

# **PAPER CONCERNING NATIONAL DISABILITY POLICY**

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**PRESENTED IN THE STAFF MEETING ORGANIZED BY  
THE FOUNDATION FOR CIVIL SOCIETY IN THE CITY  
OF DAR ES SALAAM ON 26<sup>TH</sup> AUGUST 2008**

## 1. INRODUCTION

In this paper an attempt is made to highlight key issues addressed in the national disability policy<sup>1</sup>. As you know, this policy as formulated to create positive (behavioural, attitudinal and political) changes towards all persons with disabilities in all ages and genders, as well as to create enabling environment for disability organisation to work for the benefit of persons with disabilities. It also encourage support and care for persons with disabilities from within and outside the community. It generally promotes disability rights and ensures full realization of such rights by taking appropriate administrative and legislative measures at the central government and local government levels aimed at promoting and protecting such rights within the entire Tanzania society. It further places much emphasis on the actual implementation of the rights of persons with disabilities and disability awareness raising at different levels targeting both state actors and non state actors. Responsibilities of the government and the civil society has also addressed by the policy. Research and information dissemination is another key area that the disability policy puts greater emphasis. Funding disability issues and international cooperation are also other areas dealt with under the provisions of the said national disability policy.

Prior discussing the core of this paper let me briefly highlight the process applied in the formulation of the national disability policy. The process concerning the formulation of the said policy started in the 1990s, but had gained strong momentum in the year 2001 whereby the Disabled organisation for Legal Affairs and Social Economic Development (DOLASED) with support from the Civil society programme under the Department for International Development of the British High Commission later transformed into the Foundation for Civil Society supported the process. DOLASED in collaboration with Disabled Peoples Organisation (DPOs) and pro disability organisation in Tanzania met in Mbagala Spiritual Centre during the “National Workshop concerning Substantive Review of Disability Legislation in Tanzania”, to address, among other things, the need for Tanzania with population of 35 million out of them 3.5 million are persons with disabilities to have in place effective national disability policy and legislation to guarantee access to basic social services by persons with disabilities and to guide different actors in the government and the civil society on how best ways to support them in their mandates. In order to expedite the process of formulating the said National Disability Policy, the following steps were undertaken:-

First, advocacy materials were designed and prepared on the importance of having effective national disability policy for guidance on disability issues.

Second, different kinds of persons with disabilities met and discussed key issued to be included in their national disability policy as well as in the disability legislation

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<sup>1</sup> As adopted by Government of Tanzania in March 2004

Third, several meetings/seminars involve leaders of DPOs and other policy makers and parliamentarians have been held to address the importance of Tanzania to have disability policy and legislation to address the rights of persons with disabilities

Fourth, the mass media (electronic and printing) have been used to portray clear messages to the general population on the importance of having in place effective disability policy and legislation

Fifth, parliamentarians have been encouraged to raise questions in the parliament asking about when the government would formulate disability policies and bring bill on disability legislation to the floor for enactment or amendments of existing disabled statutes<sup>2</sup>, all encouraging action on alternative legislative provisions.

As a result of this advocacy campaign led by DOLASED, for the first time in the history of the country Tanzania finalized the formulation and adopted in 2004 the National Disability Policy. Currently the draft bill of the Comprehensive National Disability Legislation<sup>3</sup>, has been prepared by the Government and later this fiscal year 2008 – 2009 will be tabled by the Government of Tanzania for consideration and thereafter be passed as a national disability legislation. DOLASED has also been actively participated in drafting the above mentioned New Disability Legislation of Tanzania. It has also participated in the formulation of strategies for the national action plan to implement disability policies and the African disability decade<sup>4</sup>.

The outcomes of the above development in the disability domain and human rights of persons with disability in Tanzania has brought positive changes in relation to promoting and protecting the rights of persons with disabilities instead of providing charity for persons with disabilities. These rights based approach mean that the Tanzanian society as a whole has to change its attitudes and behaviours towards persons with disabilities, because persons with disabilities have the same rights as all others but may face extra challenges in exercising and enjoying all basic human rights and freedoms as outlined in the national constitution,<sup>5</sup> and International human rights law<sup>6</sup>.

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<sup>2</sup> The Disabled Persons (Employment) Act No.2 of 1982 and the Disabled Persons (Care and Maintenance) Act No. 3 of 1982

<sup>3</sup> Draft bill of Persons with Disability Act, 2008

<sup>4</sup> The African Decade of Disabled Persons (1999 – 2009) proclaimed by the Assembly of the Heads of OAU in 1999.

<sup>5</sup> See part 3 of the constitutions of the United Republic of Tanzania, 1977 as amended from time to time) in particular Articles 12-30

<sup>6</sup> International human rights law such as International Covenant on Civil and Political Rights 1966; The International Covenant on Economic Social and Cultural Rights, 1966; The UN Convention on Elimination of All Forms of Discrimination Against Women, 1978; The UN Convention on the Rights of the Child, 1989 and the UN Convention on the Rights of Persons with Disabilities, 2006

## **2. POLICY OBJECTIVES AND RIGHTS OUTLINED IN THE DISABILITY POLICY**

The main policy objectives can be viewed as for shorter term and longer term vision to see in Tanzania persons with disabilities receive better social services and their legal and human rights and dignity are fully respected. They are aimed at improving life situation of people with disabilities by undertaking the following hereunder actions:

- Encourage the development of people with disabilities
- Empower families of people with disabilities
- Review/amend legislations that are not disability friendly
- Improve service delivery
- To allow the participation of people with disabilities in decision making and implementation of important activities in the society
- To enable families of people with disabilities and the society at large to participate in decisions and implementation of important disability friendly activities<sup>7</sup>.

Based on the above stated objectives, involvement of all stakeholders is a mandatory. This is due to the fact that a single department or civil society organisation can not alone fulfil these objectives. As you know, the disability is a developmental and human rights issues and must be considered in all activities managed and run by government agencies as well as in civil society sector. Each sector should understand disability agenda and support efforts and action for progress, rights, well being and dignity of persons with disabilities.

Basic rights and needs of persons with disabilities are outlined in the national disability policy to be accessible by persons with disabilities.

### **(1) Health**

It has acknowledged that persons with disabilities need to access health with attention to their specifically health related rehabilitation and needs and necessary services for them. They have faced different challenges in accessing such rights.

Despite the efforts to prioritize immunization to children, health services are by and large inaccessible to the majority of people particularly to people with disabilities.

Most disabilities result from, among others poor health conditions, lack of immunization against disabling diseases and inadequate care of expecting mothers. Diseases of expecting mothers and birth complications may cause disabling conditions to the mother or the child. Mother and child health programmes greatly reduce the incidence of disability in the community. Widespread poverty amongst disabled people and their families limit them from accessing required technical aids which would assist them to easily

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<sup>7</sup> See National Policy on Disability, Ministry of Labour, Youth Development and Sport July 2004 at chapter two section 2.1 page 10

reach health facilities. As a result the majority of people with disabilities particularly in the rural areas are unable to access health services. It is, therefore, suggested that government and civil society should join their efforts to assist persons with disabilities to access health care, sexual and reproductive health services in order to improve the quality of their lives.

The policy emphasizes the importance of early intervention for habilitation services. There is a need for early identification of children with disabilities. Early identification followed by appropriate intervention has a chance of eliminating occurrence of a disability or minimizing its impact later in life. Unfortunately Tanzania does not have a national programme for early intervention which would have assisted the identification of children with disabilities in their respective communities. The fact that parents still hide their children with disabilities, pushes them further away from accessing appropriate services<sup>8</sup>.

## (2) Education

The right to education for persons with disability is also mentioned in the policy<sup>9</sup>. This means that people with disability deserve the right to an education, and they have the ability to receive education in the same facilities as others in the community. Clearly, the policy outlines education as a priority area. As it provides that education is a right that all people should be able to enjoy without discrimination and at equal level. Education is the tool whereby people with disabilities can reach their full potential develop their personal talents and enable their full participation in society. Education really does have the potential to enable millions of children with disabilities to break free of the circle of exclusion of the poverty in which many of them find themselves. It is the high time for the government and civil society to play an important role to make sure that all bearers to education to persons with disabilities are removed and that children with disabilities and adults with disabilities are able to access education at the same as non disabled peers. This includes access to school building, special materials and equipment, training of regular teachers and support workers, different curricular and assessment strategies that suit the children's individual needs. This education needs to be inclusive, meaning that children with disabilities are not separated from others in the education system. With supportive, individual structures in place will help the child to access the curriculum. This can include the use of inclusive communication techniques such as Braille, sign language and others, as well as making sure that education providers are appropriately trained. Finally, education does not end with childhood, the government

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<sup>8</sup> See National Policy on Disability, Ministry of Labour, Youth Development and Sport July 2004 chapter one subsection 1.2.1 and 1.2.2 page 3 & 4

<sup>9</sup> See National Policy on Disability, Ministry of Labour, Youth Development and Sport July 2004 chapter one subsection 1.2.5 page 5

should also be responsible for the inclusion of people with disabilities in adult and tertiary education schemes.

The policy further highlights that society's prejudice against children with disabilities is known to have psychologically affected their ability to realistically cope with their environment. Much as education is essential for the development of a child's potentialities, some parents still perceive children with disabilities as a burden and opt not to send them to school.

Educational system in the country does not allow for equal access for children with disabilities. Almost all schools facilities at all levels are inaccessible. Teacher's training as well as school curriculum do not incorporate the needs of disabled persons. As a result of the above children with disabilities enrolled for primary I is less than one percent. This figure is lower in secondary schools and higher learning institutions. It is, therefore advised that both the government and civil society actors, should support improve access of the rights to education by persons with disabilities so that enrolment should reach 20% from 1% as indicated in the MKUKUTA. This support is urgently needed. Emphasis added.

### (3) Accessibility

Accessibility is also one of the key areas the disability policy addresses. The term accessibility should be looked at its broader context, meaning access to environment and information. In both aspects, the removal of barriers should be given top priority. Accessibility is an important part of the achieving the full participation of persons with disabilities and it is a society's responsibility to reduce the barriers that currently prevent the access to public premises and buildings.. Accessibility also refers to information whether it is audio, visual or in print when it can be available in the format that can be used by persons with all types of disability. Some of examples of making information accessible are put text in Braille or large print, or add sub titles for videos, sign language interpretation services and also many computer screen readers used by persons whom are blind, many read documents in certain format such as PDF could be made in words for easy accessibility by them. Therefore all efforts should be made to provide documents in world or equivalent formats. Accessibility to information must also be in easy to read and understand forms for example the mass media should introduce the sign language interpretation on TV news or for the benefit of deaf people.

The disability policy acknowledge that there is a cause and effect relationship between disability and environment. Almost all public buildings are built to cater for the needs of the non-disabled. Stairs, narrow doors and toilets are inaccessible to the majority of disabled persons.

On the other hand road construction and transportation facilities are designed to suit needs and lifestyle of non-disabled persons leaving a disabled person unable to relate favourably with his/her environment.

Therefore accessibility to built environment and to information is one of the basic needs for persons with disabilities in Tanzania. All stakeholders in the sector of infrastructure and information and communication as well as civil society should support the efforts and action to remove accessibility problem or bearers to persons with disabilities.

#### (4) Employment

It is well settled that persons with disabilities can gain a living by work and are capable to secure employment in both public and private sectors of employment. Also evidence shows that some persons with disabilities are good entrepreneurs. The disability policy highlights issues related to employability and employment of persons with disabilities as well as their skills development and vocational training<sup>10</sup>.

The disability policy clearly asserts that, an individual's capacity to work and lead an independent life is an expression of one's dignity. In our society the capacity to work has been associated with complete functional ability of the body. Disability is associated with lack of ability and most of people with disabilities see themselves in the same light. The end product of this scenario is the difficulty persons with disabilities find themselves in accessing work.

In an attempt to address this anomaly the government enacted a Disabled Persons (Employment) Act. No.2 of 1982. The legislation however has not provided a solution to employment problems of people with disabilities due to changes in the economic climate and globalization.

It further expresses acquisition of skills is an important prerequisite in the life of a person with disability. Skills leads to employment and therefore, self-sufficiency and independent living. Despite this reality most skills training facilities are inaccessible to people with disabilities. In addition cost sharing policy limits the majority of would be trainees who cannot afford the same. Skills training institutions for people with disabilities lack of capacity to train competent individuals who can compete in the open labour market.

It is a responsibility of state and non state actors to support persons with disabilities to access employment and vocational training opportunities. Discrimination against persons with disability in relation to employment and skills development should be stopped.

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<sup>10</sup> See National Policy on Disability, Ministry of Labour, Youth Development and Sport July 2004 chapter one subsection 1.2.6 and 1.2.7 page 5

- (5) Other rights and issues outlined in the disability policy include rights to mental health, persons with disabilities to access information and services related to HIV/AIDS, rights to access care and maintenance, compensation caused disability by accidents, older people with disabilities, technical aids, awareness creation, human rights and legal protection, disabled persons organization and pro-disability institutions, subvention to disabled persons organisation and pro-disability institutions, development fund for people with disabilities, community based services, integration, sports, religion, transport and road safety, information, statistics and research and international cooperation.

The above mentioned rights and special needs for persons with disability indicate that persons with disabilities have the same human rights as all others in Tanzania, but in practice, many of them have experiences extra challenges and discrimination in exercising and enjoying those rights and freedoms. The national disability policy explains the promises and aspiration to support persons with disabilities to access all public social services as well as to provide them with adequate legal protection. The policy is not binding instrument. Thus, Tanzania requires an effective disability legislation to implement the disability policy and to create legal enabling environment for persons with disabilities to access justice and legally protected. The said disability policy has already stated the importance of having a comprehensive disability legislation on the rights of persons with disabilities. The disability definition mentioned in the disability policy should be incorporated in the legally binding document of Tanzania<sup>11</sup>.

It should be noted here that, the formulation of disability policy is only the first step in getting disability rights recognized in Tanzania, and is not enough on its own. Joint efforts and actions by the government and civil society to put in place disability legislation and its proper enforcement by the government and private actors, as well as to alter current practice to change societal negative perceptions on disability is equally important for better promoting and protecting the rights of persons with disabilities. The national long term vision is to enforce the rights of persons with disability and make disability rights awareness throughout the country so that individuals with disabilities can access all their fundamental legal and human rights. The civil society in collaboration with government agencies have an important role to play to effect this.

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<sup>11</sup> The national disability policy of Tanzania defines the term disability as “The loss of limitation of opportunities to take part in the normal life of the community on an equal level with others due to physical, mental or social factors”

### **3. DISABILITY AND POVERTY**

There is close link between disability and poverty. This is due to the fact that the majority of persons with disabilities are poor, unemployed and uneducated. They majority of them often can not afford to pay expenses for their medical services, education and even for buying foods. Poverty also limits access to persons with disabilities to basic social services and other measures that enable them to meet their basic needs. Exclusion and denial of their basic needs such as education, employment, access to transport, credit services, access to information put them in poverty situation.

The National Strategy for Growth and Poverty Reduction (Mkakati wa Kupunguza Umaskini na Kukuza Uchumi Tanzania) (MKUKUTA) of 2005 – 2010 has incorporated therein disability dimensions. Disability issues are one of top priority in the government development programs. However, little success has been so far achieved. This is due to the fact that where disability is mentioned in the MKUKUTA, there is not even a special budget allocated with the government expenditure for disability development programs. Some challenges for this gap may include:-

- discrimination against people with disabilities in implementing process, lack of consultation with people with disabilities or their representative organisations when budgeting and caring out programs and activities under MKUKUTA framework
- No special efforts to share information about programs and activities implemented by MKUKUTA with people with disabilities
- MKUKUTA Information materials are not being provided in accessible formats such as Braille, large print and easy read and sign language interpretation for the deaf.

Based on the above challenges it is difficult for persons with disabilities in Tanzania to participate actively in the fight against poverty because they do not understand the action items in the MKUKUTA and their responsibilities to be taken up by them. Disability is not a top priority in the government development budget. One can therefore say that MKUKUTA goals can not be successfully met if persons with disabilities will remain out of the implementation process. There is a serious need to put together efforts and actions outlined in the disability policy and MKUKUTA documents in order to assist persons with disabilities and empower persons with disabilities to have wider participation in the poverty reduction initiatives.

The government and civil society should realize that persons with disability are very important actors in the development agenda and efforts should be taken to ensure their participation in such development programs. They should not being invited to attend meetings/seminars on development issues but they should actively involved in every implementation process and evaluation of such development programs nation wide

#### **4. RESPONSIBILITIES OF DIFFERENT ACTORS IN THE IMPLEMENTATION OF THE DISABILITY POLICY**

In principle, the national disability policy targets both female and male people with disabilities in all ages that is to say children, young, adults and older people with disabilities who represent 10% out of 34,569,232 of Tanzanian population. In other words, Tanzania has 3,346,900 people with disabilities<sup>12</sup>. They have the right and equal opportunity for development and receive the same services from the society as the non-disabled. Their participation in the life of the community must target on reduction or elimination of dependency.

In order to focus on development and improved service to people with disabilities in the implementation of this policy government agencies and private sectors, civil society organisation and community at large have the responsibilities to implement it. The following are the responsibilities of principal stakeholders

##### **(a) The central government**

- Supervise service provision to people with disabilities
- Review relevant legislation so as to bring about development to people with disabilities
- Ensure participation integration and equal opportunity for people with disabilities in their daily life.
- Encourage local authorities and NGOs to provide services to people with disabilities.
- Ratify and domesticate signed international human rights instruments on disability into national laws and policies.
- Formulation of action national plan and strategies for policy implementation
- Allocate funds in the annual government budget for disability issues.

##### **(b) Local Authorities**

- Assessment of people with disabilities and their needs
- Provide protection to people with disabilities
- Provide basic needs
- Include people with disabilities in the planning and implementation of income generating programmes

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<sup>12</sup> This is in accordance with the World Health Organisation formulation of 1 in 10 being persons with disabilities, Tanzania with the Population (2002) of 34,569,232 is estimated to have 3,346,900 people with disabilities distributed as follows: physically impaired 28%(967,932), visually impaired 27%(933,363), Hearing impaired 20%(691,380), Intellectually impaired 8%(276,552), multiply impaired 4%(138,276) others 13%(449,397). This information is taken from the National Policy on Disability of the Ministry of Labour, Youth Development and Sports July 2004 subsection 1.2 page 2.

- Identify NGOs that provide services to people with disabilities and coordinate their activities.

**(c) Families/village communities**

- In collaboration with local authorities and Civil Society Organisations, families/village communities shall provide protection to people with disabilities by ensuring their full realization of their rights by taking action to protect and promote such rights within the entire family/community.
- In collaboration with local authorities and Civil Society Organisation, families/village communities shall plan and implement income generating activities and disability awareness raising.

**(d) Civil Society Organizations**

- In collaboration with central government and local authorities, the Civil Society Organization shall identify people with disabilities and their needs
- To provide material assistance to people with disabilities in collaboration with central government and local authorities.
- To provide protection to people with disabilities and assist them through legal aid assistance to access justice from law enforcement authorities
- In collaboration with other stakeholders in the government system, the civil society shall sensitize and ensure the participation of people with disabilities and their families in the planning and implementation of income generating activities, development of effective disability policies and legislation.
- To make a comprehensive review to identify strengths and weaknesses related to application and practice of the existing national laws and policies so that persons with disabilities can adequately protected by such laws and policies.
- Train persons with disabilities and duty bearers to understand the rights of persons with disabilities as outlined in the international and domestic laws.
- Advocate for the application of the civil based rights approach and not welfare approach in advancing the rights of persons with disabilities
- Encourage incorporation of disability aspects into national laws and policies guaranteeing access to public social services.
- Encourage the legal responsible authorities to enforce accordingly the rights of persons with disabilities
- Participate and work with the central government and local government authorities to put in place implementable action plan and strategies to persons with disabilities in the nation.
- Mobilize resources to support implementation of disability policy as well as legislation for the benefit of persons with disabilities.
- To establish programmes specifically for addressing disability issues and creating disability awareness among the communities as mentioned in the disability policy and other existing disability statutes.

The establishment of the linkages and an ongoing relationship between government and civil society is very important to ensure effective implementation process of the disability policy. Every stage of the implementation process needs involvement of both the government agencies and the civil society organisations. This will greatly lead to better performance related to enforcement and advocacy of the national disability and legislation in Tanzania. The civil society should assist in campaigning for legal reforms on disability in order to bring positive changes and better protection of the rights of persons with disability in Tanzania. The civil society should persuade the government and private sectors to enforce accordingly the rights of persons with disabilities as set forth under the provisions of disability policy and existing legislation on disability.

## **5. CONCLUDING REMARKS**

It should be noted here that adopting disability is the one thing, actual implementation is another thing. One can therefore argue that both the government and the civil society are under general obligation to support effective implementation of the Tanzanian disability policy and other national policies and legislation with ultimate aim to promote civil based approach on disability which is being the human rights and development issues. They should also make efforts and researches to know exactly the main factors leading to poor implementation of existing disability policy and legislation in our society and to find appropriate strategies for problem solving by using the past experiences and the imaging international disability jurisprudence<sup>13</sup>.

For the civil society side, for the civil society mandate, it is advised that disability component should be party of their core work. To effect this, in the civil society work plan they must include issues as one of key priorities. Hence, the civil society in its entirety should learn to understand disability issues and how best they can address disability issues in their work. This will greatly help to ensure full realization of the rights of persons with disabilities through support of a civil society sector.

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<sup>13</sup> The United Nations Convention on the Rights of Persons with Disabilities adopted in 13<sup>th</sup> December 2006 and entry into force in 3<sup>rd</sup> May 2008 as International law brings a paradigm shift in thinking about disability about disability rights stops discrimination of people with disabilities in all areas of life. Further explains the rights such as, the right to education, rehabilitatee, health and access to information, public facilities and services just to mention the few.