

THE GAMBIA

*Satang Nabaneh**

1 Population indicators

1.1 What is the total population of your country?

The total population according to the 2013 national census was estimated at 1 857 181 inhabitants with an average annual growth rate of 3,1 per cent.¹ The results indicate that women make up 50,5 per cent of the population and males 49,5 per cent.²

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

In the 2013 census persons with disabilities were defined as those who were unable to perform, or were restricted in the performance of specific tasks or activities due to a loss of function of any part of the body or mind because of impairment or malformation.³ Information was collected on the following disabilities: visual; hearing; speech; physical; mental illness; epilepsy; and learning difficulties.⁴ Only disabilities that had lasted for more than six months were included.⁵ In both the 2003 and 2013 censuses questions relating to disability were restricted to normal households and persons aged two years and over.⁶

1.3 Total number and percentage of people with disabilities in your country

The Gambia has not conducted any recent national disability survey. The last survey was done in 1998, revealing that the overall disability prevalence rate was

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1 Gambia Bureau of Statistics (GBOS) 'The Gambia 2013 Population and Housing Census Preliminary Results' (2013) 6.

2 As above, 8.

3 GBOS 2013 'Population and Housing Census: National disability report' (2013) vi.

4 As above.

5 As above.

6 GBOS (n 3) 1.

1,6 per cent of the population. This gives a national prevalence rate by gender of 17,4 and 13,9 per 1 000 of the population for males and females respectively.⁷

The overall prevalence of disability in The Gambia according to the 2013 Population and Housing Census results is 1,2 per cent compared to 2,4 per cent in 2003. Compared to 2003, this demonstrates a 50 per cent decline in the prevalence of disability.⁸ The census report found incidences of disability to be higher in rural than in urban areas.⁹

1.4 Total number and percentage of women with disabilities in your country

The prevalence in 2013 in the case of males is 1,3 per cent compared to 1,2 per cent for females.¹⁰ Among females the incidence of disability is highest among those aged 30 to 34 years, followed by those aged 40 to 44 and those aged 25 to 29. In the age group 15 to 19 years, the proportions increase by age reaching a maximum at age 30 to 34 when women are at the peak of their reproductive life.¹¹

1.5 Total number and percentage of with children with disabilities in your country

The child disability rate in the 1998 National Disability Survey was 9,9 per 1 000, constituting 30,8 per cent of the disabled population in The Gambia. The disability prevalence rate for boys and girls was 11,2 and 8,5 per 1 000 respectively.¹² On the contrary, the 2013 census registered a disability prevalence of 0,4 per cent or four out of every 1 000 children.¹³ The majority of the children with disabilities were males, accounting for 54,2 per cent, and females for 45,8 per cent.¹⁴ Data according to place of residence shows that in urban areas male children with disabilities constituted 50,2 per cent and females 49,8 per cent.¹⁵

1.6 Most prevalent forms of disability and/or peculiarities to disability in your country

The available data on persons with disabilities is outdated and there is a need to put in place identification and assessment mechanisms. However, the three major disabilities identified were visual impairments, physical disabilities and hearing impairments.

It can be observed that visual impairment was the most prevalent disability (0,9 per cent) in 2003 which in 2013 decreased to 0,3 per cent.¹⁶ The prevalence of physical disability decreased slightly from 0,5 per cent in 2003 to 0,4 per cent in 2013, while that of hearing impairment declined from 0,4 to 0,2 per cent over the same period.¹⁷ In the case of hearing difficulties and seizures females account for a

7 National Disability Survey (1998) 10 <http://www.gbos.gov.gm/uploads/survey/NATIONAL%20DISABILITY%20SURVEY.pdf> (accessed 5 March 2018).

8 GBOS 2013 (n 3) 3.

9 GBOS 2013 7-8.

10 GBOS 2013 3.

11 GBOS 2013 4.

12 National Disability Survey (n 7) 12.

13 The children age cohort started from persons aged 2 to 17 years.

14 GBOS 2013 (n 3) 10.

15 GBOS 2013 11.

16 This could be attributed to the success of the National Eye Care Programme.

17 GBOS 2013 (n 3) 3.

relatively higher proportion (17,4 per cent and 5,5 per cent respectively) compared to males (16,0 per cent and 3,9 per cent respectively).¹⁸

Among children with disabilities, hearing difficulties was the most common type of disability.¹⁹ More than one-quarter (25,9 per cent) of children with disabilities had hearing difficulties. The second most prevalent disability among children was physical disability (25,7 per cent): 'Seeing' or problems with vision accounted for 16,3 per cent while speech difficulties ('speaking') accounted for 13,7 per cent. The proportion of children with 'strange behaviour' was approximately 8 per cent while 5,5 per cent experienced seizures.²⁰

2 The Gambia's international obligations

2.1 What is the status of the United Nation's Convention on the Rights of People with Disabilities (CRPD) in your country? Did your country sign and ratify the CRPD? Provide the date(s).

The Gambia ratified the Convention on the Rights of Persons with Disabilities (CRPD) and its Optional Protocol on 7 July 2015.

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

In accordance with article 35 of the CRPD, states must initially report within two years of accepting the Convention and thereafter every four years. The Gambia, having ratified the Convention in 2015, was supposed to submit its initial report in 2017. To date no report has been submitted to the Committee on the Rights of Persons with Disabilities (CRPD Committee).

18 GBOS 2013 8.

19 GBOS 2013 12.

20 GBOS '2013 Population and Housing Census: The children report' (2013) 6.

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

The Gambia's notoriety for non-reporting to human rights treaty bodies, especially at the African level, is well known.²¹ At the African regional level The Gambia submitted its initial report (1986-1992) on the African Charter on Human and Peoples' Rights (African Charter) in 1992.²² In accordance with article 62 of the African Charter, state parties are required to submit periodic report every two years. The Gambia's first periodic report was submitted in 1994 for the years 1992-1994, and no further reports have been submitted to the African Commission on Human and Peoples' Rights (African Commission).²³ Since its ratification of the African Charter on the Rights and Welfare of the Child (African Children's Charter)²⁴ and the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (African Women's Protocol),²⁵ The Gambia has never submitted any initial or periodic report.

However, the government has been giving more priority to reporting under the UN human rights system than the African system. With respect to The Gambia's combined fourth and fifth periodic reports in 2015 the CEDAW Committee raised concerns about the fact that women and girls with disabilities have limited access to inclusive education, employment, health care and participation in political and public life.²⁶ It recommended that the state domesticates the CRPD which should provide for the use of temporary special measures.

The Committee on the Rights of the Child (CRC Committee) in its Concluding Observations on the combined second and third periodic reports of The Gambia in 2015, while commending measures taken by the country on the rights of children with disabilities, remained concerned regarding the high level of discrimination against and stigmatisation of children with disabilities.²⁷ The Committee urged the state to 'strengthen awareness-raising programmes, including campaigns, for the community at large, aimed at combating discrimination against and stigmatisation of children with disabilities'. It further encouraged the inclusion

21 S Nabaneh 'The impact of the African Charter and the Maputo Protocol in The Gambia' in VO Ayeni (ed) *The impact of the African Charter and the Maputo Protocol in selected African states* (2016) 87-88.

22 'Report of The Gambia in accordance with article 62 of the African Charter on Human and Peoples' Rights' http://www.achpr.org/files/sessions/12th/state-reports/1st-1986-1992/staterep1_gambia_1992_eng.pdf (accessed 15 February 2018).

23 Periodic Report, ACHPR/PR/GAM/XVI http://www.achpr.org/files/sessions/16th/state-reports/1st-1992-1994/staterep1_gambia_1994_eng.pdf (accessed 15 February 2018).

24 Ratified on 14 December 2000.

25 The Gambia ratified the African Women's Protocol on 25 May 2005 with blanket reservations on article 5 (elimination of harmful practices), article 6 (marriage), article 7 (separation, divorce and annulment of marriage) and article 4 (health and reproductive rights). The reservations were withdrawn in June 2006.

26 CEDAW Committee 'Concluding Observations on the combined fourth and fifth periodic reports of The Gambia' CEDAW/C/GMB/CO/4-5 (2015) para 43.

27 CRC Committee 'Concluding Observations on the combined second and third periodic reports of The Gambia' (CRC/C/GAM/CO/2-3) para 58.

of children with disabilities in society and in the mainstream educational system, including by making schools more accessible.²⁸

The Human Rights Council during the Universal Periodic Review (UPR) report on The Gambia recommended that it concludes the ongoing consultations regarding the draft Disability Bill to be adopted at the earliest possible time.²⁹ This is yet to materialise.

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

The Gambia, as in the case of many common law countries, follows a dualist approach to treaty implementation. In order to ensure enforceability, ratified international and regional instruments need to be incorporated into national law. After ratification of an instrument, an Act of the National Assembly is enacted in order for that particular law to have force locally.³⁰ The Constitution has no specific provision regulating the relationship between international law and The Gambia's national law and the application of such.³¹ The question of domestication has not been considered by the courts in the country.

As at April 2018 the CRPD had not yet been domesticated in The Gambia, although the government has noted its plans to domesticate it into law (a Disability Bill).³² The objective of the draft Bill is to ensure the full and effective, social and political participation of persons with disabilities.³³ Once enacted, the law will also establish a National Council for persons with disabilities.

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

As mentioned above, the CRPD had not been domesticated. Other domesticated international instruments include:³⁴

- the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)³⁵ and the African Women's Protocol which were given force of law

28 CRC Committee (n 27) para 59.

29 See Human Rights Council 'Draft report of the Working Group on the Universal Periodic Review: Gambia' A/HRC/WG.6/20/L.3 (2014).

30 S Nabaneh 'Women's political participation and representation in The Gambia: One step forward or two back?' (2013) commissioned by TANGO.

31 Nabaneh (n 21) 77-78.

32 The National Development Plan (2018-2021) 60.

33 The Gambia Federation of the Disabled with support from the International Reproduction Institute (IRI) and Education for All Campaign Network – The Gambia (EFANET), in consultation with the members of the National Assembly drafted a Bill to meet the needs of persons with disabilities. The Bill has since 2012 been in the process. It was validated in October 2017. See 'Disability Bill to improve lives of physically challenged' *The Point* 25 October 2017 <http://thepoint.gm/africa/gambia/article/disability-bill-to-improve-lives-of-physically-challenged> (accessed 10 April 2018).

34 See Nabaneh (n 21) 81-82.

35 Ratified on 16 April 1993.

nationally when in April 2010 the Women's Act was passed and signed into law by the President on 28 May 2010;

- the Children's Act 2005 which was promulgated to ensure the effective enforcement of the Convention on the Rights of the Child (CRC)³⁶ and the African Children's Charter;³⁷
- the Trafficking in Persons Act 2017, a domesticated legislation of the Palermo Protocols.

3 Constitution

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

Section 31 the 1997 Constitution of The Gambia specifically provides for the protection and rights of persons with disabilities. It states:

- (1) The right of the disabled and handicapped to respect and human dignity shall be recognised by the State and society.
- (2) Disabled persons shall be entitled to protection against exploitation and to protection against discrimination, in particular as regards access to health services, education and employment.
- (3) In any judicial proceedings in which a disabled person is a party, the procedure shall take his or her condition into account.

Section 33 recognises the equality of all persons before the law and further includes disability as a ground of discrimination.

Section 216(2) under social objectives provides for the establishment of policies that protect the rights and freedoms of the disabled, the aged, children and other vulnerable members of society to ensure just and equitable social opportunities.³⁸

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

The constitutional catalogue of rights and freedoms are provided for in chapter IV. These include the right to life (section 18); the right to personal liberty (section 19); protection from slavery and forced labour (section 20); protection from inhuman treatment (section 21); protection from deprivation of property (section 22); the right to privacy (section 23); freedom of speech, conscience, assembly, association, and movement (section 25); political rights (section 26); the right to marry (section 27); the rights of women (section 28); the rights of children (section 29); the right to education (section 30); rights of the disabled (section 31); the right to culture (section 32); and protection from discrimination (section 33).

Section 17 provides that all persons are entitled to their fundamental human rights and freedoms. Disability could be read into 'other status'. The Constitution

36 Ratified on 9 August 1990.

37 Ratified on 14 December 2000.

38 This section is found under State Directive Principles and, thus, is not justiciable.

does not mention the kinds of disabilities protected, particularly as regards access to health services and education.

4 Legislation

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

Notwithstanding the abovementioned constitutional provisions, a comprehensive law for persons with disabilities is yet to be enacted.

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

- **Women's Act**³⁹

Section 54 of the Women's Act provides special protection to women with disabilities. It states:

The government shall take appropriate measures to:

- (a) ensure the protection of women with disabilities and take specific measures commensurate with their physical, economic and social needs to facilitate their access to employment, professional and vocational training, as well as, their participation in decision-making; and
- (b) ensure the rights of women with disabilities to freedom from violence, including sexual abuse, discrimination based on disability and the right to be treated with dignity.

- **Children's Act**

In addition to recognising and guaranteeing the rights of all children in The Gambia, section 12 of the Children's Act 2005 stipulates that children in need of special protection, including children with disabilities, have the right to 'any such measure that is appropriate to his or her physical, economic, emotional and mental needs'. However, children with disabilities do not feature strongly in the Act.

5 Decisions of courts and tribunals

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

There is no data on decisions made by the judiciary in The Gambia in respect of an issue or issues relating to disability.

39 See Women's Act 2010 <https://www.lawhubgambia.com/womens-rights/> (accessed 10 February 2018).

However, one communication came before the African Commission: *Purohit & Another v The Gambia*.⁴⁰ The complainants alleged that in the Lunatics Detention Act (the principle instrument governing mental health) there is no definition of a lunatic, and that there are no provisions or requirements establishing safeguards during the diagnosis, certification and detention of such a patient.⁴¹ It was further alleged that the psychiatric unit was overcrowded, and that there was no requirement of consent to treatment or subsequent review of continued treatment.⁴² The Gambia was found in violation of articles 2, 3, 5, 7(1)(a) and (c), 13(1), 16 and 18(4) of the African Charter relating to non-discrimination; equality before the law; dignity; the right to have one's cause heard; the right to participate in decision-making; the right to enjoyment of the highest attainable state of physical and mental health; and the right to special measures of protection.

The African Commission recommended that The Gambia repeal the Lunatics Detention Act and replace it with a new legislative regime for mental health in The Gambia compatible with the African Charter and international standards and norms for the protection of mentally-ill or disabled person as soon as possible; to create a body to review the cases of all persons detained under the Lunatics Detention Act; and to make appropriate recommendations for their treatment or release pending the first recommendation. It was also recommended that the state provide adequate medical and material care for persons suffering mental health problems in the territory of The Gambia. As a way to follow up on progress in implementing the decision, it was recommended that when submitting its next periodic report, The Gambia report back to the African Commission on the measures taken to comply with the recommendations of the Commission.

This case has been given no exposure by the government and is only known in non-governmental organisation (NGO) circles. Starting with the last recommendation, The Gambia has not since 1994 submitted any report to the African Commission.⁴³

6 Policies and programmes

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

- **Integrated National Disability Policy (2009-2018)**

The Integrated National Disability Policy upholds the rights of adults and children with disabilities. It is aimed at promoting equal opportunities, rights and full participation of persons with disabilities in an enabling environment. The policy further aims to improve the living conditions of persons with disabilities by empowering them in society. Specific actions to be taken include advocacy; the strengthening of health care; development and implementation of regulations; improving accessible transportation; and the promotion of research on disability and related issues.

40 (2003) AHRLR 96 (ACHPR 2003).

41 *Purohit* (n 41) para 4.

42 *Purohit* para 5.

43 Nabanch (n 21) 88-89.

- **Draft Mental Health Policy (2007)**

The Draft Mental Health Policy aims to reform and modernise the Lunatics Detention Act of 1917 to bring it in line with the provision regarding a human rights-based approach to mental health care. It upholds the principles of 'equitableness to quality mental health care to children, women, the aged, migrants, and refugees'. Its objectives include promoting and improving the quality of mental health service provision; data collection on disability; awareness-creation at all levels; and research on disability. The policy and subsequent mental health law has not been adopted or formulated by the National Assembly.

- **National Health Policy (2012-2020)**

The National Health Policy (NHP) aims at promoting and protecting the health of the population through the equitable provision of quality health care.⁴⁴ The NHP recognises the needs of persons with disabilities in reducing morbidity and mortality to contribute significantly to the quality of life in the population.⁴⁵ This includes setting up a national plan of action for the prevention of disability and the rehabilitation of persons with disabilities in accordance with the United Nations Standards Rules on Equalisation of Opportunities for Persons with Disabilities by 2013.

- **The National Development Plan (2018-2021)**

The National Development Plan (NDP)'s outcome 4.9 is on enhancing inclusiveness and participation of persons with disabilities in the National Development Agenda through a three-pronged approach.⁴⁶ first, strengthening the policy framework on disability matters which focuses on the review and adoption of the National Integrated Disability Policy and the enactment of the Persons with Disabilities Bill; second, the social and economic empowerment of persons with disabilities which will mainstream these persons in programmes and projects with the overall goal of economic empowerment and financial independence; third, the provision of inclusive rehabilitation and habitation programmes and services for persons with disabilities. This will focus on decentralised rehabilitation services for persons with disabilities and specialised training to ensure service delivery at the community level. The government will also seek partnerships to strengthen the rehabilitation centres through the provision of equipment, tools, systems, and processes that improve effectiveness and efficiency.

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

- **The Gender and Women's Empowerment Policy (2010-2020)**

The National Gender and Empowerment Policy framework serves as a comprehensive guide to the attainment of gender equity and equality through its implementation plan. It sets indicators to assist in gender mainstreaming from a human rights-based approach in planning, programming and implementation processes by sectoral departments, partners and other stakeholders. Its goal is to mainstream gender in all national and sectoral policies, programmes, plans and budgets to achieve gender equity and equality and women's empowerment in the development process. One of its objectives is to enhance the performance of women as decision makers, which includes information and training for women, the youth and persons with disabilities to participate in leadership positions.

44 Ministries of Basic and Secondary Education and Higher Education Research Science and Technology 'Education Sector Policy 2016-2030' (2016) 6.

45 Education Sector Policy (n 45) 16.

46 National Development Plan DP (n 32) 60-61.

- **Education Sector Policy (2016-2030)**

The Education Sector Policy (ESP) provides strategic direction for the provision of basic education that is non-discriminatory and takes disability into account.⁴⁷ The policy places the emphasis on inclusiveness regarding special needs education. It is committed to providing support and equipment to enable pupils with mild disabilities to effectively participate in mainstream education.⁴⁸

7 Disability bodies

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

There are no bodies other than courts that specifically address violations of the rights of persons with disabilities.

The Office of the Ombudsman was established under section 163 of the Constitution with powers defined in the same section. The 1997 Ombudsman Act set up the office of the Ombudsman as an independent public institution. Section 163(1) of the 1997 Constitution and sections 3(1) and (2) of the Ombudsman Act 1997 outline the functions of the Ombudsman, including investigating complaints of injustice and corruption; the abuse of power; maladministration; mismanagement; discrimination; and the unfair treatment of any person by a public officer in the exercise of official duties. The Office of the Ombudsman had established a National Human Rights Unit that has been addressing issues of disability as part of their mandate, for instance, for persons with disabilities to receive priority access to polling booths on election days.

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

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

The new political dispensation after 22 years of authoritarian rule is evident in the enactment of laws and policies focused on human rights. On 13 December 2017 the National Assembly passed the National Human Rights Commission (NHRC) Act.⁴⁹ On 13 January 2018 the President assented to the Act. The NHRC Act establishes a Commission for the promotion and protection of human rights in The

47 Ministry of Basic Education and Secondary Education and Higher Education, Research and Technology 'Education Sector Policy 2016-2030' (2016) 2-3.

48 Education Sector Policy (n 48) 14.

Gambia. The NHRC is authorised to investigate and consider complaints of human rights violations in The Gambia, including violations by private persons and entities. The Commission is yet to be established.

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

9.1 Do you have organisations that represent and advocate the rights and welfare of persons with disabilities in your country? If so, list each organisation and describe its activities.

The Gambia Association of the Physically Disabled (GAPD), a registered national NGO, was established in 1993. GAPD aims to promote the avoidance of physical disabilities and the positive advocacy for equal opportunities, rights and lobbying institutions for the enhanced participation and integration for people with disabilities in The Gambia and in all strata of society. The Association also advocates educational sponsorship for children of disabled persons as well as children with disabilities. The Association works in partnership with the Department of Social Welfare (DSW) and other international NGOs operating in The Gambia.

In 1995 the Gambia Association of the Hard of Hearing, formed in 1992, was renamed Gambia Association of the Deaf and Hard of Hearing (GADHOH). GADHOH cooperates with Ministries and agencies of the government of The Gambia and seeks to improve the lives of disabled people. The Association is linked to national and international organisations in the furtherance of its work. They also provide educational services.

The Gambia Organisation of the Visually Impaired (GOVI) was established in 1991 following an amalgamation of The Gambia Society for the Blind and The Gambia Association of the Blind. GOVI, a national organisation for visually-impaired persons, is recognised and registered by the Gambian government. GOVI undertakes a number of activities to help uplift the status of the blind and visually-impaired in The Gambia. The main aim of GOVI is the prevention of blindness; the rehabilitation of the visually-impaired; and the active promotion of the rights to equal opportunities and full participation in all spheres of national development and at all levels for the blind and visually-impaired.

The Gambia Epilepsy Association (GEA) aims to improve the quality of life for epilepsy sufferers and their carers via equal opportunities, self-sufficiency, supervised medication and counselling.

The Gambian Physical Disability Sports Association (GODSA) is a civil society organisation that represents young, physically-challenged people and is committed to advocating recreational programmes and facilities.

The National Union of Disabled Youths (NUDY) is a registered organisation representing disabled Gambian youths. NUDY works to ensure the empowerment of young people.

49 See NHRC Act <https://www.lawhubgambia.com/national-human-rights-act/> (accessed 15 February 2018).

The Gambia Organisation for Learning Difficulties (GOLD) offers short-term stays for children with learning problems. Hart House gives parents and care providers respite from caring for their children and to exchange ideas and progress reports. The respite home covers the developmental stage of children and helps them attain their highest potential by providing a number of sets of stimulating learning and play activities.

The Rural Support Organisation for the Disabled (RSOD) is a village-focused NGO. It was established because most DPOs were concentrated in the western half of The Gambia and those in rural areas were not represented by their own associations. The organisation campaigns for people with disabilities to gain access to public health services, general amenities and medical treatment.

Since the 1950s Sightsavers – The Gambia has been testing and treating people with eye diseases such as cataracts. The organisation also provides spectacles for those who need these and they help to set up new vision centres in the country, which are publicised through radio shows, billboards and posters.

9.2 In the countries in your region, are DPOs organised/coordinated at a national and/or regional level?

The Gambia Federation of the Disabled (GFD) is the national umbrella body for disability. GFD has eight DPOs registered under it. It was formed by the Disabled Peoples Organisations and its history of formation dates back to the early 1990s. The GFD advocates the promotion, protection and empowerment of persons with disabilities and encourages, supports and monitors activities by stakeholders in the disability sector that improve the living conditions of the disabled. Eight DPOs are registered with GFD.

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

Gambian DPOs have a working relationship with the Department of Social Welfare relating to issues of persons with disabilities. This has ensured interaction with the disability sector and government.

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

The Gambia Federation of the Disabled (GFD) actively participates in lobbying for the domestication of the CRPD. The GFD with support from partners and with members of the National Assembly drafted a disability Bill which is yet to be enacted.

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

The main barrier is the lack of political will in light of the fact that the process with respect to the Disability Bill started six years ago. Other barriers include funding for DPOs intersecting with the societal stigmatising view of disability issues.

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

No.

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

The ratification of the CRPD itself may be seen as an important milestone for the protection and recognition of the rights of persons with disabilities. This was due to the lobbying and engagement of DPOs in the ratification process. However, the non-domestication of the CRPD limits the full realisation of the rights provided in the CRPD.

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

Awareness and understanding of laws impede the extent to which DPOs can adequately engage with the implementation process. Funding and capacity building also remain a challenge.

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

Training on human rights instruments and processes in general for DPOs is critical. The focus should also be on funding and building capacity in order to ensure effective engagement of DPOs with the implementation process in the future. Specific areas of capacity building and support should include proposal development, fundraising, lobbying and advocacy with policy makers, legislators and other relevant stakeholders.

9.10 Are there specific research institutes in your region that work on the rights of persons with disabilities and that have facilitated the involvement of DPOs in the process, including in research?

There are currently no specific research institutes in The Gambia that work on the rights of persons with disabilities, which have facilitated the involvement of DPOs in the process.

10 Government departments

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

The Department of Social Welfare (DSW) of the Ministry of Health is responsible for protecting the rights of persons with disabilities. The DSW's Disability Unit works with GOVI and the School for the Deaf and Blind to help educate children with disabilities and to develop relevant skills. The department also works with international donors to supply wheelchairs and technical aid to some persons with disabilities. Several NGOs have sought to improve awareness of the rights of persons with disabilities and encouraged their participation in sports and other physical activities. However, according to the UNICEF and Ministry of Basic and Secondary Education (MOBSE) national disability study focusing on children with disabilities, the disability unit does not maintain comprehensive records.⁵⁰ The main challenges faced by the Disability Unit are limited financial and human resources to be able to serve every part of the country effectively. The Disability Unit has limited presence in rural areas.⁵¹

11 Main human rights concerns of people with disabilities in The Gambia

11.1 Contemporary challenges of persons with disabilities in your country

Discrimination and stigmatisation of persons with disabilities are a manifestation of inequality and a reflection of social and religious norms.⁵² It serves as both a cause and consequence of poverty. Other challenges include a lack of access to education and lack of infrastructure for persons with disabilities. These persons are very vulnerable in The Gambia due to superstition and the widespread prevalence of negative attitudes in society, ignorance about disability issues and neglect.⁵³

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

Generally, no information exists regarding systematic data collection on discriminatory actions against people by reason of disability.

50 UNICEF/MOBSE 'National disability study report' (2013) 16.

51 UNICEF/MOBSE (n 51) 40.

52 See YM Bah & L Sidibeh 'Disability and integration: Gambian experience study report' (xx).

53 See the Integrated National Disability Policy (2009-2018).

- **Access to social security**

There is scant evidence of social security services directed at persons with disabilities in The Gambia which makes life very difficult for them. Some end up begging on the streets. Some parents of children with disabilities are given micro-credit loans to boost their incomes.⁵⁴ Major challenges relating to social protection services include the absence or lack of a social protection policy environment; a central coordinating body for social protection programmes; a lack of quality data for programming; inadequate financial, material and human capacity and competing interests mean that all people in need of protection are not always reached.

- **Access to public transport and buildings**

There is no explicit legal guarantee of access to air travel and other transportation, nor any requirement to provide for access to buildings for persons with disabilities. Very few public buildings in the country are accessible to persons with disabilities.⁵⁵ The majority of these persons live in rural areas and have a limited ability to move from their home to seek medical care or other services in cities due to transport costs. There generally is limited and inadequate access to premises and facilities, including schools.⁵⁶

- **Access to education**

Disability is a hindrance to enrolment and the retention of both girls and boys in schools, as they still face socio-cultural and physical barriers. While the situation is improving in the case of children with mild visual and hearing impairments, children with mental, learning and multiple disabilities and those afflicted with epilepsy still face socio-cultural and physical barriers.⁵⁷ The few persons with disabilities that attend school face challenges throughout their schooling because of the lack of appropriate infrastructure and the lack of knowledge on how to give access to this group. Even after acquiring an education, it is very difficult for them to obtain employment. This is due to their disability and the fact that most people view disability as an inability to do anything. There also are inadequate special facilities and services to enhance the educational environment of children with disabilities in mainstream schools.⁵⁸

- **Access to health services**

Access to health services is also a challenge because of the inclusive service provision at health service points in the country. Health personnel are not oriented on special needs of persons with disabilities. They are treated the same as other people at service points. Access to service points is also impeded by mobility and infrastructural constraints as rehabilitation services are not available in most communities in remote areas.

- **Access to employment and vocational training**

Most Gambians living with disabilities are marginalised due to the stigma attached to disability. From childhood persons with disabilities are treated differently. As a result, they have no way of obtaining gainful employment to enable them to live independently. The majority of persons with disabilities take up begging for alms as a means of survival. In its National Development Plan, the Barrow government recognises the need to integrate and mainstream people with disabilities in all youth and sports initiatives as a means of economic empowerment and financial

54 Sight Savers International provides financial support so that GOVI can offer additional micro-credit loans to people with disabilities.

55 US Department of State 'The Gambia 2016 Human Rights Report' (2016) 26.

56 CRC Committee (n 27) para 9.

57 National Development Plan (n 32) 239.

58 See UNICEF/Government of The Gambia 'Disabled children in mainstream schools survey' (2000).

independence. The strategy to be employed includes engaging with representative bodies for persons with disabilities in programme formulation, implementation and monitoring.⁵⁹ In partnership with civil society organisations, the government's theory of change for empowering youths with disabilities will be anchored on vocational training, combating stigma and discrimination, financial inclusion and strengthening organisations working to strengthen organisational development for disability support institutions.

- **Access to recreation and sport**

The Ministry of Youth and Sports has been working towards creating an enabling environment for young people to engage in sporting and recreational events, with a specific focus on promoting the involvement and participation of youths with disabilities. They have taken part in international paralympic games competitions.

- **Access to justice**

There is no specific programme to support access to justice for persons with disabilities. They face numerous obstacles in exercising their right to access justice. These obstacles include poverty and an inability to afford legal fees, inaccessible buildings and transport and a lack of awareness of their rights.

Legal aid is provided through the National Agency for Legal Aid (NALA). The Legal Aid Act 2008 not only continues to provide legal aid for children and persons charged with offences punishable with death and life imprisonment, but it has also widened the scope of legal aid to include persons who earn not more than the minimum wage specified by the state. This minimum wage standard will act as the poverty line, therefore giving all persons who earn below such amount the right to legal aid in any cases in which they may be involved, both civil and criminal. This assistance can take the form of legal advice or full legal representation.

The Female Lawyers Association–Gambia (FLAG) also provides free legal aid services to women. Women and girls with disabilities can benefit from their *pro bono* assistance.

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

Persons with disabilities have a right to take part in political life in The Gambia. The Constitution provides for the right of everyone to exercise suffrage and vote to choose one's representative. A person with a disability currently is a member of the National Assembly nominated by President Barrow.

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

The right to basic education is guaranteed in the Constitution. Socio-economic rights, including the right to health, are not justiciable. The realisation of the socio-economic rights of persons with disabilities requires an interaction of policies in numerous sectors, institutions and policies.

59 National Development Plan (n 32) 85.

11.5 Specific categories experiencing particular issues/vulnerability:

- **Women with disabilities**

Disability is a sensitive issue in The Gambia.⁶⁰ Negative attitudes, stigma and discrimination are the major challenges that face women with disabilities in their homes and communities. Women with disabilities continue to have limited access to inclusive education, health, employment and participation in political and public life.⁶¹

- **Children with disabilities**

Children with disabilities continue to face discrimination in society, and their access to structures and facilities, including schools, remains inadequate or limited.⁶² These children may be seen on the streets or accompanying adult beggars, even though the Children's Act 2005 regards such children as in need of care and protection.

In addition, these children face stigmatising attitudes towards themselves and their mothers. Societies in The Gambia believe that disability is a 'curse' for the mother's sin; a sacrifice for wealth in the family; or a punishment for wickedness.⁶³

12 Future perspective

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

The vision of the National Development Plan of the new democratic government includes transforming The Gambia into a country that where a caring and nurturing environment exists PWDs. In committing itself to ensuring the promotion and protection of the rights of PWDs, government pledges to strengthen policy and legal framework including the adoption of the draft National Integrated Disability Policy and the enactment of the Persons with Disabilities Bill.⁶⁴

12.2 What legal reforms are being raised? Which legal reforms would you like to see in your country? Why?

The enactment of the disability law to ensure the full protection and realisation of the rights of persons with disabilities. Additionally, there is need for support and strengthening of DPOs in enhancing their capacities as organisations engaged in disability.

60 GBOS '2013 Population and Housing Census: The gender report' (2013) 36.

61 CEDAW Committee (n 26) para 42.

62 See UNICEF/MOBSE (n 51).

63 UNICEF/MOBSE 17.

64 NDP (n 41) 71-72.