Annex B

The 1995 Constitution and Disability (Specific Provisions on Disability)

National Objectives and Directive Principles of State policy

General

- i. The following objectives and principles shall guide all organs and agencies of the State, all citizens, organisations and other bodies and persons in applying or interpreting the Constitution or any other law and in taking and implementing any policy decision for the establishment and promotion of a just, free and democratic society.
- ii. The President shall report to Parliament and the Nation at least once a year, all steps taken to ensure the realisation of these policy objectives and principles.

Protection and promotion of Fundamental and other Human Rights and Freedoms

vi. Gender balance and fair representation of marginalised groups.

The state shall ensure gender balance and fair representation of marginalised groups on all constitutional and other bodies.

Social and Economic Objectives

xvi. Recognition of the dignity of persons with disabilities.

Society and the State shall recognise the right of persons with disabilities to respect human dignity.

Cultural Objectives

xxiv. Cultural Objectives

Cultural and customary values which are consistent and with the constitution may be developed and incorporated in the aspects of Uganda life.

The State shall:

- (a) Promote and preserve those cultural values and practices, which enhance the dignity and well being of Ugandans;
- (b) Encourage the development, preservation and enrichment of all Ugandan languages;
- (c) Promote the development of a sign language for the deaf and;
- (d) Encourage the development of a national language or languages.

Under the rest of the constitution the following provisions which are enforceable in the courts of law have been secured.

Protection and promotion of fundamental and other Human Rights and Freedoms

General

Article 21

- 1. All persons are equal before and under the law in all spheres of political, economic, social and cultural life in every other aspect and shall enjoy equal rights.
- 2. Without prejudice to clause (1) of this article, a person shall not be discriminated against on the ground of sex, race, colour, ethnic origin, creed or religion, or social economic standing, political opinion or disability.
- 3. For the purpose of this article, "discriminate" means to give different treatment to different persons attributable only or mainly to their respective descriptions by sex, race, colour, ethnic origin, tribe, birth, creed or religion, or social economic standing, political opinion or disability.
- 4. Nothing in this article shall prevent Parliament from enacting laws that are necessary for;
 - (a) implementing policies and programmes aimed at redressing social, economic or educational or other imbalance in society; or
 - (b) making such provision as is required or authorised to be made under this Constitution; or
 - (c) providing for any matter acceptable and demonstrably justified in a free and democratic society.
- 5. Nothing shall be taken to be inconsistent with this article which is allowed to be done under any provision of this Constitution.

Article 32

- 1. Notwithstanding anything in this Constitution, the State shall take affirmative action in favour of groups marginalised on the basis of gender, age, disability or any other reason created by history, tradition or custom, for the purpose of redressing imbalances which exist against them.
- 2. Parliament shall make relevant laws, including laws for the establishment of an equal opportunities commission, for the purpose of giving full effect to clause (1) of this article.

Article 35

- 1. Persons with disabilities have a right to respect and human dignity and the State and society shall take appropriate measures to ensure that they realise their full mental and physical potential.
- 2. Parliament shall enact laws appropriate for the protection of persons with disabilities.

Representation of the People

Right to vote

Article 59

- 1. Every citizen of Uganda of eighteen years of age or above, has a right to vote.
- 2. It is the duty of every citizen of Uganda of eighteen years of age or above, to register as voter for public elections and referenda.
- 3. The State shall take all necessary steps to ensure that all citizens are qualified to vote, register and exercise their right to vote.
- 4. Parliament shall make laws to provide for the facilitation of citizens with disabilities to register and vote.

The Legislature

Establisment, Composition and Functions of Parliament

Article 78

- 1. Parliament shall consist of;
 - (a) members directly elected to represent constituencies;
 - (b) One woman representative for every district;
 - (c) such numbers of representatives of the army, youth, workers, persons with disabilities and other groups as Parliament may determine; and
 - (d) the Vice-President and Ministers, who, if not already elected members of Parliament, shall be ex-officio members of Parliament without the right to vote on any issue requiring a vote in Parliament.
- 2. Upon the expiration of a period of ten years after the commencement of this Constitution and thereafter, every five years, Parliament shall review the representation under paragraphs (b) and (c) of clause (1) of this article for the purposes of retaining increasing, or abolishing any such representation and any other matter incidental to it.
- 3. The representatives referred to in paragraph (a) of clause (1) of this article shall be elected on the basis of universal adult suffrage and by secret ballot.
- 4. Parliament shall by law, prescribe the procedure for elections of representatives referred to in paragraph (b) and (c) of clause (1) of this article.

Article 84

1. Subject to the provisions of this article, the electorate of any constituency and of any interest group referred to in article 78 of this Constitution have the right to recall their member of Parliament before the expiry of the term of Parliament.

- 2. A member of Parliament may be recalled from that office on any of the following grounds;
 - (a) physical or mental incapacity rendering that member incapable of performing the functions of the office; or
 - (b) misconduct or misbehaviour likely to bring hatred, ridicule, contempt or disrepute to the office; or
 - (c) persistent deserting of the electorate without reasonable cause.
- 3. The recall of a member of Parliament shall be initiated by a petition in writing setting out the grounds relied on and signed by at least two-thirds of the registered voters of the constituency or of the interest group referred to in clause (1) of this article, and shall be delivered to the Speaker.
- 4. On receipt of the petition referred to in clause (3) of this article, the Speaker shall, within seven days require the Electoral Commission to conduct a public inquiry into the matters alleged in the petition and the Electoral Commission shall expeditiously conduct the necessary inquiry and report its findings to the Speaker.
- 5. The Speaker shall;
 - (a) declare the seat vacant, if the Electoral Commission reports that it is satisfied from the inquiry, with the genuineness of the petition; or
 - (b) declare immediately that the petition was unjustified, if the Commissions reports that it is not satisfied with the genuineness of the petition.
- 6. Subject to the provisions of clauses (2), (3), (4) and (5) of this article, Parliament shall, by law prescribe the procedure to be followed for the recall of a member of the Parliament.

Local Government

Principles and Structures of Local Government

Article 180

- 1. A local government shall be based on a council which shall be the highest political authority within its area of jurisdiction and which shall have legislative and executive powers to be exercised in accordance with this Constitution.
- 2. Parliament shall by law prescribe the composition, qualifications, functions and electoral procedures in respect of local government councils, except that;.
 - (a) the person elected as District Chairperson of a local government shall be a member of the council:
 - (b) one third of the membership of each local government council shall be reserved for women; and
 - (c) any law enacted by virtue of this article shall provide for affirmative action for all marginalised groups referred to in article 32 of this Constitution.

- (d) Parliament shall exercise similar powers of review as stipulated in clause (2) of article 78 of this Constitution, in relation to paragraphs (b) and (c) of this clause.
- 3. A person shall not be a member of a local government council unless that person is a citizen of Uganda.

Articles 107, 84, 144 and 185, for the removal of the President, Ministers, Members of Parliament, Judicial Officers, District Chairperson and Speaker respectively and so many other important personalities is covered in this Constitution.

One if the grounds for which they could be removed from office is inability to perform the functions of that particular office.

Originally, the grounds had limited to physical and mental incapacity, which would disfavour persons with disabilities or cause interpretation wrangles.

As already spelt out in a number of provisions above, parliament is expected to enact detailed laws to protect and promote rights of citizens with disabilities.

The Local Government Act, 1997: (Provisions on Disability):

1. Section 11 - Composition of District Councils

11. District Councils shall consist of

- (a) The District Chairperson; elected under part X of this Act;
- (b) One Councillor directly elected to represent an electoral area of a District
- (c) Two Councillors, one of whom shall be a female youth representing the youths in the District;
- (d) Two Councillors, with disabilities one of whom shall be a female, representing persons with disabilities; and
- (e) Women Councillors forming one third of the council such that the Councillors elected under paragraph (b), (c) and (d) shall form two thirds of the Council.

2. Section 24 - Lower Local Government Councils

24. (1) A Sub-county Council shall consist of

- (a) A Chairperson, elected under Part X of this Act;
- (b) One Councillor, representing each parish or part thereof in the Sub-county;
- (c) Two Youth Councillors representing the youth in the Sub-county, one of whom shall be a female youth;
- (d) Two Councillors with disabilities, one of whom shall be a female, representing persons with disabilities in the Sub-county; and
- (e) Women councillors forming one third of the Council.

(2) A City Division Council shall consist of -

- (a) A Chairperson, elected under Part X;
- (b) One Councillor, representing each Parish or part thereof in the Division;
- (c) Two Councillors with disabilities, one of whom shall be a female, representing persons with disabilities in the City Division;
- (d) Two Youth Councillors representing the youth in a City Division, one of whom shall be a female youth; and
- (e) Women Councillors forming one third of the Council.

(3) A Municipal Council shall consist of –

- (a) A Chairperson, elected under Part X and carrying title of Mayor,
- (b) One Councillor, representing each Parish or part thereof in the Municipality;
- (c) Two Councillors with disabilities representing persons with disabilities in the Municipality;
- (d) Two Youth Councillors representing the youth in the Municipality, one of whom shall be a female youth; and
- (e) Women Councillors forming one third of the Council.

(4) A Municipal Division Council shall consist of –

- (a) A Chairperson, elected under Part X;
- (b) One Councillor directly elected to represent each Parish or part thereof in the Municipal Division;
- (c) Two Councillors with disabilities representing persons with disabilities in the Municipal Division;
- (d) Two Youth Councillors representing the youth in the Municipal Division, one of whom shall be a female youth; and
- (e) Women Councillors forming one third of the Council.

(5) A Town Council shall consist of –

- (a) A Chairperson, elected under Part X;
- (b) One Councillor, directly elected to represent each ward or part thereof in the Town;
- (c) Two Councillors with disabilities representing persons with disabilities in the town;
- (d) Two Youth Councillors representing the youth in the town one of whom shall be a female youth; and
- (e) Women Councillors forming one third of the Council.

Section 46 Administrative Units

46. (1) There shall be Administrative Units based

- (a) in rural areas, on-
 - (i) County
 - (ii)Parish; and
 - (iii) Village;
- (b) in urban areas, on
 - (i) Parish or Ward; and
 - (ii)Village
- (2) There shall be a Council at each level of the Administrative Units.

Parliamentary Elections Statute 1996 (Provisions on Disability)

Section: 12

2. (g) To promote, through appropriate means, civic education of the citizens of Uganda on the purpose, and voting procedures, of any election, including where practicable, the use of sign language.

Section: 37

- 2. (d) For persons with disabilities, there shall be five representatives at least one of whom shall be a woman.
- 3. (e) The representatives of persons with disabilities shall be elected by an electoral college of representatives of such persons from each district in a manner prescribed by regulations made by the Minister under section 123.

Section: 58

1. Every polling station shall, as far as possible, be located in an open ground, or where there is no open ground, in large premises of convenient access, having an outside door for the admittance of voters, and, if possible, another door through which voters may leave after voting and the polling station shall, as far as possible be such as to facilitate access by persons with disabilities and the aged.

Section: 59 (Polling procedures)

- 6. (a) The voter has no thumb on the right hand, the process specified in that paragraph shall be applied to the finger nearest to the position of the thumb on the voters' right hand; or
 - (b) The voter has no right hand the process shall be applied to the left hand; or
 - (c) A voter has no fingers on the left or right hand, the voter may dip the tip of any hand into indelible ink; or
 - (d) The voter has no hands, the process shall be applied to any other conspicuous part of the voter's body as a polling assistant may determine.

Section: 62

2. The presiding officer may allow expectant mothers, old or sickly voters or voters with disabilities and persons required for essential duties to vote without waiting in line with the other voters.

Section: 66

- 1. Where a voter is by reason of blindness, illiteracy, old age or any other disability unable to fix the authorised mark of choice on the ballot paper, that voter may report at the polling station accompanied by a person of his or her choice to assist the voter to fix the authorised mark of choice on the ballot paper if necessary, on the voter's behalf or the voter may subject to sub-section (3) of this section, request another person present at the polling station to assist such voter in that behalf.
- 2. It shall be lawful for any member of a voter's family to assist a voter under subsection (1) not withstanding the fact that the former is below the age of eighteen years.
- 3. An election officer, a candidates agent, an observer or monitor, at any polling station, is not permitted to assist any voter with a disability under subsection (1).
- 4. No person is authorised to assist any voter to mark the ballot paper under subsection (1) unless the voter has voluntarily requested such assistance.
- 5. A person commits an offence who;
 - (a) Pretends to have a disability for the purposes of subsection (1) when he or she does not;
 - (b) Contravenes subsection (4) of this section.

Section: 123

- 1. The Minister may with the approval of the Legislature and on the recommendation of the Commission, by statutory instrument make regulations prescribing any matter which by this statute is required or authorised to be prescribed or which for carrying out or giving effect to the provisions of this Statute other than matters to be prescribed by rules of court.
- NB: The above provisions were enacted because of two constitutional provisions i.e. article 78 and 59 (4) of the Constitution of