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## The situation of persons with disabilities in Kenya

According to the National Survey on disability from 2008, about 4.6 % of men and women are living with a disability in Kenya. Disability Rights Promotion International (DRPI) estimates that 10 % of the Kenyans are living with a disability (2007). The World Health Survey (2011), suggests that the prevalence among the working age population is 8.6%, with 11.6 % in rural areas and 4.4 % in urban areas. Based on these estimates around 3.8 million men and women are living with a disability in Kenya. 80 % of them live in slum areas, informal settlements at the edge of cities, or under very poor conditions in rural areas.

The World Health Survey also shows that disability in Kenya is related to negative economic outcomes in a number of areas. At the individual level, persons with disabilities have lower primary education completion rates and higher rates of multidimensional poverty than persons without disabilities. Households with disabilities have a lower mean asset ownership index than other households, as well as higher rates of deprivation in several important living conditions. Approximately 50 per cent of households with disabilities fall below the US\$1.25 a day poverty line, compared to 38 per cent of other households.

In its report "From Norm to Practice – a Status Report on the implementation of the rights of persons with disabilities in Kenya" (July 2014), the National Human Rights Commission reports that:

- The inclusion policy in education though advocated for and recognised from human rights based approach; it is yet to be implemented. The implementation framework of the National Policy on Special Needs Education Policy of 2009 has not been developed.

- The educational outcomes for children and adults with disabilities are still low. Illiteracy rates for persons with disabilities and for school age disabled children are much higher than the general population.
- Sexual abuse of Learners with disabilities was also reported and girls with intellectual disability were reported to be at higher risk compared to their counterparts, thus resulting in high dropout rate of girls.
- Most public buildings are inaccessible for wheel chair users and sign language interpretation services are scarce. Although some institutions, such as hospitals and special schools had however made efforts to improve physical access; washrooms though, remain inaccessible for many.
- Public transport is completely inaccessible to persons with disabilities.
- Very few persons with disabilities had joined formal employment, due high formal qualification demands, stigmatisation and assumption by employers on capacity of persons with disabilities.
- The government commendably instituted mechanisms to ensure social security for persons with disabilities through legislations like the Social Assistance Act 2013 and policies on cash transfer system which targets persons with severe disabilities, but it reaches only a limited number of persons.
- Persons with disabilities continue to face a lot challenges when seeking justice with key obstacles being inaccessibility and exercise of legal capacity especially for persons with intellectual disability.

In conclusion, the report notes that while there are positive milestones made, the country still lags behind with implementation of CRPD.

Persons with psychosocial disabilities (mental health problems) are still stigmatised and exposed to torture and ill treatment as reported by the [Mental Disability Advocacy Centre \(2014\)](#). This group is yet to be included in ongoing legal reforms and programmes.

There is a major disconnect between the human rights rhetoric and the realities that exist in the country. Significant gaps in access to infrastructure, health services, education, work and employment and political participation are stark realities that persons with disabilities continue to experience.

### Legal and policy framework

The government of Kenya has taken a number of legislative and policy steps that indicate commitment to advancing the rights of persons with disabilities. In terms of **international instruments**, these steps include:

- Signing and ratifying (in 2008) the United Nations Convention on the Rights of Persons with Disabilities (CRPD) and the optional protocol, the first international, legally binding treaty aimed at protecting the human rights of persons with disabilities. The Convention is available at [www.un.org/disabilities/convention/conventionfull.shtml](http://www.un.org/disabilities/convention/conventionfull.shtml).
- Signing and ratifying other treaties that advance the rights of people, including those with disabilities, for example the UN Convention on the Rights of the Child, the African Charter on Human and People's Rights, the Convention on the Elimination of All Forms of Discrimination against *Women* – all of which make some reference to protecting the rights of persons with disabilities to fair treatment, appropriate care, inclusion and full participation in society.
- Committing to the East African Policy on persons with Disabilities (2012) outlining joint policy commitments in line with the CRPD and country level recommendations.

- A National Plan of Action for the African Decade has been adopted and a Co-ordination Office and a Steering Committee are established. A strategy has also been developed to ensure mainstreaming of disability in all bilateral co-operation activities of the country.

The African Commission on Human and Peoples' Rights has drafted a Protocol on the Rights of Persons with Disabilities. It was released for comment in April 2014 and once finalised, is likely to become part of Kenya's policy framework for advancing disability rights. Other important upcoming tools in 2014 are the CRPD Toolkit for Africa and the Accountability Framework for Africa which is part of the Common African position for Post 2015 Development.

In terms of **national laws and policies**, the following have the most direct bearing on the rights of persons with disabilities:

- A new Constitution was adopted in August 2010. It explicitly prohibits discrimination on the grounds of health status and disability (article 27) and obliges the state to fulfil citizens' social and economic rights (article 43).
- Actions are still guided by the 2003 People with Disabilities Act but so far only minor parts of this Act have been implemented. The government has "gazetted" several remaining sections, such as accessibility to public buildings and transport and income tax exemption for people with disabilities, but progress is slow. The Act is currently under review to align it with the CRPD.
- In its endeavour to mainstream issues of disability in national development plans, the government in 2009 introduced Disability Mainstreaming Indicator for the Public Sector Performance Contracting Guidelines
- There are also regulations that provide for the persons with disabilities "access compliance" for all buildings in the next five years and for all public vehicles with effect from January 2010
- The Children's Act No. 8 of 2001 and the Employment Act of 2007 both of which outlaw discrimination against persons with disabilities.

- The Sexual Offences Act of 2006 extends special protection to persons with disabilities.
- The Education Act of 2013 has resulted in allocation of Ksh. 500 million to set up special needs institutions, disbursement of over two billion Kenya Shillings grants to institutions of special needs for subsidised school meals, training of over 10,000 teachers to teach in special needs institutions and disbursement of 400 million shillings to top up grants for the procurement of special devices. The Act is criticised because it has a focus on special education rather than inclusive education for children with disabilities.

### Implementing Agencies

A National Council for People with Disabilities was established in 2004. It is a semi-autonomous Government Agency under the Ministry Labour, Social Security and Services with a mission to “*mainstream disability issues in all aspects of socio-cultural, economic and political development*”. Its 21 members represent various disability organisations and government ministries. The Council is also engaged in administration of educational grants and cash transfer schemes, in awareness raising and in monitoring and evaluation. It is overseeing the implementation of the action plan of the African Decade of persons with disabilities 1999–2009, extended until 2019. The Council has established the National Development Fund for Persons with Disabilities, provided for in the 2003 People with Disabilities Act. The fund supports organisations of and for persons with disabilities.

The Ministry of education is responsible for implementation of the 2013 Education Act, which stipulates that all children have right to education and the Special Needs Education (SNE) Policy which was adopted in 2009, which outlines how to support children with special educational needs. Both these documents focus on “special education” and “special schools/units” rather than on making regular schools inclusive. Since 2003, the government has prioritised “Education for All”, including free primary education and small grants to students with disabilities. The Kenya Institute for

Special Education (KISE) was set up in 1986 to train teachers for “special needs” students and Education Assessment Resource Centres (EARCs) were established in 72 out of 149 districts to facilitate the identification, assessment; referrals and placement of children with disabilities (with support from Danida). Unfortunately in most cases these centres have failed to reach the children and to assist them correctly, according to a study by the University of Oslo, Norway.

The government has also established 1,882 primary and 15 secondary schools that are accessible for students with disabilities. However, this number seems too small when there are over 70,000 schools from pre-school to university level education in Kenya (Kenya School Report, 2013). This means that despite these efforts, so far few children with disabilities access education. According to the Kenya report for UNCRPD there are 50,744 disabled students enrolled in school, and as many as 24,000 of them are in special schools. This would mean around 4.2 per cent of the estimated 1.2 million children with disabilities in Kenya. Other studies (UNESCO) indicate a lower figure (1.7%). According to the Kenya Disability Survey (2008) reports that among children with disabilities who have no limitations in participating in education (e.g. walking difficulties or albinism), only 31% go to school, while among those with substantial limitations 4.8% attend school. However, many children are classified by the Survey as “unable” to attend schools.

The Ministry of Health is responsible for provision of health services. The system offers a number of specialised services for persons with disabilities including assistive devices, occupational therapy and physiotherapy through the Division of Rehabilitative Health Services. However, accessibility to these services is limited for poor and for men and women with particularly severe disabilities. The 2007 baseline survey and a report from Handicap International both indicate that the ignorance and insensitivity of health service is a major obstacle. Management and development of health services have been decentralised – as most other government services - in order to provide more locally appropriate services ensuring the

rights of the most disadvantaged groups, including persons with disabilities, although not specifically mentioned in Kenya Essential Package for Health, the KEPH.

However, the new devolved government structure has rather had an adverse effect for persons with disabilities, as the funding now comes from district level governments where disability is not often a priority, where district governments are struggling with their new roles especially with regard to funding and where disability organisations are weak in monitoring and advocacy.

### **Accountability Mechanisms**

In April 2011, the Kenyan National Commission on Human Rights (KNCHR) was designated as the national agency responsible for monitoring progress and ensuring disabled people are able to enjoy their rights under the UNCRPD, the Constitution, and the Persons with Disabilities Act (2003). Currently, the disability movement is well represented in the Commission with three leading and experienced representatives specialised in advocacy and law – and formerly involved in the drafting of the CRPD. The Commission submitted its first report on the CRPD in July 2014. It can serve as a basis for future action.

The National Council for Persons with Disabilities (NCPWD) mentioned above also has the responsibility to monitor the application of and compliance with the Constitution of Kenya 2010, United Nations Convention on the Rights for Persons with Disabilities, Persons with Disabilities Act No. 14 of 2003, Policies on Disabilities and other national, regional and international treaties for the benefit of Persons with Disabilities.

The exact division of responsibility between the Commission and the Council is not clear. However, the Commission has a broader human rights mandate, while the Council is disability specific and also involved in coordination, funding and implementation of programmes.

Kenya has 12 members of parliament with a disability out of 349 seats (3.4%).

### **Main Civil Society Organisations**

The disability movement in Kenya has quite a long history and human rights actions by disabled people's organisations (DPOs) began in the late 1950's. The first DPO was established in 1959 was the Kenya Union of the Blind (KUB). In the 1980's Kenya National Association of the Deaf (KNAD), Kenya Society of the Physically Handicapped (KSPH), and the parents' organisations Kenya Society for the Mentally Handicapped (KSMH) and Kenya Association for Intellectually Handicapped (KAIH) and a few others were established. Sweden, via Shia (now MyRight), has been key supporters of KUB, KNAD and KAIH over many years and has contributed to their present status.

Traditionally many of the organisations have been charity based and the medical rehabilitation model with homes and centres for people with disabilities has to a large extent dominated the scene (one of the most prominent being Kenya Association for the physically disabled, Kenya Society for the Blind and Kenya Society for Deaf Children. However, there has been a shift towards a more human rights based movement in recent years, with self-advocacy organisations coming to the forefront.

In 1989, the national umbrella organisation United Disabled Persons of Kenya (UDPK) was formed by national and community based DPOs. UDPK is made up of 194 organisations and aims to address disability equality concerns through legislation, advocacy and raising awareness. Over the past years UDPK has worked closely with the Government in policy review, planning and evaluation. However, the strength of the organisation and the strength of many of the individual organisations are heavily challenged by internal conflicts and power struggles, making the disability movement appear rather fragile and fragmented. The UDPK does not even have a webpage (2014),

There are some international non-governmental organisations, like Handicap International, CBM, Sight Savers International, Mental Disabilities Advocacy Centre and Leonard Cheshire International, present in Kenya supporting projects, organisations and providing services to persons with disabilities.

Sweden has adopted a human rights based approach to its work in Kenya and has already started to include persons with disabilities as target groups in Agriculture and Road Construction programs. It is important that these initiatives are monitored and lessons learned.

### **What Sweden can do – 8 questions to discuss**

Within the broader context of the Swedish results strategy for Kenya, with particular focus on strengthening of civil society capacity, respect for civil and political rights and access to social security, Sweden has a great opportunity to include issues related to the rights of persons with disabilities. Questions to discuss:

- Could Sweden do more to keep up-dated with the developments within the area of disability rights and follow up on the UN comments to the county's CRPD report?
- Could Swedish civil society support modalities become more inclusive of DPOs and strengthen their capacity to raise awareness around disability rights and engage in monitoring of the implementation of legal and policy commitments?
- Could Sweden do more to include and enable DPOs and persons with disabilities to participate in its professional networks,

academic engagements and in social and cultural events?

- Could Sweden do more to support development of accountability mechanisms in the area of disability (e.g. reform of laws, access to legal aid, adoption of action plans and monitoring methods in synergy with the global Swedish support to Disability Rights Promotion International)? Monitoring tools can be downloaded [here](#) .
- Could Sweden do more to bring a disability perspective into joint donor planning meetings with bilateral and multilateral agencies, taking into consideration that article 32 of the CRPD requires donors to do so? What support and additional information would the embassy need to take such initiative?
- Could Sweden do more to ensure accessibility for persons with various disabilities to economic empowerment programmes such as micro-credits, loans, vocational/skills training, agricultural and rural livelihood programmes and literacy programs - particularly for women and youth with disabilities? Examples of tools can be found [here](#).
- Could Sweden do more to promote inclusion of persons with disabilities and their families in the supported social security systems and initiatives? E.g. Inclusion Made Easy - a quick programme guide to disability in development [here](#).
- Could Sweden do more to include women with disabilities in women networks, SRHR/GBV and economic empowerment initiatives?

## Links to organisations

Kenya Association for Intellectually Handicapped (KAIH) <http://kaihid.org/>

Kenya National Association of the Deaf (KNAD) <http://www.knad.org/>

Kenya Union of the Blind (KUB) <http://www.kub.or.ke/>

Kenya Society of the Physically Handicapped (KSPH)

Kenya Society for the Mentally Handicapped (KSMH)

Kenya Association for the physically disabled <http://www.apdk.org>

Kenya Society for the Blind <http://www.ksblind.org/>

Kenya Society for Deaf Children <http://deafchildrensociety-kenya.org/>

National Council for People with Disabilities, established in 2004 and a semi-autonomous Government Agency: <http://ncpwd.go.ke/>

Kenya National Commission on Human Rights (KNHCR) <http://www.knchr.org/>

National Development Fund for Persons with Disabilities:

<http://ncpwd.go.ke/national-development-fund-for-persons-with-disabilities/>

Sight Savers International:

[http://www.sightsavers.org/our\\_work/around\\_the\\_world/east\\_africa/kenya/default.html](http://www.sightsavers.org/our_work/around_the_world/east_africa/kenya/default.html)

Leonard Cheshire International: <http://www.leonardcheshire.org/international/where-we-work/east-and-north-africa#.VLFB3hA5Cjs>

Mental Disabilities Advocacy Centre <http://www.mdac.info/en/fastfacts-focus/africa>

## References

African Disability Yearbook, 2014: <http://www.adry.up.ac.za/>

Baseline study on the Status of disability mainstreaming in Kenya, Secretariat of the African Decade of Persons with Disabilities, 2008

“Collaboration between parents and educational assessment teachers and challenges faced at the centres in a Kenya city setting”, summary of a Master’s thesis 2004, by Wanyera, Samuel Otieno:

<http://www.duo.uio.no/sok/work.html?WORKID=18775>

Disability and International Policy – a Case Study of Kenya, Hannah Mc Gurk, 2014

[https://www.academia.edu/6721172/Disability\\_and\\_International\\_Policy\\_A\\_Case\\_Study\\_of\\_Kenya](https://www.academia.edu/6721172/Disability_and_International_Policy_A_Case_Study_of_Kenya)

Disability and Poverty in Developing Countries – A snapshot from the World Health Survey, Sophie Mitra,

DRPI East Africa Report: <http://drpi.research.yorku.ca/Africa/resources/EACDisabilityPolicy/Page2/Part4>

Aleksandra Posarac and Brandon Vick, 2011: From Norm to Practice – A Status Report on the Implementation of the Rights of Persons with Disabilities in Kenya <http://inclusion-international.org/launch-kenya-disability-report-norm-practice/>

Kenya Essential Package for Health:

<http://www.scribd.com/doc/38868430/9/The-Kenya-Essential-Package-for-Health-KEPH-System>

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Mental Disability Advocacy Centre, Kenya research <http://www.mdac.info/en/kenya>

National Council for People with Disabilities: <http://ncpwd.go.ke/>

National Survey on disability, 2008: [http://www.afri-can.org/CBR Information/KNSPWD Prelim Report - Revised.pdf](http://www.afri-can.org/CBR%20Information/KNSPWD%20Prelim%20Report%20-%20Revised.pdf)

Objects of Pity or Individuals with Rights: The Right to Education for Children with Disabilities, Kenya National Commission on Human Rights (KNCHR) 2007: [http://www.knchr.org/dmdocuments/Occasional Paper.pdf](http://www.knchr.org/dmdocuments/Occasional_Paper.pdf)

People with Disabilities Act, 2003: [http://www.kenyalaw.org/kenyalaw/klr\\_app/frames.php](http://www.kenyalaw.org/kenyalaw/klr_app/frames.php)

Performance Contracting Guidelines on the Vision 2030 Project Indicators: [http://www.vision2030.go.ke/cms/vds/PC GUIDELINES 2012-20131.pdf](http://www.vision2030.go.ke/cms/vds/PC_GUIDELINES_2012-20131.pdf)

Sida's tools on disability: Disability as a human rights issue – conducting dialogue, <http://www.sida.se/Svenska/Publikationer-och-bilder/publikationer/2012/juni/disability-as-a-human-rights-issue-conducting-a-dialogue/>

State of Disabled Peoples Rights in Kenya, report, 2007 by African Union of the Blind (AFUB), Kenya Union of the Blind (KUB) and Centre for Disability Rights, Education & Advocacy (CREAD): <http://www.yorku.ca/drpi/files/KenyaReport07.pdf>

Studies on education for children with disabilities in Kenya

<http://www.educationinnovations.org/blog/education-perspectives-kenya-achieving-inclusive-education#sthash.OLdVHB3L.dpuf> and

[https://www.academia.edu/7721659/Education\\_for\\_All\\_Right\\_to\\_Education\\_for\\_Children\\_with\\_Disabilities\\_in\\_Kenya](https://www.academia.edu/7721659/Education_for_All_Right_to_Education_for_Children_with_Disabilities_in_Kenya)

Women with disabilities and sexual violence in Kenya, by Monica Mbaru-Mwangi, 2006, pambazuka.org: <http://www.pambazuka.org/en/category/features/34364>

Education for deaf students at the University <http://kenya.cbm.org/Deaf-role-models-in-Africa-Kenya-chapter-documentary-469926.php>

There is also a Kenya disability web portal which was updated until 2012 and probably lost funding after that <http://www.kenyadisability.or.ke/index.php/home>

The human rights of persons with disabilities are a Swedish government priority. As a service to staff, briefs have been prepared to provide basic information about the situation of this (often forgotten) group and inspire discussions on what Sweden could do to better include disability rights in diplomacy and programming.