

# UNITED DISABLED PERSONS OF KENYA

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Our Ref: Senate bill no 06 of 2020

**30<sup>th</sup> April, 2020,**

The Clerk of the Senate  
Parliament Service Commission,

## **MEMORANDUM SUBMITTED TO THE CLERK OF THE SENATE IN RESPONSE TO CALL TO PUBLIC PARTICIPATION ON THE PANDEMIC RESPONSE AND MANAGEMENT SENATE BILL 06 OF 2020**

**SUBMITTED BY: UNITED DISABLED PERSONS OF KENYA AND THE CAUCUS ON DISABILITY RIGHTS ADVOCACY**

### **INTRODUCTION**

This memorandum is submitted in response to a call for public participation in the development of the Pandemic Response and Management Bill 2020. It has been prepared by the United Disabled Persons of Kenya (UDPK) and the Caucus on Disability Rights Advocacy (CDRA). UDPK is the umbrella organization of national and grassroots associations of persons with disabilities in Kenya, presently comprising 86 organizations. The 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 and other legislations and policies which affect persons with disabilities.

### **CONTEXT**

UDPK and CDRA note that the purpose of the Bill is to set out various measures that would be undertaken in order to cushion the citizens against the negative impact of a pandemic on the social and economic activities. The two bodies acknowledge that COVID-19 and the government and healthcare responses to this crisis are having a significant impact on the lives of all people Nationally and in the Counties. it is however necessary to make deliberate effort to ensure that Persons with disabilities, those who are most likely to see their livelihoods evaporate, their healthcare needs go overlooked, and their lives upended during a crisis—are not left out. This is in line with the work of the United Nations entities, human rights experts, and civil society organizations who are increasingly recognizing the need to ensure that disability rights are included in the COVID-19 response. These include consideration of basic rights such as adequate standard of living, right to water, hygiene, food, and shelter. Recognising that the needs of persons with Disabilities are likely to be forgotten in times of crisis, Article 11 of the CRPD establishes that States parties shall take all possible measures to ensure the protection and safety of persons with disabilities in the national response to situations of risk and humanitarian emergencies. This comprises measures in all areas of life

of persons with disabilities, including the protection of their access to the highest attainable standard of health without discrimination, general wellbeing and prevention of infectious diseases, and measures to ensure protection against negative attitudes, isolation, and stigmatization that may arise in the midst of the crisis.

Persons with disabilities through their representative organisations should be fully and meaningfully involved in all the interventions on this Pandemic in accordance with the UN Convention on the Rights of Persons with Disabilities to which Kenya is a Party and especially Article 4.3 which provides that in the development and implementation of legislation, policies and programmes and in other decision-making processes which affect persons with disabilities, States Parties shall closely consult with and actively involve persons with disabilities through their representative organizations. We particularly note that the Functions of the National Committee set up in the bill includes among other responsibilities to co-ordinate, collate, review and analyse disaggregated information relevant to the management of the pandemic as well as to co-ordinate and support public awareness campaigns and civic education programmes on the pandemic at the national level. To ensure that nobody is left behind, Organisations of persons with disabilities will be the most appropriate partners to the National Committee in these tasks as far as identification and reaching out to persons with disabilities is concern. We also note that the County Committees are expected to co-ordinate the county's response and management to the threats caused by the pandemic as well as to establish a communication strategy that is in line with the national communication strategy;

Promote civic education and public awareness on the pandemic;

## **RECOMMENDATIONS**

In light of the foregoing, we recommend that:

1. In pursuance to the provisions of section 54 subsection 2 of the Kenya Constitution 2010 which provides for the progressive realization of five percent representation of persons with disabilities in all elective and appointive positions, persons with disabilities should have a representation in both the National Pandemic response Committee (ARTICLE 10) and County Pandemic Response Committee (article 16) to ensure disability inclusive response at both levels.
2. Article 20 clause (g) provides for the establishing a mechanism for the provision of basic services to the vulnerable persons. It will be assumed that the term “Vulnerable) will include persons with Disabilities. However, in our experience, the needs of persons with disabilities are often very unique and they tend to be subsumed in other groups when persons with disabilities are not specifically mentioned. We therefore recommend specific recognition of persons with Disabilities in this clause.
3. Article 31 (clause 1) provides that “National and county governments shall put in place social safety schemes designed to support vulnerable persons, vulnerable households and informal sector workers whose incomes have been disrupted by the pandemic.” Our argument on 2 above also applies here. We need to mention disability as a specific group that is affected by the pandemic leading to many of them falling into abject poverty. We also need to recognize that many of them live on either petty business where they live from hand to mouth or under the care of other people and in times of scarcity, careers would rather care for themselves rather than have these as unbearable burdens.

4. Article 32 (a). Also makes reference to ‘Vulnerable’ group in regard to waver of water and electricity bill. We again here wish to make specific reference to households with persons with disabilities who have been affected by the Pandemic.

## **OTHER CONCERNS THAT SHOULD FIND A PLACE IN THE BILL**

### **I. INFORMATION AND COMMUNICATION**

Covid19 by all means presents unprecedented situations of risk and humanitarian emergency. Given the situation in which we have found ourselves in Kenya, Majority of persons with disabilities are in danger due to barriers to information and social inclusion. In a rapidly evolving pandemic, information is essential for people to make decisions about how to protect themselves and how to access necessities and services during quarantine and self-isolation. It is commendable that information is being provided regularly especially through the Ministry of Health briefs which normally come through both electronic and print media. However, this is not reaching a proportion of the society that cannot interact with these media of communication among them persons with different disabilities. Governments should be providing accessible and timely information about the disease, prevention methods, and services. To ensure that people with disabilities are not deprived of lifesaving information, communication strategies should include qualified sign language interpretation for televised announcements, websites that are accessible to people with different disabilities, and telephone-based services that have text capabilities for people who are deaf or hard of hearing. Communications should use plain language to maximize understanding.

### **II. PEOPLE WITH PSYCHOSOCIAL DISABILITIES**

With policies requiring social isolating to stem the spread of corona virus, people with psychosocial disabilities, such as anxiety or depression, may be in particular distress and may benefit from additional mental health support services. Indeed, self-isolation and quarantine could be distressing for most people in general. Government policies should ensure community-based services continue and crisis counselling programs are accessible to all.

### **SUPPORT SERVICES**

People with disabilities who live at home often rely on community-based social support to meet their basic daily needs, including for meals and hygiene. There are serious concerns among disability rights groups about interruption of these services. Support aides do not have personal protective equipment to minimize exposure or the spread of infection or are becoming infected themselves and require quarantine. Unless persons with disabilities remain at home, it is very difficult for them to keep to the much talked about social distancing. For instance, a blind person will need to be guided and there is no way he can be guided and keep to the recommended one-and-a-half-meter distance. Many of those on wheelchairs will need people to handle the wheelchairs and as pointed out earlier, many persons with disabilities live in rather crowded informal urban settlement where many people live in one room. Even for those who may have homes where they could keep the distance, support with basic needs including food subsidy or cash transfer will be required for them to remain at home. They will also need

support from professionals who will understand Covid19 and how to ensure personal hygiene and protection. Protective gears and services will also be needed.

We hope that you will consider our proposals favourably to ensure that the proposed Law is inclusive of the rights and aspirations of persons with disabilities.



Thanks in advance.

Anderson Gitonga

Chief Executive officer

United Disabled Persons of Kenya

Secretary – Caucus for Disability Rights Advocacy