mugu
pls facilitate
14/3/2022

9th March, 2022.

Public Participation Memoranda of Association of People with Disability Small Traders Organization in the informal sector within Nairobi Under the Nairobi Informal Sector Confederation (NISCOF).

Pursuant to the Kenya Gazette Supplement No. 239 (National Assembly Bill No.61) and Public notice whereby the public was invited to submit their memoranda on their recommendation, hereby find our submissions:

That the bill be amended as;

Clause 10: Youth disabilities.

Amend 10 (1) to read 10 (1) a and add 10(1) b to specify the age bracket of the youth with disability to be 18-40 years.

Clause 19: Right to Work and Employment for Persons with Disabilities

Amend to include those involved in the informal enterprises and are not employed/Entrepreneurs. People Living with Disability be considered on the benefit of equal measure where the Act gives benefits to the employed PWDS.

Clause 25: Access to Justice

Amend 25 (3) and add that those sentenced be held in a facility that are favorable and conducive to the PWD.

Clause 29: Civic and Political rights for Persons with Disabilities.

Amend 29 (2) and add to read "Allowing and or giving them express priority during voting".

Clause 32: Registration of Persons with Disabilities, Organizations and Institutions

Amend 32 (1) b and add to read "two persons nominated by Association for Persons with Disability from the Informal Enterprise".

Clause 33: Establishment of the council.

Amend 33 (2) by deleting (c)

Clause 35: Functions of the Council.

Amend 35 (v) and add "Instantly"

Clause 36: Powers of the Council

Amend 36 by deleting (i)



Clause 38: Composition of the Council.

Amend 38 (b) to be specific on who to represent the PS e.g. Head of Department for Persons with Disabilities.

Amend (d) and add (iii) to read that "Two Persons with Disabilities nominated by an association for Persons with Disabilities from the informal enterprises.

Clause 53: Exemptions

Amend 53 and change 1 to read 1 (a) and add (b) to read "a person with disabilities who is engaged in medium and small enterprise shall be exempted from any levies and or trading license".

Clause 54: Incentives

Amend and add 3 to read that "Person with Disabilities be given priority or consideration in tender applications with the government"

Also add that "Incentives be extended to Persons with Disabilities to avoid VAT during supply on Government Tenders.

Clauses 57: Exemptions from postal charges

Amend 57 b and add (iv) to read Registered Associations of Persons with Disabilities within the Informal Enterprises.

Clause 64: Negligence by medical Practitioners.

Amend 64 (8) and add within three months of enactment of this Act.

Clause 75: Markets

Amend 75 and add "and shall give priority to those Persons with Disability belonging to the local informal enterprises.

Add Clause 82: Forums

Add 82 to read "The council of Persons with Disabilities shall hold forums with Persons with Disabilities at least twice a year to hear their concerns."

Schedule – Allocate timelines on implementation of the Act.

Signed by and on Behalf of People Living with Disability.

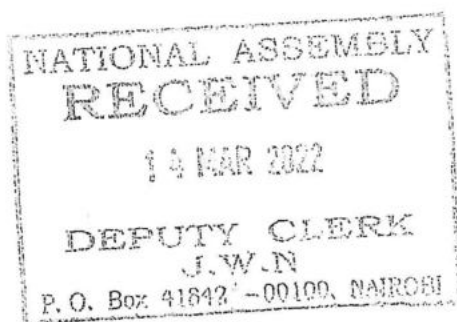
Sign: 

Date: 07/03/2022

Mr. Joel Mainqi (Chairman P.W.D.S.T.O.)

Dated 9th March 2022.

DD Office,
14/03



MEMORANDA TO THE NATIONAL ASSEMBLY ON THE PERSONS WITH DISABILITY NO. 61 OF 2021

Title/Clause	Provision	Proposed Provision	Justification	
Definition	Insert new definition	“Employment agency” means a person regularly undertaking with or without compensation to procure employees for an employer or to procure for an employer and opportunities to work for an employer and includes an agent of such a person.	It is necessary to include this definition in prohibiting these agencies from discriminatory methods of recruiting employees.	
Definition	Insert new definition	“Housing accommodation” includes real property, or a part thereof, which is used or occupied, or is intended, arranged, or designed to be used or occupied, as the home or residence of one or more persons.	This definition goes towards placing greater protections on the right to housing.	
Definition	Insert new definition	“Place of public accommodation” means a business, educational institution, refreshment, entertainment, recreation, health, or transportation facility of any kind, whether licensed or not, whose goods, services, facilities, privileges, advantages, or accommodations are extended, offered, sold, or otherwise made available to the public.	This definition goes towards prohibition of discriminatory practices in places of public accommodation.	
Definition	Insert new definition	(b) “Public service” means a public facility, department, agency, board, or commission owned, operated, or managed by or on behalf of this state or a subdivision of this state, a county, city, village, township, or	This definition goes towards prohibition of discriminatory practices when accessing public services.	

		independent or regional district in this state or a tax exempt private agency established to provide service to the public, except that public service does not include a state or county correctional facility with respect to actions or decisions regarding an individual serving a sentence of imprisonment.	
Definition	Insert new definition	“Real estate transaction” means the sale, exchange, rental, or lease of real property, or an interest therein.	This definition goes towards placing greater protections on the right to housing.
Definition	Insert new definition	Real property” includes a building, structure, mobile home, real estate, land, mobile home	This definition goes towards placing greater protections on the right to housing.
New Clause	Insert new Clause 18(9) and (10)	<p>Insert new clause 18(9) and (10) to read:</p> <p>19(9) An educational institution shall not:</p> <p>(a) Discriminate in any manner in the full utilization of or benefit from the institution, or the services provided and rendered by the institution to an individual because of a disability that is unrelated to the individual's ability to utilize and benefit from the institution or its services, or because of the use by an individual of adaptive devices or aids.</p> <p>(b) Exclude, expel, limit, or otherwise discriminate against an individual seeking admission as a student or an individual</p>	<p>This provision prohibits not only discrimination by schools against persons with disability but it also prohibits expulsions, inquiries and announcements against admission of persons with disabilities. Schools often make inquiries prior to admission of a student on their disability or extent of their disability so as to bar the child from admission.</p>

		<p>enrolled as a student in the terms, conditions, and privileges of the institution, because of a disability that is unrelated to the individual's ability to utilize and benefit from the institution, or because of the use by an individual of adaptive devices or aids.</p> <p>(c) Make or use a written or oral inquiry or form of application for admission that elicits or attempts to elicit information, or make or keep a record, concerning the disability of an applicant for admission for reasons contrary to the provisions or purposes of this act.</p> <p>(d) Print or publish or cause to be printed or published a catalog or other notice or advertisement indicating a preference, limitation, specification, or discrimination based on the disability of an applicant that is unrelated to the applicant's ability to utilize and benefit from the institution or its services, or the use of adaptive devices or aids by an applicant for admission to the educational institution.</p> <p>(e) Announce or follow a policy of denial or limitation through a quota or otherwise of educational opportunities of a group or its</p>	
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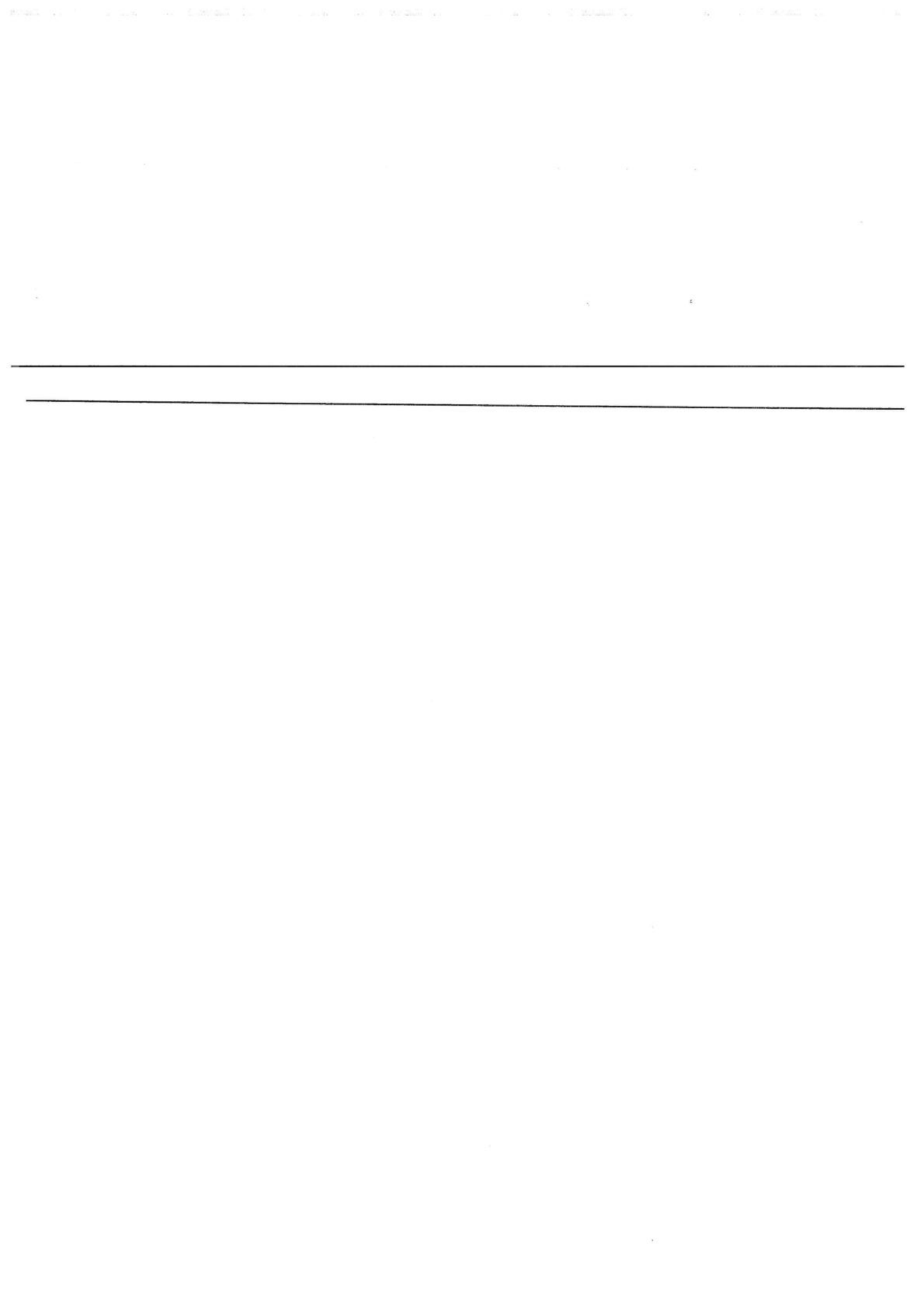
		<p>members because of a disability that is unrelated to the group or member's ability to utilize and benefit from the institution or its services, or because of the use by the members of a group or an individual in the group of adaptive devices or aids.</p> <p>(f) Develop a curriculum or utilize textbooks and training or learning materials which promote or foster physical or mental stereotypes.</p> <p>(10) An educational institution may adopt and carry out a plan to eliminate present effects of past discriminatory practices or assure equal opportunity with respect to persons with disabilities if the plan is filed with the commission, under rules of the commission and the commission has not disapproved the plan.</p>	
New Clause	Insert new Clause 19(5)	<p>Insert new clause 19(5) immediately after clause (6) to read:</p> <p>An employment agency shall not fail or refuse to refer for employment, or otherwise discriminate against an individual because of a disability or classify or refer for employment an individual on</p>	<p>Employment agencies which conduct job placements and referrals often discriminate against persons with disability. The provision seeks to prohibit such action.</p>

New Clause	Insert new clause 28	<p>the basis of a disability that is unrelated to the individual's ability to perform the duties of a particular job or position.</p> <p>Insert new clause 28 to read:</p> <p>A person shall not:</p> <p>(a) Deny an individual the full and equal enjoyment of the goods, services, facilities, privileges, advantages, and accommodations of a place of public accommodation or public service because of a disability that is unrelated to the individual's ability to utilize and benefit from the goods, services, facilities, privileges, advantages, or accommodations or because of the use by an individual of adaptive devices or aids.</p> <p>(b) Print, circulate, post, mail, or otherwise cause to be published a statement, advertisement, or sign which indicates that the full and equal enjoyment of the goods, services, facilities, privileges, advantages, and accommodations of a place of public accommodation or public service will be refused, withheld from, or denied an individual because of a disability that is unrelated to the individual's ability to utilize and benefit</p>			<p>This provision speaks on the rights of persons to enjoy goods services within public spaces.</p>
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New Clause	Insert new clause 75	<p>from the goods, services, facilities, privileges, advantages, or accommodations or because of the use by an individual of adaptive devices or aids, or that an individual's patronage of or presence at a place of public accommodation is objectionable, unwelcome, unacceptable, or undesirable because of a disability that is unrelated to the individual's ability to utilize and benefit from the goods, services and facilities.</p>	
	<p>Insert new clause 75 to read:</p> <p>75 (1) An owner or any other person engaging in a real estate transaction, or a real estate broker or salesman shall not, on the basis of a disability of a buyer or renter, of a person residing in or intending to reside in a dwelling after it is sold, rented, or made available, or of any person associated with that buyer or renter, that is unrelated to the individual's ability to acquire, rent, or maintain property or use by an individual of adaptive devices or aids:</p> <p>(a) Refuse to engage in a real estate transaction with a person.</p>		<p>Persons with disability often fail to find living accommodation based on their disability. The provision goes towards limiting any discriminatory behavior which bars them from enjoying their right to access to housing.</p>

			<p>(g) Offer, solicit, accept, use, or retain a listing of real property with the understanding that a person may be discriminated against in a real estate transaction or in the furnishing of facilities or services in connection with a real estate transaction.</p> <p>(h) Discriminate against a person in the brokering or appraising of real property.</p>		
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	<p>(b) Discriminate against a person in the terms, conditions, or privileges of a real estate transaction or in the furnishing of facilities or services in connection with a real estate transaction.</p> <p>(c) Refuse to receive or fail to transmit a bona fide offer to engage in a real estate transaction from a person.</p> <p>(d) Refuse to negotiate for a real estate transaction with a person.</p> <p>(e) Represent to a person that real property is not available for inspection, sale, rental, or lease when in fact it is available, fail to bring a property listing to a person's attention, refuse to permit a person to inspect real property, or otherwise deny or make real property unavailable to a person.</p> <p>(f) Make, print, circulate, post, or mail or cause to be made or published a statement, advertisement, or sign, or use a form of application for a real estate transaction, or make a record of inquiry in connection with a prospective real estate transaction, which indicates, directly or indirectly, an intent to make a limitation, specification, or discrimination with respect to a real estate transaction.</p>	



UNITED DISABLED PERSONS OF KENYA



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Nairobi, Kenya

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Opposite ABC Place
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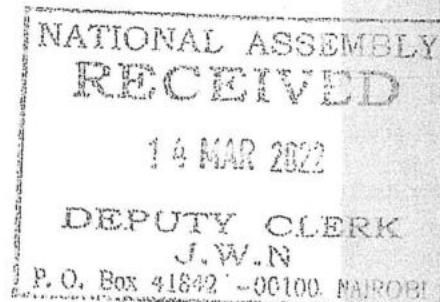
Tel: +254 722 126 197
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UDPK

11th March 2022

Our Ref: Memo/NA/11/03/22
The Clerk
National Assembly
Parliament Buildings
Parliament Road
NAIROBI

*DDC letter
John mugoma 8/10/22
pls facilitate 13/03
14/3/22*



Dear Sir,

RE: RESPONSE TO THE PUBLIC INVITATION BY NATIONAL ASSEMBLY SUBMISSION OF MEMORANDUM ON THE PERSONS WITH DISABILITIES BILL, 2021

Kindly find annexed a joint memorandum on the subject Bill by UDPK and CDRA for consideration and incorporation by the National Assembly. The United Disabled Persons of Kenya (UDPK) is an umbrella organization of national and grassroots associations of persons with disabilities in Kenya. Currently, UDPK has eighty - six member organizations.

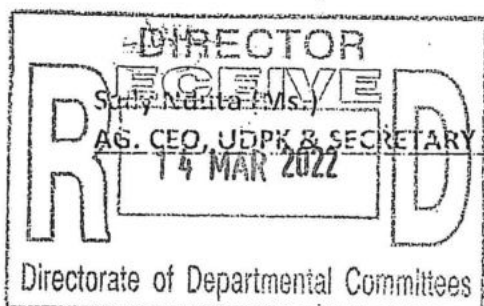
The Caucus on Disability Rights Advocacy (CDRA) is a coalition of organizations of and for persons with disabilities. CDRA seeks to promote the interests of persons with disabilities under the Constitution of Kenya and the law. In pursuit of their mandates, UDPK and CDRA have since 2013 engaged in several studies, research and policy change recommendations to ensure that interests of Persons with Disabilities are promoted and protected in all laws in Kenya.

The purpose of the Memorandum and proposals contained therein are intended to put the views of persons with disabilities in Kenya on the Persons with Disabilities Bill, 2022 on record for consideration for their sustainable benefit. The Memorandum has been submitted in accordance with Articles 1, 10, 54, 118, 119 and other relevant provisions of the Constitution of Kenya on Public Participation.

UDPK and CDRA are readily available for further consultations on the Memorandum with the National Assembly through the Justice and Legal Affairs Committee.

Yours faithfully,

UDPK FOR AND ON BEHALF OF THE UNITED DISABLED PERSONS OF KENYA (UDPK) AND CAUCUS ON DISABILITY RIGHTS ADVOCACY (CDRA)



UNITED DISABLED PERSONS OF KENYA



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United Disabled Persons of Kenya

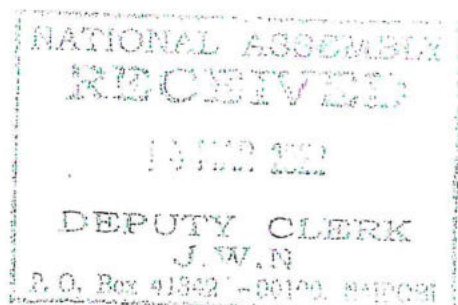
CDRA

Caucus on Disability Rights Advocacy

THE PERSONS WITH DISABILITIES BILL, 2021

PUBLIC PARTICIPATION MEMORANDUM BY ORGANISATIONS OF PERSONS WITH DISABILITIES

3/10/2022



NAIROBI MARCH 2022

1. INTRODUCTION

1. This memorandum is prepared by the Caucus on Disability Rights Advocacy (CDRA) and the United Disabled Persons of Kenya (UDPK).
2. UDPK is an umbrella organization of national and grassroots associations of persons with disabilities in Kenya, presently comprising 183 organizations with active presence in all the 47 counties.
3. CDRA is a coalition of organizations of and for persons with disabilities which seeks to promote the interests of persons with disabilities in terms of the Constitution of Kenya, 2010.
4. The memorandum is submitted in response to the National Assembly invitation for public participation in the legislative process on the Persons with Disabilities Bill, 2022.

2. PROPOSALS FOR THE IMPROVEMENT OF THE PERSONS WITH DISABILITIES BILL 2021

5. PREAMBLE:

Recommendation:

Delete the entire framing of the Preamble to the Bill and substitute therefor the following new framing:

“AN ACT of parliament to give effect to the Constitution, to re-establish the National Council for Persons with Disabilities and to provide for its functions and powers; to provide for the institutional framework for protecting, promoting and monitoring the rights of persons with disabilities; and for connected purposes”

Rationale: The framing as in the Bill, by specifically citing Article 54, restricts and/or limits the scope of the gains on the rights and entitlements of Persons with Disabilities in the Constitution to that Article. The rights and entitlements of Persons with Disabilities transcend the entire Constitution. The recommended framing is broad and covers the relevant components of the Bill clearly.

6. PART I - PRELIMINARY

Clause 2: Interpretation:

Definition of "Disability"

Recommendations:

2.1 Delete the definition of "**disability**" and substitute therefor the definition in Article 260 of the Constitution, namely –

"disability" includes any physical, sensory, mental, psychological or other impairment, condition or illness that has, or is perceived by significant sectors of the community to have, a substantial or long- term effect on an individual's ability to carry out ordinary day-to-day activities"

Rationale: The definition in the Bill is not aligned with either the Constitution or the Convention on the Rights of Persons with Disabilities (UNCRPD)

2.2 Delete the word 'permanent' in the definition of "persons with disabilities" and substitute therefor the word '**long-term**'

Rationale: There is need for consistency in framing. The definition in the Bill is not aligned with either the Constitution or the Convention on the Rights of Persons with Disabilities (UNCRPD)

Clause 3. Guiding Principles

Recommendations:

3.1 Delete the word "**private**" in clause 3 (a) i.e. *"Respect for inherent dignity and individual autonomy including the freedom to make one's own choices, and independence of all persons in the conduct of their private affairs"* so that the new framing reads -

"Respect for inherent dignity and individual autonomy including the freedom to make one's own choices, and independence of all persons in the conduct of their affairs"

Rationale: The principle of independence is broad and should not be limited to conduct of private affairs.

3.2 Delete the word '**differences**' in sub-clause (d) which reads *"Respect for differences and acceptance of persons with disabilities as part of human diversity and humanity"* and substitute therefore the word '**difference**'

Rationale: The framing connotes diversity and not 'disagreements'

7. PART II: RIGHTS OF PERSONS WITH DISABILITIES

Clause 4 1a) Right to equality and non-discrimination.

Recommendation:

Delete sub-clause 1 (a) in its entirety and substitute therefor **"Every person with a disability is equal before and under the law and is entitled without any discrimination to protection and to equal benefit of the law"**

Rationale: Unnecessary phrasing. There are four critical elements which the new framing captures; namely 'under, before, protection and equality before the law'.

Clause 6: Right to have a family

Recommendation:

Delete the word '*sexuality*' in sub-clause 6(2) and substitute therefor the word '**sexual**'

Rationale: 'Sexual' is the universally accepted referencing.

Clause 10(1) Youth with Disabilities

Recommendation:

Delete the phrase '*young person with disability*' in sub-clause 10 (1) and substitute therefor the phrase '**youth with disability**'.

Rationale: The concept of 'young' person is ambiguous. Reference should be 'youth with disabilities' to avoid ambiguity.

10 (2)

Recommendation:

Delete the introductory framing in sub-clause 10 (2) and substitute therefor the framing:

"The relevant ministries, departments and agencies shall take policy, legislative, administrative and other measures subject to consultation with and oversight of the National Council for Persons with Disabilities to ensure that rights of youth with disabilities are fully respected, including by ... - "

Rationale: The mandate of the National Council for Persons with Disabilities largely advisory and oversight. It cannot take over the policy and statutory mandates of the various ministries, departments and agencies in the Executive Branch of Government at the County and National levels. The currently framing in the Bill is likely to lead to conflict of mandates and unhealthy duplication.

Clause 13 Right to Life

Recommendation:

Introduce the following new substantive clause and re-number the subsequent clauses appropriately:

“Every person with disability has inherent right to life, and integrity and that right shall be respected and protected”

Rationale: Persons with Disabilities are human persons entitled to life and protection of that life as other human persons.

Clause 18: Right to education

Sub-clause 18(3):

Recommendation:

Delete sub-clause 18 (3) and substitute therefor the following:

“The relevant ministries, departments and agencies shall facilitate, subject to consultation with and oversight of the National Council for Persons with Disabilities, participation of persons with disabilities in accessible and adaptable continuing adult education programmes in both public and private institutions of learning on an equal basis with others”

Rationale: The mandate of the National Council for Persons with Disabilities largely advisory and oversight. It cannot take over the policy and statutory mandates of the various ministries, departments and agencies in the Executive Branch of Government at the County and National levels.

Sub-clause 18 (4)

Recommendation:

Delete the framing in sub-clause 18 (4) and substitute therefor the following:

“The relevant ministries, departments and agencies shall subject to consultation with and oversight of the National Council for Persons with disabilities ensure that persons with disabilities have access to inclusive education without discrimination and on an equal basis with others at all levels”

Rationale: The mandate of the National Council for Persons with Disabilities largely advisory and oversight. It cannot take over the policy and statutory mandates of the various ministries, departments and agencies in the Executive Branch of Government at the County and National levels.

Sub-clause 18(8)

Recommendation:

Delete the introduction to sub-clause 18 (8) and substitute therefor the following:

“The relevant ministries, departments and agencies shall subject to consultation with and oversight of the National Council for Persons with disabilities ensure that: - ...”

Rationale: The mandate of the National Council for Persons with Disabilities largely advisory and oversight. It cannot take over the policy and statutory mandates of the various ministries, departments and agencies in the Executive Branch of Government at the County and National levels.

Sub-clause 18(8)(c)

Recommendation:

Delete the introduction to sub-clause 18 (8) (c) and substitute therefor the following:

“The relevant ministries, departments and agencies shall formulate, subject to consultation with and oversight of the National Council for Persons with disabilities, strategies to implement inclusive education through ... : -”

Rationale: The mandate of the National Council for Persons with Disabilities largely advisory and oversight. It cannot take over the policy and statutory mandates of the various ministries, departments and agencies in the Executive Branch of Government at the County and National levels.

Sub-clause 18(8)(c)(ii)

Recommendation:

Delete the phrase '*development of a least restrictive environment by*' in 18 (8) (c) (ii) so that the sub-clause reads "**... adaptation and structural adjustments of all educational institutions to the needs of persons with disabilities**"

Rationale: deleted phrase is superfluous

Sub-clause 18(8)(c)(v)

Recommendation:

Delete the word '*adoptive*' and substitute therefor the word '**adaptive**'

Rationale: deleted word has the meaning of embracing. 'Adaptive' has the meaning of adjusting to fit in given circumstances.

Sub-clause 19 (1) Right to Work and employment for Persons with disabilities

Recommendation: delete the word '*qualified*'

Rationale: The deleted word is redundant since the law cannot require unqualified people to be employed.

Sub-clause 19(2)

Recommendations:

Delete the phrase "*Every employer*" in sub-clause 19 (2) and Introduce the following new paragraphs and re-number the sub-paragraphs appropriately –

"19 (2) (a) Every public employer shall reserve at least five percent direct employment opportunities for persons with disabilities to secure employment;"

"19 (2) (aa) Every private sector employer shall, subject to verifiable economic performance, reserve at least five percent direct employment opportunities for persons with disabilities to secure employment;"

Insert a new sub-clause 19 (2) (b) with the following framing and assign roman numerical to (b) to (e) in appropriate order:

"19 (2) (b) notwithstanding the provisions of paragraphs (a) and (aa) above, every employer shall - ..."

Rationale: Public employers are obligated to implement the 5% provision of the Constitution, with penalties for non-compliance. Private sector cannot be obligated to implement the 5% principle since their capacity to meet the constitutional threshold is predicated on their revenue generation which is dependent on the performance of the economy. However, a private sector entity that has demonstrable and verifiable revenue and wilfully fails to match the employment quota to revenue generated should be penalised for such an amount equal to wages that would ordinarily accrue to employees with disabilities in the unmet quota. Revenue accruing from such penalties would be put into a kitty to enhance employment of persons with disabilities. Where on the other hand a private sector employer meets the quota stipulated by statute, such employer should be entitled to incentives contemplated in the Persons with Disabilities Act, No. 14 of 2003.

Sub-clause 19(2) (c)

Recommendations:

Delete the word '*solely*' in sub-clause 19 (2) (c)

Rationale: The current framing excludes other forms of discrimination against persons with disabilities

Sub-clause 19(5) (d), (e), (f)

Recommendation:

Delete the word '*qualified*'

Rationale: The deleted word is redundant since the law cannot require unqualified people to be employed.

Sub-clause 19(7) (c)(ii)

Recommendation:

Delete the framing in sub-clause 19 (7) (c) (ii) and substitute therefor '**denying opportunities to persons with disabilities**'

Rationale: Ambiguous framing

Sub-clause 19(7) (c) (iii)

Recommendation: Delete the phrase “for the known physical or mental limitations of an employee with disabilities”

Rationale: Superfluous

Clause: 20 No Dismissal of a person with disability

Recommendation: Delete the word ‘solely’

~~**Rationale:** The current framing excludes other forms of discrimination against persons with disabilities~~

Sub-clause 21(1) Incentive for private employer

Recommendation: Insert a coma immediately after the word ‘apply’ and insert the phrase “in prescribed form”

Rationale: Need for compliance with established uniform procedures

22. Right to Health

Recommendations:

Introduce the following new sub-clauses immediately after clause 22:

22 A “Persons with disabilities shall be entitled to be provided with health services as close as possible to their own communities”

22 B “Persons with disabilities shall be provided with care of the same quality as others, including on the basis of free and informed consent”

Rationale: Need for compliance with UN CRPD

Clause 23: Council to participate in health programmes

Sub-clause 23(1)

Recommendations:

Delete the intro to sub-clause 23 (1) and substitute therefor the following:

“Relevant ministries, departments and agencies shall, subject to consultation with and oversight of the Council, implement health programs for the purpose of’: -

Rationale: Good governance, disability mainstreaming and an inclusive approach to disability where each relevant ministry, department and agency must play a part in disability inclusion.

Clause 23A: Access to information and communication technology services

Recommendation:

Introduce a new Clause 23A and assign the current marginal note in Clause 24 to the new Clause 23A and insert the following phrase:

“Every person with disability has a right to access information and to use appropriate means of communication including Kenya Sign Language, display of text including Kenya Sign Language insets or subtitles and closed captioning on television programmes, 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”

Rationale: Conformity with the Constitution and UN CRPD

Clause 24:

Recommendation:

Delete the current marginal note for Clause 24 and substitute therefor ‘Freedom of Expression’ and insert the following phrase:

“Every person with disability has the right to freedom of expression and opinion, including the freedom to seek receives and imparts information and ideas, and the right to access information on an equal basis with others in a timely manner and without additional costs”

Rationale: Freedom of expression is omitted in the Bill. It is a fundamental right which should accrue to persons with disabilities on equal basis with others

Clause 27: Accessibility

Sub-clause 27(4)

Recommendation:

Delete the current framing and substitute therefor the following:

"Every person with disability has a right to personal mobility, including the use of assistive devices of his or her choice and no person with disability shall be denied access to any place ordinary open to the public because of the nature of his or assistive devices"

Rationale: To remove ambiguity and have clarity

Clause 28 Adjustment Orders

Sub-clause 28(2)

Recommendation:

Delete the current framing and substitute therefor the following:

"If relevant ministries, departments and agencies, in consultation with and oversight of the National Council for persons with disabilities, considers that any premises, services or amenities are inaccessible to persons with disabilities by any structural, physical, administrative or other impediment to such access, the ministries, departments and agencies shall subject to this section, serve upon the proprietor of the premises, or provider of services or amenities concerned, an adjustment order ...;-"

Rationale: The mandate of the National Council for Persons with Disabilities largely advisory and oversight. It cannot take over the policy and statutory mandates of the various ministries, departments and agencies in the Executive Branch of Government at the County and National levels.

Clause 30: Living in the community

Recommendations:

30.1 Delete the marginal note for sub-clause 30 (1) and substitute therefor:

'Living in the community' and delete the phrase *"independent living"* in the text of the clause and substitute therefor **"living in the community"** with choices on an equal basis with others and including..."

Rationale: Contextualizing UN CRPD in Kenya

30.2 Sub-clause 30 (2)

Recommendations:

Delete sub-clause 30 (2) in its entirety and substitute therefor the following new marginal note and text:

'Right to Adequate standard of living and social protection'

30 (2) "Every person with disability has a right to an adequate standard of living and for social protection"

Rationale: The current framing of sub-clause 30 (2) is misplaced and a misconception. Adequate standard of living is a human right entitlement for persons with disabilities. The new framing contextualizes UN CRPD in Kenya

Clause 31A: Disability Data and standards

Recommendations:

Introduce a new Clause 31A with the following marginal note and text:

'Disability Data and standards'

"The National Council for Persons with Disabilities shall work with relevant ministries, depts and agencies, including the Kenya National Bureau of Statistics towards collection of accurate and timely data on persons with disabilities. This data shall be disaggregated including on the basis of gender, age, disability status and geographical location for use of disability inclusion, planning, programming implementation and monitoring"

Rationale: The Bill has omitted the aspect of data which is a key component in disability inclusion sensitive development planning and resource allocation

8. PART III – ESTABLISHMENT, POWERS AND FUNCTIONS OF THE NATIONAL COUNCIL FOR PERSONS WITH DISABILITIES

Sub-clause 34 (2)

Recommendation:

Delete sub-clause 34 (2) and substitute therefor:

"The Council shall establish its offices and decentralize its services to every county and to any other parts of the country as it considers necessary in accordance with Article 6 (3) of the Constitution"

Rationale: Need to acknowledge Devolution

Sub-clause 35 (1) (a)

Recommendation:

Delete sub-clause 35 (1) (a) and substitute therefor the following:

“The Council shall advice, supervise, and monitor all relevant ministries, departments and agencies for accessibility of information, goods, and services and built environment for persons with disabilities and for provision of reasonable accommodation for effective participation of persons with disabilities in society”

Rationale: The role of the Council is largely oversight and advisory

Sub-clause 35(1)(c)

Recommendation:

Delete the word *‘Facilitate’* and substitute therefor the word **‘Advice’**

Rationale: The role of the Council is to advice the relevant ministries, departments and agencies collect relevant and timely data on persons with disabilities and disaggregate this data into including gender, disability and age

Sub-clause 38 (1) (d) (ii)

Recommendation:

Delete the phrase *“parents of persons with mental disabilities”* and substitute therefor the phrase **“parents of children with disabilities”**

Rationale: Acknowledgment of vulnerability of children with disabilities and the multiple burdens put on parents.

9. PART IV – RELIEFS AND INCENTIVES

Sub-clause 53(3)

Recommendation:

Delete the phrase *“specially designed”* and the phrase immediately after the words *“value added tax”* and substitute therefor **“which would in not in any way lead to increased costs so as to disadvantage persons with disabilities’**.

Rationale: The intention contemplated in the Persons with Disabilities Act No. 14 of 2003 is imported here in conformity with the globally established dictum

that a right enjoyed over a period of time may not be derogated from without grant of a similar or higher entitlement or benefit

Sub-clause 53 (4)

Recommendation:

Insert a comma immediately after the words "value added tax" and insert the following phrase followed by another comma **"which would in any way defeat the purposes of or increase the costs of such donations ..."**

Rationale: Multiple taxes on donation inhibit access to such donations by persons with disabilities

Sub-clause 53 (5)

Recommendation:

Insert a comma immediately after the words "value added tax" and insert the following phrase followed by another comma **"which would in any way defeat the purposes of or increase the costs of such donations ..."**

Rationale: Multiple taxes inhibit access to such purchase, importations, transfers, gifts and health equipment by persons with disabilities

Sub-clause 56 (1) (b)

Recommendation:

Delete the phrase *"to meet the special needs of"* and substitute therefor: **"for accessibility of"**

Rationale: The term '*special needs*' is restrictive

10.PART V – RELATIONSHIP BETWEEN THE NATIONAL GOVERNMENT AND COUNTY GOVERNMENTS ON MATTERS OF DISABILITY

Sub-clause 59(2)

Recommendation:

Delete the word *"only"*

Rationale: Superfluous

Sub-clause 60 (1)

Recommendation:

Delete the word "*only*"

Rationale: Superfluous

Sub-clause 60 (2) (c)

Recommendation:

Delete the word '*cultural*' immediately after the word '**Harmful**'

Rationale: Harmful practices are broad to include cultural, religious

Sub-clause 61 (1)

Recommendation:

Delete the word '*knowingly*'

Rationale: Superfluous

Sub-clause 62

Recommendation:

Delete the word '*knowingly*'

Rationale: Superfluous

Sub-clause 63

Recommendation:

Delete the words '*voluntarily*' and '*knowingly*'

Rationale: Superfluous

Sub-clause 64 (4)

Recommendation:

Delete the phrase '*who causes disability of another person or*' immediately after '*medical practitioner*' and substitute therefor the phrase '**any person including doctors**'.

Rationale: The Bill concerns persons without disabilities and not for 'other persons'

11.PART VI – NATIONAL DEVELOPMENT FUND FOR PERSONS WITH DISABILITIES

Recommendation:

Introduce a new Part VI - National Development Fund for Persons with Disabilities with the following marginal notes and provisions and re-number the Bill as appropriate:

Establishment of the Fund

Sub-clause 65 (1) There is established a Fund to be known as the National Development Fund for Persons with Disabilities

(2) The Fund shall be established as a permanent fund and the income therefrom shall be used for the benefit of persons with disabilities in Kenya.

(3) The Fund shall be administered by the Council through a board of trustees established under clause 66.

Sources of and Payments from Fund

Sub-clause 66 (1) The sources of the Fund shall be—

- (a) such moneys as may be appropriated thereto by Parliament;
- (b) income generated by investments made by the trustees; and
- (c) any other donations which the Council may receive for purposes of the Fund.

Trustees to manage Fund

Clause 66 (1) The Fund shall be managed by a Board of Trustees which shall consist of—

- (a) the Chairman of the Council;
- (b) the Director of the Council who shall be the secretary to the Board;
- (c) a representative of the Minister appointed by the Minister;
- (d) a representative of the Ministry responsible for finance appointed by the Minister responsible for finance;
- (e) four representatives appointed by the Council consisting of—
 - (i) one representative nominated by organizations of persons with visual disabilities;
 - (ii) one representative nominated by organizations of persons with hearing disabilities;

- (iii) one representative nominated by organizations for persons with mental disabilities; and
- (iv) one representative nominated by organizations for persons with physical disabilities
- (f) not more than three persons co-opted by the Council to represent the donors that in its opinion have substantially supported the welfare of persons with disabilities.

(2) The Minister shall appoint one of the persons appointed under subsection (1) (e) to be the treasurer to the Fund.

(3) The Board shall conduct its affairs in accordance with regulations prescribed by the Council subject to any law relating to trustees.

Application of the Fund

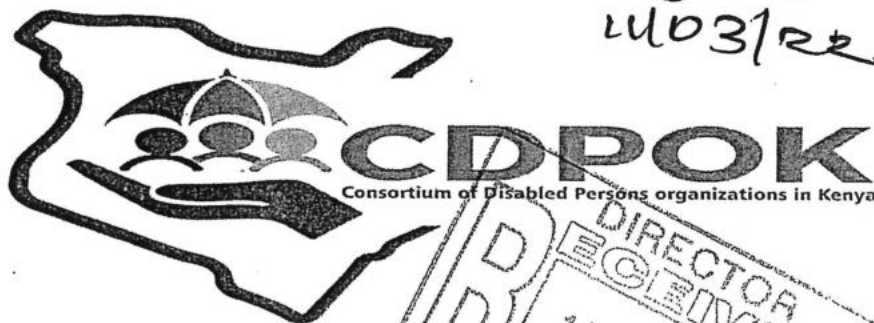
Sub-clause 67 Without limiting the generality of sub-clause 65 (2), the Board of Trustees may, out of the Fund—

- (a) contribute to the expenses, including capital expenses, of organizations of or for persons with disabilities;
- (b) contribute to the expenses, including capital expenses, of institutions that train persons in the care of persons with disabilities;
- (c) contribute to the capital expenses of projects undertaken by the Government for the benefit of persons with disabilities;
- (d) provide or contribute to the cost of assistive devices and services;
- (e) pay allowances to persons with disabilities falling in the following categories and who have no other source of income—
 - (i) persons with severe disabilities and who are therefore not trainable in any skills;
 - (ii) aged persons with disabilities; and
 - (iii) single parents with children with disabilities and who cannot therefore seek employment;
- (g) make payments or contributions for such purposes as may be prescribed by the Council.

Rationale: The intention contemplated in the Persons with Disabilities Act No. 14 of 2003 establishing the Fund is imported here in conformity with the globally established dictum that a right enjoyed over a period of time may not be derogated from without grant of a similar or higher entitlement or benefit. When established under Section 24 of the Public Finance Management Act, 2012, the transition to the enabling Act shall not derogate, disrupt or in any way take away the continuing benefits accruing to persons with disabilities and may only enhance the scope and scale of such benefits. Furthermore, any such transition shall be seamless and expeditious without inordinate delays.

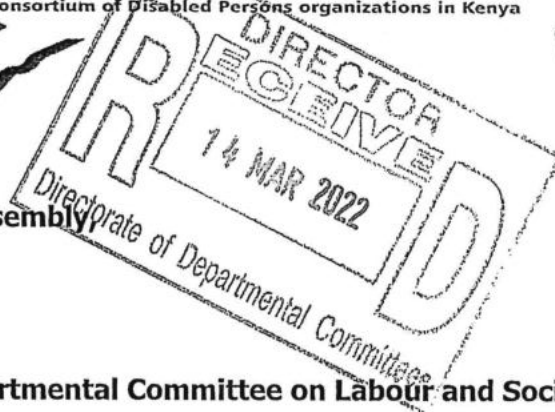
/END/11/03/2022

D/DC
Please deal.
14/03/22



John Mwangi
pls facilitate
14/3/2022

Clerk of the National Assembly
Parliament Buildings,
P.O Box 41842-00100,
NAIROBI.



National Assembly Departmental Committee on Labour and Social Welfare

10th March 2022

RE: Memorandum on the Persons with Disabilities Bill (National Assembly Bill No.61 of 2021.

Consortium of Disabled Persons Organizations in Kenya (CDPOK) is an UMBRELLA of Organizations for Persons with Disabilities (OPDs) in Kenya that brings together organizations formed by and for persons with Disabilities and organizations working for persons with disabilities together to speak in one voice thus advocates for improved service delivery to Persons with disabilities (PWDs) through networking collaboration and partnership with government and non-government actors. The Consortium currently has 134 member organizations across the 47 counties.

In accordance with the provisions of Article 118(1)(b) of the Constitution and Standing Order 127(3) of the Standing Orders of the national assembly, we hereby submit our representations on certain provisions of the Persons with Disabilities Bill, National Assembly Bill No. 61 of 2021 as follows:

Section of the Bill	Proposed Amendment to the Bill Section	Justification
Section 53 (1)	Require that parents/guardians of children with severe disabilities who is in employment may as well apply to the cabinet secretary responsible for finance for exemption for income tax from employment.	This will ensure that registered care givers of children with severe disabilities use their income to support the children. The children do require special care that comes with financial responsibilities that burden their care givers.

11 MAR 2022
DEPUTY CLERK
NAIROBI

	Section 53(1) should read, A person with disability or a registered care giver of a child with severe disability who is in employment may apply to the cabinet secretary responsible for finance for exemption from income tax on employment income.	Some are in constant medication and others need to have people that are employed to take care of them.
Section 32,33 and 34 of the Persons with Disabilities Act No. 14 of 2003 be re-instated	<p>We propose the reinstatement of Part V of the Persons with Disabilities Act No.14 of 2003. National Development Fund for Persons with Disabilities.</p> <p>The fund gives National Council financial ability to address issues that affect persons with disabilities with the urgency that it deserves.</p>	<p>If National Council for Persons with Disabilities (NCPWD) loses the 259 million development fund money and 1.2 billion allocation for cash transfer program for persons with severe disabilities, then the Council will not be in a position to fully address the issues/plights as expected by persons with disabilities.</p> <p>The PWDs Act No. 14 of 2003 created National Development Fund for persons with Disabilities a permanent fund so persons with disabilities were assured of budget allocation to carry out the school fees/scholarship function, economic empowerment and procurement of assistive devices.</p>

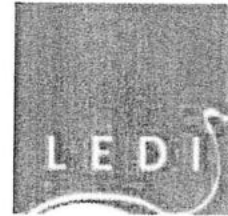
Respectfully,

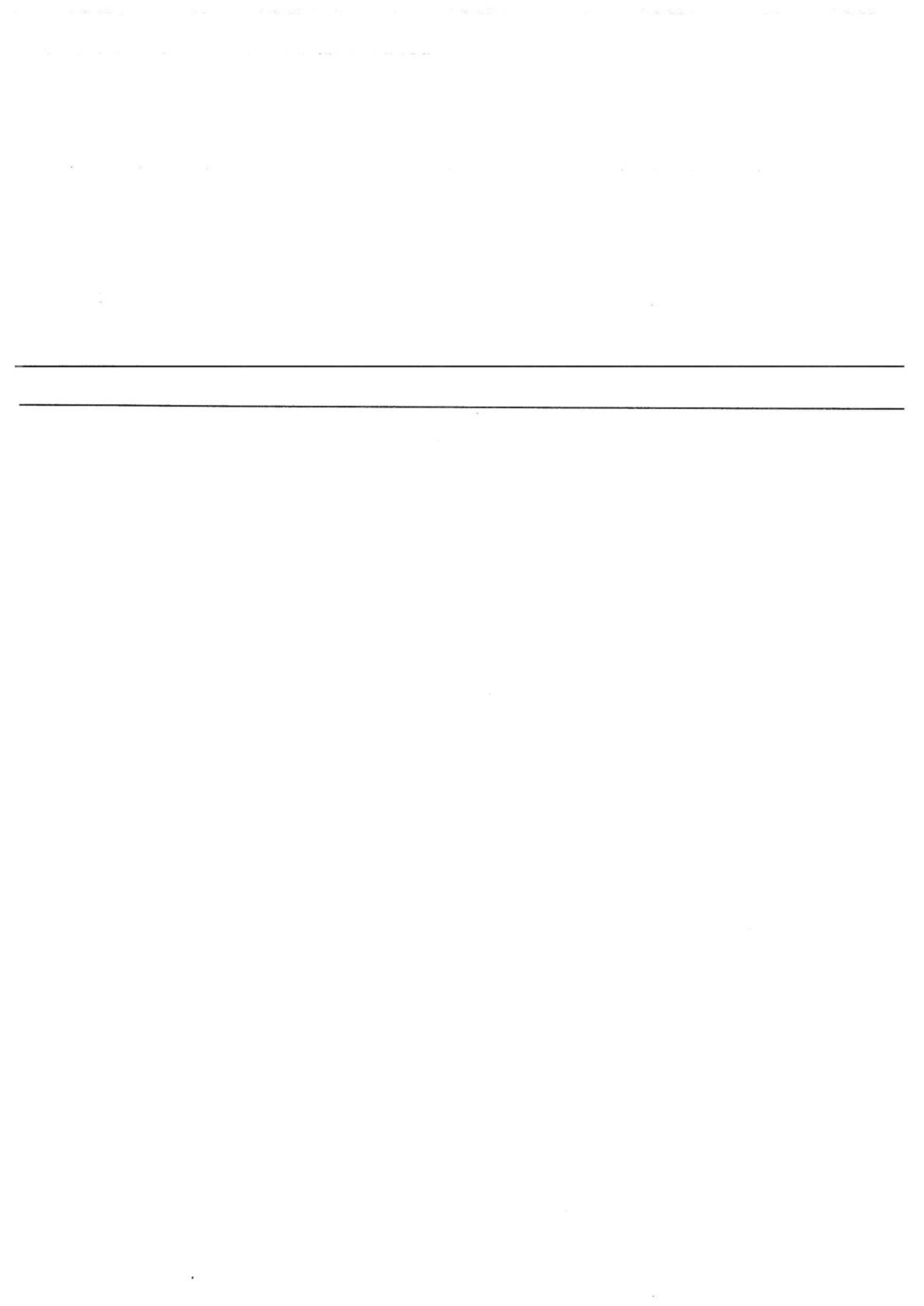
Consortium of Disabled Persons Organizations in Kenya and Disabled Persons Organizations.





ALBINISM EMPOWERMENT NETWORK

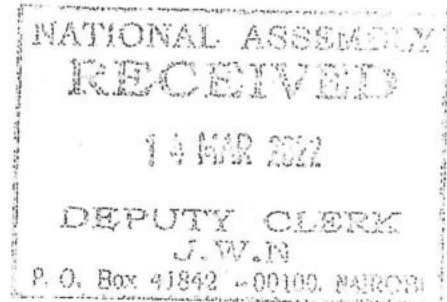




082

MEMORANDUM

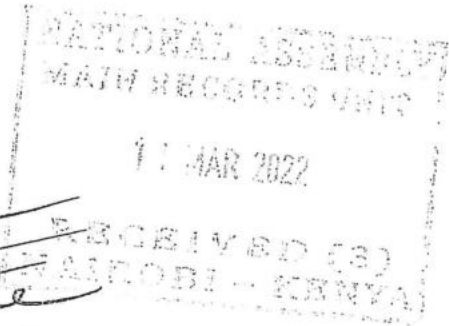
To The Clerk of The National Assembly,
P.O. Box 41842-00100,
Nairobi.



cc Hon. Wachira, Josphat Kabinga.
Chairperson, Labour And Social Welfare.
National Assembly.

cc Harun M. Hassan.
Executive Director,
National Council for Persons With Disabilities

John Mugoma
pls facilitate
com



INTRODUCTION

PREAMBLE

Disability has for a long time been a silent complex social issue whose untold misery of victims of different disabilities and impairments ends up being hidden for fear of stigma and discrimination in the communities which they reside.

Among the most affected by this problem are children with disability and their parents/caregivers who have to give enormous support in upbringing to their kids throughout their lives, not forgetting the high cost of medication, special needs education, nutrition continues therapy whose expense has remained a great burden to parents

We the residence of Kasarani and Dagoretti who are parents/caregiver, partners and persons who work directly with children with Disabilities wish to propose our inputs for consideration in the Persons with Disability bill 2021.

As per the directive of the president to the public during the observance of the international day of persons with disabilities at KICC, Nairobi on 3rd December 2021, the residents of Dagoretti and Kasarani have been made aware of the request of Kenya constitution 2010 through public participation.

THEREFORE: we undersigned will wish to highlight as follows on priority areas that require further interventions as shared by the public during a meeting held on 28/02/2022

- a) The parents/caregivers, Friends and children with disability, have a concern that our needs are not put into consideration namely assessment of their children, access to medication and access to learning institutions for Children with Disabilities.

- b) With the help of Community Health Volunteers(CHV's) in identifying children with disabilities in community the number of children are overwhelming. This also includes community awareness activities on different types disabilities
- c) The children need support to access to quality healthcare by having clinics which are well equipped for the early identification for health complication and therapy services
- d) Access to assistive devices and early intervention infrastructure. Steps need to be taken to ensure the progressive realization of the right of the children with disabilities there is need for advanced access to assistive tools and equipment necessary for assessment
- e) Inadequate persons with disability aiding equipment of the schools and hospitals.
- f) High cost of learning institutions and medication needed to manage different co e.g. ephilim,cabamexine, Phenobarbitone which are not available in most medical facilities in the community.

Early identification and interventions for children with disabilities. Identification of children with disabilities during medical assessment at birth to avoid worsening condition of the child; there is need for;

- Trained health care workers on early identification and intervention
- Equip clinics/room per sub-county to improve capacity for identification/interventions
- Well-equipped tools and equipment need for assessment and monitoring

Article 24 (1) of the Convention of the rights of people with disabilities (CRPD) highlights the importance of ensuring an inclusive education at all levels and lifelong learning. Education should be nondiscrimination, free and compulsory primary education access and inclusive, equality education within their community; ensure reasonable accommodation and provide support measure for every child in every school including learners with disabilities.

The Sustainable Development Goals highlight the importance of a comprehensive plan of action to build a global partnership for sustainable development to improve human lives and protect resources across the globe.

Globally, its recognized that ending poverty and other deprivations must go hand-in-hand with strategies that improve health and education, reduce inequality, and spur economic growth

SDG four comes out strongly to advocate for inclusive and quality education for lifelong learning.

As a result of the above, the children with disabilities have and continue to face the following problems.

- ✓ Increased mental health issues in parents.
- ✓ Prolonged & delayed developmental milestones among children with disabilities
- ✓ Reduced number of Disability friendly institutions where their children can enroll.
- ✓ Discrimination and increased stigma in the community
- ✓ Increased child abuse cases of children living with disabilities such us defilement, sodomy and sexual harassment especially among children with intellectual and mental disabilities.

- ✓ Parents are demoralized due to economic distress as a result of long distances to reach the service areas
- ✓ Late identifications and intervention leading to severe effects and complication.
- ✓ Caregivers are unable to work and participate actively in the economy due to the burden of taking care of their children with disabilities especially severe disabilities.

CONSIDERING UPSCALING OF ASSESSORS PER SUB-COUNTY IN THE WHOLE COUNTY.

As indicated in the Kenya constitution is relate with values and rights that includes the advancement of individuals, welfare protection of well-being as well as enhancement of human dignity. The preamble for instance self-ups Kenya County that is committed to nurturing and protecting the well-being of individual and enhancement of human rights.

STATISTICS

Protection of children with disabilities can't be possible with only few accessories in the county. According to the views of the caregivers there are only THREE ASSESSORS in Nairobi County for Instance only three assessors in Nairobi and they only access 15-20 children per session but according to census 2019 the number of children with disabilities in Nairobi was 7609, with this number many children are left without services. Therefore, a large number of children remain unassisted and unattended.

With regards to this, we request for the increase in the number of

- ✓ Educational Assessment and Resource Centres officers (EARC) officers to be assigned as per sub county in the whole county
- ✓ Equip the assessment center with relevant assessment technology equipment to improve the assessment process

For any enrollment of children with disability in schools there must have gone through an assessment process. This is under the ministry of Education requirement carried out by EARC

RECOMMENDATION

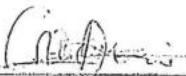
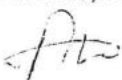
1. Need to relieve parents from long distances when seeking for services like health and education for the children living with disability by increasing services to close proximity,
2. Create a disability friendly environment in schools and communities where every school to accommodate inclusive learners
3. Train health care workers on early identification and intervention for Children with Disabilities
4. Creation of therapy centers/services in each health institution to improve access to services
5. Early identification and intervention for children with disabilities that will capture severe cases early and start services by increasing the number of assessors

6. Equipping health facilities with essential drugs for epilepsy and anti-convulsion at a subsidized price, affordable or supported by NHIF
7. More Special Needs teachers and teacher Aids to be placed in mainstream schools to support more learners with disabilities



























CONCLUSION

The government should put more effort in supporting the children with disabilities because for a long time they have been left out therefore living the stigma burden to the parents. In addition, this will contribute to the leaving no one behind in development as well as contribute to access to quality health and education for children with disabilities and their families. This will promote lifelong learning and improve quality of life for learners with disabilities.

Yours Sincerely

Names	Contact	Signature
1. James Wanjiru	0711726343	
1. Elizabeth Wangare	0724603667	
2. Grace Akinyi	0769369034	
3. Peris Nyakio		

VISIO., PARENTAL SUPPORT GROUP KASARANI






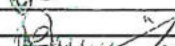
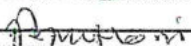

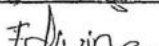
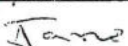
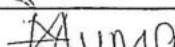
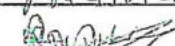




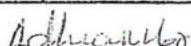

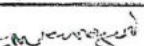

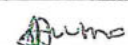

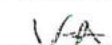


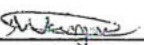



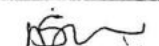
NO	NAMES	GENDER	CONTACT/PHONE NUMBER	SIGNATURE
1.	Cecilia Wanjiru	F	0711411827	
2.	Damaris Mbinya	F	0722161961	
3.	Miriam Wanjiku	F	0728328896	
4.	Mary Wanjiku	F	0725412553	
5.	Virginia Nyambura	F	0724534888	
6.	Caroline Njuguna	F	0796621994	
7.	Christine Mbithe	F	0726078587	
8.	Sarah Wanjiru	F	0721893384	
9.	Susan Wanjiru	F	0726672253	
10.	Leah Wanjiku	F	0727627532	
11.	Caroline Ngina	F	0715081094	
12.	Monica Munini	F	0727976665	
13.	Lucy Njoki	F	0716403364	
14.	Mary Mundia	F	0705585917	
15.	Florence Moraa	F	0725971670	
16.	Alice Walya	F	0703135355	
17.	Monicah Njeri	F	0700644911	
18.	Cecilia Gathoni	F	0796499900	
19.	Faith Kamande	F	0715802249	
20.	Josphine Laichena	F	0724234944	
21.	Ann Njeri	F	0717925729	
22.	Dollyne Isuvi	F	0711599087	
23.	Eunice Chege	F	0717280352	
24.	Anne Njeri	F	0720295058	
24.	Teresia Watiri	F	0711947037	
25.	Evaline Kemunto	F	0729237982	

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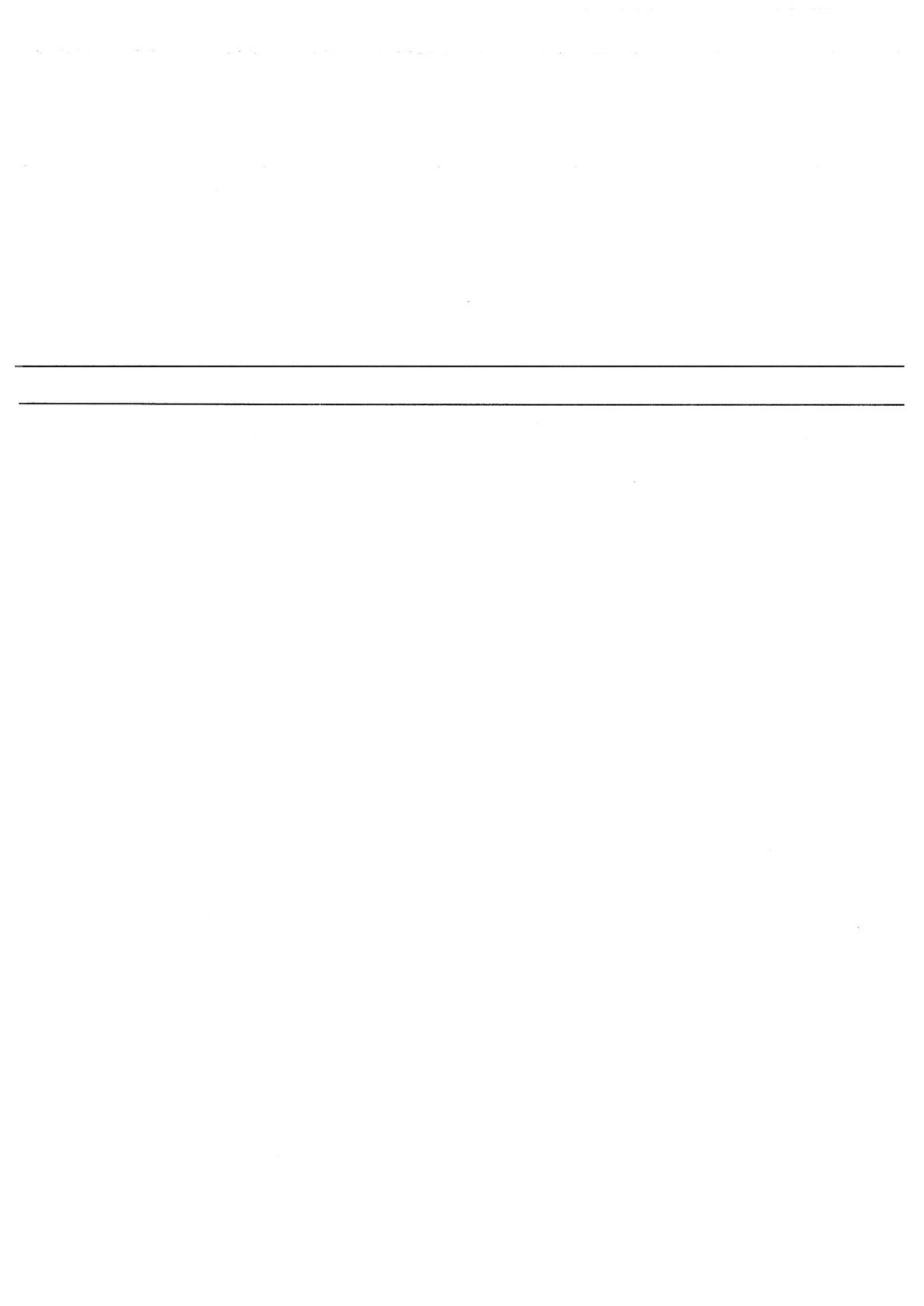
PARENTS NAME

1/3/2022

1	Elizabeth Wangari	0724603667	Elizabeth
2	Miriam Kamotho		Miriam
3	Syivia Kigen	0721650320	Syivia
4	Damaris Wambui	0723887344	D.W
5	Salome Wangari	0720296179	Salome
6	Rachael Wachira	0722493914	Rachael
7	Cecelia Waihuni	0769376367	Cecelia
8	Sarah Nganga	0722800688	Sarah
9	Jane Wanjiru	0701465198	Jane
10	Jennifer Njeri	0721264093	Jennifer
11	Watson Irungu	0724232608	Watson
12	Ruth Nyambura	0797175021	Ruth
13	Alice Wangari	0723959372	Alice
14	Grace Wanjiru	0723055324	Grace
15	Florence Wanjiru	0761667839	Florence
16	Beatrice Njeri	0786425570	Beatrice
17	Saumu Wambui	0725888018	Saumu
18	Faith Muthoni	0703249138	Faith
19	Ann Wanjiku	0718188728	Ann
20	Agnes Kananu	0725205826	Agnes
21	Janet Kinuthia	0722747523	Janet
22	Sofia Mutegi	0728216566	S.M
23	Mary Wangui	0727478352	Mary
24	Karen Muriithi	0722901661	Karen
25	Esther Kibira	0720939830	Esther
26	Felicity Kathambi	0720348895	Felicity
27	Nancy Waceke	0708395736	Nancy
28	Irene Waweru	0715048687	Irene
29	Lydia Kanyi	0717771415	Lydia
30	Joyce Muthoni	0721786179	Joyce
31	Lucy Gathii	0723658770	Lucy
32	Gladys Njeri	0727506403	Gladys
33	Peter Kibandi	0721654671	Peter
34	Felicity Wanjiru	0714694737	Felicity
35	Henry Makori		Henry

	NAME	ID NUMBER	SIGN
1	RUTH WANGARI	2309428	
2	SHARON BAHATI	33560568	S. Bahati
3	MARY AUMA	8248970	
4	WAMBOI WAITHAKA	0943186	
5	JANE WANJIRU	1895185	
6	PAULINE ADHIAMBO	11447785	
7	MORIKA AKINYI	21932080	
8	ANJELINE MUTHONI	26091052	
9	JUDITH MBOGA	37061435	
10	EDWIN MBOYA	24868109	
11	JANE WANJIRU	2881715	
12	VIOLET AUMA	3497396	
13	PHANICE AYUMA	9359988	
14	NANCY KNJOKI	21554035	
15	JUDY WANJIKU	28085870	
16	DAMARIS WANJIRU	24930314	
17	JACINTA MWENI	25047169	
18	EDICTH ADHIAMBO	24658030	
19	IRENE NYAIRA	2857088	IRENE
20	JACKLINE ACHUPA	34999059	
21	NELIUS WANGUI	22064214	
22	LILIAN ALOINO	24522995	
23	JUDITH AWINO	28916055	
24	MILLCENT WANJIRU	11335831	
25	VELMA ACHIENG	33021716	
26	STELLA AMAIZA	1385944	
27	ANN NJERI	13651001	
28	JACKLINE WANJIRU	13703588	
29	STANLEY KAMANJA	28811614	
30	MARY WANJIRU	27091151	
31	CECILIA OMINDA	10532363	
32	SHADRACK MUTUKU	2528760	
33	CAROLINE ACHIENG	20691942	Caroline

34	CHRISTINE OLUOCH	2853024	Christine
35	MARY WANJIKU	24468224	MW
36	ESTHER WAMBUI	21911974	Esther
37	EZINAH MATOKE	29639051	Matoke
38	MICHAEL MUTURI	26088945	Muturi
39	GRACE WANJIRU	25211224	Grace W
40	CAROLYNE ADHIAMBO	33739060	Carolyne
41	ALICE ATIENO	25370368	Atieno
42	FLORIDAH GAKII	23168729	Floridah
43	EVERLYNE NECHESA	20585494	Everlyne
44	SHADRACK MUTUKU	2528760	Shadrack
45	STANLEY KARANJA	28811614	Stanley
46	VERONICAH NDUTA	3456363	Veronica
47	CATHIRINE ACHIENG	8155147	Cathrine
48	ANN WANJIRU	21549774	Ann Wanjiru
49	CATHERINE AYALE	35166420	CATE
50	DAISY ACHIENG	34218231	Daisy
51	SCHJOLASTICA MUSANGI	22950401	Schjolastica
52	VICTORIA SYOMBUA	28218374	Victoria
53	CATHERINE NJOKI	21361957	C.N
54	MERCY NDEGWA	30476880	Ndegwa
55	ROSE MBONE	11183317	Rose
56	CAROLINE ADHIAMBO	24253344	CA
57	MIRIAM NZULA	32359210	Miriam
58	FATUMA ALIO	22937137	Fatuma
59	THERESIAH NYAMBURA	23456818	Theresiah
60	EUNICE MUENI	25768177	EM
61	STANLEY MIRII	39622678	Stanley
62	GFRANCIS MBULA	31589634	Francis



March 08, 2022

**MEMORANDUM ON THE BILL OF PERSON LIVING WITH
DISABILITY PUBLIC PARTICIPATION SUBMISSION OF
MEMORANDA**

1. Council role in registering person with disabilities should be included in the bill
2. Ministry of health new disability medical assessment guidelines and threshold should be included in the bill to protect both parties and to avoid the process being Compromised
3. Ministry of health the council and KRA role should be stipulated in the bill
4. **Persons living with permanent disability tax exception should be permanent and not being renewed every 5 years because a permanent disability ailment does not recover as opposed to a person living with temporary disability**
5. We should avoid printing the new cards with details of the person living with disability incase the card is lost the individual data is at risk and not protected. This should be re-looked by putting in consideration data protection law
6. Mandate/role of KRA, MOH and the Council should be captured in the Bill to protect each Institution
7. **Most employers are notorious when it comes to implementing Tax exception of their employees who have been awarded the tax certificate at the same time KRA does not refund the period that the disable person has lost, all this should be looked at and a penalty be introduced to such employers. The notorious institutions are Police services, teachers service commission Kenya pipeline and Central Bank of Kenya. They maliciously have introduced another vetting of investigating the process which takes almost a year.**
8. **A person assessed and proven to have permanent disability should be given TAX exception certificate for life. No need of renewal after 5 years**
9. Importation of tax free motor vehicle has been made impossible for persons living with disability which I suggest it be looked into

Regards

Noylene Jepkembor

Directorate of



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MUSLIM DEAF ASSOCIATION OF KENYA

P.O. Box 68153 – 00200, Nairobi – Kenya

Email: muslims2deaf@gmail.com

Phone: +254 722 898416 (SMS)

MDAK/Theclerk/01/2022

March 7th 2022

**TO HON, ADEN DUALLE,EGH, MP
GARISSA TOWNSHIP AND FIRST
LEADER OF MAJORITY
PARTY IN THE NATIONAL ASSEMBLY.**

Dear Sir,

RE: AMENDMENT TO THE PWDS BILL OF 2021

Muslim Deaf Association of Kenya (MDAK) is an association of Deaf who are Muslims in Kenya whose specific objective is poverty reduction and advocating for the human rights among Deaf community in Kenya.

MDAK objective is to create a wholesome and all rounded Muslim Deaf community through advocating for Education, human rights, Economics and social Empowerment to ensure functional and sustainable integrity and cohesion Nationally.

The purpose of this letter is to request the Parliament Clerks to amendments the Person's with Disabilities Bill of 2021. Here attached the proposed bill.

Thank you very much for your cooperation and we look forward to your positive feedback.

Yours Faithfully,



**Abdi Abdille Ali
MDAK Chair**

Cc: Hon. David sankok Ole

**The clerk national Assembly,
Kenya National Assembly,
Parliament Buildings**

PROPOSED AMENDMENTS TO THE THE PERSONS WITH DISABILITIES BILL 2021

Amendment 1

2. Amend the definition of persons with disabilities by making the categories more specific:

~~"includes persons with intellectual disability, physical impairments, deaf and hard of hearing, blindness and low vision, albinism, autism, deafblindness, Down Syndrome, multiple handicaps, emotional and psychological disorders, speech and language disorders, and specific learning disabilities."~~

Amendment 2

19(6). Amend sub-section (6) by breaking it into two:

19(6)(a) For the purpose of subsection (5), the age of retirement for persons with disabilities shall be five (5) years above the mandatory age of retirement set by the law or by the prevailing Government Policy In case of lecturers In public universities and research scientists.

19(6)(b) A public institution that has retired an employee with disability without following the law or the prevailing Government policy on retirement age of public servants shall reinstate and compensate the employee.

Amendment 3

35(1)(d) amend the clause and insert words/phrases in bold to read:

provide

- (i) "Information, **grants**, and technical assistance to institutions, associations, **organizations of professionals with disabilities**, and other organizations concerned with the rights, habilitation and rehabilitation, **educational, research, policy, training, and welfare of persons with disabilities.**"

Amendment 4

79(2) amend the clause and add

"Collaborate with the Kenya National Bureau of Statistics in conducting household surveys and censuses covering all categories of persons with disabilities listed in this Act."

MEMORANDUM
PROPOSED AMENDMENT TO THE
THE PERSONS WITH DISABILITIES BILL 2021

19(5) amend the subsection and add clause (vi) to read:

(vi) retiring an employee with disability before the mandatory retirement age stipulated by the law or by the prevailing Government policy in case of lecturers and research scientists in universities and relevant organs.

Amendment 4

An institution receiving government funds shall put in measures to achieve at least 5% of employment of persons with disabilities in recruitment, retention, training, and retaining positions held by the retiring staff with disability.



COUNCIL OF GOVERNORS

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P.O. BOX 40401-00100,
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E-mail: info@cog.go.ke

Our Ref: COG/2/10 Vol 17 (44)

23rd March 2022

Mr. Michael Sialai, EBS
The Clerk of the National Assembly
Parliament Buildings
Nairobi

Dear Mr. Sialai

**LETTER FORWARDING THE LEGISLATIVE MEMORANDUM THE PERSONS WITH
DISABILITIES AMENDMENT BILL (NATIONAL ASSEMBLY NO.61 OF 2021)**

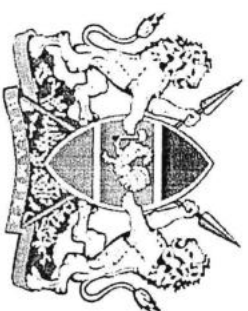
The above matter refers.

The Council of Governors appreciates that in realizing the objects of Devolution, the principles of consultation and cooperation under Article 6(2) and Article 189 of the Constitution are inevitable.

Based on these principles, the Council of Governors has reviewed the Persons with Disabilities Bill (National Assembly No. 61 of 2021) and would like to forward for your consideration the Legislative Memorandum attached herewith.

Yours sincerely

Mary Mwangi
Chief Executive Officer



COUNCIL OF GOVERNORS

MEMORANDUM ON THE

PERSONS WITH DISABILITIES BILL (NATIONAL ASSEMBLY NO. 61 OF 2021)

TO

THE NATIONAL ASSEMBLY

FROM

THE COUNCIL OF GOVERNORS

A. INTRODUCTION

The Council of Governors,

In **recognition** of Article 1(4) of the Constitution of Kenya, that sovereign power of the people is exercised at the national level and the county level;

In **further recognition** of Article 6 (2) that governments at the national and county levels are distinct; and

Aware of the need for coordination and consultation between the National Government and County Governments to ensure that legislation responds to the key issues facing devolution, and further reflects the spirit and objects of devolution.

(a) Having reviewed the Persons with Disabilities Bill (National Assembly No. 61 of 2021), the Council of Governors on behalf of the 47 County Governments appreciates the efforts that have gone into putting together the Bill which is progressive and seeks to advance the rights of Persons with disabilities thus improving their living conditions.

The Council submits the proposals highlighted herein below for consideration.

B. SPECIFIC RECOMMENDATIONS

Section of the Bill	Provision of Section in the Bill	Proposed Amendment	Rationale/Justification for Amendment
	'Disability mainstreaming' means a strategy through which concerns, needs and experiences of persons with disabilities are made an integral part or dimension of the design, implementation, monitoring and	'Disability mainstreaming' means a strategy through which concerns, needs and experiences of persons with disabilities are made an integral part or dimension of the design, budgeting , implementation, monitoring, reporting	PWDs have a right to participate in the budget making process. This is crucial since it provides them with a chance to give input to the budget. Further PWDs concerns should be addressed in

Section of the Bill	Provision of Section in the Bill	Proposed Amendment	Rationale/Justification for Amendment
	evaluation of policies and programmes in all political, economic and social spheres so that persons with disabilities benefit equally and inequality is not perpetuated.	and evaluation of policies, laws and programmes in all political, economic, social and cultural spheres so that persons with disabilities benefit equally and inequality is not perpetuated.	laws and in all contexts including the cultural spheres
Guiding principles			
Right to Equality and Non Discrimination Women with disabilities	8. Every woman with disability has the right to enjoyment of her human rights and fundamental freedoms without discrimination on equal basis with others, including right to-	8. Every woman and girl with disability has the right to enjoyment of her human rights and fundamental freedoms without discrimination on equal basis with others, including right to-	The term 'woman' often refers to adult women. The term 'women and girls' should be utilized in order to ensure that even the young women with disabilities are also provided for by the bill.
		(f) Promoting access to information and inclusion in	Women and girls are disproportionately subjected to multiple forms of discrimination and one of the barriers to empowerment for women and girls with disabilities is lack of access to information and failure to be involved in public participation. This should be a deliberate effort.
	4. (9) Evolving capacities, identities and to enjoy a full and decent life, in	Early Childhood Development and education, Evolving capacities, identities	Education is critical in preparing children to enter and succeed in

Section of the Bill	Provision of Section in the Bill	Proposed Amendment	Rationale/Justification for Amendment
	conditions which promote and ensure dignity, self-reliance and independence.	and to enjoy a full and decent life, in conditions which promote and ensure dignity, self-reliance and independence.	their academic pursuit as well as enhancing their physical, emotional and social well-being.
5 (3) Right to Legal Capacity	Every person with disability has equal right to own and inherit property, to control his or her own financial affairs and to have equal access to bank loans, mortgages and other forms of financial credit	Amend to read as follows; (3) every person with disability has equal right to own and inherit property, to control his or her own financial affairs and to have equal access to savings and loan facilities, mortgages and other forms of financial credit.	The clause provides only or bank loans and has no provision for savings facilities in financial institutions. The proposed amendment will enhance access to savings and credit facilities in all financial institutions, not just banks.
8 (c) Right to education	(vi) introduction of Kenya sign language interpretation course in all training institutions.	Amend to read as follows; (vi) introduction of Kenya sign language interpretation course in all learning and training institutions.	The Competency Based Curriculum provides for the inclusion of Kenya Sign Language as a means of instruction in all schools and training institutions for learners and trainees with special needs.
9(d)	Age-appropriate assistance to realize his or her rights	Age and gender appropriate assistance to realize his or her rights	PWDs differ in most areas of life including in regard to gender. There is therefore need to pay special attention to their specific needs including in regard to gender in offering assistance to them

Section of the Bill	Provision of Section in the Bill	Proposed Amendment	Rationale/Justification for Amendment
22	<p>Sub sections are numbered as follows:</p> <p>(1) Persons with Disability have the right to the enjoyment of the highest attainable standards of health including health related habilitation and rehabilitation services, without discrimination on the basis of disability</p> <p>(2) Persons with disabilities have the right to the enjoyment of sexual and reproductive health rights on an equal basis with other persons</p> <p>(3) Persons with disabilities have the right to information to enable them to make responsible and informed choices about their sexual and reproductive health</p> <p>(2) Persons with disability have a right to be treated with respect, privacy and dignity while seeking health related services</p> <p>(3) Persons with disability shall be entitled to free medical care and</p>	<p>Amend as follows:</p> <p>(1) Persons with Disability have the right to the enjoyment of the highest attainable standards of health including health related habilitation and rehabilitation services, without discrimination on the basis of disability</p> <p>(2) Persons with disabilities have the right to the enjoyment of sexual and reproductive health rights on an equal basis with other persons</p> <p>(3) Persons with disabilities have the right to information to enable them to make responsible and informed choices about their sexual and reproductive health</p> <p>(4) Persons with disability have a right to be treated with respect, privacy and dignity while seeking health related services</p> <p>(5) Persons with disability shall be entitled to free medical care and treatment in public health institutions</p> <p>(6) Medical assessment reports for persons with disabilities, including for purposes of registration under the Act,</p>	<p>There's a repetition in the numbering of sub-sections which might cause confusion. There's therefore need to renumber the sections in a chronological order</p>

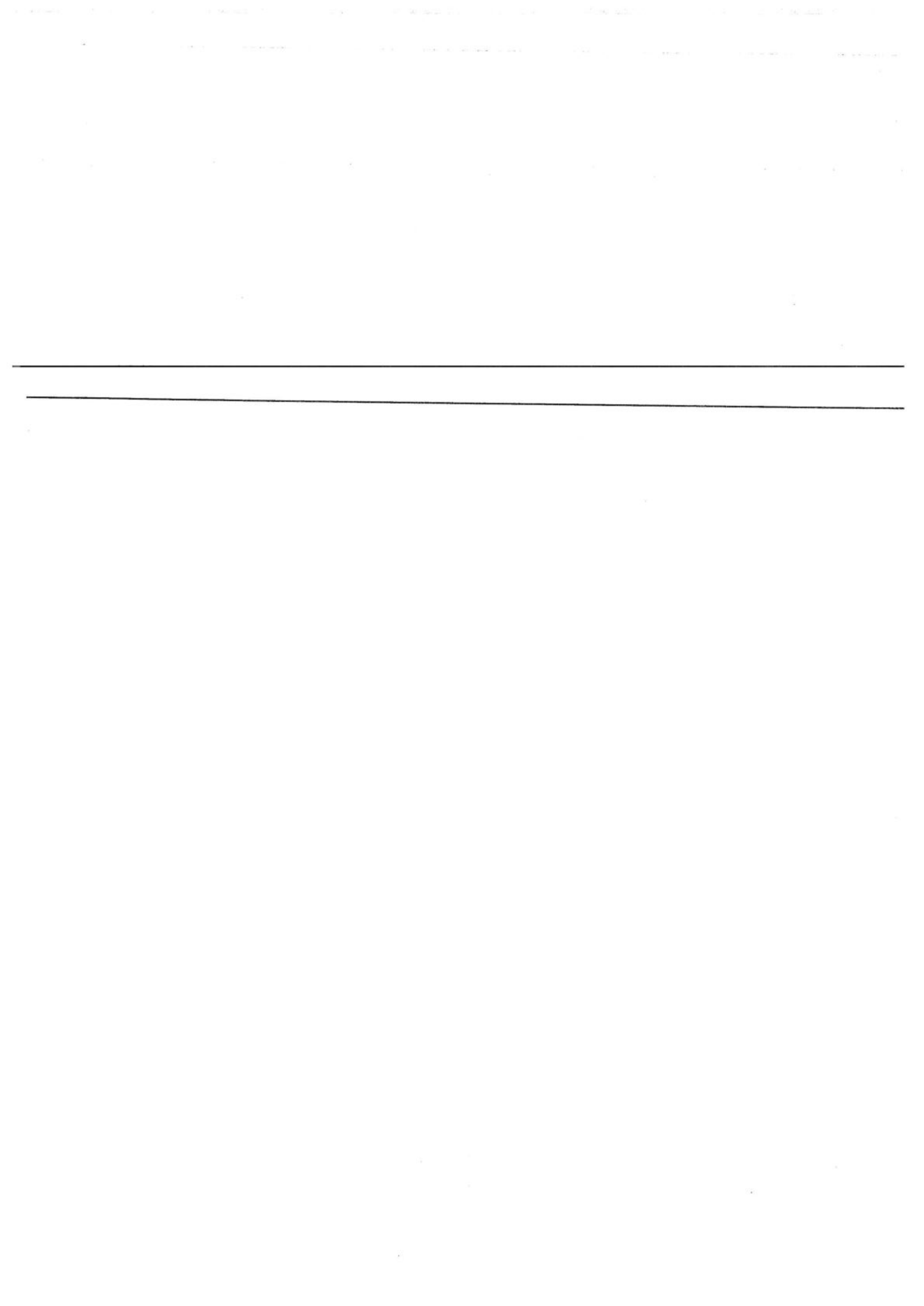
Section of the Bill	Provision of Section in the Bill	Proposed Amendment	Rationale/Justification for Amendment
	<p>treatment in public health institutions</p> <p>(4) Medical assessment reports for persons with disabilities, including for purposes of registration under the Act, shall be done free of charge in public health institutions</p> <p>(5) Every National or referral health institution shall employ at least two Kenya sign language interpreters with Gender consideration in their institutional structure</p> <p>(6) No person shall subject a person with disability to any medical procedure which leads to or could lead to infertility without that person's express consent: Provided that where the person with disability is a minor such procedure may in case of medical necessity confirmed by a medical practitioner, be performed with the parent or guardian's consent</p>	<p>shall be done free of charge in public health institutions</p> <p>(7) Every National or referral health institution shall employ at least two Kenya sign language interpreters with Gender consideration in their institutional structure</p> <p>(8) No person shall subject a person with disability to any medical procedure which leads to or could lead to infertility without that person's express consent: Provided that where the person with disability is a minor such procedure may in case of medical necessity confirmed by a medical practitioner, be performed with the parent or guardian's consent</p>	
22(3)	<p>Persons with disability shall be entitled to free medical care and</p>	<i>Amend to read as follows:</i>	The cost of medical care and treatment cannot be entirely

Section of the Bill	Provision of Section in the Bill	Proposed Amendment	Rationale/Justification for Amendment
	treatment in public health institutions	Persons with disability shall be entitled to medical care and treatment at an affordable cost in public health institutions	free as it may negatively impact on the sustainability of the hospitals. However, they can be rendered at an affordable cost
22(6)	(6) No person shall subject a person with disability to any medical procedure which leads to or could lead to infertility without that person's express consent: Provided that where the person with disability is a minor such procedure may in case of medical necessity confirmed by a medical practitioner, be performed with the parent or guardian's consent	Amend to read as follows; (6) No person shall subject a person with disability to any medical procedure which leads to or could lead to infertility without that person's express consent: Provided that where the person with disability is a minor or has intellectual disability such procedure may in case of medical necessity confirmed by a medical practitioner, be performed with the parent or guardian's consent	A person with intellectual disability may not make proper judgement by virtue of their impaired mental capacity even in cases where medical procedures might have other wise been beneficial to them and hence may also require parent's or guardian's consent
38 (1)	Composition of the Council	Amend to Include Two persons representing the Counties nominated by the Council of Governors	The Council should be an entity conceptualized as a joint entity of the national and County Governments. Representation of the Counties is thus crucial
40	Election of Vice Chairperson	Amend by deleting the section	Good and modern governance practice disallows the position of Vice Chairperson. In the absence of the Chair, members

Section of the Bill	Provision of Section in the Bill	Proposed Amendment	Rationale/Justification for Amendment
58 (2)	Council offices at county levels shall implement the functions of the Council as directed by the Council and shall...	Amend to read The Council offices at county level shall in consultation with the County Government implement the function of the council and shall for that purpose ...	should appoint a chair for the meeting. Disability concerns/ rights cut across sectors and some of them relate to functions that are concurrent and exclusive. For effectiveness, there is need for consultation and collaborations between the two level of Government
73(1)	All government ministries, departments and agencies shall establish a disability mainstreaming unit for the purposes of:	All government ministries, counties, departments and agencies shall establish a disability mainstreaming unit for the purposes of:	As per the new presidential directive, assessment of PWDs will be a major function of the counties hence their critical role cannot be gainsaid

C. GENERAL COMMENTS

The Bill assigns to county governments additional responsibilities without providing for funding. There is need for funding of County Government



By EVANS GICHIA

BCom, CPA(K), CPS(K)

PWD, MP ASPIRANT

In Kenya we should advance our position regarding engaging Persons with Disability (PWDs) beyond "providing EQUAL opportunities" to GIVING 1ST PRIORITY, PREFERENTIAL AND SUPPORT as an affirmative action necessary after realizing that the competition, corruption and bureaucracy is too strong for the disadvantaged PWDs. As a result the law should carry the same spirit

**PERSONS WITH DISABILITY BILL 2021
SUGGESTED AMENDMENTS**

Submission To PARLIAMENTARY
COMMITTEE

4 March 2022

**BY EVANS GICHIA, PWD- MP
ASPIRANT
TEL 0721883898**



			PERSONS WITH DISABILITY BILL 2021	There are many other bills eg traffic rules, Sacco, KRA, SMEs etc for business, that also require sober review	
	BY EVANS GICHIA –Registered PWD 428038, Aspirant Member of Parliament, Kiambaa Tel 0721883898,				
	In Kenya we have advanced our position regarding Persons with Disability (PWDs) beyond “providing EQUAL opportunities” to GIVING 1st Priority, preferential and support as an				
	affirmative action as necessary after realizing the competition, corruption and bureaucracy is too strong for the disadvantaged PWDs. As a result the bill should carry the same spirit				
	RULES The incentives given have never benefitted PWDs because the rules and procedures have been too difficult, expensive, unrealistic and unachievable due to the status, capacity and nature of PWDs economic, educational etc. The rules Require amendments <ul style="list-style-type: none"> a) Registration process is very expensive & repeated every 2 years, few hospitals are authorized to approve b) AGPO- very difficult to get AGPO certificate due to corruption and delays, theft of certificates in government offices c) Tax exemptions- requirements very high, applied every 2 years, vague d) Import cars- to get a Driving Licence, only ONE doctor in Kenya is authorized to give a medical report, every PWD has to travel to Mombasa to take a PHOTO with the car then wait for 3 weeks. PWD has to sell and pay tax for the 4 year old car before you replace it. Cannot upgrade to a better vehicle e) County exemptions-PWDs IDs not recognized as sufficient, many documents and medical reports required repeatedly in different places f) Govt Tenders- 15% price margin of error not applied to give 1ST PRIORITY to PWDs g) 30% Government tenders still highly optional for government officers 				
	PERSONS WITH DISABILITY BILL 2021				
		SUGGESTED AMENDMENTS			
ITEM	Page	Section	Details-bill provision	Amendment	
1	5	interpretations	“xxxxxxxxxxxxxxxxx’ “an equal basis with others”	Delete and insert new phrase “an equal basis with others including giving 1st Priority, support and preference as need be”	Persons with disability are under privileged, disadvantage d persons hence like to

					face challenges when put under equal footing with others
2	6	interpretations	“disability” Loss, limitations or restriction of capacity owing to physical, sensory, mental, psychological or other impairment, conditions or illness that has, xxxxxxxxxx or is perceived by significant sector of the community to have, a substantial or long term effect on an individual ability to carry out ordinary day today activities and interactions,	Insert , deformation medically assessed	Medical assessment will provide objective , reliable report since perception by community can be emotional to the individual or community
3	7	“ discrimination on the basis of disability”	“ discrimination on the basis of disability” means xxxxxxxx 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.	Insert being “insensitive, failure to recognize, 1st Prioritize or give preference,	Subjecting PWD to equal treatment will disadvantage them to inherent limitations, they should be given first 1st Priority and be given support to avoid competition
4	9	Guiding Values and principles	incorporated and unincorporated business associations, civil society and organizations of and for persons with disability shall be guided by the following principles— (a)xxxxxxxxxxxx	Insert a) Generosity, Proactivity, 1st Prioritized, recognize, appreciate and acknowledge presence or	Willingness to take affirmative action and giving unlimited attention . giving 1st

			(b) respect for inherent dignity and individual autonomy including the freedom to make one's	participation of person with disability	Priority to PWD
5	9	Right to equality and non discrimination	entitled xxxxxxxxxx to the full and equal enjoyment of the goods, services, facilities, or accommodations on an equal basis with others.	Insert Entitled to 1st Priority, preferential treatment with extended assistance	Influence outcome by giving 1st Priority to PWD
6	12	11 older members of society with disabilities	members of society who have disabilities have the right to enjoyment of human rights and fundamental freedoms on an equal basis with others including the right to— (a) xxxxxxxxxx access to social protection programmes; (b) exercise their legal capacity and that appropriate measures and safeguards are put in place to provide them with the support they may require to exercise their legal capacity; and (c) access inclusive services.	Insert a) Enjoy privileges under section 10 for the youth as far as they relate to the older persons with disabilities	Assist older members and shield them from undue competition Older PWDs still face challenges like the youth, do not show less care
7	14	17 specific measures for persons with disability	17. (1) Every person with disability is entitled specific measures to accelerate the equal xxxxxxx or participation in the xxxxxxxxxxxx social, cultural, economic, civil, political, or any other field .	Insert Or Preferential. Employment ,	Create adjustments where necessary to accommodate challenges or shortcomings affecting PWDs
8	17	19(2)-Right to work and employment for Persons with disability	(2) Every employer shall— (a) xxxxxxxxxxxxxx Reserve at least five per cent direct employment opportunities for persons with disabilities to secure employment;	Shall identify and accord 15% of interview scores/marks to any participating applicant identified with disability	Give advantage to PWDs and let them prove competency from the

					interview scores
9	19	19(7)C-Discrimination	(c) "discrimination" includes— (i) xxxxxxxxxxxx (ii) limiting or classifying a job applicant or employee in an adverse way; (ii) denying employment opportunities qualified persons	Insert a) Ignores, Denying 1st Priority or preferential 15% scores /marks for interviews, staff appraisals etc for persons with disabilities	Refusing to offer, support or visibility PWDs should be given 1st Priority, given 15% margin of error
10	21	22 (4) Right to Health	(3 or 4 ,5 xxxxxxxxxxxx 6) Persons with disabilities shall be entitled to free medical care and treatment in public health institutions	Renumber the subsections Insert 5 Medical reports shall remain private and confidential and no copies shall be demanded recklessly except for purpose of national council membership registration.	Free medical care will ensure PWDS remain productive poverty may lead to low interest in seeking health care
11	22	24(1) Access to information and communication technology services	24. (1) Every person with disability has the right to access information, communication and other services including the right to freedom of expression and opinion, the freedom to seek, receive and impart information and ideas, electronic and emergency services open or provided to the public on an equal xxxxxxxxxxxx basis with others in a timely manner and without additional cost and through all forms of communication of his or her choice	Insert , 1st Priority of preferential and support where necessary	Consider eliminating barriers to communication, access to service providers, provide alternatives

12	23	25(1) Access to justice	25(1) Every person with disability has a right to effective access to justice on an equal xxxxxxxxxxxx basis, including through the provision of procedural and age-appropriate accommodations	Insert or 1st Priority or preferential	Everyone should give 1st Priority , work to ensure PWDs objectives are met
13	23	25(5) Access to justice	25(5) Law enforcement agencies and institutions shall take into consideration the disability xxxxxxxxxxxx of a person on arrest, at detention, investigation, trial or confinement.	Insert and health	Person with disability r are likely to suffer lower immunity to diseases
14	23	26(1) sports, recreation, leisure and culture	26. (1) Every person with disability has a right to take part on an equal xxxxxxxxxxxx basis with others in sports, recreation.	Insert , 1st Priority or preference basis	Provide assistance as may be necessary
15	27	29. (1) Civic and Political rights for persons with disabilities.	26. (1) Every Person with disability has a right to participate in political and public life and the opportunity to enjoy them on an equal basis xxxxxxxxxxxx with others, and to vote for and be voted directly or through freely chosen representatives in any public or political office.	Insert , 1st Priority and preferential	Give enabling environment, cut charges, create special products for PWDs
16	30	The functions of the Council	35. (1) The functions of the Council shall be to work with other relevant Government agencies and the private sector to— (a) xxxxxxxxxxxxxxxxxxxx b) advise on, and enforce accessibility, reasonable accommodation, non-	Insert a) identify, register, confirm, validate, authenticate persons registered with Disability b)	Many times institutions do not accept ID and demand medical reports from Persons with disability instead of

			discrimination for persons with disabilities and with regard to information, goods, services and the built environment and their participation		contacting NCPWD for the confirmation
17	41	exemptions	<p>PART IV — RELIEFS AND INCENTIVES 53.</p> <p>(1) A person with disability who is in employment xxxxxxxxxxxxxx may apply to the Cabinet Secretary responsible for finance for exemption from income tax on employment income.</p> <p>xxxxxxxxxxxxxxxxxxx</p>	<p>Insert or earns income from business or rental income and similar activity</p> <p>Insert</p> <p>Persons with disability shall be exempted for business permits, fees, charges, levies and licences charged by county governments</p>	Not every PWD is employed therefore tax exemption should be from all income sources
18	42	53(3)RELIEF AND INCENTIVES	<p>(3) Materials, articles and equipment, including motor vehicles <u>specially designed</u> for use by persons with disabilities, shall be exempt from import duty and value added tax xxxxxxxxxxxx, to the extent provided under the tax laws</p> <p>(4) xxxxxxxxxxxxxx</p> <p>(5) xxxxxxxxxxxxxx</p>	<p>Delete</p> <p>Specifically designed</p> <p>Add</p> <p>Levies, port charges etc to income taxes, levies and port charges etc</p>	<p>Modern vehicles are generally usable by persons with disability</p> <p>Port levies, port charges often accumulate due to bureaucracy and cause delays suffering</p>
19		Exemption from Postal charges	<p>57. (1) Pursuant to Article a0</p> <p>xxxxxxxxxxxxxxxxxxx-</p> <p>the following materials and devices shall be exempted from postal charges— (a) braille, printed or recorded literature, including any</p>	<p>Insert</p> <p>Postal rental box charges</p>	

			materials in tactile format, sent or received by postal mail from within or outside Kenya;		
20	50	72 Apprenticeship , vocational .	72. Every person with disability shall, subject to the provisions of the Employment Act, be eligible for xxxxxxxxxx vocational provisional engagement as an apprentice or learner in their particular occupation for the period for which he or she is hired	Insert 1st Priority and preferential	Every one could be interested but opportunities are not enough
		The rules and procedures that support the PWDs act should be reviewed urgently because some make achievement of the objectives and the PWDs life more difficult than for ordinary abled citizens			

By EVANS GICHIA
BCom, CPA(K), CPS(K)
PWD, MP ASPIRANT

In Kenya we should advance our position regarding engaging Persons with Disability (PWDs) beyond "providing EQUAL opportunities" to GIVING 1ST PRIORITY, PREFERENTIAL AND SUPPORT as an affirmative action necessary after realizing that the competition, corruption and bureaucracy is too strong for the disadvantaged PWDs. As a result the law should carry the same spirit

PERSONS WITH DISABILITY BILL 2021
SUGGESTED AMENDMENTS

Submission To
PARLIAMENTARY COMMITTEE

4 March 2022

BY EVANS GICHIA, PWD- MP
ASPIRANT
TEL 0721883898



			PERSONS WITH DISABILITY BILL 2021	There are many other bills eg traffic rules, Sacco, KRA, SMEs etc for business, that also require sober review	
	BY EVANS GICHIA –Registered PWD 428038, Aspirant Member of Parliament, Kiambaa Tel 0721883898,				
	In Kenya we have advanced our position regarding Persons with Disability (PWDs) beyond “providing EQUAL opportunities” to GIVING 1st Priority, preferential and support as an affirmative action as necessary after realizing the competition, corruption and bureaucracy is too strong for the disadvantaged PWDs. As a result the bill should carry the same spirit				
	<p>RULES</p> <p>The incentives given have never benefitted PWDs because the rules and procedures have been too difficult, expensive, unrealistic and unachievable due to the status, capacity and nature of PWDs economic, educational etc. The rules Require amendments</p> <ul style="list-style-type: none"> a) Registration process is very expensive & repeated every 2 years, few hospitals are authorized to approve b) AGPO- very difficult to get AGPO certificate due to corruption and delays, theft of certificates in government offices c) Tax exemptions- requirements very high, applied every 2 years, vague d) Import cars- to get a Driving Licence, only ONE doctor in Kenya is authorized to give a medical report, every PWD has to travel to Mombasa to take a PHOTO with the car then wait for 3 weeks. PWD has to sell and pay tax for the 4 year old car before you replace it. Cannot upgrade to a better vehicle e) County exemptions-PWDs IDs not recognized as sufficient, many documents and medical reports required repeatedly in different places f) Govt Tenders- 15% price margin of error not applied to give 1ST PRIORITY to PWDs g) 30% Government tenders still highly optional for government officers 				
	PERSONS WITH DISABILITY BILL 2021				
		SUGGESTED AMENDMENTS			
ITEM	Page	Section	Details-bill provision	Amendment	
1	5	interpretations	“xxxxxxxxxxxxxxxx’ “an equal basis with others”	Delete and insert new phrase “an equal basis with others including giving 1st Priority, support and preference as need be”	Persons with disability are under privileged, disadvantage d persons hence like to

					face challenges when put under equal footing with others
2	6	interpretations	“disability” Loss, limitations or restriction of capacity owing to physical, sensory, mental, psychological or other impairment, conditions or illness that has, xxxxxxxxxxxx or is perceived by significant sector of the community to have, a substantial or long term effect on an individual ability to carry out ordinary day today activities and interactions,	Insert , deformation medically assessed	Medical assessment will provide objective , reliable report since perception by community can be emotional to the individual or community
3	7	“ discrimination on the basis of disability”	“ discrimination on the basis of disability” means xxxxxxxxxxx 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.	Insert being “insensitive, failure to recognize, 1st Prioritize or give preference,	Subjecting PWD to equal treatment will disadvantage them to inherent limitations, they should be given first 1st Priority and be given support to avoid competition
4	9	Guiding Values and principles	incorporated and unincorporated business associations, civil society and organizations of and for persons with disability shall be guided by the following principles— (a)xxxxxxxxxxxx	Insert a) Generosity, Proactivity, 1st Prioritized, recognize, appreciate and acknowledge presence or	Willingness to take affirmative action and giving unlimited attention . giving 1st

			(b) respect for inherent dignity and individual autonomy including the freedom to make one's	participation of person with disability	Priority to PWD
5	9	Right to equality and non discrimination	entitled xxxxxxxxxx to the full and equal enjoyment of the goods, services, facilities, or accommodations on an equal basis with others.	Insert Entitled to 1st Priority, preferential treatment with extended assistance	Influence outcome by giving 1st Priority to PWD
6	12	11 older members of society with disabilities	members of society who have disabilities have the right to enjoyment of human rights and fundamental freedoms on an equal basis with others including the right to— (a) xxxxxxxxxx access to social protection programmes; (b) exercise their legal capacity and that appropriate measures and safeguards are put in place to provide them with the support they may require to exercise their legal capacity; and (c) access inclusive services.	Insert a) Enjoy privileges under section 10 for the youth as far as they relate to the older persons with disabilities	Assist older members and shield them from undue competition Older PWDs still face challenges like the youth, do not show less care
7	14	17 specific measures for persons with disability	17. (1) Every person with disability is entitled specific measures to accelerate the equal xxxxxxx or participation in the xxxxxxxxxxxx social, cultural, economic, civil, political, or any other field .	Insert Or Preferential. Employment ,	Create adjustments where necessary to accommodate challenges or shortcomings affecting PWDs
8	17	19(2)-Right to work and employment for Persons with disability	(2) Every employer shall— (a) xxxxxxxxxxxxxxxx Reserve at least five per cent direct employment opportunities for persons with disabilities to secure employment;	Shall identify and accord 15% of interview scores/marks to any participating applicant identified with disability	Give advantage to PWDs and let them prove competency from the interview

					scores
9	19	19(7)C-Discrimination	(c) "discrimination" includes— (i) xxxxxxxxxxxx (ii) limiting or classifying a job applicant or employee in an adverse way; (ii) denying employment opportunities qualified persons	Insert a) Ignores, Denying 1st Priority or preferential 15% scores /marks for interviews, staff appraisals etc for persons with disabilities	Refusing to offer, support or visibility PWDs should be given 1st Priority, given 15% margin of error
10	21	22 (4) Right to Health	(3 or 4 ,5 xxxxxxxxxxxx 6) Persons with disabilities shall be entitled to free medical care and treatment in public health institutions	Renumber the subsections Insert 5 Medical reports shall remain private and confidential and no copies shall be demanded recklessly except for purpose of national council membership registration.	Free medical care will ensure PWDS remain productive poverty may lead to low interest in seeking health care
11	22	24(1) Access to information and communication technology services	24. (1) Every person with disability has the right to access information, communication and other services including the right to freedom of expression and opinion, the freedom to seek, receive and impart information and ideas, electronic and emergency services open or provided to the public on an equal xxxxxxxxxxxxxxxx basis with others in a timely manner and without additional cost and through all forms of communication of his or her choice	Insert , 1st Priority of preferential and support where necessary	Consider eliminating barriers to communication, access to service providers, provide alternatives
12	23	25(1) Access to	25(1) Every person with	Insert	Everyone

		justice	disability has a right to effective access to justice on an equal xxxxxxxxxxxx basis, including through the provision of procedural and age-appropriate accommodations	or 1st Priority or preferential	should give 1st Priority , work to ensure PWDs objectives are met
13	23	25(5) Access to justice	25(5) Law enforcement agencies and institutions shall take into consideration the disability xxxxxxxxxxxx of a person on arrest, at detention, investigation, trial or confinement.	Insert and health	Person with disability r are likely to suffer lower immunity to diseases
14	23	26(1) sports, recreation, leisure and culture	26. (1) Every person with disability has a right to take part on an equal xxxxxxxxxxxx basis with others in sports, recreation.	Insert , 1st Priority or preference basis	Provide assistance as may be necessary
15	27	29. (1) Civic and Political rights for persons with disabilities.	26. (1) Every Person with disability has a right to participate in political and public life and the opportunity to enjoy them on an equal basis xxxxxxxxxxxx with others, and to vote for and be voted directly or through freely chosen representatives in any public or political office.	Insert , 1st Priority and preferential	Give enabling environment, cut charges, create special products for PWDs
16	30	The functions of the Council	35. (1) The functions of the Council shall be to work with other relevant Government agencies and the private sector to— (a) xxxxxxxxxxxxxxxxxxxx b) advise on, and enforce accessibility, reasonable accommodation, non-discrimination for persons	Insert a) identify, register, confirm, validate, authenticate persons registered with Disability b)	Many times institutions do not accept ID and demand medical reports from Persons with disability instead of contacting

			with disabilities and with regard to information, goods, services and the built environment and their participation		NCPWD for the confirmation
17	41	exemptions	PART IV — RELIEFS AND INCENTIVES 53. (1) A person with disability who is in employment XXXXXXXXXXXXX may apply to the Cabinet Secretary responsible for finance for exemption from income tax on employment income. XXXXXXXXXXXXX	Insert or earns income from business or rental income and similar activity Insert Persons with disability shall be exempted for business permits, fees, charges, levies and licences charged by county governments	Not every PWD is employed therefore tax exemption should be from all income sources
18	42	53(3)RELIEF AND INCENTIVES	(3) Materials, articles and equipment, including motor vehicles <u>specifically designed</u> for use by persons with disabilities, shall be exempt from import duty and value added tax XXXXXXXXX, to the extent provided under the tax laws (4) XXXXXXXXX (5) XXXXXXXXX	Delete Specifically designed Add Levies, port charges etc to income taxes, levies and port charges etc	Modern vehicles are generally usable by persons with disability Port levies, port charges often accumulate due to bureaucracy and cause delays suffering
19		Exemption from Postal charges	57. (1) Pursuant to Article 40 XXXXXXXXXXXXX- the following materials and devices shall be exempted from postal charges— (a) braille, printed or recorded literature, including any materials in tactile format,	Insert Postal rental box charges	

			sent or received by postal mail from within or outside Kenya;		
20	50	72 Apprenticeship , vocational .	72. Every person with disability shall, subject to the provisions of the Employment Act, be eligible for xxxxxxxxxx vocational provisional	Insert 1st Priority and preferential	Every one could be interested but opportunities are not enough
			engagement as an apprentice or learner in		
			their particular occupation for the period for which he or she is hired		
		The rules and procedures that support the PWDs act should be reviewed urgently because some make achievement of the objectives and the PWDs life more difficult than for ordinary abled citizens			

PUBLIC PARTICIPATION ON THE PERSONS WITH DISABILITIES BILL 2021

Amendment 1

2. Amend the entire definition and use the categories used in special needs education:

“includes persons with intellectual disability, neuromuscular and skeletal disorders, physical impairments, deaf and hard of hearing, blindness and low vision, albinism, autism, deafblindness, Down Syndrome, emotional and psychological disorders, speech and language disorders, cerebral palsy, epilepsy, specific learning disabilities, and multiple handicaps.”

Amendment 2

19(6). Break the sub-section into two:

19(6)(a) For the purpose of subsection (5), the age of retirement for persons with disabilities shall be five (5) years above the mandatory age of retirement set by the **law or the prevailing Government Policy in case of lecturers and research scientists in public universities.**

19(6)(b) A public institution that has retired an employee with disability without following the law or the prevailing Government policy shall reinstate and compensate the employee.

Amendment 3

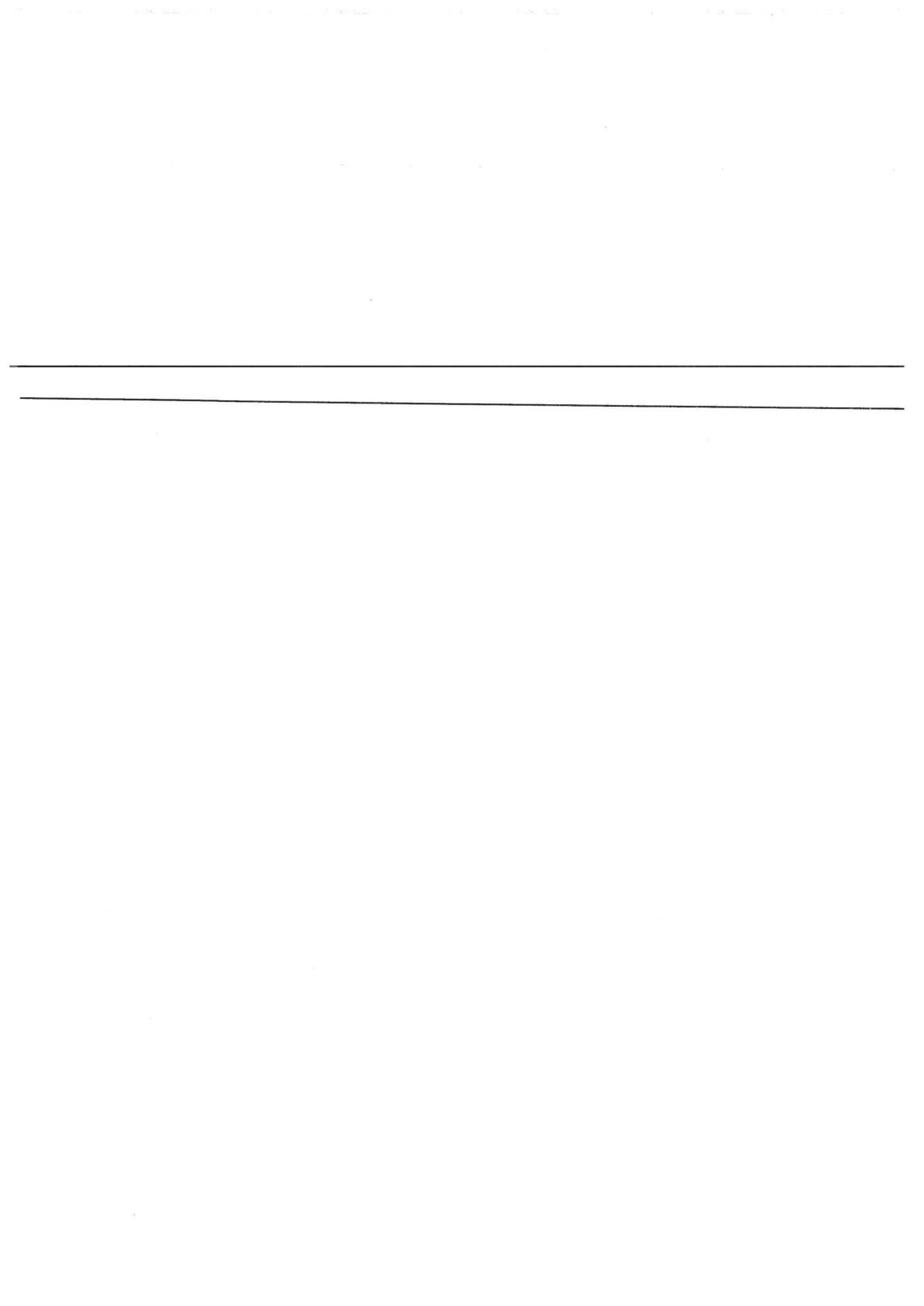
35(1)(d) amend to read:

“provide information, **grants**, and technical assistance to institutions, associations, and organizations concerned with the rights, habilitation and rehabilitation, **educational, research, policy, training, and welfare of persons with disabilities.**”

Amendment 4

79(2) Amend and add:

“Collaborate with the Kenya National Bureau of Statistics and the Council of Governors in undertaking household surveys and censuses covering categories of persons with disabilities defined in this Act.”



Hangouts

3 of 7,808

Fwd: PUBLIC PARTICIPATION AND SUBMISSION OF MEMORANDA-The Persons with Disabilities Bill, 2021

Inbox

Labour And Social

Mon, Feb 28, 1:03 PM

Welfare <labournationalassembly@gmail.com>

to Doreen, me, James

Begin forwarded message:

From: Clerk of the National Assembly <clerk@parliament.go.ke>

Subject: Fwd: PUBLIC PARTICIPATION AND SUBMISSION OF MEMORANDA-The Persons
Disabilities Bill, 2021

Date: 28 February 2022 at 08:50:09 EAT

To: labournationalassembly <labournationalassembly@gmail.com>

From: Laban <labanjm@gmail.com>

To: clerk <clerk@parliament.go.ke>

Date: Saturday, 26 February 2022 9:11 AM EAT

Subject: PUBLIC PARTICIPATION AND SUBMISSION OF MEMORANDA-The Persons with Di
Bill, 2021

These are my inputs

1. Degree for disability need to be determined. This will help KRA to collect revenue without chea

2. They should not be wholly tax exempt. At least pay a third ($\frac{1}{3}$) of any tax due.
3. Any environmental set up need to consider them in terms of mobility and usage.
4. Retirement age to remain like other ordinary people. The person becomes unproductive as he

Regards
Laban JM

Doreen Karani

11:55 AM (6 minutes ago)


to me

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Doreen Karani

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Doreen Karani

 ReplyForward

Displaying SKMBT_C28022030905030.pdf.

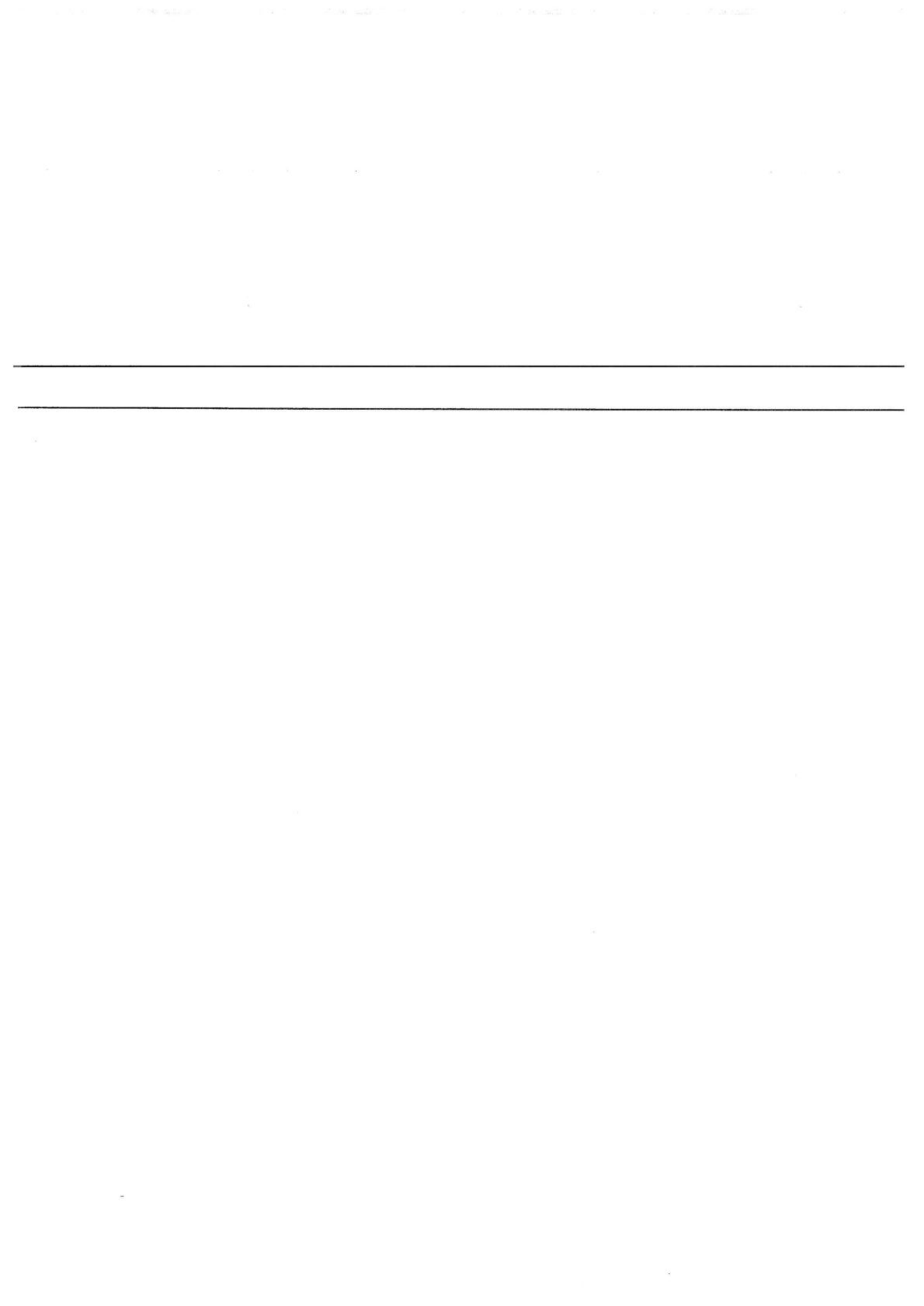
From: TIMORO <timorosamuel@gmail.com>

To: clerk <clerk@parliament.go.ke>

Date: Saturday, 26 February 2022 4:22 PM EAT

Subject: Issues of disability guide allowances to be improved from 20k to 30k, issue of renewal of tax exemption certificate for disability to be made permanent

Sent from my Huawei phone



From: John Mugoma mugomajohn@gmail.com
Subject: Fwd: MY MEMORANDA ON THE BILL BEFORE THE NATIONAL ASSEMBLY ABOUT PERSONS WITH DISABILITY.
Date: 10 May 2022 at 12:42
To: Susan Maritim susanmaritim@icloud.com

----- Forwarded message -----

From: Labour And Social Welfare <labournationalassembly@gmail.com>
Date: Mon, Feb 28, 2022 at 1:03 PM
Subject: Fwd: MY MEMORANDA ON THE BILL BEFORE THE NATIONAL ASSEMBLY ABOUT PERSONS WITH DISABILITY.
To: Doreen Karani <karanidoreen@gmail.com>, John Mugoma <mugomajohn@gmail.com>, James Muguna Researcher <jimmymuguna93@gmail.com>

Begin forwarded message:

From: Clerk of the National Assembly <clerk@parliament.go.ke>
Subject: Fwd: MY MEMORANDA ON THE BILL BEFORE THE NATIONAL ASSEMBLY ABOUT PERSONS WITH DISABILITY.
Date: 28 February 2022 at 08:44:43 EAT
To: labournationalassembly <labournationalassembly@gmail.com>

From: ALEX <alexojum@gmail.com>
To: clerk <clerk@parliament.go.ke>
Date: Friday, 25 February 2022 4:47 PM EAT
Subject: MY MEMORANDA ON THE BILL BEFORE THE NATIONAL ASSEMBLY ABOUT PERSONS WITH DISABILITY.

Hello ladies and gentlemen, Am Alex Mugeni Juma registered with the national council for person with disability (NCPWD) registration number; NCPWD/P/545114 from Busia County. The nature of my disability is physical.

First and foremost, allow me to commend the council together with the president of the republic of Kenya in all their efforts they are doing to ensure that the persons living with disabilities in this country access services with a lot of easiness and transparency without delay.

Indeed the reforms are for well-being of persons living with disability for today and for future. In the modern society, technology is the way to go.

As a person living with disability, I would also wish to propose some amendments on the said bill which to me I believe will be of great value to us and to the government of Kenya as a whole.

- 1) For persons living with permanent physical disability - disabilities that can be seen either from far or close, should be exempted from this new registration that is being proposed because permanent physical disability is irreversible instead, they should just be given the new identification document without following too much laid down processes.
- 2) For persons living with permanent physical disability should be exempted from renewing their "medical report" because permanent

physical disability is irreversible.

3) Persons living with permanent physical disability should not be subjected to renewal of "tax exemption certificate". Why should they be renewing yet their disability cannot be renewed? It is there to stay (permanent).

Thanks as I look forward seeing my proposals being implemented by the honourable house. As the bill it is currently, I don't fully support it though some clauses are good.

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Mugoma John
Protection House
Parliament Buildings
P.O Box 41842 - 00100
Nairobi - Kenya
mugomajohn@gmail.com
jmugoma2003@yahoo.com
+254724330358

From: John Mugoma mugomajohn@gmail.com
Subject: Fwd: rights of a disabled people in the family
Date: 10 May 2022 at 12:42
To: Susan Maritim susanmaritim@icloud.com



----- Forwarded message -----

From: Labour And Social Welfare <labournationalassembly@gmail.com>
Date: Tue, Mar 1, 2022 at 8:50 AM
Subject: Fwd: rights of a disabled people in the family
To: Doreen Karani <karanidoreen@gmail.com>, John Mugoma <mugomajohn@gmail.com>, James Muguna Researcher <jimmymuguna93@gmail.com>

Begin forwarded message:

From: Clerk of the National Assembly <clerk@parliament.go.ke>
Subject: Fwd: rights of a disabled people in the family
Date: 28 February 2022 at 15:27:44 EAT
To: labournationalassembly <labournationalassembly@gmail.com>

From: Virginia <vwathuge@gmail.com>
To: clerk <clerk@parliament.go.ke>
Date: Monday, 28 February 2022 3:23 PM EAT
Subject: Re: rights of a disabled people in the family

Virginia wanjiru wathuge
P.o.box 29268-00625
Nairobi Kenya
0722144189/0756440958

Dear sir/madam,

I am here trying to sound my grief as a person who is almost going blind

I am here to kindly help others who have been victim of fraud from parents, siblings, colleagues, society.

I have been using one eye for the last 32years but I have been to hell and back to earth again have suffered from (1) discrimination (2) betrayal (3) not listened to as I am a girl child in a family of 7 members

I am advocating for the law enforcement to kindly help all going through same out there.

I have been a tenant for the longest time at my family land.I have suffered silently and I have decided to speak out.

Your fellow citizen,

Virginia wanjiru wathuge
Kangemi thionao road Nairobi Kenya

From: John Mugoma mugomajohn@gmail.com
Subject: Fwd: The people with disabilities draft.
Date: 10 May 2022 at 12:43
To: Susan Maritim susanmaritim@icloud.com



----- Forwarded message -----

From: Labour And Social Welfare <labournationalassembly@gmail.com>
Date: Tue, Mar 1, 2022 at 8:50 AM
Subject: Fwd: The people with disabilities draft.
To: Doreen Karani <karanidoreen@gmail.com>, John Mugoma <mugomajohn@gmail.com>, James Muguna Researcher <jimmymuguna93@gmail.com>

Begin forwarded message:

From: Clerk of the National Assembly <clerk@parliament.go.ke>
Subject: Fwd: The people with disabilities draft.
Date: 28 February 2022 at 13:54:59 EAT
To: labournationalassembly <labournationalassembly@gmail.com>

From: Peter <pntonjira66@gmail.com>
To: clerk <clerk@parliament.go.ke>
Date: Monday, 28 February 2022 1:35 PM EAT
Subject: The people with disabilities draft.

The draft is well improved from the first act. However please do consider introducing the retirement package for public officers with disabilities. After retirement, disabled people seem to grow fast.

- 1) Medical bills are high
- 2) the caretaker or helpers allowance is withdrawn
- 3) the disillusionment sets in.

During the active life the person spends a lot of money on hospital bills etc.

Consider coming up with something extra for PWDs. It's not fair to treat them like the of the retirees. They require more to survive. Most of us may not have families or even if they have they may not be any assistance. Most of were not well prepared for retirement.

Due to discrimination outside there some have been disinherited thus leaving at the mercy of the employers.

I would propose that they retire with full salary for next ten years plus the allocations.

Thanks.
Please consider.

