

## Concept Note

### Practical Pathways to Strengthening Access to Justice for Persons with Disabilities in the Commonwealth

Commonwealth Law Ministers Meeting, Monday, 4 March 2024, 2:30-3:30 pm,  
Zanzibar, United Republic of Tanzania

#### Background

Equal access to justice for all is a key component of fair, effective, inclusive, and efficient justice systems. It is essential to ensure the full enjoyment of human rights, prevent human rights abuses, and maintain the rule of law by reducing inequalities and ensuring accountability. Within the framework of the 2030 Agenda for Sustainable Development, particularly Goal 16, the international community has affirmed a commitment to promoting equal access to justice for all, and strengthening effective, accountable, and transparent institutions at all levels.

Nevertheless, persons with disabilities are amongst those who have the most difficulty accessing justice. They continue to face significant obstacles to seek redress, make their voices heard or defend their rights in the justice system on an equal basis with others. Barriers to access to justice reinforce exclusion, mistrust in institutions, and negatively impact the economy.

The Commonwealth Disabled People's Forum notes that "at least four hundred million citizens of the Commonwealth live with long term physical, mental or psychosocial impairments that impact on their day-to-day living. The change in thinking required by the ratification of the Convention on the Rights of Persons with Disabilities (CRPD) requires a change in perspective and practice, moving from viewing persons with disabilities as objects having things done to them to subjects with rights and equal protections under the law. It is necessary to change from viewing limitations in the person to removing restrictions and barriers in society."<sup>1</sup>

Amongst the barriers hindering equal access to justice by persons with disabilities are restrictions on the exercise of legal capacity and due process guarantees; inaccessible physical environments; lack of information in accessible formats; absence of procedural accommodations; obstacles in accessing legal assistance and representation; discriminatory or negative attitudes questioning the abilities of persons with disabilities to participate during all phases of the administration of justice; and lack of training on disability for professionals working in the justice sector.

Fifty-five Commonwealth member countries are party to the Convention on the Rights of Persons with Disabilities. The general obligation set out in article 4 of the CRPD requires states to *inter alia* to 'take all appropriate measures, including legislation, to modify or abolish existing laws, regulations, customs and practices that constitute discrimination against persons with disabilities'<sup>2</sup> and to 'ensure that public authorities and institutions act in conformity with the...Convention'.<sup>3</sup>

Strengthening institutional capacities to enable access to justice for all is transformative. Hence its inclusion in the CRPD, the first core international human rights treaty to recognise the right to access to justice. However, at the national and local level, legal frameworks

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<sup>1</sup> Richard Rieser, General Secretary, Commonwealth Disabled People's Forum, [www.commonwealthdpf.org](http://www.commonwealthdpf.org).

<sup>2</sup> Convention on the Rights of Persons with Disabilities, article 4(b).

<sup>3</sup> Ibid, article 4(d).

and justice pathways for access to justice for persons with disabilities have not been sufficiently advanced to deliver on the commitment enshrined in the Convention. There remains a need to develop a deeper understanding of the legal rights and needs of persons with disabilities to better ensure their full and meaningful participation in the administration of justice and a disability-responsive justice sector.

In the margins of the Commonwealth Law Ministers Meeting, the Commonwealth Secretariat Human Rights Unit and partners will convene a side event drawing attention to human rights-based approaches to strengthening access to justice by persons with disabilities. With a view to advancing the understanding of disability-inclusive access to justice, the side event will provide an overview of the key barriers impeding access to justice by persons with disabilities, critically examine how procedural accommodations operate in practice and highlight meaningful measures States can take in line with their international human rights obligations to strengthen accessibility, inclusion and participation of persons with disabilities in the administration of justice.

### **Objectives / Outcomes**

- Highlight and raise awareness on the current access to justice gaps and barriers faced by persons with disabilities, and the importance of closing the gap.
- Better understanding of the rights and needs of persons with disabilities as direct and indirect participants in the justice system.
- Share practical support and procedural and reasonable accommodations, including the use of information and communication technology, to ensure persons with disabilities can access justice on an equal basis with others.
- Sensitise participants to join persons with disabilities to advocate for and take action to ensure all institutions involved in the administration of justice are inclusive, representative, responsive and accountable to the disabled people they serve.

### **Panel**

- Moderator: Steve Onwuasoanya, Adviser and Acting Head, Commonwealth Secretariat Human Rights Unit
- Sarah Kamau, Chair, Commonwealth Disabled People's Forum, and representative of United Disabled Persons Kenya
- Scader Louis, Treasurer, Commonwealth Disabled People's Forum, and Vice Chairperson, Federation of Disability Organisations in Malawi
- Commonwealth Accredited Organisation
- Member country

**Type/ Level of Participation:** Ministers and senior officials; senior representatives from key partner organisations and stakeholder groups, civil society, and other interested parties.

**Format:** Panel discussion followed by interactive dialogue

**Number of participants:** Seventy-five