

PERSONS WITH DISABILITY BILL 2002 AND ITS IMPLICATIONS TO THE PROVISION OF LIBRARY AND INFORMATION SERVICES TO THE VISUALLY HANDICAPPED PERSONS IN KENYAN LEARNING INSTITUTIONS

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Abstract

The paper is a response to Persons with Disabilities Bill 2000 which is an attempt by the Kenyan Government to provide disabled people with an enabling environment to achieve their full potential and protect them from undue discrimination. The term disability as used in the context of the bill is defined. Specific provisions in the bill that may have effect on the provision of library and information services to disabled students in Kenya are identified and interpretations given where possible. The paper concludes that the bill is likely to open up educational opportunities for the visually handicapped by lessening previous existing obstacles.

Introduction

Through the world, disabled persons are faced with numerous problems as they seek to achieve full their potential in a complex and able-bodied competitive world of today. In this paper, disability is defined as physical sensory, mental or any other impairment including visual, hearing or physical disability, with a substantial long-term adverse effect on a person's ability to carry out day-to-day activities. The 'day-to-day activities' is further defined as activities of daily living that an ordinary person would reasonably be expected to carry out. For blind students, the day-to-day activities would include among others, the want to read standard print, choose books they want from the shelves, follow graphic illustration in the course of lectures, access information via all the available means including the internet.

For a long time, disabled people have had to put up with the stigma of being shunned, despised, neglected and excluded from societal activities. This is born out of the fact that in one way or the other, their physical or mental state makes them live a life that is perceived to be different and therefore threatening the accepted personification of ordinary person as noted by Velleman (1990). Any form of disability hence generates a sense of pity, sympathy, and helplessness and dependency which puts unnecessary emotional demands on the able-bodied persons. For this reason, very few able-bodied persons are prepared to accept disabled persons as equal partners in national development or other spheres of life.

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The focus of this paper is on portions of the bill that have or may have a direct bearing on the provision of library and information services to persons with visual disabilities. Much of the evidence is based on an M.Phil research entitled "The provision of library and information services to the Visually Handicapped students in Kenyan public universities: Case Study of Kenyatta University" presented at Moi University - Kenya.

Methodology

The study from which much of the information in this paper is derived has adopted the form of a case study. The main objective of the study was to examine and evaluate the range and quality of information services available for use by the visually handicapped students and determine the extent to which the above services meet specific information needs of blind students. Kenyatta University was selected for the case study because it had a higher proportion of blind students than any other public university.

The population of blind students included in the study was 38 who were officially registered as blind students. They were drawn from various years of study. All were interviewed. No sampling of the population was therefore found to be necessary. The key informants among them 13 lecturers (with more than 3 hour contact per week with blind students), 7 librarians, 3 transcribers, and one senior administrator, all of whom were interviewed.

Data was collected by means of face-to-face interviews. Questions were posed to the interviewee by the researcher and subsequent responses recorded down on a notebook. Questions were derived from a questionnaire which was based on drawn-up interview schedule. Face-to-face interviews were supplemented with observation techniques whereby blind students were obtrusively observed as they went about seeking for information both within the library and other related information service-delivery-points while they accessed information through card catalogue, audio-tapes, or verbally from library staff/colleague, Cyber Café and the Internet. Data was then analyzed using descriptive statistical data analysis technique

The Persons With Disabilities Bill 2002

Recognizing the fact Kenyans with disabilities are faced with numerous problems as they try to meet their daily needs, the Kenya Government has proposed to enact the Persons with Disabilities Act which attempts to correct some of the anomalies and misconceptions held by the society about disabled people. The Bill seeks to provide an even playing ground to enable this group of citizens to realize their full potential as Kenyans. The persons with Disabilities Bill 2002 further seeks to provide for the rights and rehabilitation of persons with disabilities to enable them enjoy equal opportunities like other able-bodied persons. The National Council for Persons with

Disabilities is to be established to oversee all matters regarding persons with disabilities in Kenya.

The Persons with Disabilities Bill 2002 is divided into eight parts and it is germane here to briefly highlight those parts. Part I deals with preliminary provisions and defines the term disability as used in the Bill. Part II describes the establishment of the National Council for persons with Disabilities and defines its functions. Part III outlines the rights and privileges of persons with disabilities. Part IV details certain civic rights of persons with disabilities. Part V proposes the establishment of a National Development Fund for Persons with Disabilities. Part VI contains tax related relief and incentives for persons with disabilities and people who render services to them. Part VII contains miscellaneous regulations governing the conduct of persons with disabilities in the context of legal framework. And Part VIII contains a list of offences and penalties that can befall an individual or organization that fails to adhere to the provisions of the Bill.

Some of the functions of the National Council for Persons with Disabilities, which may have direct implications to the provision of library information services are:-

- Formulation and development of measures and policies designed to achieve equal opportunities for persons with disabilities by ensuring that they obtain education and employment which in turn allow them to participate fully in all day-to-day human activities
- Design measures that can be adopted to prevent any form of discrimination against persons with disabilities.
- Maintain a register of all persons with disabilities and all organizations for and of persons with disabilities throughout the country
- Provide subsidized medical cover for persons with disabilities
- Provide assisting devices, appliances and other equipment to persons with disabilities
- Provide access to available information and technical assistance to all institutions, associations and organization concerned with the welfare and rehabilitation of persons with disabilities – including those controlled and managed by the government
- Offer financial assistance to students with disabilities in the form of scholarships, loan programmes, fees subsidies and other forms of assistance in both public and private institutions
- Accord tax exemption on all income accruing from employment
- Remove all restriction in the admission to learning institutions. The bill also makes it compulsory for learning institutions to take into account the special needs of students with disabilities. It also makes

it mandatory for such institutions to provide auxiliary services to facilitate the learning process.

- The bill provides for the establishment of Braille and recorded libraries throughout the country for persons with visual disabilities
- Exemption of paying import duty or demurrage charges, value added tax or port charges on all donations, materials, articles, books, and equipment meant for persons with disabilities.
- Exemption of postal charges on printed and recorded literature, articles or any other devices meant to be used by persons with disabilities.
- Communication equipment such as telephones will be required to provide tactile marks on telephone sets to enable visually disabled persons communicate without any impediments.
- Establishment of the National Development Fund for persons with disabilities whose functions will be to:
 - i. Contribute towards the cost of acquiring assisting devices and service
 - ii. Assist institutions that train persons in the care of persons with disabilities.
 - iii. Pay allowance for persons with disabilities who are not in any gainful employment or who are not employable due to the nature of their disabilities.

The Implications

Although the Kenyan government recognizes the existence of persons with disabilities among its citizenry as illustrated in the Kamunge Report (1982) and The Koech Commission (1999), the two reports are devoid of clarity on how the disabled people would be assisted to enable them participate fully in day-to-day human activities without having to depend on others. The two reports however acknowledge the existence of a problem among disabled persons. The Persons with Disabilities Bill 2000 slightly goes a step further by stating that the National Council for the Disabled will be established and it will act as a statutory body charged with the responsibilities of managing measures and policies designed to achieve equal opportunities for persons with disabilities and specifically by ensuring that they obtain education and employment as a means of empowering them economically.

For the persons with visual disabilities, especially students, the range of reading material available to them have always been limited. Ochoggia (2003) found these limitations were highly noticeable in Kenyatta University. In the library, there were approximately 50 talking books to serve 38 blind students undertaking various academic programmes! On the shelves of the university library, there was nothing in Braille except a copy of outdated

encyclopedia. According to Smale (1992) who was reporting on similar conditions in Australian Universities, this paucity of information materials for blind students is attributed to the fact that much of what is available with regard to library and information services is in standard print format or is simply in a format that is not suitable. Given the high cost of providing the visually handicapped people with library and information services, very few developing countries are able to offer these services. Marayo (1983) observes that the situation in Africa is even worse where institutions offering educational services to blind students have to be content with old and outdated donated reading materials.

This situation is likely to change with enactment of the Bill because the National Council of Persons with Disabilities will henceforth work with relevant stakeholders to come up with policies that specifically pay attention to non-availability of sufficient reading materials and non-friendliness of some of the modern ICTs in the provision of library information services to persons with visual disabilities. When the Bill become law, it will be possible to apportion blame to a specific arm of the government (National Council for Persons with Disabilities) and demand for solutions unlike in the past.

Unlike in other parts of the world like Britain, Scandinavian Countries, USA, and Japan where National Libraries for the Blind are long established, the Kenyan government has yet to establish a National Library Service for the Blind. The small collection of large print and Braille materials at the Kenya National Library Services cannot be said to represent any meaningful information service for people with visual disabilities. This collection is only confined at the head office and the same services are not available countrywide. Similarly, there is no newspaper in Kenya published for the visually handicapped people.

The bill seeks to remove all forms of discrimination by empowering the National Council for the Persons with Disabilities to design measures that can be adopted to prevent any form of discrimination against persons with disabilities and in particular, the visually handicapped. There is even provision for the prosecution of anybody who deliberately discriminates against disabled persons. With all these measures in place, there is likely to be an improvement in the kind of library and information service availed to blind people.

The National Council for Persons with Disabilities will be charged with the responsibility of maintaining an up-to-date register of all persons with disabilities and all organizations for and of persons with disabilities throughout the country. This will be useful, as it will ensure that an accurate register of blind people is maintained. The importance of an accurate register for planning and allocation of resources purposes cannot be overemphasized. Currently, there are many organizations established to assist disabled people

but many of them operate independently with almost no references to what others are doing. This does not only encourage duplication of efforts but also promotes resource wastage and gives little room for cooperation among organizations serving disabled people in general. With an up-to-date register and proper channel of disseminating organizational activities, cooperation in the provision of services to disabled person is possible. For example, the book production services at the Kenya Institute for the Blind, Audiovisual Unit at Kenyatta University and Kenya Institute of Education operate independently. With impending promulgation of the Bill, an accurate record of all organization engaged in the business of assisting disabled people will be maintained and this will form the basis for cooperative activities and improvement of library and information services for blind people.

Persons with visual disabilities mostly suffer from eye related medical conditions that require regular medical attention. Given that blind people usually happen to be among the poorer in society, medical services are a strain on their meager financial resources. The bill seeks to ameliorate this problem by providing subsidized medical cover to all persons with disabilities. The implication here is that blind people will be relieved of the financial burden hitherto expended on eye related ailments and in turn re-channel the resources to, life-improving activities such as sourcing for appropriate reading materials; hence expanding learning opportunities is a panacea for intellectual development which in turn can lead to better economic opportunities. It may also lead to an increase in enrollment caused by an increased healthcare facilities for blind students. Pressure on the government to establish library and information infrastructures that are able to provide relevant and appropriate services for blind people is likely to build up. It would also create the ideal environment to justify the establishment of National Library for the Blind.

Provision of all kinds of services to blind persons requires heavy financial input and qualified staff to offer those services. Material investment in terms of assisting devices, appliances and other equipment is also required. Acquisition of devices, appliances and equipment such as magnifying glasses, brailled reading material, large print reading material, appropriate computers, white cane etc is expensive and beyond their ability. The Bill seeks to establish tax relief on all imports meant for disabled people and this will drastically reduce the cost of auxiliary devices and thereby bring library and information service to attainable limits.

With assisting devices such as adaptive computers and associated peripherals, becoming less expensive, the range of information available to people with visual disabilities will definitely increase. This will naturally bring about a wider choice of reading materials, which in turn will improve the quality of their academic output. The quality of information gained through technologies such as e-mail and Internet will no doubt be of great

value to blind students. Provision of modern communication technologies will also mean that blind students are relieved of the culture of dependency because these technologies tend to bring about a sense of independence necessary in the search for quality information and realization of academic goals.

The Bill is emphatic on access to information and technical assistance to all institutions, associations and organizations concerned with the welfare and rehabilitation of persons with disabilities – including those controlled and managed by the government. This will no doubt bring to learning institutions that admit blind students a new array of sophisticated equipment and devices that will improve information access capabilities of blind students. Above all, by providing financial assistance to students with disabilities in the form of scholarships, loan programmes, fees subsidies and other form of assistance in both public and private institutions, it is possible to purchase some assisting device which hitherto were beyond their economic ability to acquire.

Library and information services in institutions admitting blind students will have to expand their services to accommodate this anticipated changes. The prospect of being exempted from paying taxes on all income accruing from employment is likely to encourage visually handicapped children to go to school hence increasing the number of learned blind persons. Such people will need elaborate library and information services to meet their reading needs – be it for academic or leisure purposes.

Once the number of blind readers can sustain a Braille or talking book industry, publishers will be forced by the market demand to publish books and related materials in alternative formats simultaneously. Libraries will then be able to buy reading materials for the blind locally and at a reduced cost. The Bill seeks to provide tax exemption of import duty or demurrage charges, value added tax or port charges on all donations, materials, articles, books, and equipment meant for persons with disabilities. Payment of postal charges on printed and recorded literature; articles or any other devices used by persons with disabilities will also be removed. Blind students are likely to find themselves with an increased range of reading materials because institutions serving the disabled will be even given rebate on taxable services accruing from their businesses. Funds will be made available to those institutions providing various forms of services to disabled persons. This includes academic institutions both public and private. Libraries and documentation centers will become the main beneficiaries of the Bill. The present library managers need not wait till the act is promulgated but must put in place mechanism that will accommodate these eminent charges. According to Ochoggia (2003), staff retraining with regard to how to serve blind students using an array of new equipment may become necessary.

Removal of all restriction on the admission in learning institutions as provided in the bill is likely to increase blind students' enrolment but this should be matched with the availability of auxiliary services and equipment which will be provided through exemption of import duty and allied taxes on items meant for blind people. The Bill also makes it compulsory for learning institutions to take into account the special needs of students with disabilities. It will be mandatory for such institutions to provide auxiliary services to facilitate the learning process. All these will no doubt go a long way in improving the quality of library and information services available to blind students throughout the country.

The establishment of the National Development Fund for Persons with Disabilities whose functions among others, will be to:-

- Contribute towards the cost of acquiring assisting devices and service for persons with disabilities.
- Assist institutions that train persons in the care of persons with disabilities through financial and logistic assistance.

The National Council for Persons with Disabilities should be able to fund the above activities or search for funds. The blind students may request for assistance especially with regard to purchase of reading and assisting devices. Details on how this will be achieved are not provided but it could operate on interest-free loan basis or direct assistance in the form of purchase of the required equipment.

The Bill further states that manufacturers of communication equipment such as telephone receivers will be required to have tactile marks on daily sets to enable visually disabled persons to communicate easily without any impediments. This will ensure that blind students are able to communicate with those around and away from them, hence being able to seek information without having to visit the actual source.

Weaknesses of the Bill

Although the bill seeks to recognize the uniqueness of disabled persons in the context of national development in Kenya and acknowledges the fact that disabled persons have special needs due to the nature of their physical disposition, it is full of blank statements. According to the Kenya Gazette Supplement (2002), part 111, clause 12 (2) states that qualified employees (students) with disability shall be subject to the same terms and conditions of employment and the same compensations, privileges, benefits, fringe benefits, incentives or allowance as qualified able-bodied employees. However clause (3) is emphatic that employee with disability shall be entitled to exemption from tax on all income accruing from his/her

employment. The two clauses advocates for two different issues on the same person. While it attempts to exalt and raise the disabled persons abilities to the same level of the able-bodied, which of course is inappropriate, there is an admission that the disabled person needs protection hence being treated differently through tax exemption. Were they to be the same, then there would be no need to exempt them from paying statutory taxes. This is short of admitting that disabled persons cannot compete equally with the able-bodied persons due to the nature of the disability that renders them almost ineffective in most of the body functions. The Bill should have been open on the issue of disability and then gone to justify why they should be exempted from paying taxes.

On learning opportunities, the Bill states that “No person or learning institution shall deny admission to a person with disability to any course of study by reason only of such disability” and goes further to add that auxiliary services to facilitate learning process should be provided taking into consideration special needs of individual student’s nature of the disability. In the practical sense, this is not-attainable given the high material and financial cost involved. It is also a known fact that certain disciplines are obviously out of reach for certain category of disabled persons. This being the case, it therefore follows that disabled people will continue to suffer from exclusion not so much from human design but from what nature has bestowed on them. It is easier to admit a disabled student in an ordinary learning institution but much difficult to offer quality education with existing resources. This is because of high financial input required. The Bill should have been explicit on how exactly the admission of disabled persons into learning institutions will be carried out without additional financial input to effect the learning process.

Although the bill provides for the establishment of Braille and recorded libraries throughout the country for persons with visual disabilities, it does not, however, state how they will be managed. One would have expected that the bill notes the existence of Kenya National Library Services and recommends that additional funding be given to expand countrywide library services for the blind through the existing network of branch libraries.

Conclusion

If the provisions of the Persons with Disabilities Bill 2002 are effectively implemented, the blind students will find themselves with a lot of facilities that for the first time will expose them to a wide range of information unknown to them before. How the blind students will react to such new information environment cannot be effectively predicted but what is obvious is that the exposure to many choices of accessing information will improve the quality of academic life. The Bill is intended to widen the scope of

knowledge in terms of world affairs and above all protect the disabled persons in general from any form of discrimination.

References

- Burrington, G. (2001). "The Disability Discrimination Act 1995, and its implication or the provision of library services". *Library Service for the Blind: A Manual*. [Http://www.nlbulk.org/bpm/chapter 3 htm](http://www.nlbulk.org/bpm/chapter_3.htm)
- Kenya Gazette Supplement: *The Persons with Disabilities Bill, 2000*. Nairobi. Government Printer, 2002.
- Koech Commission on Enquiry of Education System in Kenya (1999). *Total Integration of Quality Education and Training (TIQET)*. Nairobi: Government Press.
- Marayo Atinmo (1983). "Library Services to Visually handicapped in some Western European Countries and possible relevance of their experience to a country like Nigeria". *IFLA Journal Vol. 9 No. 1*.
- Ochoggia R.E (2003). *Provision of Library and Information Services to Visually Handicapped Students in Kenya Public Universities: A Case study of Kenyatta University*. M.Phil. Thesis. Moi University Kenya.
- Smale, R. (1992). "Australian University Library Services for the Visually Impaired Students: Results of a survey". *The Australian Library Journal, August. 199 – 212*.
- Valleman, R A (1990). *Meeting the needs of people with Disabilities: a guide for Librarians, Educators and Service Professionals*. Phoenix, Orxy Press.