

# NHRC NEWSLETTER

First Issue, 2020



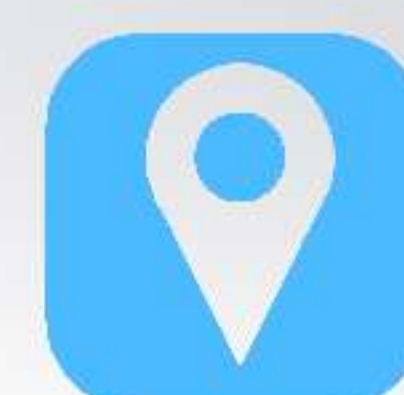
This newsletter covers key policy achievements with Law Enforcement, advocacy for child-friendly justice system, partnership for awareness creation, as well as education on human rights with specific focus on Disability rights.



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# NHRC AND THE GAMBIA POLICE WORK TOWARDS SETTING NEW HUMAN RIGHTS STANDARDS

The National Human Rights Commission (NHRC) from 2 - 3 July 2020 conducted a two day working session with senior officers of The Gambia Police Force at Tendaba to review, validate and adopt two key documents – A Code of Conduct for the Gambia Police Force and The Guidelines on Policing Public Assemblies in The Gambia. Once finalized, these two documents will contribute to strengthening the foundation of a Police Force that upholds, protects and fulfills fundamental human rights for everyone.

This meeting was held in fulfillment of one of NHRC's functions which is to support the Government in formulating appropriate policies that guarantee human rights.

In his opening remarks, the Assistant Inspector General of Police, Mr. Ebrima Bah, highlighted the need for a specific code of conduct that guides the Police in performing its duties. He further noted that the Four Standing Orders and Public Service Regulations that the police depend on, require revision to enable them to address the needs and requirements of a modern, democratic and human rights friendly policing.

The draft Code of Conduct that was reviewed initially consisted of sixteen articles, all of which were extensively discussed. Key recommendations made include a terms of reference and the composition of two Committees namely, a Disciplinary and Appeals Committees to oversee the implementation of the Code of Conduct. The articles reviewed covered areas including:

Performance of Duties by Police Officers; Respect for Human Rights; the Use of Force; Maintaining Confidentiality; Prohibition of

Torture, Cruel, Inhumane or Degrading Treatment; Protection of Persons in Custody and Victims of Crime; Corruption and Abuse of Office; Respect for the Laws and Legal Instruments; Unlawful Orders; Use of Appropriate Language; Professional Conduct; Consumption of Alcohol; Appearance and Impartiality.



Six additional articles were introduced based on the consultations and incorporated into the draft document. Some addressed the enforcement mechanism in the Code of Conduct.

Overall, there was agreement that the Code of Conduct needs to be adopted in order to strengthen police capacity and ability to respect and protect human rights including that of accused persons.

The NHRC is committed to continually supporting law enforcement in upholding the rule of law and treating all citizens and residents with respect and dignity.



## Part II: Guidelines on Policing Public Assemblies in The Gambia

The Guidelines on Policing Public Assemblies in The Gambia was adapted based on the African Commission Guidelines for the Policing of Assemblies by Law Enforcement Officials in Africa and contextualized with the aim to address issues affecting the right to freedom of association and assembly in The Gambia.

Discussions on the said Guidelines centered around four major themes:

- preliminary provisions which highlighted the general principles governing the right to assemble freely with others;
- regulatory framework governing organizational and operational requirements for a right-based approach to the policing of assemblies;
- preparations and planning for the policing of public assemblies; and policing during assemblies.

Participants raised concerns about limited police capacity and knowledge on the rules of engagement for effectively policing assemblies. NHRC recognizes these limitations and challenges and will support the Police in addressing them through its capacity building programmes for law enforcement.





# RIGHTS OF PERSONS WITH DISABILITIES

## The Gambia's Draft Persons with Disabilities Bill 2020: An Overview

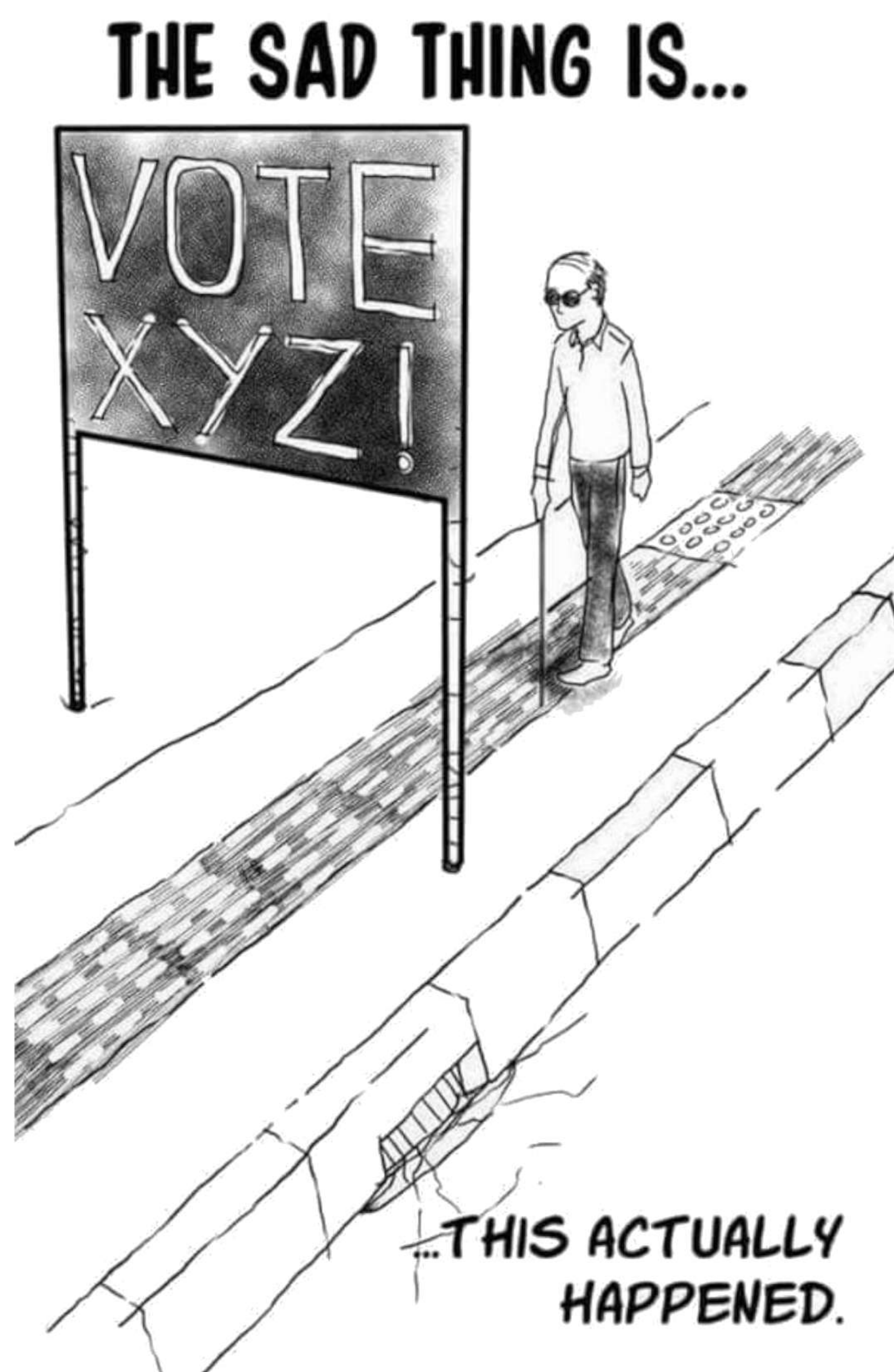
The Gambia is a party to the UN Convention on the Rights of Persons with Disabilities (CRPD). Until recently the country did not adopt any domestic legislative mechanism to give effect to the country's human rights obligations arising from the CRPD.

The intended Persons with Disabilities Bill 2020, when enacted, will become the first comprehensive legislation on disability rights in The Gambia. The objective of the Bill is to protect, promote and uphold the inherent rights of Persons with Disabilities as guaranteed in the CRPD and in section 31(1)(2) and (3) of the 1997 Constitution of The Gambia. It also seeks to domesticate the provisions of the CRPD into the laws of The Gambia. The immediate benefit of this domestication is that its provisions can be enforceable in the domestic courts.

It will safeguard and protect the rights and freedoms of Persons with Disabilities that have been long neglected. The proposed Bill would be an effective instrument to address the diverse needs of Persons with Disabilities and potentially ensure their full social inclusion and participation in decision making in The Gambia.

The Bill has 74 provisions that are divided into 16 Parts.

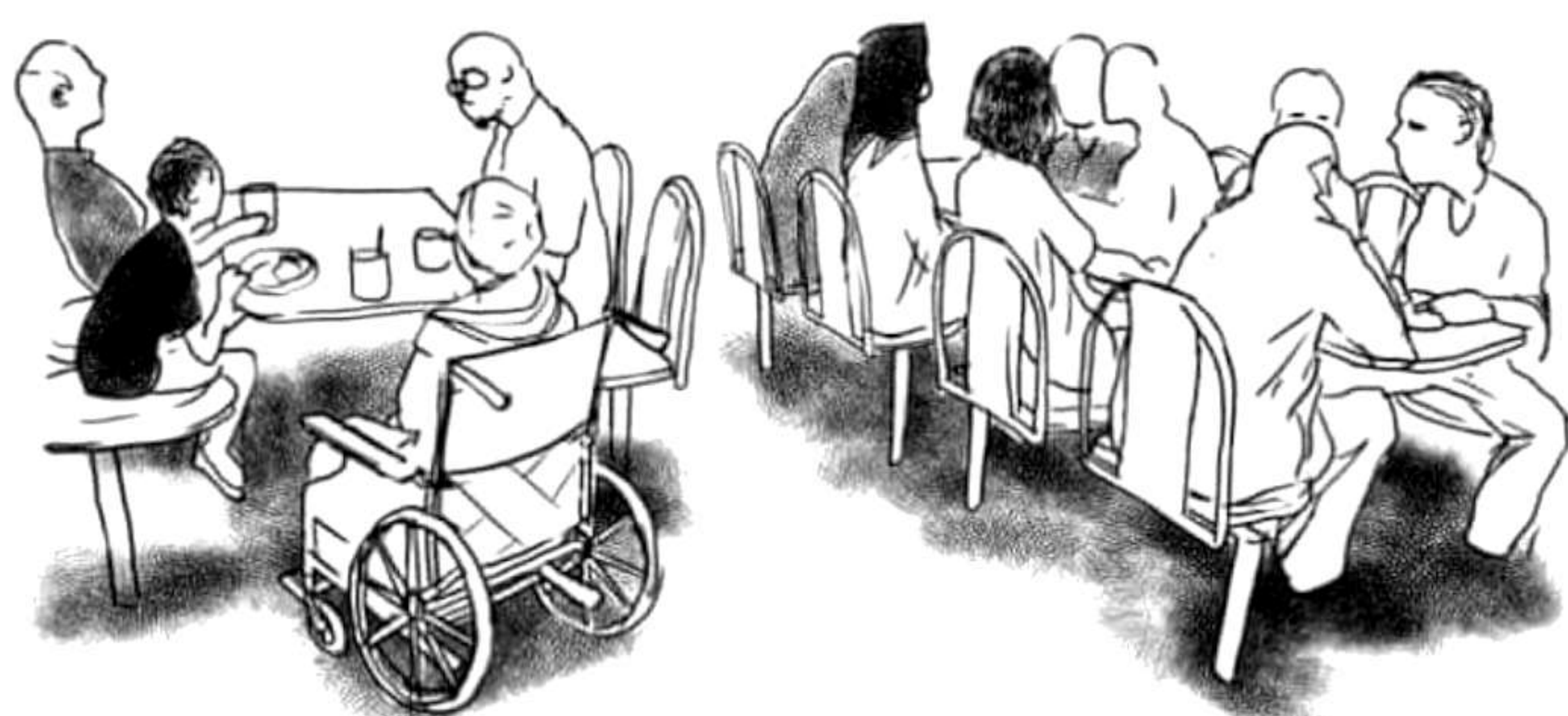
Part I deals with interpretation of key terms in disabilities advocacy and Part II provides that the application of the Bill should be guided by the interrelated principles of respect for human dignity, individual choices and the independence of Persons with Disabilities. It also requires the observance of non-discrimination as an overarching principle. The effective and full participation of Persons with Disabilities in decision making is also guaranteed with a specific emphasis on equality and inclusion.





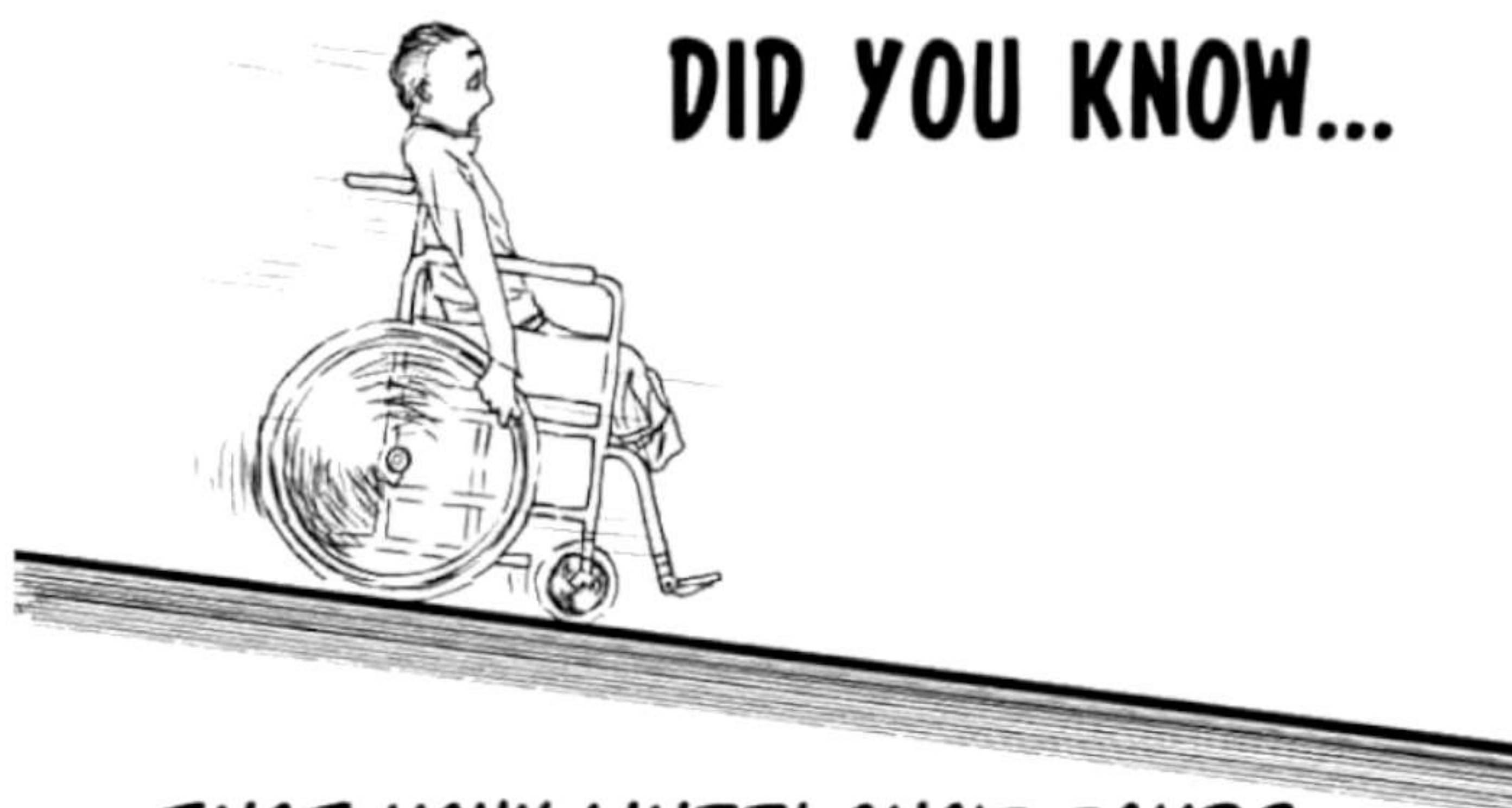
Part III imposes a duty on the Advisory Committee with the Ministry of Women and Children the mandate to ensure and promote the realization of all rights and freedoms of Persons with Disabilities without discrimination by undertaking measures that effectively comply with their rights as provided for under the Bill relevant human rights norms. It also requires the above authorities to collaborate with other public authorities to ensure the development and availability of universally designed goods, services, equipment, and facilities to meet their specific needs.

### IT'S EASIER TO MAINTAIN...



...FIXED FURNITURES AT FOOD COURTS,  
BUT LEAVE SOME SPACE FOR WHEELCHAIRS!

### DID YOU KNOW...



... THAT MANY WHEELCHAIR RAMPS  
ARE STEEPER THAN RECOMMENDED?.

Part III further imposes a duty on the government to promote and raise awareness of disability rights in The Gambia.

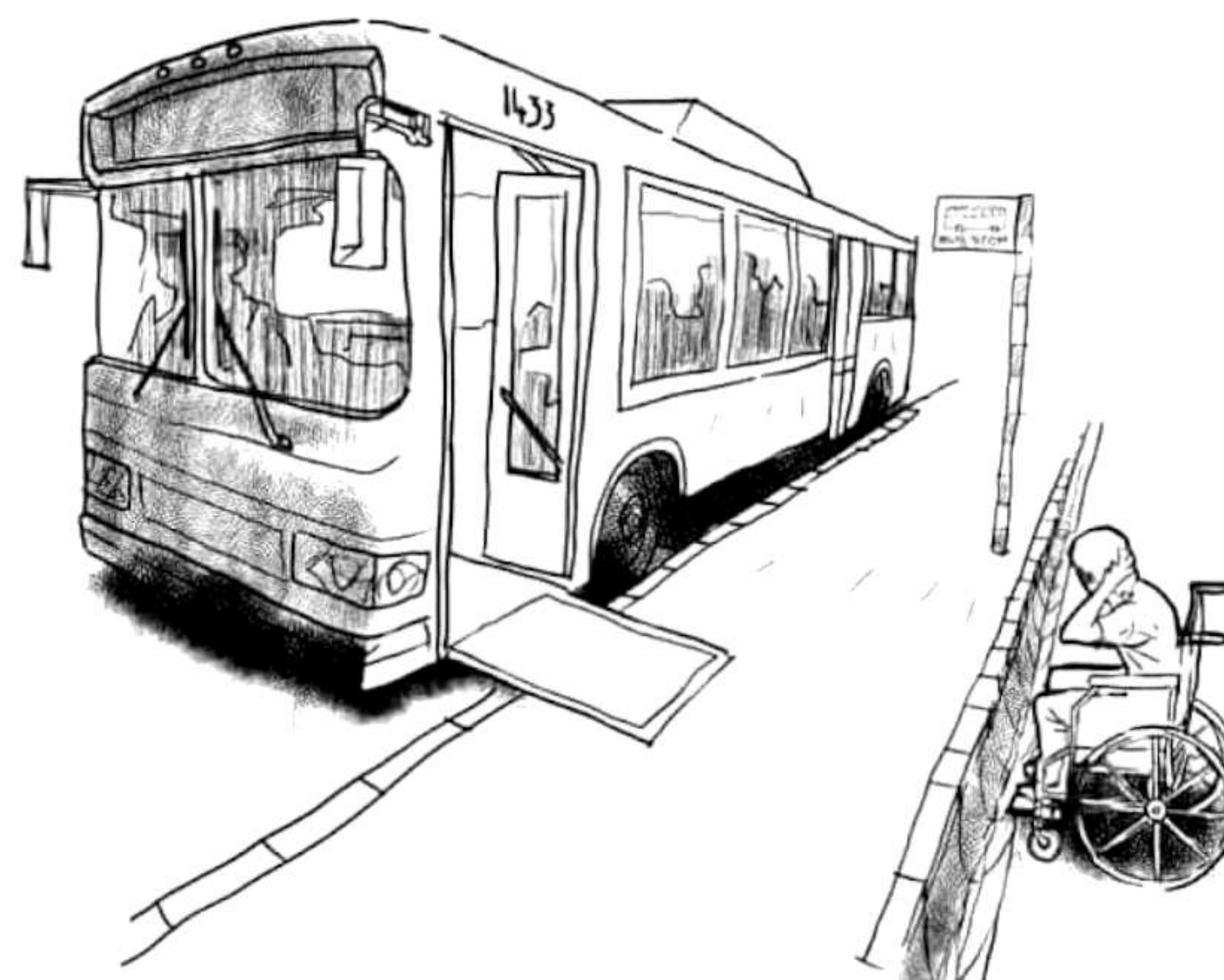
Part IV and V deal with Children and Women with disabilities, as well as Youth and Older persons with disabilities. The former requires that the government recognizes that women and girls with disabilities are subject to multiple discrimination and shall take measures to ensure the full and equal enjoyment of all human rights and fundamental freedoms. With regards to youth with disabilities, the Bill requires that the government develops programmes to overcome social and economic isolation by removing systemic barriers in the labour market for youth with disabilities.

Part VI addresses the institutionalization of Persons with Disabilities. It makes provision on a range of accessible community-based rehabilitation and inclusion services such as in-house, residential and other community support services and personal assistance necessary to support living and integration into communities.

Part VII imposes a specific obligation on Local Government Authorities to safeguard the rights of Persons with Disabilities.

Overall, with the adoption of the Disability Rights Bill, The Gambia will fulfill its international obligation by guaranteeing the rights and inclusion of Persons with Disability. This will also create a basis for accountability when these rights are violated.

### ARE YOU AWARE THAT...

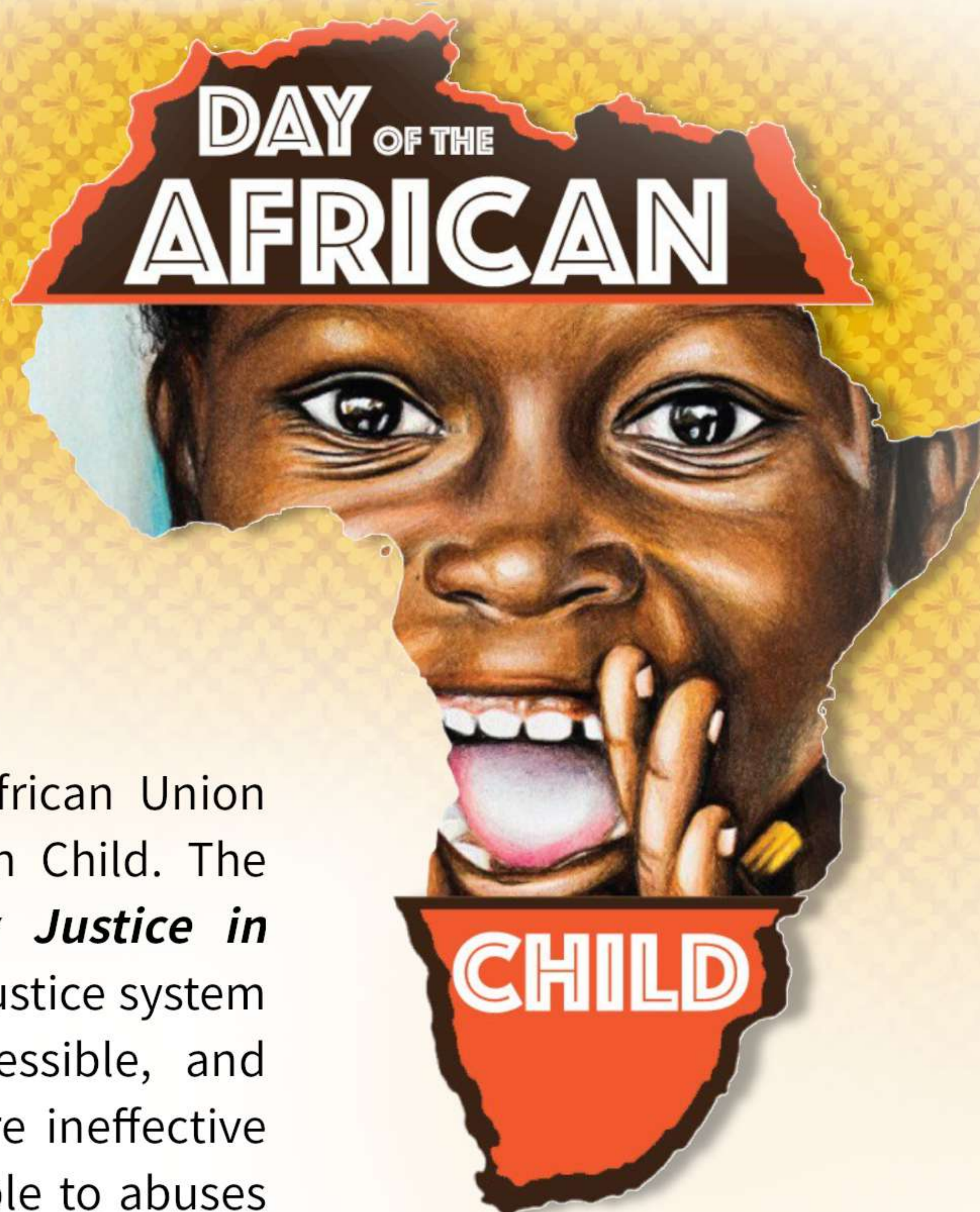


...DESPITE THE UPGRADED BUSES, THE  
BUS STOPS NEED UPGRADING TOO?.



# COMMEMORATION OF THE DAY OF THE AFRICAN CHILD:

## 13 RECOMMENDATIONS SENT TO THE GAMBIA GOVERNMENT FOR A CHILD-FRIENDLY JUSTICE SYSTEM



On 16th June, NHRC joined the African Union and marked the Day of the African Child. The 2020 - **"Access to Child-friendly Justice in Africa"** recognises that where the justice system is not child-friendly and/or inaccessible, and human rights protection systems are ineffective or lacking, children will be vulnerable to abuses and violations of their fundamental human rights.

The theme calls on State Parties to the African Charter on the Rights and Welfare of the Child, like The Gambia, to put in place a justice system that is **'accessible, age appropriate, speedy, diligent, adapted to and focused on the needs and rights of the child'**. Such a system is supposed to cater for the needs of not only children who are in conflict with the law but also those in contact with the justice system such as, children who are victims of abuse, violence and exploitation and parental neglect. This system should also cater to children who are subjects of adoption, custody, access for either or maintenance.

The NHRC recognizes that while significant progress have been registered in the realisation of children's rights in The Gambia, especially the enactment of enabling legislation and the establishment of the Ministry for Women, Children and Social Welfare, it highlights that there are gaps in the areas of child protection, child justice administration, implementation and enforcement of legislation, and functioning of the child protection system and mechanisms. Children, by virtue of their vulnerability, dependence and voicelessness are often the main victims of such system disparities, with their rights neglected or least prioritised.



In commemorating the Day, the NHRC made the following recommendations to The Gambia Government, as the primary duty bearer, to:

1. Establish Children's Courts in each region of the country, as provided for in the Children's Act 2005, and provide them with adequate human, technical and financial resources;
2. Establish a juvenile wing in all the prisons, with separate sections for boys and girls;
3. Strengthen the technical capacity and knowledge of the panel members of the Children's Courts, social workers and law enforcement officers in child protection, child development and all aspects of child justice administration;
4. Enhance the technical and human resources capacity of the Department of Social Welfare to be able to provide psychosocial and psychological support and services to children in the justice system;
5. Enhance the professional, technical and human resources capacity of the Police Child Welfare Unit to be able to effectively provide the requisite services for children in contact with the justice system;
6. Provide adequate budgetary allocation to the Department of Social Welfare to employ probation officers and more social workers across the country;
7. Develop and effectively implement a comprehensive national policy and strategy on child justice administration;
8. Effectively popularize the 'After-Arrest Procedures';
9. Ensure the Cadi and Customary Courts adhere to the 'best interests' principle when dealing with matters relating to or affecting children;
10. Support a comprehensive rehabilitation and reintegration services and programmes for children in contact with the justice system;
11. Urge the Children's Courts, and other Courts which hear children's matters, to effectively utilize alternative measures to detention or imprisonment, as provided for in the Children's Act 2005;
12. Ensure that all police stations have separate detention facilities for children;
13. Identify and support vulnerable families and children living in difficult circumstances.

It is the hope of the NHRC that the effective implementation of these recommendations will significantly contribute to the creation of an accessible, child-friendly justice system in The Gambia.





# Q & A ON HUMAN RIGHTS

## **Q What are human rights?**

Human rights are those entitlements that every individual in the world possesses. They include the right to life, property, freedom of speech, liberty and non-discrimination, etc. Human rights are recognized as birth rights, so they are inalienable, universal, interrelated and indivisible.

## **Q Where do they come from?**

They come from the fact that we are simply human beings. Human rights are needed to protect and preserve every individual's humanity, to ensure that every person can live a life of dignity with respect for his or her life that is worthy of a human being. Human rights are also provided for under Chapter IV of the 1997 Constitution as well as regional and international human rights treaties The Gambia is a party to.

## **Q Why "should" anyone respect Human rights?**

Individuals must want for others what they want for themselves. This is the fundamental reason why rights go along with responsibilities. In addition to the moral sanctions of one's own conscience or that of others, there is now legislation in most countries of the world, including The Gambia which obliges governments to respect the basic human rights of citizens, even when they may be unwilling to do so.

## **Q Who has human rights?**

Every individual is entitled to certain basic rights. Children, women, men, people living with disabilities, refugees, stateless persons, the unemployed, those in employment, those accused of carrying out acts of terrorism, charity workers, teachers, etc.

However, greater protection is usually accorded to vulnerable groups such as children, women and persons with disabilities.

## **Q Even people accused of criminal behavior?**

The power of human rights lies in the fact that everyone is treated as equal in terms of possessing human dignity. Some people may have violated the rights of others or may pose a threat to society and may therefore need to have their rights limited. Limitation of rights must however follow due process and be in accordance with the law and as necessary in a democratic society.

## **Q Why do some groups require special human rights? Does this mean that they have more rights than others?**

No, some groups, such as persons with disabilities, have suffered such long-term discrimination in our societies that they need special and specific measures to enable them to enjoy their fundamental human rights including respect, equality and dignity. Continuous discrimination and stereotypes, against people living with disabilities or certain caste in our societies, mean that just announcing general rights for all, and expecting that this is enough to ensure equality, has proven insufficient.



Q

**How can I defend and enforce my rights?**

Defending your rights starts with knowing what your rights are and knowing when they have been violated and or denied:

- Know your rights;
- Claim your rights;
- Get advice or help from the National Human Rights Commission or any NGO that can tell you what your rights are.

Q

**How do I go to the National Human Rights Commission?**

The National Human Rights is open to the general public and can hear any complaint on any human right violation through multiple ways.

- A visit to our office in Kotu, opposite DSTV
- By phone call on 3353108
- Email: [complaints@gm-nhrc.org](mailto:complaints@gm-nhrc.org)
- Website: <https://www.gm-nhrc.org/file-a-complaint>

NHRC cannot hear any complaint that falls within the following categories:

- A case of a human rights violation that is before the courts
- Any case of human rights violation that occurred before 24th January 2018 unless it is shown to be a continuing violation
- Where the President grants pardon or reduced sentence to a convicted person, or
- Between The Gambia Government and another Government

Q

**From whom can I claim my rights?**

The fundamental human rights that are listed in our national laws and the human rights treaties and conventions that The Gambia is a party to are rights you can claim and demand from your government, or state officials. The State, or their representatives can

also guarantee your rights from other entities such as, your employer by creating laws that ensure your rights are respected and protected.

Q

**Does anyone have a duty to protect my rights?**

Yes. A right is meaningless without a corresponding responsibility or duty on someone else. Every individual has a moral duty not to violate your personal dignity but your government, in signing up to international agreements, has not just a moral duty but also a legal duty obligation.

Q

**Are human rights violations only a problem in non-democratic countries?**

There is no country in the world that has a completely clean record on human rights. There may be more frequent violations in some countries than others. They may also affect a particular proportion or section of a population in some countries, but every single violation is a problem that ought not to have happened and that needs to be addressed.

Q

**Have we made any progress in reducing human rights violations?**

Yes! After twenty-two years of continuous human rights violations, Gambia is now in a transitional phase where the government is setting up systems to make sure that everyone enjoys fundamental human rights. Key milestones by the Government include a review of the 1997 Constitution, establishment of the National Human Rights Commission in 2017, and establishment of the Truth, Reconciliation and Reparations Commission, among others.

There has been improvements in the area of freedom of expression and opinion. The independence of the media to freely inform and educate the public, the right to demonstrate and hold the government accountable has greatly improved.



# NHRC SIGNS MOU WITH NCCE:

## A PARTNERSHIP FOR AWARENESS CREATION AND CAPACITY STRENGTHENING



The National Human Rights Commission (NHRC) signed a Memorandum of Understanding (MoU) with the National Council for Civic Education (NCCE) to

coordinate and raise the awareness of the public on fundamental human rights and freedoms, and to promote better understanding of our laws in general but more particularly provisions under the 1997 Constitution.

With this partnership, the two institutions seek to implement joint awareness creation activities on human rights in efforts to ensure that people know their rights, can demand for them, can recognize when they are violated and know where to seek help or redress. This will create an environment where these rights are enjoyed, respected and upheld by all.

This partnership is in line with the mandate of both NHRC and NCCE which is to create a culture of respect for human rights in The Gambia through the stimulation of civic education and engagement.

## OUTREACH AND COMMUNITY SENSITIZATION

The primary role of the NHRC is to promote and nurture a culture of respect for human rights in The Gambia. One of the ways through which this is done is by engaging with the public as one of its primary audiences to create awareness on fundamental rights and freedoms.

More than three hundred (300) individuals in Banjul, Serrekunda and Brikama were directly engaged on the mandate of the NHRC.

The participants, including students, youth leaders to women and traditional leaders showed interest in the work of the Commission as different staff took time to explain the basic concepts of human rights, the role of the NHRC in protecting and promoting human rights, as well as the obligations of the State under domestic and international laws to respect, protect and fulfil such rights. The team also took the opportunity to explain the services of the NHRC to the participants which include the different forms of bringing complaints of Human Rights Violations to the Commission such as walk-ins into the Secretariat, telephone calls or through the website.

The events were part of Human Rights Day commemoration which is marked every year on 10th December. With the theme - "Youth Standing Up For Human Rights; The Role Of Youth In Advancing The 2030 Agenda", the public awareness activities were supported by the Office of the United Nations High Commissioner for Human Rights, the UN System in the Gambia and in partnership with the National Youth Council.

In the course of fulfilling its mandate to promote and protect human rights, the NHRC will implement such activities countrywide for everyone living in The Gambia to understand their fundamental human rights in order to claim them or recognize when they are being violated.









## ABOUT NHRC

The National Human Rights Commission (NHRC) is a permanent and independent institution established by an Act of National Assembly in 2017 to protect and promote human rights in The Gambia.

## OUR VISION

A Gambia where everyone enjoys their Fundamental Human Rights and Freedoms.

## OUR MISSION STATEMENT

To promote and protect the fundamental human rights and freedoms of everyone through law, policy, education and partnership.

## CORE VALUES OF THE NHRC

Independence  
Integrity  
Impartiality  
Equality  
Inclusivity  
Confidentiality  
Accountability  
Accessibility

### For more Information:

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