

**Ghana Federation of Disability Organisation (GFD)**  
**ASSESSMENT OF THE INCLUSIVENESS OF THE AMENDED DRAFT**  
**AFFIRMATIVE ACTION (GENDER EQUALITY) BILL, 2017**

9/04/2018

**Overview of the amended Affirmative Action (Gender Equality) Bill, 2016**

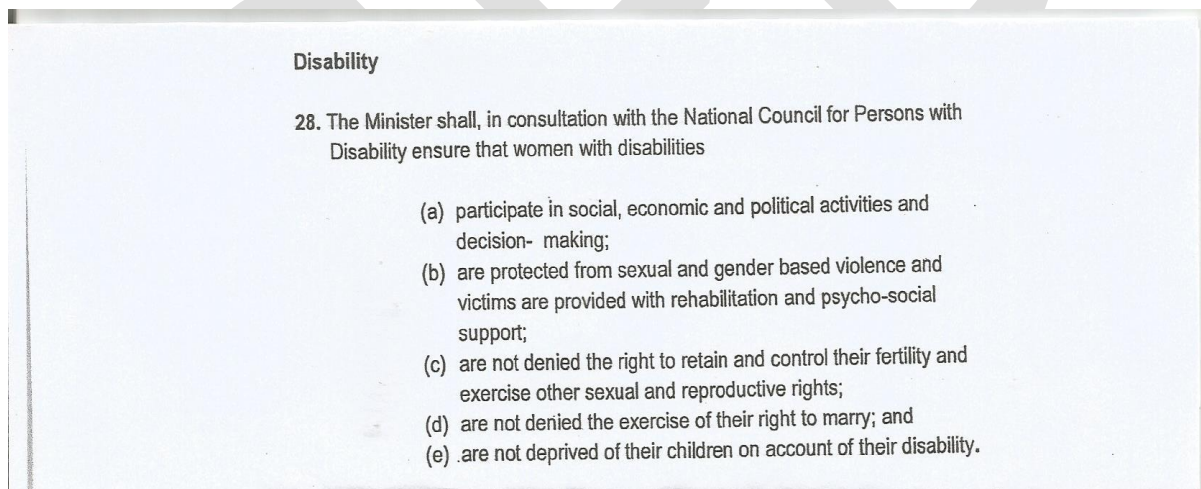
The amended Bill submitted to GFD was not accompanied by a memorandum.

The Bill has been amended to:

1. Include National Development Planning Commission under “Role of Independent constitutional Bodies in promoting Gender Equity and Equality.”
2. Include the following under “Gender Equity in Selected Sectors of Government”
  - Health and Population
  - Elaboration on Employment opportunities
  - **Disability**
3. Include a subtitle: Gender Responsive Budgeting in Sectors of Government
4. put “Protection of employment of pregnant women” under employment

**The Inclusion of disability under the Amended Bill.**

Section 28 of the amended Bill deals with disability as provided here.



**General (liberal) interpretation of Section 28 of the amended Bill**

Specifically, Section 28 addresses women with disabilities as follows:

- a. Participation in social, economic and political activities and decision

**CONCERNS**

Throughout the amended Bill, specific directives are given to under-listed state agencies on how to ensure that women are socially, economically, politically empowered to be effective decision makers in society.

## THE HISTORIC DISCRIMINATION

Research shows that, it is the absence of support system, quotas and explicit affirmative actions that deprive persons with disabilities especially women with disabilities the effective exercise of social, economic and political rights. In effect, persons with disabilities especially women with disabilities are relegated to the background. They remain invisible in decision-making ventures.

## THE EFFECT OF THIS PROVISION

- Persons with disabilities in general are not addressed to occupy positions of authority and decision-making
- Women with disabilities are mentioned in relation to a provision that lacks the requisite clauses to make the provision capable of transforming their social status and enhancing their dignity
- The provision is vague and lacks direction as to empowering women with disabilities

### b. Protection from sexual and gender-based violence

## CONCERNS

This bill seeks to ensure the achievement of gender equality in political, social, economic and educational spheres in society. So that, the bill obliges the government to ensure that **not less than forty percent of appointments** to positions of authority and decision-making in the public service consist of women. This specific directive is to ensure the **full integration and mainstreaming of women into all spheres of development** in the public and private sectors.

## THE HISTORIC DISCRIMINATION PERSISTS

- Persons with disabilities especially women with disabilities suffer double discrimination on account of the disability and gender.
- Persons with disabilities especially women with disabilities are treated as object of charity and not subjects with rights

## THE EFFECT OF THIS PROVISION

The provision is out of place as far as ensuring the equitable representation of women with disabilities in positions of authority and governance are concerned.

### c. The right to retain and control their fertility and exercise other sexual and reproductive rights

## CONCERNS

This bill is guaranteeing forty percent representation of women in public office, governance and decision-making positions. While this bill is guaranteeing women with disabilities sexual and reproductive rights.

## THE HISTORIC DISCRIMINATION PERSISTS

This Bill will forever widen the inequality between women and women with disabilities.

#### THE EFFECT OF THIS PROVISION

The provision is out of place as far as ensuring the equitable representation of women with disabilities in positions of authority and governance are concerned.

##### d. The right to marry

#### CONCERNS

There is no specific law passed by parliament denying persons with disabilities the right to marry. What is this provision seeking to achieve?

#### THE HISTORIC DISCRIMINATION PERSISTS

This provision breaches the equality clause as enshrined under Article 37(1) of the 1992 Constitution.

#### THE EFFECT OF THIS PROVISION

The provision further relegates women with disabilities to the background.

##### e. The right to family —children.

#### CONCERNS

This provision is out of place, which further deepens the discrimination against women with disabilities who are victims of invisibility.

#### THE HISTORIC DISCRIMINATION PERSISTS

This provision leaves women with disabilities from sustainable development.

#### THE EFFECT OF THIS PROVISION

The provision further relegates women with disabilities to the background and perpetuates inequality.

#### **The legal import of the amended Affirmative Action Bill**

- The Bill perpetuates inequality between women and women with disabilities;
- The Bill does not include a strategy for making the concerns and experiences of persons with disabilities especially women with disabilities an integral dimension of the design, implementation, monitoring and evaluation of policies and programs in political, social and economic spheres so that women with disabilities benefit equally;
- The Bill does not address the history of systemic discrimination and exclusion of women with disabilities;
- The Bill does not encourage efforts towards addressing the inequitable representation of women with disabilities in political, social, cultural, economic and educational sectors;
- The Bill does not guarantee women with disabilities a quantifiable amount of change in their dignity

### **Recommendations for Legislative Changes towards Inclusive Legislation**

- That the Bill must be reviewed to reflect the spirit and letter of the Universal Declaration of Human Rights.
- That, the Bill is reviewed to mainstream disability.
- That, the Bill is reviewed to conform to constitutional rules and proposed constitutional amendment of the Report of Constitution Review Commission and White Paper on the Report of the Constitution Review Commission.
- That, the Bill is reviewed to conform to international standards and best practices addressing the majority of areas relating to the legal creation of equal opportunities.
- That, Ghana Federation of Disability Organisations is consulted; and represented on the committee working on the Bill at every level of the law making process.
- That, the Bill must not be passed into law in its current provision because it is inimical to sustainable development. The bill must include disability.